HB

3

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: January 20, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2-5-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 3**

"An Act relating to issuance of identification cards and to issuance of driver's licenses; and providing for an effective date."

HB 3 REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Admin	\1			

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig for	Johnson	X			
	Gatto	X			
Peggy Wilson	WILSON	\			
	Peterson		X		
	Greenberg		✓		
Chair:	LYNN	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sponsor Statement
HB 3

HB 3 requires an applicant for an Alaska driver's license to have a legal presence in the State of Alaska and that an applicants driving privileges ends when that applicants legal presence ends. HB 3 also has document requirements that will insure that Alaska license or identification card holders are who they say they are. We require our citizens to provide the documentation for a license or ID; we must also require the same of others.

If you're a current Alaska Driver license or ID holder and have not allowed your card to expire past 90 days, you will not have to show proof of who you are. However, if you are obtaining your first Alaska driver's license or if yours has been taken away (i.e. revoked by DUI) then you must go back to step one and start the process all over again with all the appropriate documents.

It makes sense to require a legal presence in order to get an Alaska driver's license. Why should someone have the right to drive a car down the street when they don't have the legal presence to walk down the street?

The Alaska Division of Motor Vehicles has the statutory mandate to determine if an applicant has the necessary documents to receive a license – and this bill simply adds verification that the applicant has a legal presence in the places where the driver's license is issued and that a person's driving privileges ends when that person's legal presence ends.

The State of Alaska has the right and responsibility to decide who does and who does not qualify for an Alaska driver's license. I also believe it is the right thing to do and I respectfully request passage of HB 3.

Contact: Dirk Moffatt, (907) 465-4931

Revised: February 3, 2009

LEGAL SERVICES

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

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

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

MEMORANDUM February 4, 2009

SUBJECT: Sectional Summary - HB 3 (Work Order No. 26-LS0008\A)

TO: Representative Bob Lynn

FROM: Gerald P. Luckhaupt
Legislative Counsel

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

Section 1. Amends AS 18.65.310(a) by providing a five year expiration date for most identification cards issued by the state.

Section 2. Amends AS 18.65.310(g) by providing an eight year expiration date for free identification cards issued to those 60 years of age or older.

Section 3. Amends AS 18.65.310 by adding new subsections that restrict the issuance of identification cards to persons who are not citizens, nationals, legal permanent residents, or conditional resident aliens of the United States; allow the Department of Administration to issue identification cards to certain other persons who are legally present in the United States after presentation of evidence and provides that identification cards issued to these persons expire when their authorized stay in the United States expires, or in certain cases one year.

Section 4. Amends AS 28.15.031(b) by restricting the issuance of driver's licenses to persons who are not citizens, nationals, legal permanent residents, or conditional resident aliens of the United States; allows the Department of Administration to issue driver's licenses to certain other persons who are legally present in the United States after presentation of evidence..

Section 5. Provides a conforming change to the change made in Section 6.

Section 6. Provides that driver's license cards issued under Section 4 to persons who are legally present in the United States expire when their authorized stay in the United States expires, or in certain cases one year.

Section 7. Provides an effective date.

GPL:plm
09-066.plm

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 3
() Publish Date:

Identifier (file name): HB03-DOA-DMV-02-04-09
Dept. Affected: Administration
Title "An Act relating to issuance of ID cards and driver's licenses"
RDU Division of Motor Vehicles
Component Motor Vehicles
Sponsor Rep. Lynn
Requester (H) STA
Component Number 2348

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual	15.0						
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**15.0**	**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							
1156 Receipt Supported Services	15.0						
TOTAL	**15.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation will add the requirement of 'legal presence' in the U.S. to obtain a driver's license or ID card. Also, international customers who are lawfully in the U.S. for a limited times will now have an expiration date on the DL/ID that coincides with the date of stay.

The requested FY10 costs are to make major changes in DMV's computer system, ALVIN, to accept the new expiration dates and other verification fields.

Prepared by: Whitney Brewster
Phone 907-269-5574
Division Motor Vehicles
Date/Time 2/4/09 9:30 AM
Approved by: Kevin Brooks, Deputy Commissioner
Date 2/4/2009
Department of Adminstration

(Revised 9/10/2008 OMB)

JSOnline
JOURNAL SENTINEL
www.jsonline.com | Return to regular view

Original Story URL:
http://www.jsonline.com/story/index.aspx?id=583127

Next week, DMV won't have to look away

Posted: March 27, 2007



Patrick McIlheran

Come Sunday, some Wisconsin bureaucrats will feel relief. This is a good sign.

The bureaucrats, who work for the state Motor Vehicles Division, are relieved they won't be helping to break the law. Until now, they've been unwillingly doing that, providing driver's licenses, a basis for a legally documented American life, to people here illegally. State law says the agency can't deny a license to someone for being an illegal immigrant, say officials. That ends Sunday.

Wisconsin is one of 10 states that doesn't require proof of lawful presence, as it's known. This has meant that illegal immigrants came here to get a license they couldn't get in Illinois, Minnesota or elsewhere. That's fraud. Gary Guenther, who oversees the DMV's field services, says the agency took steps to cut down on it, investigating addresses and changing procedures. But Sunday's change, ending our status as the Island of Easy Licenses, will do much more, he says.

Then you've got people who genuinely do live in Wisconsin but are illegal immigrants. That the agency had to give them licenses anyhow, helping them stay, grated on some people, including some DMV employees.

Ex-employee Lee Steines said it bothered him enough that he quit his customer service job at the agency a year ago. The question, he said, was,

"Am I going to do this, or am I going to face myself in the mirror in the morning?"

He and other agents said they knew they were licensing illegal immigrants. Often, it was when they'd ask the customer for a Social Security number, something the state long has done. There's a form for applicants without one, mainly to handle religious objections. But Steines says he had applicants tell him they didn't have a number because they were in the U.S. illegally. Other agency employees have related similar stories. There wasn't anything they could do.

"It just wasn't right," Steines says. "And people knew in their hearts it wasn't right."

Steines doesn't fault the agency, limited by law and its state mandate. As Guenther puts it, "We have to operate in a way that supports the laws." His staff is good at spotting fake documents, he says, and it can decipher foreign-language birth certificates. But until Sunday, the agency doesn't have the authority to say no to someone in the U.S. illegally.

That's what changes: Along with proof of one's birth date, name, identity and Wisconsin home, the state will require proof an applicant's here legally.

Guenther is careful to note the change has pluses and minuses. It all serves a good purpose, he says. "You have to protect the integrity of the product" - the license.

This is not to say that most illegal immigrants are getting a Wisconsin license to cause trouble. They're doing it to drive to work. They broke U.S. law in coming here not because they wanted to be criminals but because they were looking for a better life.

But the better life is reflected in a pay stub with a Social Security number on it that isn't theirs. Steines says applicants would tell agents that. The pay stub that proved their Wisconsin residency bore a number that would come up invalid if checked. Whatever the intentions, illegal immigration involves fraud.

Protesters marched last weekend in Madison against the new rules, saying they'll "marginalize" people. Being here illegally already did that. If anything,

the explosion in illegal immigration threatens the welcome we extend to *legal* immigrants.

In lieu of persuading Americans to change our immigration laws, the advocates of illegal immigrants demand we ignore the distinction between legal and illegal immigration. They demand we accept that illegal immigrants will drive no matter what, so we might as well give them IDs.

That's not right. More immigration would be good for America if it's handled properly. Accepting people who sneak in or who overstay visas while millions around the world wait a decade or more to get in the legal way doesn't seem to be a good way of handling it.

Telling state employees that they must, by law, ignore the fact a license applicant is here unlawfully isn't right, either. It shows contempt for law and for those who take it seriously. That this comes to an end on Sunday is good.

Patrick McIlheran is a Journal Sentinel editorial columnist. His e-mail address is pmcilheran@journalsentinel.com

Archive

- Pity act wears on neighbors (4/29/2007)
- A victory in seeing the clasping fingers (4/27/2007)
- Defense is rational, teachable (4/25/2007)
- Getting cleaner every day (4/22/2007)
- Danger in leaving loaded ideas lying around (4/20/2007)
- If lake pact dries up Waukesha, many may say, 'Oh, wells' (4/18/2007)
- Better odds of a birthday (4/15/2007)
- Biskupic suffers for being in line of fire (4/13/2007)
- Beloved but not sacrosanct (4/8/2007)
- 'No' means 'try again,' and that's reasonable (4/6/2007)
- Tide starts to turn, one tip at a time (4/4/2007)
- If anyone's afraid, let it be thugs (4/1/2007)
- Next week, DMV won't have to look away (3/28/2007)
- Clifford's 'gut check' is spookier (3/25/2007)
- State-set orthodoxies make schools a cultural battlefield (3/21/2007)
- Defeat is interrupted by reality (3/18/2007)
- $1.74 billion: It could be worse, but not much (3/16/2007)
- Gun ban's demise is good news in both theory, practice (3/14/2007)
- No more money for 'that snake' (3/11/2007)
- Transit's a nice choice - as long as you have a choice (3/9/2007)

Buy a link here

From the March 28, 2007 editions of the Milwaukee Journal Sentinel
Have an opinion on this story? Write a letter to the editor or start an online forum.

Subscribe today and receive 4 weeks free! Sign up now.
© 2006, Journal Sentinel Inc. All rights reserved. | Produced by Journal Interactive | Privacy Policy
Journal Sentinel Inc. is a subsidiary of Journal Communications.



Drivers Licenses for illegal aliens

Issues

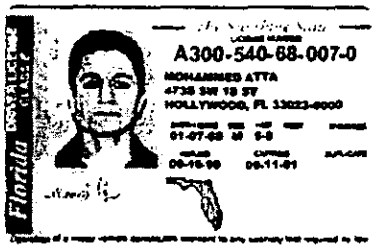
The open borders lobby routinely lobbies state legislatures to issue drivers licenses to illegal aliens as one of the keys to erasing the distinction between legal citizens and illegal aliens.

Select an issue

Home
About
Action
Articles / Letters
Contact / Feedback
Issues
Race Industry
Reference / Links
Borderless Continent
1,000 Words
Store
Support / Contribute

In the U.S., the drivers license is our de facto universal identification card. Yet many states do not thoroughly verify applicants' identities. Many states do not require a valid Social Security number to get a license and many will issue a state ID number for those without a Social Security number.

This makes it very easy for illegal aliens to obtain drivers licenses. These licenses become "breeder documents" which allow the recipient to obtain additional documents, based upon the false premise that he is a U.S. citizen. For example, all of the 9/11 hijackers had driver's licenses or state-issued non-driver's identification cards, which they then could use when opening bank accounts, renting housing, and boarding planes.



Eleven states issue drivers licenses to illegal aliens, including Alaska, Connecticut, Idaho, Louisiana, Montana, Nevada, New Mexico, North Carolina, Ohio, Rhode Island, Tennessee, Utah, Washington and West Virginia. In 2003, California's Governor Davis signed into law a bill that would give illegals drivers licenses. It is widely believed that this was the final act that contributed to his 2003 recall. Immediately after this law was signed, hundreds of thousands of signatures were collected that would have placed the question on the March 2004 general election ballot. Incoming Governor Schwarzenegger annulled the law, purportedly so that the electorate would not have a chance to vote on the issue.

One of the arguments in favor of issuing drivers licenses to illegal aliens is that it will make our roads safer. This is not likely, as someone who has broken U.S. law to come here will most likely continue to break our laws - including traffic laws - and to drive without insurance and to obtain "breeder" licenses under false names.

For more information, see:

- Driver's License Security by the Federation for American Immigration Reform.
- Should illegal aliens get driver's licenses?, by Phyllis Schlafly, May 13, 2003.
- Immigrant Access to Drivers' Licenses - a handbook from a coalition of anti-American organizations to promote driver's licenses for illegal aliens.
- MALDEF 'Profoundly Disappointed' With Governor Schwarzenegger's Veto Of Driver's License Bill, September 22, 2004.

Home Issues

Institute rates Alaska DMV as one of most lax in U.S. -
LICENSES: State disputes claim that it deserves an "F" in verifying applicants' identities.

Anchorage Daily News (AK)
April 22, 2004
Author: RICHARD RICHTMYER
Anchorage Daily News
Staff

Estimated printed pages: 4

Alaska's Division of Motor Vehicles is among the nation's most lax when it comes to verifying the identities of driver's license applicants, according to a new study.

"The findings, frankly, are stunning," said Amitai Etzioni, director of the Institute for Communitarian Policy Studies at George Washington University, which examined the safeguards in place at motor vehicle offices in all 50 states.

The Institute, which promotes a balance between individual rights and social responsibility, looked into the subject because driver's licenses are widely used as the definitive ID, and the Sept. 11, 2001, terrorists got theirs through other lax states, namely Florida and Virginia, Etzioni said.

Those states have since shored up their systems, making states that haven't done so attractive destinations for future terrorists looking to acquire false identification from a valid source, Etzioni said.

"We know that the terrorists always discover where the weakest links are," he said.

Officials at the DMV and the state's Division of Homeland Security called the study's conclusions unfair, arguing that it did not take into account all of the identity-verification measures in place, only a select few that aren't.

The Institute established four steps it said states should take, at a minimum, to ensure effective screening for fraudulent applications and assigned a grade based on how many they used.

The steps were verifying Social Security numbers using an online database system; requiring proof that the applicant is legally in the United States and a resident in the state; linking license expiration dates to visa expiration dates for foreigners; and using biometric information, such as fingerprints or retinal scans, to verify identity.

Alaska is one of only four states that got an "F" for not taking any of those steps, Etzioni said. Wisconsin, Michigan and Oregon also flunked the Institute's test.

DMV director Du- ane Bannock acknowledged that Alaska's system isn't perfect, but he argued that Alaska doesn't deserve a failing grade and the Institute's study only looked at part of the system.

Although Social Security cards are allowed as one form of acceptable identification, they are not required, and Bannock said it's easy to get a fake number that would check out on a database.

Applicants for an Alaska driver's license are required to present two pieces of identification, a "primary," that proves date of birth, and a "secondary" to prove identity. An applicant furnishing two primary forms of identification is not required to show a secondary form, Bannock said.

Acceptable primary identification documents include an original or certified birth certificate, a court order, another state's driver's license, a copy of a driver's record from another state, and a military ID card, Bannock said.

Social Security cards are on a list of about two dozen acceptable forms of secondary identification, which also includes health insurance cards, photographic employee identification cards and even income tax returns, Bannock said.

Workers who process driver's license applications across the state receive regular training in how to spot fake birth certificates, Social Security cards and other identifying documents, Bannock said.

Alaska's DMV has no immediate plans to put in place a Social Security number verification system, nor is it likely that applicants will be fingerprinted or retinal scanned any time soon, Bannock said.

However, he said the idea of making driver's licenses for foreigners expire when their travel or work visas expire is a good one, and he called the Institute's criticism on that point fair.

"I would expect that's going to be changed here very soon," he said.

Meanwhile, state lawmakers next week are expected to resume debate on a bill that would require proof of citizenship or legal residency as a condition for getting an Alaska driver's license, which has been a hot-button in statehouses across the nation recently.

Alaska's bill, sponsored by Rep. Bob Lynn, R-Anchorage, has languished in Juneau since January 2003. Lynn said he hopes to get it passed out of the State Affairs Committee and onto the House floor before the Legislature adjourns the session in three weeks.

"I don't want Osama bin Laden or any of his friends to be able to get Alaska driver's licenses, and the way it is now, that in fact could happen," Lynn said.

An aide to State Affairs Committee Chairman Bruce Weyhrauch said he has put it on the hearings calendar for next week.

Tom Burgess, deputy director of the state's Division of Homeland Security and Emergency Management, said the institute's grading system was flawed, and that the state doesn't deserve an "F."

"Things like this do cause us concern, and we'd like to see something done in all these different areas," Burgess said.

"But I don't know that there's a bunch of holes in the system, and I haven't seen any indications that we have a problem," Burgess said. "People have to look at more criteria before they start assigning grades to states. A more thorough analysis is appropriate here."

Daily News reporter Richard Richtmyer can be reached at rrichtmyer@adn.com or 257-4344.

RANKING

GRAPHIC: A look at the criteria on which state DMVs were graded along with a list of the best and worst state DMVs.

Back Page

LICENSE TO HIDE: To read the report on drivers license screening in all 50 states, and how each state ranks, just follow the links.

www.adn.com/links

Caption:
Illustrated by Ron Engstrom

ILLUSTRATION SHOWS

Alaska's DMV fails test

A study shows Alaska often fails to verify the identities of driver license applicants.

Criteria

States were graded on how well they complied with four basic criteria:

1 Electronic verification of Social Security number

2 Requiring proof of legal residency in the nation and state

3 Linking license expiration dates to visa expiration dates for foreigners

4 Using biometric information such as fingerprints to verify identities

States that failed all criteria:

Alaska

Michigan

Oregon

Wisconsin

States that met all criteria:

Colorado

Kentucky

West Virginia

Caption:

Photo 1: ADNLinks_042204.jpg

Photo 2: 22DMV chart_042204.jpg

Edition: Final
Section: Main



by: *Phyllis Schlafly*

subscribe

Book reviews, and books by Guests on *Radio Live*

Book recommendations

amazon.com.

Should Illegal Aliens Get Driver's Licenses?

email column

May 14, 2003

The hottest controversy in state legislatures today regards allowing illegal aliens to obtain driver's licenses. Americans were shocked to discover that most of the 19 hijackers on 9/11 carried driver's licenses from Virginia, Florida or New Jersey.

A driver's license is the pass to board a plane as well as the license to drive car. It confers a sort of quasi-citizenship and, as described by one illegal alien in Texas, "The driver's license ends up becoming our pass to be in this country."

Since 9/11, 21 states have enacted new legislation to make it harder to get driver's licenses, and legislation has been introduced in another 22 states. Even in Idaho, State Senator Cecil Ingram told a public hearing, "This has turned out to be a bigger problem than I thought."

The states embarrassed by the 9/11 hijackers have gotten the message. Virginia passed a bill to stop issuing driver's licenses to illegal aliens, and Florida and New Jersey passed legislation to coordinate driver's licenses with immigration visas.

New Jersey, where driver's licenses have been made of paper and do not require a photo, has long been the target of document fraud and counterfeiters. The state is now converting to state-of-the-art digitized driver's licenses with a dozen covert and overt security features, including a mandatory photo, bar code, hologram, and digital signature.

Peter Gadiel, whose 23-year-old son James died in the World Trade Center attack, has traveled from Connecticut to Virginia, Maryland, North Carolina and Tennessee to support beefed-up identification laws. Twenty states do not require applicants to prove they are legally in the United States.

Tennessee, another state known to be casual about issuing driver's licenses to illegal aliens, is considering a measure that would require driver's license applicants to present a document showing they are legally in this country. A Tennessee legislative committee also heard testimony about the need to tighten driver's license rules from April Gallop, a survivor of the 9/11 attack on the Pentagon.

Minnesota is trying to address the controversy through rulemaking by the Department of Public Safety. The proposed rule would require visitors to present documents to prove they are in the country legally, and the license would expire when their visas expire.

Georgia would seem an unlikely state for immigration controversies, but an estimated 435,000 Hispanics live in Georgia, a 300 percent increase over 1990, according to the U.S. Census. A lively big group showed up at a hearing in Gainesville from the town of Hall, where at least 19 percent of the

population is Hispanic and 85 percent of those are not citizens.

Georgia has been wrangling over a bill that would allow driver's licenses to be obtained by illegal aliens who come only from the "Free Trade Area of the Americas," i.e., from Canada, Latin America, and some Caribbean islands.

Among those who spoke against the proposed legislation was retired Col. A.R. "Mac" MacCahan (whose Army unit lost 206 of 212 men fighting in the Korean War). He asked, "What part of illegal don't you understand?" Others ask, why reward people who have committed at least three felonies: illegal entry into the U.S., purchasing fraudulent documents to get a job, and misrepresenting the legality of those documents at the workplace?

Kentucky was once one of the easiest states for illegal aliens to get a driver's license. That changed after a 1998 incident in which the Immigration and Naturalization Service arrested a vanload of illegals from Russia who had traveled from New York to Louisville to get driver's licenses.

After that, Kentucky reinstituted a policy of requiring that noncitizens applying for licenses take a written test. County Circuit Clerk Tony Miller said, "We try to be helpful. We offer that test in 21 languages," but Miller didn't explain how it promotes safety to license drivers who can't read the road signs.

Arizona and Mississippi have killed bills to make it easier for illegal aliens to get a driver's license. California Governor Gray Davis has twice vetoed a bill to allow illegal aliens to obtain driver's licenses, but the legislature is still debating this issue.

INS public affairs officer Garrison Courtney identified one of the biggest problems: "If they were illegal when they came here, it's very difficult to determine who they really are because they've created illegal IDs for themselves." The Seattle Times reported that one U.S. Department of Justice raid discovered piles of cash totaling $95,262 plus $10,000 worth of computer equipment and specialty papers that had been used to print 800 fake driver's licenses, green cards, work permits, Mexican birth certificates, and Social Security cards.

Many are concerned about the danger from issuing licenses to terrorists who might use trucks loaded with gasoline or other hazardous materials in the same way that hijackers used commercial airliners on 9/11. The U.S. Transportation Department reported last year that we lack sufficient safeguards, particularly from the many states that do not require applicants to prove they are legally in the country.

Phyllis Schlafly is the author of "Feminist Fantasies" (Spence Pub. Co., 2003)

Send this page to a friend!
Just fill in the form and click the button!

TO email:
Subject:
FROM email:
Your name:

Mail This Page!

Eagle Forum • PO Box 618 • Alton, IL 62002 • phone: 618-462-5415 • fax: 618-462-8909 • eagle@eagleforum.org

washingtonpost.com

No Driver's Licenses for Calif. Illegal Immigrants

By Kimberly Edds
Special to The Washington Post
Friday, September 24, 2004; Page A04

LOS ANGELES, Sept. 23 -- Gov. Arnold Schwarzenegger (R) late Wednesday vetoed a bill that would have given as many as 2 million illegal immigrants California driver's licenses, saying the measure failed to provide sufficient security provisions at a time of heightened terrorism fears.

"This bill does not adequately address the security concerns that my Department of Homeland Security and I have, and I cannot support it," Schwarzenegger said in a brief veto message.

Ten states allow illegal immigrants to apply for licenses, and the issue has long been important to Latino lawmakers here. They accused Schwarzenegger of backing out of a deal to work together to reach a mutually acceptable bill.

"He chose to veto the best driver's license bill proposal in the nation -- one that strengthens national security and public safety while holding immigrants to the highest level of responsibility in the nation," said state Sen. Gil Cedillo (D-Los Angeles), who sponsored the bill and three previous versions. Supporters say that illegal immigrants contribute to the state's economy and that the bill would have improved road safety by forcing them to take driving tests and get insurance.

But opponents argued the measure would reward people who are in the country illegally and could make it easier for terrorists to assimilate. Polls show a majority of California voters are against allowing undocumented immigrants licenses.

"Illegal immigrants are in direct violation of our federal immigration laws. These laws require them to be deported, not accommodated," Republican state Sen. Tom McClintock said.

In an effort to emphasize the added safety measures, the bill had been

renamed the Immigrant and Security Act. Illegal immigrants would have to pay for extensive background checks and be fingerprinted. The cost would have been $141, compared with $24 for a standard license.

The legislature approved a similar proposal last year which then-Gov. Gray Davis (D) signed into law. Davis had long opposed the measure but changed his stance amid his tough, and eventually unsuccessful, effort to stave off being recalled.

Schwarzenegger opposed the measure. After his election last year, legislators repealed the law.

Some lawmakers said they voted for the repeal only after being told Schwarzenegger was committed to a new proposal with increased security measures. But negotiations on the proposal stalled when Schwarzenegger insisted there be an identifying mark on the license to distinguish the holder as a noncitizen -- a requirement rejected by Latino lawmakers as discriminatory.

Schwarzenegger pledged to veto the measure when legislators approved it Aug. 27 without the mark provision.

More than 20 states, including Virginia, prohibit illegal immigrants from getting licenses.

© 2004 The Washington Post Company

MICHIGAN

Michigan to stop issuing licenses to illegal immigrants

LANSING — Michigan will no longer let illegal immigrants get driver's licenses, a practice just seven other states continue to allow. Michigan Secretary of State Terri Lynn Land, who oversees the motor vehicle department, announced the new policy Monday and said it takes effect today. Hawaii, Maine, Maryland, New Mexico, Oregon, Utah and Washington do not require drivers to prove legal status to obtain a license. Michigan borders Canada and contains some of the nation's busiest boundary crossings.

1/22/08

EXHIBIT D

ALASKA JUSTICE FORUM

A Publication of the Justice Center

Fall 2006 Index | PDF UNIVERSITY of ALASKA ANCHORAGE Vol. 23, No. 3

A Look at Immigration Numbers

Antonia Moras

Sidebar stories: Research Sites for Immigration Questions

Moras, Antonia. (Fall 2006). "A Look at Immigration Numbers." ***Alaska Justice Forum*** **23(3): 3-4.** This article provides an overview of the most reliable figures on immigration—both authorized and unauthorized—for the United States as a whole and for Alaska in particular.

See also:
> Noncitizens & Immigration

What follows is an overview of the most reliable figures on immigration—both authorized and unauthorized—for the country as a whole and Alaska, in particular.

Authorized Immigrants

Authorized immigrants are those who, in common parlance, have "green cards." They have been admitted to the United States with permission to stay indefinitely through one of a number of different program routes. (In addition to admittance as immigrants, non-citizens can stay in the U.S. legally for varying periods with differing status—as tourist, diplomat, or student, among other possibilities.) In the data assembled by the Office of Immigration Statistics, which is now in the Department of Homeland Security, they are defined as *legal permanent residents* or LPRs. The Office of Immigration Statistics is the source for the fullest and most detailed data on authorized immigration. The office publishes an annual compendium that shows the number of immigrants and various demographic data, including countries of origin, countries of birth, and state of residence, and type or category of admission. The yearbook also provides data on non-immigrant admissions—refugees and asylees—as well as data on naturalization —the process of becoming U.S. citizens for those not born here.

According to the *2005 Yearbook of Immigration Statistics*, 1,122,373 individuals received legal documentation to remain in the U.S. as LPRs, including 1,525 in Alaska. Also, in 2005, 604,280 foreign-born residents became U.S. citizens, including 951 Alaskans. (The total 2005 U.S. population was 296 million. The Alaska 2005 population was 642,000.)

In addition to the yearbook, the Office of Immigration Statistics also publishes a range of analyses of immigration data—for example, discerning the flow of immigration over varying periods to the different states. A September 2005 paper by John Simanski, "Mapping Trends In U.S. Legal Immigration: 1980 to 2003," reveals that although the flow of immigrants to the state has risen over the two-decade period as it has in the country as a whole, Alaska is very far down in ranking as the state of residence for authorized immigrants—receiving a total of 25,968 individuals as LPRs across the 23 years. These state-of-residence figures are based only on the individual's declaration at the time documentation was granted and do not reflect ensuing changes in residence.

The U.S. Census, taken every ten years, provides a slightly different perspective on the foreign-born population—both legal permanent residents and naturalized citizens. The census assembles figures at much more detailed geographic levels and, unlike the Office of Immigration Statistics figures, provides a snapshot of the characteristics of the population of a specific place at a specific time. The 2000 U.S. Census listed 37,170 Alaskans as foreign-born. Of this number, 20,011 were naturalized citizens; 17,159 were not

citizens. According to the American Community Survey, which is now the Department of Census means of estimating during non-census years, 34,368 Alaskans were foreign-born in 2005 (5 % of the total state population), of whom 20,178 were naturalized citizens.

Alaska differs from the nation as a whole with regard to the country of origin of its foreign-born residents. In 1995, for the country as a whole, Mexico was the country of birth for the highest number of immigrants, with 161,445 authorized immigrants, and immigrants from India formed the second most populous group—84,681 individuals. In Alaska in 2005, the countries of birth for the two most populous groups of immigrants were the Philippines (435) and Russia (115). Mexico ranked third (96).

Unauthorized Immigrants

For obvious reasons, there are no precise numbers on unauthorized immigrants—"illegal aliens"—those individuals who stay in the U.S. without currently valid legal documentation. All figures given for state and national totals of unauthorized immigrants are estimates, as are economic figures and other calculations derived from them. The degree of precision to the estimates varies.

Again, the best source is the Office of Immigration Statistics, which in August 2006 released its most recent figures on the unauthorized immigrant population—"Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2005." According to this report, an estimated 10.5 million unauthorized immigrants lived in the country in January 2005. This is the figure most commonly used in general media discussions of the unauthorized immigrant population. The estimate for January 2000 was 8.5 million. A comparison of the two figures reveals a growth of 24 percent over the five years. The publication also provides estimates for the five states with the highest numbers of unauthorized immigrants, but not for Alaska. The numbers for 2005 have been derived using an elaborate statistical model which is not valid for population numbers as low as Alaska's. An earlier study, published by the same office but based on a different methodology, estimated that in 2003, 5,000 unauthorized immigrants were living in Alaska.

Bureau of Immigration and Customs Enforcement (ICE) Figures

Another figure that might throw some light on the unauthorized immigrant population is the number of individuals placed in removal (deportation) proceedings by the Bureau of Immigration and Customs Enforcement (ICE, also in the Department of Homeland Security). For the most part, these individuals were in the country without valid legal documentation. The numbers reflect only those who have come to the attention of ICE. The Alaska ICE office did not respond to repeated Forum requests for these numbers. The latest available figure for the state is from FY 2002, when 71 individuals were deported; and 12 agreed to voluntary departure directly from Alaska.

Other Numbers

Since a commonly stated concern regarding immigration is that immigrants draw heavily on public funds—for education, health care and public assistance—the Forum attempted to gather some other relevant figures for Alaska.

Few government or social service agencies in the state compile data on the immigration status of recipients of their services. Neither the Department of Education nor the Anchorage School District track the immigration status of students; Providence Hospital does not ask patients about their immigration status; and the Public Defender Agency does not maintain data on the citizenship or immigration status of clients.

The Department of Corrections compiles some numbers on the immigration status of inmates, in cooperation with the federal government under the State Criminal Alien Assistance Program (SCAAP). The department submits numbers on those inmates who are not legal residents and have been convicted of a felony or two misdemeanors. According to U.S. Bureau of Justice Assistance data, in 2005 the Alaska Department of Corrections held 22 inmates who were undocumented aliens, for a total 788 inmate days, and 65 whose citizenship and immigration status could not be determined for a total 2,605 days. These inmate days represent less than one-third of one percent of total DOC inmate days in 2005.

The Division of Public Assistance has numbers on the citizenship status of its recipients—all of whom

are legal residents. In June 2006, 4,109 non-citizens were receiving public welfare benefits—3.4 percent of the total statewide number of public assistance recipients—120,550.

Finally—in 2006, 44,307 foreign-born Alaska residents, including 13,552 individuals who were not citizens but were legal residents, received permanent fund dividends—in a total pool of 602,350 eligible applicants.

*Antonia Moras is the editor of the **Alaska Justice Forum**.*

Research Sites for Immigration Questions

The vast number of internet sites dealing with immigration questions vary widely in quality and reliability. Two nonpartisan organizations whose sites regularly present the results of solid research studies are:

The Urban Institute at www.urban.org: The Urban Institute has studied immigration issues for over twenty-five years, particularly looking at the impact of immigration on the economy and the labor market and at the status and well-being of immigrant children.

The Pew Hispanic Center at www.pewhispanic.org: The Pew Hispanic Center, which is part of the Pew Charitable Trusts, focuses on the U.S. Hispanic-Latino population—both citizens and non-citizens.

Return to Alaska Justice Forum | Justice Center Home Page | UAA Home Page

© Copyright 2006, University of Alaska Anchorage

Last updated 17-Dec-2007 by ayjust@uaa.alaska.edu

ANCHORAGE ONLY

Program-Year Data Collected Stored	2000	2001 (11-Sep)	2002	2003	2004	2005	2006 (APD HT Grant)	2007	2008	TOTAL	RELATIONSHIP to AO2003-23
FINANCIAL											
Crim Arrests	1	1		1		2	1	8		14	
Admin Arrests										0	
STRATEGIC											
Crim Arrests		1	1							2	
Admin Arrests										0	
CHILD PORNOGRAPHY											
Crim Arrests	2	1	1	5	4	3		5		21	
Admin Arrests										0	
COMMERCIAL FRAUD											
Crim Arrests		1		9						10	
Admin Arrests										0	
DRUG SMUGGLING											
Crim Arrests	8	6	6	4		7		10	1	42	
Admin Arrests										0	
GENERAL SMUGGLING (2002)											
Crim Arrests			1			5	5	2		13	
Admin Arrests										0	
OTHER											
Crim Arrests			2	4				4		10	
Admin Arrests										0	
HUMAN SMUGGLING											
Crim Arrests					1	1	2	1		5	[redacted]
Admin Arrests									1	1	
GENERAL & CRIMINAL ALIEN											
Crim Arrests					37	9	19	8	1	74	[redacted]
Admin Arrests								96	6	102	
IDENTITY & BENEFIT FRAUD											
Crim Arrests					4	4	4	3		15	[redacted]
Admin Arrests								2		2	
WORKSITE ENFORCEMENT(2004)											
Crim Arrests					5	2		3		10	[redacted]
Admin Arrests								26		26	
COUNTER TERRORISM/JTTF(2007)											
Crim Arrests								1		1	[redacted]
Admin Arrests										0	
COMPLIANCE ENFORCEMENT(2007)											
Crim Arrests										0	[redacted]
Admin Arrests								10	1	11	
Total Crim Arrests	11	10	11	23	51	33	31	45	2	217	
Total Admin Arrests	0	0	0	0	0	0	0	134	8	142	
REPORT TOTAL	11	10	11	23	51	33	31	179	10	359	

EXHIBIT I

Submitted by: Assembly Member BAUER
Reviewed by: Assembly Counsel
For reading: February 12, 2008

ANCHORAGE, ALASKA
AR NO. 2008–20

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY IN SUPPORT OF SENATE BILL 215 AND HB 3, INTRODUCED BY THE 25TH LEGISLATURE OF THE STATE OF ALASKA, TO AMEND ALASKA STATUTE 18.65 RELATING TO PROOF OF LEGAL RESIDENCY BY APPLICANTS REQUESTING ISSUANCE OF A STATE OF ALASKA IDENTIFCATION CARD OR STATE OF ALASKA DRIVER'S LICENSE.

WHEREAS, the State of Alaska Division of Motor Vehicles presently issues official State of Alaska identification cards and State of Alaska driver licenses without proof of legal status to reside in the United States; and

WHEREAS, in the 25th Legislature of the State of Alaska, legislation has been introduced in both the Alaska State Senate, SB 215, and the Alaska House of Representatives, HB 3, to amend Alaska Statute 18.65 and require proof of legal residency status from applicants requesting issuance of a State of Alaska identification card or an Alaska driver's license; and

WHEREAS, Alaska continues to experience population growth from migration; and

WHEREAS, in almost every year of population growth state-wide in Alaska, Anchorage has seen the largest increase in migration; and

WHEREAS, from 2001-2003, the states with the most migration to Alaska were Washington 10.4%, California 9.0%, Texas 7.3%, and Oregon 4.7%; and

WHEREAS, three of these states (Washington, California, and Oregon) are among the nine states, including Alaska, that in the past have not required proof of legal status to reside in the United States; the Oregon legislature having just recently decided to make proof of legal residency status a requirement for issuance; and

WHEREAS, from 2003-2006, the trend of migration to Alaska has been from international countries; and

WHEREAS, results received January 28, 2008, from Immigration Customs Enforcement (ICE) in response to a Freedom of Information Request, show that in Anchorage, beginning in 2004 through January 2008, law enforcement actions involving illegal immigrants included 74 criminal arrests, 102 alien administrative arrests, 10 worksite enforcement-criminal actions, 26 worksite enforcement-administrative actions, and 5 human

smuggling-criminal arrests; and

WHEREAS, requiring proof of legal status to reside in the United States in the issuance of official identification and driver's licenses by the State of Alaska is a step that will benefit Anchorage, as the state's largest population center;

NOW THEREFORE BE IT RESOVED:

The Anchorage Assembly supports SB 215, HB 3, and all efforts by the 25th Legislature of the State of Alaska to ensure that proof of legal status to reside in the United States is required in the issuance of official identification and driver's licenses by the State of Alaska.

PASSED AND APPROVED by the Anchorage Assembly this _____day of _____, 2008.

_____
Chair

ATTEST:

_____
Municipal Clerk

State of Alaska Division of Motor Vehicles Standard Operating Procedures	SOP No.: D-20	Page No.: 1
	Effective: July 1, 2006	
Subject:	Supersedes: D-20	Dated: 6/1/00
IDENTIFICATION AND PROOF OF DATE OF BIRTH	Form No.: 478	
Statute: AS 28.15.061	Regulation: 2 AAC 90.420(b)	

Alterations | Foreign | Lost AK | Lost OOS | Primary ID | Secondary ID

IDENTIFICATION AND PROOF OF DATE OF BIRTH

Every person who makes an **original** application for a driver's license, permit or ID card must furnish documentary proof of their legal name, date of birth, social security number and residence address as outlined below. An applicant for a permit or driver license must also furnish proof that they have passed the required tests.

CERTIFICATION BY CORRECTIONS, PROBATION OR ALASKA CHILDREN'S SERVICES IS NOT ACCEPTABLE.

ITEMS REQUIRED FOR AN ORIGINAL ALVIN RECORD (ID, IP, D, OR CDL)

- Legal Name & Date of Birth
- Secondary item as verification of the primary document
- Social Security Number
- Their current residence address

Please see the following for further information on each of these items.

Return to Top

LEGAL NAME & DATE OF BIRTH (PRIMARY DOCUMENTS)[2 AAC 90.420 (b)]

The following documents are acceptable for proving legal name and date of birth. If the applicant's legal name is different than what is printed on their birth certificate, they will need to bring in the document(s) that provide proof of thename change.

- An original or certified copy of a U.S. birth certificate (FromVital Statistics)
- U.S. Passport or Canadian Passport (Must be current)
- An Alaska learner's permit, driver license or State Identification card.
- U.S. Military Identification for active duty, retiree or reservist.
- Certificate of Citizenship
- Certificate of Naturalization
- Certificate of Birth Abroad
- Passport issued from another country, with appropriateimmigration documents.

Return to Top

NAME CHANGE (D-23)

When the name on the identity document does not match the applicant's current name, the following are acceptable to prove the applicant's legal name.

- U.S. Passport
- Amended birth certificate
- Certified Adoption papers
- Certified Marriage certificate
- Certified Court order
- Certified Divorce decree
- Certificate of Dissolution, Divorce or Annulment
- Certificate of Naturalization
- Certificate of Name Change

Return to Top

SOCIAL SECURITY NUMBER (D-17)

The name on file with the Social Security Administration (SSA)**must** match the identity document(s). **One** of the following is required:

- Original Social Security Card (A Metal card is not acceptable.)
- Letter from the Social Security Administration verifying the applicant's name and number.
- Letter from the SSA verifying that the applicant has never been assigned a social security number.
- If an applicant is not eligible for employment due to theirimmigration status, they do not need this document.

Return to Top

RESIDENCE ADDRESS

An applicant must present documentation that contains both the applicant's name and address of principle residence. This cannot be a post office box ormail cache facility. This may consist of:

- Utility bill
- Alaska voter registration card
- Alaska title and/or registration (Issued at least 30 days prior to application)
- Paycheck Stub
- Medical Assistance card
- Public Assistance card
- Cancelled check or bank statement
- Mortgage or rental document
- Parental consent (On the back of Form 478)

Return to Top / Index

SECONDARY IDENTIFICATION DOCUMENTS

Secondary identification documents are meant to give customers another set of documents to use to prove identity. Secondary documents are to be used to obtain a duplicate or to renew an Alaska driver's license, permit, or identification card. For information on requirements to obtain an original driver's license, permit or identification card, see Primary Identification Documents.

1. All primary documents
2. Bureau of Indian Affairs card or an Indian Treaty Card. (Some tribal cards are more reliable than the BIA card. DMV's can make their own determination.)
3. State issued Driver license or ID card that has **NOT** been expired over a year.
4. Court order that does not contain the applicant's date of birth.
5. Photographic employer identification card.
6. Foreign birth certificate.*
7. Foreign passport.*
8. Health insurance card [Blue Cross/Shield, Kaiser, Aetna, or a Health Maintenance Organization (HMO)].
9. Internal Revenue Service (IRS) or state tax form. A W-2 form is not acceptable.
10. Marriage license or certificate.
11. Individual's medical records from a doctor or a hospital.
12. Military dependent identification.
13. Military discharge or separation papers. (DD214)
14. Parent or guardian affidavit for minors, only. The parent or guardian must appear in person and prove their identity and submit a certified or notarized affidavit regarding the child's identity.
15. Gun permit.
16. Pilot's license.
17. Certified school record or transcript.
18. Photographic school identification card.
19. Vehicle title. A vehicle registration is not acceptable.
20. Welfare card.
21. Prison release document.

*See the following page for further information on foreign documents.

Return to Top / Index

LOST *ALASKA* DRIVER LICENSE/PERMIT/I.D. CARD REQUIREMENTS:

- Two items from either the primary or secondary identification document list. The information in ALVIN may be used in place of one of the items provided the person can verify address, date of birth, place of birth, Social Security number and the physical description matches.

- In extreme cases, you may use the digital photo on file or request a photo of the applicant from the Department of Public Safety, OL Photos. Examples of extreme cases are when an applicant is the victim of a house fire or when **all** identification documents have been lost or stolen. In these cases, check to see if a digital photo is

on file or request the photo by e-mail or by calling OLPHOTOS. Appendix D) Please include the full name of the applicant and their license or identification number, as well as the SSN and DOB, if available.

NOTE: Rent receipts, credit cards, and similar type documentsare not to be used as proof of identity for issuance of an ***original*** driver license or ID card but can be used as proof of residence address. They may be used for issuance of a duplicate OL or ID as a**last resort** and in conjunction with the ALVIN record.

Return to Top / Index

LOST *OUT-OF-STATE* LICENSE/PERMIT REQUIREMENTS:

- Furnish **documentary proof of his/her identity and date of birth** the same as for an original license.
- Obtain verification of their license status from the state the applicant is currently licensed in.
- A PDPS check is required to verify eligibility.

ALTERATIONS

Any document that contains an alteration that changes the name, date of birth, or other pertinent information will not be accepted.

FOREIGN DOCUMENTS

Any primary or secondary document that is in a language other than English must be translated into English and must be accompanied by a Certificate of Accuracy of Translation by the person translating the document(s). DMV will accept the self-certification of anyone who certifies they have the competency to translate.

Cross Reference:

App. D	DMV Addresses
D-073	Class D - Basic Driver License

HISTORY:

7/1/06 - Regulation change from 13 AAC 08.330(b) to 2 AAC 90.420 (b).

NEXT SOP

Return to Top / Go to Index - Accounting, Boat, DL, CDL, Registration & Title

HB

5

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 5
() Publish Date:

Identifier (file name): HB5-REV-APFC-01-23-09
Dept. Affected: Revenue
Title: DIVEST INVESTMENTS IN SUDAN
RDU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Sponsor: Representative Lynn
Requester: House State Affairs
Component Number: 109

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual	20.0		20.0	20.0	20.0	20.0	20.0
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous	30.0		30.0	30.0	30.0	30.0	30.0
TOTAL OPERATING	**50.0**		**50.0**	**50.0**	**50.0**	**50.0**	**50.0**
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							
1105 APFC Receipts	50.0		50.0	50.0	50.0	50.0	50.0
TOTAL	**50.0**	**0.0**	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**

Estimate of any current year (FY2009) cost: 30.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill would require that APFC divest any securities of publicly traded companies that are held in actively or passively managed separate (non-commingled) funds. This bill would also require that APFC send letters to managers of actively traded commingled funds requesting that they consider divesting the listed securities. APFC is directed to develop a divestment list: administrative cost of purchasing lists of publicly traded companies doing business in Sudan from external sources each year as part of research process totals $30.0 Active separate account managers have stated that they will not charge customization fees. Stated customization charge in addition to regular management fees for passive accounts (as of Jan 2009) of $20.0.

Prepared by: Michael J. Burns
Phone 907-796-1520
Division: Alaska Permanent Fund Corporation
Date/Time: January
Approved by:
Date

(Revised 9/10/2008 OMB)

HB

14

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 20, 2009

FURTHER REFERRALS:

Date of Committee Action: 2-26-09

The STATE AFFAIRS Committee considered:

HOUSE BILL NO. 14

"An Act designating the Alaskan malamute as the official state dog."

HB 14 ALASKAN MALAMUTE AS STATE DOG

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

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent _____ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
ALL				X

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			X	
Gatto	Gatto				X
Paul Seaton	SEATON	X			
Mike Hawker	Gruenberg	–			
Peggy Wilson	WILSON	Y			
Pete Peterson	PETERSEN	X			
Chair: Bob Lynn	LYNN			X	
Chair:					

Telephone Introduction to the Polaris K-12 School's Malamute Project
Given by Paige Hill, student,
To the House State Affairs Committee in support of
HB 14: *"An Act designating the Alaskan Malamute as the official state dog."*
February 26, 2009

Good Morning, Mr. Chair. My name is Paige Hill and I'm in the second grade at Polaris K-12 School in Anchorage.

When I was in kindergarten, my grandma Shirley came to Alaska to spend Easter with my family. Since I was a kindergartner she came and spent the day with my class.

You see, my grandma Shirley teaches second grade in North Carolina and she wanted to teach us about things from where she came from. One of the first things she taught us about was her state's symbols. We learned that their state dog is a Plott Hound. That's what made me ask, what's our state dog? Nobody knew for sure what it was! Later, we found out we didn't even have a state dog and this is where it all began.

My teacher decided to help us do some investigating. We wanted to figure out how our state could get a state dog. We found out that two other symbols, the willow ptarmigan in 1955 and the four-spotted dragon fly in 1995 both became state symbols because of kids working hard, just like us.

After lots of discussion, we narrowed our choice down to two types of dogs, the husky and the Alaskan malamute. We finally voted for the Alaskan malamute. One of the reasons we picked the Alaskan malamute is because it's big like Alaska and because it's a hard working dog like the people of Alaska.

The next school year our class asked two older classes to join us and help research more about the Alaska Malamute's history. We learned that this great dog has been in Alaska for thousands of years. It's one of the twelve ancient breeds and the only dog native to the United States. The Alaskan malamute is a working dog who worked right alongside people all through Alaska's history and helped make Alaska what it is today.

We know that once people understand the Alaska Malamute's long and loyal history, they will realize that this is the dog to be our official state dog.

Thank you for taking our bill seriously and for helping to have the Alaskan malamute declared the official state dog.

Telephone Testimony by Polaris K-12 Students to the House State Affairs Committee in support of HB 14: *"An Act designating the Alaskan Malamute as the official state dog."* February 26, 2009

I. Overview

CIARA BRADY:

Good Morning, Mr. Chair. My name is Ciara Brady. I'm in the 4th grade at Polaris K-12 School in Anchorage. We know that some people, and possibly some of you listening to us today, feel that the Alaska husky should be recognized as the official state dog. Some of us felt that way, too, when we first started our research, but what we found convinced all of us that the Alaskan Malamute is the right choice for Alaska's official state dog.

RAIA STAMM:

Good Morning, Mr. Chair. My name is Raia Stamm. I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaskan Malamute is a fine example of a breed of dog developed for a particular purpose. They helped early Arctic settlers hunt and pull heavy sledges loaded with supplies. They assisted Arctic explorers and were able to work for weeks on end without negative effects of the daily strain. They helped during the Gold Rush and later before statehood when Alaska was not as easily traveled as it is today. Throughout history people needed an animal who could help them and they got all that and more from the Alaskan Malamute. They also got a dog who was smart and loyal, and who worked well with people. Sometimes they even helped to raise the kids!

KAI ROBERTS:

Good Morning, Mr. Chair. My name is Kai Roberts. I'm in the 4th grade at Polaris K-12 School in Anchorage. The Alaskan Malamute, as you know, is still around today and its characteristics have been preserved so that, theoretically, today's Alaskan Malamutes are able to do the same job as that of their forefathers. In other words, they continue to be the same amazing dog that they were throughout Alaska's history.

II. The Alaskan Malamute Breed

SANNE CASSEE:

Good Morning, Mr. Chair. My name is Sanne Cassee. I'm in the 2nd grade at Polaris K-12 School in Anchorage. The Alaskan Malamute, one of the oldest Arctic sled dogs, was named after the native Inuit tribe called Mahlemuts, who settled along the shores of Kotzebue Sound in the upper western part of Alaska, within the Arctic Circle.

CALEENA SHAFER:

Good Morning, Mr. Chair. My name is Caleena Shafer. I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaskan Malamutes have been in Alaska for over 5000 years; some people claim for up to 10,000-15,000 years, and even up to 20,000 years, as evidenced by bone and ivory carvings found by archeologists. They show ancient Alaskan Malamutes almost identical to today's breed. Recent DNA analysis confirms that the Alaskan Malamute is one of the oldest breeds of dog. The Alaskan Malamute is known to be one of the twelve ancient breeds.

THOMAS TUNNELL:

Good Morning, Mr. Chair. My name is Thomas Tunnell. I'm in the 3rd grade at Polaris K-12 School in Anchorage. The Mahlemut Eskimos originated the breed. Original Alaskan Malamutes were 120-180 lb. (Today's Alaskan Malamute is smaller, approximately 85 lb.)

ATTICUS MADLAND:

Good Morning, Mr. Chair. My name is Atticus Madland. I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaskan Malamute is the native Alaskan Arctic breed, close cousins to the Eskimo dogs of Canada, Greenland and Labrador, cousin to the Samoyed of Russia and to the Siberian Husky. Also in this group are dogs from Japan, Norway, Finland, Holland, and many others. The Alaskan Malamute is the ONLY breed, out of over 150 breeds recognized by the American Kennel Club, that is native to the United States.

ADELINE WRIGHT:

Good Morning, Mr. Chair. My name is Adeline Wright. I'm in the 3rd grade at Polaris K-12 School in Anchorage. The Alaskan Malamute can stand severe cold weather and they were easy to care for. They have a low metabolism so only eat as much as a smaller dog, making them easier to feed and care for. They love people, especially children, and work as partners with their humans. They are often mistaken for huskies.

WALKER PLATZEK:

Good Morning, Mr. Chair. My name is Walker Platzek. I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaskan Malamute was never destined to be a racing sled dog; it was a working dog. It is not built for speed, it was built for heavy draft work. It is a heavy-boned dog, with powerfully built, strong shoulders. When working, the Alaskan Malamute shows a steady and tireless gait. It was used for heavy freighting, pulling thousands of pounds of supplies to villages and camps. They are very strong, able to pull very heavy loads. They were also used in hunting seals, were set loose in packs to track polar bears, to haul heavy sledges, and to pack in supplies.

CHRIS GRAY:

Good Morning, Mr. Chair. My name is Chris Gray. I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaskan Malamutes' ability was so amazing and widely respected, that Eskimos who lived inland traveled to the Kotzebue Sound to trade furs for dogs and supplies. This is how the Alaskan Malamutes found their way to other regions of Alaska and even to parts of the Yukon in Canada during the Gold Rush, where the gold diggers and some of the dogs that came with them to the Yukon made the Alaskan Malamutes' acquaintance some one hundred years ago.

III. Alaska's State Symbols

ROSEMARY FLESHER:

Good Morning, Mr. Chair. My name is Rosemary Flesher. I'm in the 5th grade at Polaris K-12 School in Anchorage.

During our research, we discovered that Dog Mushing is Alaska's official sport. Of course, the husky is known to be the best sled dog racer and a very important part of the sport. To the people who feel that the husky should be our official state dog, we respectfully point out that they already are. Alaskan dog mushing would not be what it is today without the contributions of the husky. They *are* dog mushing!

KAITLAN McLALLEN

Good Morning, Mr. Chair. My name is Kaitlan McLallen I'm in the 4th grade at Polaris K-12 School in Anchorage. The Alaskan Malamute has the very long history and were a very important part of the earliest cultures of Alaska. By designating the Alaskan Malamute as the official state dog, we are honoring that long history. We're also honoring the first Alaskans who worked in partnership with this amazing dog and who also deserve to be honored.

IV. Inuit History (3000 BC to present)

ABBIGALE SEITZ:

Good Morning, Mr. Chair. My name is Abbigale Seitz. I'm in the 3rd grade at Polaris K-12 School in Anchorage.

Alaskan Malamutes baby-sat the Inuit children while parents were out on hunts which is one reason they make very good family pets. They were so gentle that they allowed the human babies to crawl in and snuggle up with their puppies. Their use of dogs was a partnership for survival.

ONNI ENNIS-COCHRAN:

Hello, Mr. Chair. My name is Onni Ennis-Cochran. I'm in the 4th grade at Polaris K-12 School in Anchorage. In summer, the Mahlemut people fished and hunted inland. In winter, they hunted sea mammals on the coast. Their dogs, the Alaskan Malamute, assisted in hauling their possessions between spots, tracking polar bears and other quarry, hunting seals, moving meat from the hunt back to their base, and with the hunt itself, as well as lookouts for bears and guarding caribou herds.

V. Early Explorers (1700-1800s)

JASMINE RISKI:

Good Morning, Mr. Chair. My name is Jasmine Riski. I'm in the 5th grade at Polaris K-12 School in Anchorage. In the 1700 and 1800s, European explorers to Alaska were impressed with the breed. They were impressed not only by the hardy dog, but also by their owners' obvious attachment to them. Early writings indicate that the dogs kept by the Mahlemut people were better cared for than was usual for Arctic sled dogs, and this seemingly accounts for the breeds affectionate disposition.

VI. Russian Alaska (1731-1867)

KENJI MATSUOKA:

Good Morning, Mr. Chair. My name is Kenji Matsuoka. I'm in the 5th grade at Polaris K-12 School in Anchorage. Travel logs of the early Russian and English explorers often reported a superior and better kept type of work dog kept by the Mahlemut people. They wrote about them being less "wild", more friendly and easy going, and capable of an enormous amount of work, both hunting and hauling.

VII. Captain Cook (1776-1779)

CLARA VEELMAN:

Good Morning, Mr. Chair. My name is Clara Veelman. I'm in the 4th grade at Polaris K-12 School in Anchorage. Captain Cook came to Alaska in 1776 to find the fabled Northwest Passage, a trading route across the top of North America, from Europe to Asia. His journals and logs showed that he was VERY impressed by the big, strong, hardworking Alaskan Malamute who got along and worked so well with humans.

VIII. The Gold Rush (1896-1906+/-)

SABRINA URBAN:

Good Morning, Mr. Chair. My name is Sabrina Urban. I'm in the 2nd grade at Polaris K-12 School in Anchorage. By the time of the Gold Rush, Alaskan Malamutes, with their ability to haul equipment and people, were in high demand. They were so highly valued that a prospector would pay $500 dollars for one good dog and $1500 for a small team!

RALEIGH PIGG:

Good Morning, Mr. Chair. My name is Raleigh Pigg. I'm in the 4th grade at Polaris K-12 School in Anchorage. Many dogs were being transported to Alaska during the Gold Rush, and used for travel to the furthest reaches of the wilderness, in search of fortune. Irish and English Setters, Siberian Huskies from Russia, canines of every type; the demand for big, strong dogs outweighed their supply in this northernmost state.

OCEANA GAMEL-HOWES:

Good Morning, Mr. Chair. My name is Oceana Gamel Howes. I'm in the 3rd grade at Polaris K-12 School in

Anchorage. Many people crossed their dogs with Alaskan Malamutes to try to make them bigger and stronger and better suited to the climate. The Alaska Alaskan Malamute breed was almost lost during the Gold Rush era, but a few dedicated Alaskan Malamute enthusiasts did their best to save the breed.

IX. Alaska's Purchase & Statehood (1867-1959)

DESIREE ARMSTRONG:

Good Morning, Mr. Chair. My name is Desiree Armstrong. I'm in the 3rd grade at Polaris K-12 School in Anchorage. Long after the Gold Rush, Alaskan Malamutes continued to be valuable freight dogs. They were easy to care for and could pull very heavy loads to areas that were otherwise not accessible.

RYAN TERRY:

Good Morning, Mr. Chair. My name is Ryan Terry I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaska Alaskan Malamute helped haul the mail and freight supplies in Bush Alaska. After the Gold Rush, Alaskans, both native and white, continued to make good use of sled dogs, for travel, hunting and trap lines, and most important, for mail delivery. During the frozen months, when ships couldn't reach Alaska's harbors, dog team mail carriers, in relays of 300 miles each, transported mail over 1000 miles of Alaskan terrain. Alaskan Malamutes played a huge part in this. They were the Big Mac Trucks of their day! Often, they were carrying a thousand pounds of mail at one time, and it is said they would arrive in Nome, frisky and ready to run again.

WILL ROBERSON:

Good Morning, Mr. Chair. My name is Will Roberson. I'm in the 4th grade at Polaris K-12 School in Anchorage. By 1908, a new sport also began to take shape. Racing your dog team was soon a big social event. Dog sled races popped up all over the remote communities of Alaska. The Siberian Husky was also first imported in 1908 in an effort to get a faster sled dog for racing. People continued to mix their dogs and this is the time when the concept of "Alaska husky," the beginnings of today's sled dogs, began to emerge and why it has so many different looks today. As you know, dog mushing, starring the "Alaska husky," went on to become the official state sport in 1972.

X. The 1925 Serum Run

JOEY AIST:

Good Morning, Mr. Chair. My name is Joey Aist. I'm in the 4th grade at Polaris K-12 School in Anchorage. During the 1925 Serum Run to Nome, about 150 sled dogs relayed diphtheria antitoxin 674 miles by dog sled in a record-breaking five and a half days, saving the small city of Nome and the surrounding communities from an incipient epidemic. The Alaskan Malamute played a role in this important event doing their part to carry the badly needed medicine to Nome.

XI. Peary, Amundsen, & Byrd Expeditions

TRENT DEVEREUX:

Good Morning, Mr. Chair. My name is Trent Devereux. I'm in the 5th grade at Polaris K-12 School in Anchorage. Alaskan Malamutes contributed to the polar expeditions of Perry, Amundsen, and Byrd to the South Pole. They were employed to pull the heavy supply sleds. The successful exploration of this vast continent could not have been accomplished without the help of the Alaskan Malamute.

XII. World War II.

GWYNETH MEEK:

Good Morning, Mr. Chair. My name is Gwyneth Meek I'm in the 3rd grade at Polaris K-12 School in Anchorage. The Alaskan Malamute was important to America's efforts during World War II. They pulled sleds in snow-covered areas that were not accessible to other, more mechanical means of transportation.

TAYLOR BAGDON :

Good Morning, Mr. Chair. My name is Taylor Bagdon. I'm in the 5th grade at Polaris K-12 School in Anchorage. During World War II., Alaskan Malamutes were also used as pack animals to carry weaponry and ammunition across the frozen ground. They served as search-and-rescue dogs and they sniffed for mines.

JESSICA HUSA:

Good Morning, Mr. Chair. My name is Jessica Husa. I'm in the 3rd grade at Polaris K-12 School in Anchorage. During World War II., the military tried to make the Alaskan Malamute guard dogs, but they failed the test because they just liked people too much to attack a person.

XIII. Additional Notes for the Record

DUNCAN WRIGHT:

Good Morning, Mr. Chair. My name is Duncan Wright. I'm in the 5th grade at Polaris K-12 School in Anchorage. We would like you to consider the following points of grammar. The "M" in "Alaskan Malamute" needs to be changed to a capital letter. We believe that the word "Alaskan Malamute" in "Alaskan Malamute" is a proper noun because it names a specific dog and so it should be capitalized.

We learned that historically, the Alaskan Malamute was so respected for its ability to haul loads that people began to use the word "malamute" to indicate *any* freight-pulling dog. This common use makes it a *common noun.* A common noun is not capitalized because it doesn't name anything specific. (For example, the words *man, city, dog,* are common nouns. The general use of the word *malamute* to describe any freight hauling dog is also a common noun.)

A proper noun names a specific noun, so is capitalized (for example, Mr. Jones is a specific name, Juneau is a specific city, and Alaskan Malamute is a specific dog or breed of dog). We researched the American Kennel Club web site and found that they capitalize all dog names. Alaskan Malamute, Afghan Hound, and Siberian Husky are all examples of capitalized names of dog breeds. They are all proper nouns because they're all specific breeds.

In House Bill 14, we are talking about a very specific malamute, namely the *"Alaskan Malamute,"* the dog who has been an Alaskan since the very beginning and so feel that it needs to be capitalized.

YUNGSHU WONG:

Good Morning, Mr. Chair. My name is Yungshu Wong. I'm in the 5th grade at Polaris K-12 School in Anchorage. I'm going to give you an important argument against using the terms "sled dog," "mutt," or "Alaska husky" as our state dog. We've researched the state symbols of Alaska and other states, too. All of the symbols we found name something very specific. For example, our state marine mammal is not the *whale*, it's the *Bowhead Whale.* Our state insect is not the *dragon fly*, it's the *Four Spotted Skimmer Dragon Fly.* It's the same for all of the other states, too. Everything is very specific. The nine states who have an official state dog, name a specific breed. The terms "sled dog," "mutt," and "Alaska husky" are not just general names. The Alaskan Malamute, however, is a very specific breed.

XIV. Wrap Up

SAMUEL BROWN:

Good Morning, Mr. Chair. My name is Samuel Brown. I'm in the 5th grade at Polaris K-12 School in Anchorage. During our work we came across some minor opposition. This included an article written by Craig Medred in the *Anchorage Daily News*, a person commenting on Dermot Cole's article in the Daily News Miner, and a couple of other people we've heard of along the way. We recognize that the Alaska Husky has made a great contribution to Alaskans and Alaska, both as a light working dog and as a recreational sled dog. However, the husky does

NOT have the extremely long history of the Alaskan Malamute.

KAYA PORTER:

Good Morning, Mr. Chair. My name is Kaya Porter I'm in the 4th grade at Polaris K-12 School in Anchorage. The history of the Alaska husky began with the Gold Rush of the late 19th and early 20th centuries. The Siberian Husky was imported to Alaska in 1908. In comparison, the Alaskan Malamute has been in Alaska for at least 5,000 years!!!

OWEN MCGEE:

Good Morning, Mr. Chair. My name is Owen McGee. I'm in the 5th grade at Polaris K-12 School in Anchorage. Our official state sport is Dog Mushing. The "Alaska husky," bred for and known to all as a racing dog, is already been recognized by the adoption of dog mushing as the official Alaska state sport. Without the husky, there would be no dog mushing!

MAEVE WILEY:

Good Morning, Mr. Chair. My name is Raia Stamm. I'm in the 5th grade at Polaris K-12 School in Anchorage. The Alaskan Malamute represents the Alaskan character: proud, independent, and sometimes even stubborn. The Alaskan Malamute is friendly and fun-loving, just like Alaskans. And the Alaskan Malamute is HUGE, just like Alaska!

MADELINE FLORES:

Good Morning, Mr. Chair. My name is Madeline Flores. I'm in the 5th grade at Polaris K-12 School in Anchorage. Alaskans love dogs and the Alaskan Malamute is Alaska's oldest dog. It arrived with the very first people 5,000 years ago, maybe even earlier. With its very long and distinguished history, the Alaskan Malamute has always been an intelligent, hardworking, and loyal partner. By honoring the Alaskan Malamute, we are also honoring the very first people of Alaska. Alaska's entire history will also be honored because this brave hearted dog was there and actively involved every step of the way. The Alaskan Malamute is an amazing dog that helped to open up the state and make Alaska what it is today. The Alaskan Malamute deserves to be recognized as our official state dog. Thank you for helping to make that possible.

LEGAL SERVICES

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

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

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

MEMORANDUM February 26, 2009

SUBJECT: CSHB 14(STA) relating to the state dog
(Work Order No. 26-LS0079\R)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM: Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

Capitalization. Please be aware that capitalizing "malamute" does not follow the Manual of Legislative Drafting. AS 24.08.060(a) states that bills and resolutions are to be prepared and introduced in the manner and form prescribed in the uniform rules and the legislative style manual. Rule 10 of the Uniform Rules requires that the manual be followed by all officers and employees of the legislature in the preparation, processing, and disposition of all legislative documents and records. The manual states at page 60 that capitals are to be used sparingly and directs, as a general rule, using the lower case. As can be seen by a review of the statutes, references to animals are not capitalized (e.g., "black bear"). However, if you want to consider placing this matter in a resolution, the manual also states at page 60 that capitals may be used more generously in resolutions.

If I may be of further assistance, please advise.

TLB:plm
09-124.plm

Enclosure

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re HB 14 – Alaskan Malamute as State Dog

2/26/09

HB 14 passed out of House State Affairs Committee amended.

Representative Wilson offered a conceptual amendment to Line 1 and Line 4 that would capitalize the "M" in Malamute.

Please draft a final CS to HB 14 that reflects this conceptual amendment. Thanks..

Nancy Manly

From: Noah Hanson
Sent: Wednesday, February 25, 2009 11:20 AM
To: Nancy Manly

Nancy, not sure if you need this but I will give it to you anyway. Here are the names of the student who will be testifying tomorrow:

Paige Hill
Ciara Brady
Raia Stamm
Kai Roberts
Sanne Cassee
Cally Shafer
Thomas Tunnell
Atticus Madland
Adeline Wright
Walker Platzek
Chris Gray
Rosemary Flesher
Kaitlan McLanlen
Abbigale Seitz
Onni Ennis-Cochran
Jasmine Riski
Kenji Matsuoka
Clara Veelman
Sabrina Urban
Raleigh Pigg
Oceana Gamel-Howes
Desiree Armstrong
Ryan Terry
Will Roberson
Joey Aist
Trent Devereux
Gwyneth Meek
Taylor Bagdon
Jessica Husa
Duncan Wright
Yungshu Wong
Sam Brown
Kaya Porter
Owen McGee
Maeve Wiley
Madeline Flores

ALASKA STATE LEGISLATURE

Juneau
State Capitol Bldg. Rm 422
Juneau, AK 99801-1182
Phone (907) 465-4930
Fax (907) 465-3834
1-800-331-4930

Anchorage
716 W. 4th Avenue
Anchorage, AK 99501
Phone (907) 269-0174
Fax (907) 269-0177

Representative Berta Gardner

House District 24

SPONSOR STATEMENT
HB 14

"An Act designating the Alaskan malamute as the Alaska State Dog"

The Alaskan malamute has played an important role in Alaska's history for at least four thousand years. Considered to be one of the twelve ancient breeds, the Alaskan malamute evolved from the ancient dogs that accompanied prehistoric man in his migrations from Asia, reaching back to the earliest days of prehistory Alaska with the Mahlemut people, now known as the Inuits, in Northwestern Alaska. They lived and worked closely with their dogs, depending on them as partners in hunting large game, hauling heavy loads, and even helping to watch children.

Eighteenth and nineteenth century European explorers to Alaska were impressed with the breed and by the time of the gold rush, Alaskan malamutes, with their ability to haul equipment and people, were in high demand. They were so highly valued that a prospector would pay $500 dollars for one good dog and $1500 for a small team! Long after the Gold Rush, Alaskan malamutes continued to be valuable freight dogs. They were easy to care for and could pull heavy loads to areas that were otherwise inaccessible.

During the 1925 Serum Run to Nome, about 150 sled dogs relayed diphtheria antitoxin 674 miles by dog sled in a record-breaking five and a half days, saving the small city of Nome and the surrounding communities from an incipient epidemic. The Alaskan malamute played a role in this important event.

The Alaskan malamute assisted with Admiral Richard Byrd's expeditions to the South Pole in 1828 and 1934. The successful exploration of this vast continent could not have been accomplished without these dogs.

Additionally, the Alaskan malamute contributed to America's efforts during WWII, pulling sleds in snow-covered areas that were inaccessible to other, more mechanical means of transportation. They were also used as pack animals to carry weaponry and ammunition across the frozen ground, and they served as search-and-rescue dogs.

With its long and distinguished history, the Alaskan malamute has always been an intelligent, hardworking, and loyal partner. This amazing breed helped to make Alaska what it is today and deserves to be recognized.

Please join us in supporting the appointment of the Alaskan malamute as the official Alaska state dog.



26-LS0079\A.2
Bannister
2/23/09

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: HB 14

Page 1, line 1:

Delete "**malamute**"

Insert "**husky**"

Page 1, line 4:

Delete "malamute"

Insert "husky"

412

26-LS0079\A.1
Bannister
2/23/09

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: HB 14

Page 1, line 1:

Delete "**malamute**"

Insert "**sled dog**"

Page 1, line 4:

Delete "malamute"

Insert "sled dog"

Nancy Manly

From: mush@matnet.com on behalf of Fred Agree [mush@matnet.com]
Sent: Friday, February 20, 2009 10:43 AM
To: Nancy Manly
Subject: Re: HB 14 ALASKAN MALAMUTE AS STATE DOG

Esteemed members of the Alaska House:

I am writing this to show my opposition to HB14, naming the Alaska Malamute as the Alaska State Dog. I write,as I am currently recovering from pneumonia and my telephone voice is rough. My name is Fred Agree and I am a member of the Iditarod Official Finishers Club,a former State Veterinary Examiner Board member and owner of Petersville Kennels for 30 years.

The history presented by the American Kennel Club on Alaskan Malamutes is full of errors and exaggerations. The history portrayed by the AKC has little to do with the current breed, called Alaska Malamutes.

Mrs. Eva Seeley of New Hampshire, came to Nome in 1927, and bought a dog from Arthur Walden, well known Alaskan musher. He told her it had belonged to one of the Malamute family on the Seward Peninsula. We all know that a musher is not going to sell a good dog to a woman tourist from New Hampshire ! The origin of the second dog she bought,is lost to history.

Mrs. Seeley took these dogs back to New Hampshire, where she began to breed them, fathers to daughters, sons to mothers and brothers to sisters. This line breeding produced the desired look, but produced bad hips, nasty attitudes with other dogs, and clunky bodies. Somewhere in those years Mrs. Seeley named them Alaskan Malamutes and began to market them throughout America. They eventually made their way to Alaska as pets. Today, they can be seen, at Alaska Kennel Club shows being trotted around a show ring by a woman in a dress, being observed by a judge in a Brooks Brothers suit. There is only on team of them running in Alaska, at Knik. They are a horror to try to pass on the trail,and their 4mph pace makes them a nuisance to follow.Jimmy Malamute won the Anchorage Fur Rondy race in 1957. If you look at a picture of his team it is hardy the 100lb behemoths called Malamutes today !

The real Alaska State Dog is the Alaska Husky. These were bred for performance and attitude. They include Seppala's TOGO, Scotty Allen's BALDY OF NOME,

Gareth Wright's JENNY, George Attla's LINGO, Joe Redington's FEETS, Susan Butcher's GRANITE, Rick Swenson's ANDY, Dan Seavey's SUNNY, Earl Norris' NIKOLI. and my Iditarod leader, a white dog named BLACKIE.

I ask you legislators to consider the ALASKA HUSKY as the State Dog and let New Hampshire have the "Malamute" as theirs.

Alaska State Legislature

Senator Con Bunde
District P

Member: Senate Labor & Commerce Committee

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-4843

During Interim:
716 W. Fourth Avenue
Anchorage, AK 99501-2133
(907) 269-0181

MEMORANDUM

DATE: January 27, 2009

TO: All Legislators

FROM: Senator Con Bunde

RE: Alaska's State Dog

As a former dog musher, mushing instructor and past president of the Alaska Sled Dog Racing Association (ASDRA), I immediately thought that House Bill 14 was honoring the "wrong dog" and the attached article supports my sentiments.

While I support Rep. Gardner's efforts to involve the children at Polaris K-12 in the political process, it is my hope that they reconsider the focus of the bill to instead be the Alaskan Husky as Alaska's State Dog.

Sincerely,

Con

adn.com
Anchorage Daily News

Print Page Close Window

Malamute promoters barking up wrong tree

CRAIG MEDRED
OUTDOORS
(01/26/09 22:26:06)

In no state in the nation has the common canine played a more important role than in Alaska, and for that reason the students at Anchorage Polaris K-12 school and Rep. Berta Gardner, D-Anchorage, deserve a heap of praise for their efforts to make the malamute the state dog.

The only problem is they've got the wrong pup.

Not that there is anything wrong with the malamute, an historic Alaska breed believed to trace its roots back to the first wolves domesticated by Natives of the Arctic Coast. It's just that there's a much better candidate:

The sled dog.

Yeah, that's right. The basic, generic, unpretentious sled dog.

He or she might be a malamute or part malamute, or a Siberian husky or part Siberian husky, or a German shorthair or part German shorthair, or an Irish setter or part Irish setter, or a Targhee hound or part Targhee hound, or a cross between a black-and-white dog and a mongrel.

Whatever the case, this dog is the essence of all that is best about the 49th state:

- We don't care where you came from.
- We don't care what you look like.
- All that matters is that you can perform.

For the Mahlemut Inuits of Kotzebue Sound back in the days before the white people arrived in Alaska, the malamute was that dog.

For the adventurers and prospectors who first opened Alaska up to the rest of the world, the "Esquimax" dog or the "Indian" dog was that dog.

For the men who hauled the freight that helped build the early gold mines that were Alaska's economy before the oil began to flow, the "big dog" -- be it a mixed breed of Saint Bernard, husky, Newfoundland, or what-have-you -- was that dog.

Over the years, almost any breed of dog more than 20 pounds or so seems to have served time as an Alaska sled dog.

"Gillie Jacko had a bunch of Airedales," wrote the late Gus Jensen, an Athabascan elder from

Iliamna Lake. Jensen once hauled the mail by dog team from Iliamna to Pile Bay Village, Pedro Bay, Chekok and Goose Bay. Bill Vaudrin, a writer and Iditarod veteran who died tragically at the age of 32 in a 1976 car accident, got Jensen and a bunch of others to detail their memories for a book titled "Racing Alaskan Sled Dogs." Jensen lived through the period when the sled dog was to Alaska what the horse was to the West.

The sled dog, in all shapes and sizes, opened the frontier.

"I remember old Charlie Dennison from up at Lake Clark was trying to haul a 1,200-pound boiler home from Roadhouse (Iliamna) for his sawmill," Jensen wrote. "He son, Floyd, had 13 big dogs that time. He used to brag he threw away 80- and 90-pounders. But he got stuck."

Dennison called for help. A massive towline was lashed together. Other dog teams were called in for muscle. Thirty-five canines of all sorts ended up harnessed to the stuck sled.

"Young Harvey Drew had great big, mixed-breed dogs -- Saint Bernard, husky, malamute, German shepherds -- and I was running nine big mail dogs," Jensen wrote, "(and) those Airedales of Gillie's were up front barking and yapping, and that sled mowed down everything in its path, snapped dry trees 8 and 10 inches through like they were kindling."

The sled dog was the workhorse of the historic early Alaska.

Eventually, of course, the internal-combustion engine came to replace man's best friend as the power of the North, but the sled dog had by then earned such a prominent place in our history that it will never go away. The sled dog is still out there today running for competition or for fun, and he or she remains very much the any-dog that made Alaska.

"The best cross I ever had was a springer (spaniel) with a Johnny Allen (husky) bitch," Gareth Wright, the legendary dog breeder from Fairbanks, wrote in Racing. Wright's Aurora huskies -- a cross between Irish setters, wolves and Siberian huskies with some hound and only-Gareth-knows-what-else rolled in -- helped him win the Anchorage Fur Rendezvous World Championship Sled Dog Race and the Open North American Championship in Fairbanks back in the day. But the reign of the Aurora husky didn't end there.

Aurora huskies helped power Wright's daughter, Roxie Wright, to the first Fur Rendezvous win by a woman and towed grandson Ramy Brooks to victory in the 1,000-mile Yukon Quest International Sled Dog Race from Fairbanks to Whitehorse, Yukon Territory. The Wrights were a dominant force for a long time in Alaska sled-dog racing, and who knows, but that they might not have been more so if Gareth had bred more of those springer-spaniel crosses.

Unfortunately, he wrote, that "was an accidental breeding, and before I found out how good the pups were, I sold the female. There were six (pups) in the litter, and I ran them in 1947 when they were 15 months old and came in second by 4 seconds in the North American. ... Those were the toughest and fastest dogs I ever saw."

They were special dogs, but of no special breed.

They were simply sled dogs of the sort you'll see line up on Fourth Avenue in downtown Anchorage for the start of the Iditarod Trail Sled Dog Race in March.

Look at these dogs closely, and you can see the blood of just about any dog you want to imagine in the mix somewhere: Huskies, hounds, retrievers, pointers and even, occasionally, what appears as if it might be some hint of the malamute or even the wolf. Here is the great melting pot of the canine world.

America, as President Barack Obama so well illustrates, might be the world's greatest racial and ethnic melting pot, but Alaska clearly holds the distinction in the canine world. The grand stage for man's best friend in Alaska doesn't revolve around Westminster Kennel Club Dog Show prettiness, where judges fret over whether a dog is true to its ancestor's breed.

No, the grand stage of Alaska centers on the sled dog trails where it really doesn't matter who your ancestors were; it matters only that you perform like Paul Gebhardt's "red dog," the 2000 winner of the Iditarod's Golden Harness award for the best lead dog.

Like so many others, red dog was a mix, a mongrel, a cross breed. But all of that became irrelevant because he was a first-class sled dog with a big heart, a powerful body and an overwhelming determination to please.

Alaska was, in part, built on the hard work of dogs like this.

They are the dogs that deserve our recognition for their role in our history.

Not this breed or that breed over which the fans of each could no doubt argue for days or weeks, but that easily defined dog that could be yours or mine or anybody's in almost any shape or size -- the sled dog.

Find Craig Medred online at adn.com/contact/cmedred or call 257-4588.

Print Page Close Window

Copyright © Tue Jan 27 09:53:27 UTC-0900 20091900 The Anchorage Daily News (www.adn.com)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 14**
() Publish Date:

Identifier (file name): HB014-GOV-OMB-2-20-09
Dept. Affected: All
Title: Designating the Alaskan malamute as the official state dog
RDU
Component
Sponsor: Rep. Gardner
Requester: House State Affairs Committee
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation will not have any doggone fiscal impact on any State agency.

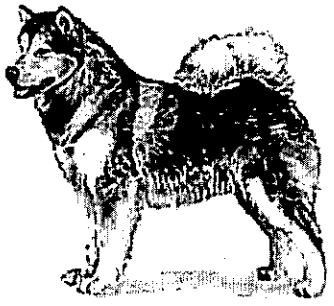
Prepared by: Jack Kreinheder, Senior Analyst — Phone 465-4676
Division: Office of Management and Budget — Date/Time 2/20/09 1:00 PM
Approved by: Karen Rehfeld, Director — Date 2/20/2009
Office of Management and Budget

(Revised 9/10/2008 OMB)

AMERICAN KENNEL CLUB℠

Information on AKC Alaskan Malamute Puppies

Alaskan Malamute Breed Standard



Working Group

General Appearance
The Alaskan Malamute, one of the oldest Arctic sled dogs, is a powerful and substantially built dog with a deep chest and strong, well-muscled body. The Malamute stands well over the pads, and this stance gives the appearance of much activity and a proud carriage, with head erect and eyes alert showing interest and curiosity. The head is broad. Ears are triangular and erect when alerted. The muzzle is bulky, only slight diminishing in width from root to nose. The muzzle is not pointed or long, yet not stubby. The coat is thick with a coarse guard coat of sufficient length to protect a woolly undercoat. Malamutes are of various colors. Face markings are a distinguishing feature. These consist of a cap over the head, the face either all white or marked with a bar and/or mask. The tail is well furred, carried over the back, and has the appearance of a waving plume.

The Malamute must be a heavy boned dog with sound legs, good feet, deep chest and powerful shoulders, and have all of the other physical attributes necessary for the efficient performance of his job. The gait must be steady, balanced, tireless and totally efficient. He is not intended as a racing sled dog designed to compete in speed trials. The Malamute is structured for strength and endurance, and any characteristic of the individual specimen, including temperament, which interferes with the accomplishment of this purpose, is to be considered the most serious of faults.

Size, Proportion, Substance
There is a natural range in size in the breed. The desirable freighting sizes are males, 25 inches at the shoulders, 85 pounds; females, 23 inches at the shoulders, 75 pounds. However, size consideration should not outweigh that of type, proportion, movement and other functional attributes. When dogs are judged equal in type, proportion, movement, the dog nearest the desirable freighting size is to be preferred. The depth of chest is approximately one half the height of the dog at the shoulders, the deepest point being just behind the forelegs. The length of the body from point of shoulder to the rear point of pelvis is longer than the height of the body from ground to top of the withers. The body carries no excess weight, and bone is in proportion to size.

Head
The head is broad and deep, not coarse or clumsy, but in proportion to the size of the dog. The expression is soft and indicates an affectionate disposition. The eyes are obliquely placed in the skull. Eyes are brown, almond shaped and of medium size. Dark eyes are preferred. *Blue Eyes are a Disqualifying Fault.* The *ears* are of medium size, but small in proportion to the head. The ears are triangular in shape and slightly rounded at the tips. They are set wide apart on the outside back edges of the skull on line with the upper corner of the eye, giving ears the appearance, when erect, of standing off from the skull. Erect ears point slightly forward, but when the dog is at work, the ears are sometimes folded against the skull. High set ears are a fault.

The *skull* is broad and moderately rounded between the ears, gradually narrowing and flattening on top as it approaches the eyes, rounding off to cheeks that are moderately flat. There is a slight furrow between the eyes. The topline of the skull and the topline of the muzzle show a slight break downward from a straight line as they join. The *muzzle* is large and bulky in proportion to the size of the skull, diminishing slightly in width and depth from junction with the skull to the nose. In all coat colors, except reds, the *nose, lips,* and *eye rims' pigmentation* is black. Brown is permitted in red dogs. The lighter streaked "snow nose" is acceptable. The lips are close fitting. The upper and lower jaws are broad with large teeth. The incisors meet with a scissors grip. Overshot or undershot is a fault.

Neck, Topline, Body
The neck is strong and moderately arched. The chest is well developed. The body is compactly built but not short coupled. The back is straight and gently sloping to the hips. The loins are hard and well muscled. A long loin that may weaken the back is a fault. The *tail* is moderately set and follows the line of the spine at the base. The tail is carried over the back when not working. It is not a snap tail or curled tight against the back, nor is it short furred like a fox brush. The Malamute tail is well furred and has the appearance of a waving plume.

Forequarters
The shoulders are moderately sloping; forelegs heavily boned and muscled, straight to the pasterns when viewed from the front. Pasterns are short and strong and slightly sloping when viewed from the side. The feet are of the snowshoe type, tight and deep, with well-cushioned pads, giving a firm, compact appearance. The feet are large, toes tight fitting and well arched. There is a protective growth of hair between the toes. The pads are thick and tough; toenails short and strong.

Hindquarters
The rear legs are broad and heavily muscled through the thighs; stifles moderately bent; hock joints are moderately bent and well let down. When viewed from the rear, the legs stand and move true in line with the movement of the front legs, not too close or too wide. Dewclaws on the rear legs are undesirable and should be removed shortly after puppies are whelped.

Coat
The Malamute has a thick, coarse guard coat, never long and soft. The undercoat is dense, from one to two inches in depth, oily and woolly. The coarse guard coat varies in length as does the undercoat. The coat is relatively short to medium along the sides of the body, with the length of the coat increasing around the shoulders and neck, down the back, over the rump, and in the breeching and plume. Malamutes usually have a shorter and less dense coat during the summer months. The Malamute is shown naturally. Trimming is not acceptable except to provide a clean cut appearance of feet.

Color
The usual colors range from light gray through intermediate shadings to black, sable, and shadings of sable to red. Color combinations are acceptable in undercoats, points, and trimmings. The only solid color allowable is all white. White is always the predominant color on underbody, parts of legs, feet, and part of face markings. A white blaze on the forehead and/or collar or a spot on the nape is attractive and acceptable. The Malamute is mantled, and broken colors extending over the body or uneven splashing are undesirable.

Gait
The gait of the Malamute is steady, balanced, and powerful. He is agile for his size and build. When viewed from the side, the hindquarters exhibit strong rear drive that is transmitted through a well-muscled loin to the forequarters. The forequarters receive the drive from the rear with a smooth reaching stride. When viewed from the front or from the rear, the legs move true in line, not too close or too wide. At a fast trot, the feet will converge toward the centerline of the body. A stilted gait, or any gait that is not completely efficient and tireless, is to be penalized.

Temperament
The Alaskan Malamute is an affectionate, friendly dog, not a "one man" dog. He is a loyal, devoted companion, playful in invitation, but generally impressive by his dignity after maturity.

Summary
IMPORTANT: In judging Malamutes, their function as a sledge dog for heavy freighting in the Arctic must be given consideration above all else. The degree to which a dog is penalized should depend upon the extent to which the dog deviates from the description of the ideal Malamute and the extent to which the particular fault would actually affect the working ability of the dog. The legs of the Malamute must indicate unusual strength and tremendous propelling power. Any indication of unsoundness in legs and feet, front or rear, standing or moving, is to be considered a serious fault. Faults under this provision would be splay-footedness, cowhocks, bad pasterns, straight shoulders, lack of angulation, stilted gait (or any gait that isn't balanced, strong and steady), ranginess, shallowness, ponderousness, lightness of bone, and poor overall proportion.

Disqualifications
Blue Eyes

Approved April 12, 1994
Effective May 31, 1994

Alaskan Malamute Links
Club Flier | Colors and Markings | Did You Know? | History | Photos | Puppies | Shop For Your Breed | Video



Malamute History

The Alaskan Malamute originated at least four-thousand years ago with a group of Eskimos called Mahlemuit Inuits. Malamutes were probably among the first breeds to be domesticated. Their reputation for great strength, courage, endurance, and loyalty made them great family pets and fantastic freighting dogs. They were capable of pulling a tremendous amount of weight over long distances at a steady pace, even in extreme conditions.



Alaskan Malamutes have played a critical role in the endeavors of humankind for centuries. Just a few examples of their contributions to society include:

The Klondike Gold Rush



With the onset of the Klondike Gold Rush in 1896, prospectors began to realize the need for hardy dog teams that could pull heavy freight. The Alaskan Malamute became the most prized dog. Not only could malamutes pull heavy loads, but they required very small quantities of food for their size compared to other breeds of sled dogs. Even at that time, a good malamute would cost a prospector about $500.

Dog teams became the primary method of hauling freight. The teams even proved themselves useful for freighting in the summer months when they were hitched to small trams or streams.

U.S. Postal Service

From the 1890's to 1963, Alaskan Malamutes were important to the mail service in Alaska and remote regions of Canada as the only reliable transportation. They were so important that a federal law required all other sled dog drivers to yield right-of-way to any mail-carrying team encountered.

The peak of mail service dog teams was from around 1910 into the late 1930's. As the postal service began replacing dog teams with airlines, sled dog carriers were phased out. In 1963, the last U.S. Postal Service mail driver retired with his dog team.



Military Service

During WWII, malamutes were used to pull sleds in snow covered areas that were inaccessible to other means of transportation. They freighted weapons and ammunition and were also used as search and rescue dogs.



Expeditions



Alaskan Malamutes have played a key role in countless expeditions. For example, a century ago Ernest de Koven Leffingwell harnessed the power of the Alaskan Malamute to map and explore Alaska's Arctic coast and what is known today as the Arctic National Wildlife Refuge. Hudson Stuck used malamutes to explore the remote areas of western Alaska in the 1920's. But the malamute certainly wasn't limited to Alaska! Admiral Richard Byrd had malamutes in his dog team when he explored Antarctica on various expeditions from the 1930's through the 1950's.

In the 1960's, Roger Burggraf used malamute teams to haul freight to climbers and explorers in Mount McKinley National Park in interior Alaska. He also used his malamutes to patrol the park during the winter months.

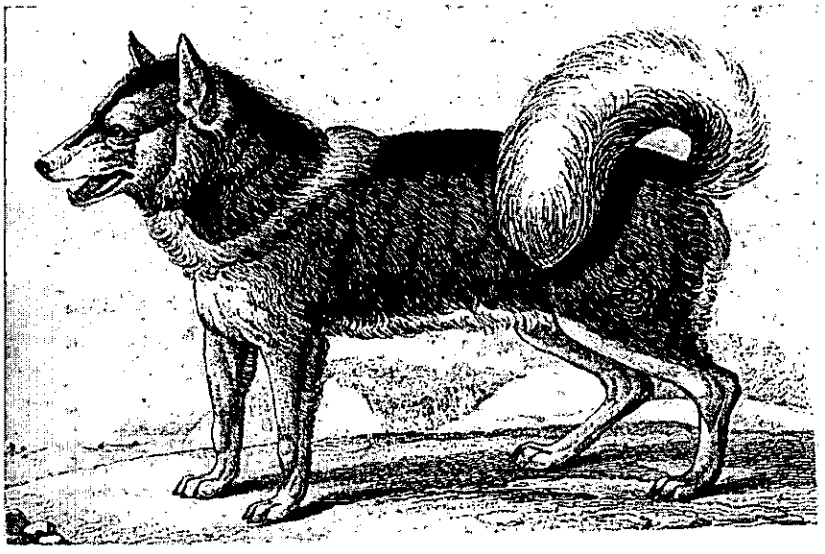


Today, Joe Henderson (Alaskan Arctic Expeditions) uses malamutes to their full potential on remote expeditions in the Arctic and interior Alaska. He may very well have one of the largest working Alaskan Malamute kennels in the world. He strives to maintain an outstanding working breed of malamutes that truly exemplifies their inherent strength, courage, and loyalty.

Alaskan Arctic Expeditions Joe Henderson , P.O. Box 80944, Fairbanks, AK 99708 Phone: (907) 590-4980 Email

ALASKAN MALAMUTE HISTORY

Alaska and Siberia, separated only by 55 miles of Bering Sea, with some of the smaller islands in the straits as close to each other as only 2 miles, have all through the ages shared their ancestry, a way of living and their life preserving dogs.



A Northern dog quite different from our Northern breeds of today

Some 35,000 years ago the people of Central Asia migrated farther and farther north to the extreme most regions of Siberia and the Arctic, and brought with them their jackal-type dogs (Canis aureus). Cross-bred with the Arctic wolves (Canis lupus), these animals developed over the centuries into what later came to be referred to as the Northern breeds, including the Malamute, Samoyeds, the Spitz, Keeshonds, Elkhounds, the Nootka dogs of Iceland and the Russian Laikas.

By the Neolithic age, 3500 to 2000 B.C., the Northern dogs had become established with their own type and characteristics which, with periodic breedings to the wolf, managed to endure down through the ages. All of these were referred to as "huskies". The term husky is a corruption of "esky", a slang word for Eskimo; it covered all the sled-pulling breeds that had rough, shaggy coats, pointed faces and plumey tails. Their coats were thick and woolly to protect them from the elements, and they came in almost every color; solids, brindles, white with spots, black with white, white with black patches, reds, yellow, yellow spotted, red spotted, etc. Today the term husky applies only to the Siberian Husky breed.



An Arctic expedition prepares for its sledge journey over the ice. (Courtesy Virginia Devaney)

From the first days of the Eskimos' existence on earth the dogs had been there at their sides, living with them and hunting with them, thousands of years before sleds were thought of or necessary to their existence. As far back as Mesolithic times men traveled on skis, and there are also evidences that they used the travois for ages before they got around to building sleds.

As the wilderness opened up before them, and as their numbers grew, they began to develop a dog bred to meet the requirements of their specific needs, a dog with the necessary conformation to provide endurance over great distances with the least expenditure of energy.

And so the Mahlemut Indians in the vast Alaskan territory, with their settlement along the Kotzebue Sound in upper Western Alaska, took the husky dog and began by process of elimination to develop what we have come to know as the Alaskan Malamute breed. It was almost a case of the survival of the fittest, since only the strongest of the litters came to survive the elements and the work schedule given to them by their owners. Through this continuous culling program we now have the distinctive, strong, powerful working dog that is hailed as the king of the working dogs.



Malemut Men and Women with Lip Labrets - 1881

In the twentieth century the Malamutes came of age:

1909 brought about the Commander Robert Peary -Dr. Frederick Cook controversy on who reached the North Pole first. This remarkable exploration was made possible by the sled dogs, and nobody argues this point. Regardless of which man got to the North Pole first, history bears out the fact that the sled dogs were truly the first ones there.

The great serum run in 1925 when a group of drivers and their stalwart dogs fought their way through fifty below zero weather and an 80 mile an hour blizzard to get serum to the inhabitants of Nome to halt the march of diphtheria.

Later brought the two Admiral Richard Byrd expeditions on the Antarctic continent. To this day there stands a plaque in Little America, Antarctic dedicated to all the dogs whose lives were lost during these two expeditions to Little America, 1928-1930 & 1933-1935.

Milton and Eve Seeley, the pinnacles in the breed, received their first Malamute from Arthur Walden in 1924. Walden was a well respected Malamute owner and trainer. Walden was responsible for the training and preparation of the Antarctic expeditions for Admiral Byrd. The Seeley's were responsible for the Alaskan Malamute receiving AKC recognition in 1935. On April 17, 1935 the Alaskan Malamute Club was organized, it later became the Alaskan Malamute Club of America, as we know it today.



Eva "Short" Seeley

There are 2 original strains of Malamutes, the M'Loots and the Kotzebues. The M'Loots tend to be larger sized than the Kotzebue, but some were rangy, some considerably lacking in substance. Their fronts were generally better than the Kotzebues, who tented to be somewhat wide in the chest and sometimes out at the elbows. The M'Loots were lacking in rear angulation, and this led to stilted gait. The Kotzebues had a broader head, more compact body and more rear angulation. The M'Loots also tended to have long ears and long muzzles.

The Kotzebues were gray dogs with white trim. The M'Loots had a wider range from gray to black and white. Dispositions differed somewhat. The Kotzebues were less aggressive and easier to control. The M'Loots were often aggressive with other dogs, prone to fighting, and sometimes difficult to handle.

It was the Kotzebue size which became a proven factor in all of the Byrd expeditions that this was the size most desired to endure the pace and elements. This is where the size in the breed standard came from. It was the Kotzebue line which was first recognized by AKC as a breed, and later the M'Loots were allowed to be included. Both strains are named for the Eskimos (Mahlemiut), of their region, the M'Loot, and the Kotzebue tribes.



A team of AKC registered Alaskan Malamutes

Today, Malamutes are seen in most areas of the world. They are tremendous companions, they are shown in every state, and many foreign countries. They still work performing weight pulls, back packing, and sledding. They perform in the obedience rings, provide care to elderly folks as service dogs and on occasion they have been known to sit on your lap.

Malamutes are very smart, loving, devious and still the most powerful working dog in the world. All they ask for in return is love, a safe environment, and maybe, a pat on the head.

THE AKC APPROVED BREED STANDARD



General Appearance

The Alaskan Malamute, one of the oldest Arctic sled dogs, is a powerful and substantially built dog with a deep chest and strong, well-muscled body. The Malamute stands well over the pads, and this stance gives the appearance of much activity and a proud carriage, with head erect and eyes alert showing interest and curiosity. The head is broad. Ears are triangular and erect when alerted. The muzzle is bulky, only slight diminishing in width from root to nose. The muzzle is not pointed or long, yet not stubby. The coat is thick with a coarse guard coat of sufficient length to protect a woolly undercoat. Malamutes are of various colors. Face markings are a distinguishing feature. These consist of a cap over the head, the face either all white or marked with a bar and/or mask. The tail is well furred, carried over the back, and has the appearance of a waving plume. The Malamute must be a heavy boned dog with sound legs, good feet, deep chest and powerful shoulders, and have all of the other physical attributes necessary for the efficient performance of his job. The gait must be steady, balanced, tireless and totally efficient. He is not intended as a racing sled dog designed to compete in speed trials. The Malamute is structured for strength and endurance, and any characteristic of the individual specimen, including temperament, which interferes with the accomplishment of this purpose, is to be considered the most serious of faults.

Size, Proportion, Substance

There is a natural range in size in the breed. The desirable freighting sizes are males, 25 inches at the shoulders, 85 pounds; females, 23 inches at the shoulders, 75 pounds. However, size consideration should not outweigh that of type, proportion, movement and other functional attributes. When dogs are judged equal in type, proportion, movement, the dog nearest the desirable freighting size is to be preferred. The depth of chest is approximately one half the height of the dog at the shoulders, the deepest point being just behind the forelegs. The length of the body from point of shoulder to the rear point of pelvis is longer than the height of the body from ground to top of the withers. The body carries no excess weight, and bone is in proportion to size.

Head

The head is broad and deep, not coarse or clumsy, but in proportion to the size of the dog. The expression is soft and indicates an affectionate disposition. The eyes are obliquely placed in the skull. Eyes are brown, almond shaped and of medium size. Dark eyes are preferred. Blue Eyes are a Disqualifying Fault.- The ears -are of medium size, but small in proportion to the head. The ears are triangular in shape and slightly rounded at the tips. They are set wide apart on the outside back edges of the skull on line with the upper corner of the eye, giving ears the appearance, when erect, of standing off from the skull. Erect ears point slightly forward, but when the dog is at work, the ears are sometimes folded against the skull. High set ears are a fault. The skull- is broad and moderately rounded between the ears, gradually narrowing and flattening on top as it approaches the eyes, rounding off to cheeks that are moderately flat. There is a slight furrow between the eyes. The topline of the skull and the topline of the muzzle show a slight break downward from a straight line as they join. The muzzle- is large and bulky in proportion to the size of the skull, diminishing slightly in width and depth from junction with the skull to the nose. In all coat colors, except reds, the nose, lips,- and eye rims' pigmentation -is black. Brown is permitted in red dogs. The lighter streaked "snow nose" is acceptable. The lips are close fitting. The upper and lower jaws are broad with large teeth. The incisors meet with a scissors grip. Overshot or undershot is a fault.

Neck, Topline, Body

The neck is strong and moderately arched. The chest is well developed. The body is compactly built but not short coupled. The back is straight and gently sloping to the hips. The loins are hard and well muscled. A long loin that may weaken the back is a fault. The tail -is moderately set and follows the line of the spine at the base. The tail is carried over the back when not working. It is not a snap tail or curled tight against the back, nor is it short furred like a fox brush. The Malamute tail is well furred and has the appearance of a waving plume.

Forequarters

The shoulders are moderately sloping; forelegs heavily boned and muscled, straight to the pasterns when viewed from the front. Pasterns are short and strong and slightly sloping when viewed from the side. The feet are of the snowshoe type, tight and deep, with well-cushioned pads, giving a firm, compact appearance. The feet are large, toes tight fitting and well arched. There is a protective growth of hair between the toes. The pads are thick and tough; toenails short and strong.

Hindquarters

The rear legs are broad and heavily muscled through the thighs; stifles moderately bent; hock joints are moderately bent and well let down. When viewed from the rear, the legs stand and move true in line with the movement of the front legs, not too close or too wide. Dewclaws on the rear legs are undesirable and should be removed shortly after puppies are whelped.

Coat

The Malamute has a thick, coarse guard coat, never long and soft. The undercoat is dense, from one to two inches in depth, oily and woolly. The coarse guard coat varies in length as does the undercoat. The coat is relatively short to medium along the sides of the body, with the length of

the coat increasing around the shoulders and neck, down the back, over the rump, and in the breeching and plume. Malamutes usually have a shorter and less dense coat during the summer months. The Malamute is shown naturally. Trimming is not acceptable except to provide a clean cut appearance of feet.

Color

The usual colors range from light gray through intermediate shadings to black, sable, and shadings of sable to red. Color combinations are acceptable in undercoats, points, and trimmings. The only solid color allowable is all white. White is always the predominant color on underbody, parts of legs, feet, and part of face markings. A white blaze on the forehead and/or collar or a spot on the nape is attractive and acceptable. The Malamute is mantled, and broken colors extending over the body or uneven splashing are undesirable.

Gait

The gait of the Malamute is steady, balanced, and powerful. He is agile for his size and build. When viewed from the side, the hindquarters exhibit strong rear drive that is transmitted through a well-muscled loin to the forequarters. The forequarters receive the drive from the rear with a smooth reaching stride. When viewed from the front or from the rear, the legs move true in line, not too close or too wide. At a fast trot, the feet will converge toward the centerline of the body. A stilted gait, or any gait that is not completely efficient and tireless, is to be penalized.

Temperament

The Alaskan Malamute is an affectionate, friendly dog, not a "one man" dog. He is a loyal, devoted companion, playful in invitation, but generally impressive by his dignity after maturity.

Summary

IMPORTANT: In judging Malamutes, their function as a sledge dog for heavy freighting in the Arctic must be given consideration above all else. The degree to which a dog is penalized should depend upon the extent to which the dog deviates from the description of the ideal Malamute and the extent to which the particular fault would actually affect the working ability of the dog. The legs of the Malamute must indicate unusual strength and tremendous propelling power. Any indication of unsoundness in legs and feet, front or rear, standing or moving, is to be considered a serious fault. Faults under this provision would be splay-footedness, cowhocks, bad pasterns, straight shoulders, lack of angulation, stilted gait (or any gait that isn't balanced, strong and steady), ranginess, shallowness, ponderousness, lightness of bone, and poor overall proportion.

DISQUALIFICATION

Blue Eyes

Approved April 12, 1994

Search

this Site

visit our dog forums!

navigation

- Dogs
- Dog Breeds
- Dog Forums
- Dog Pictures
- Puppy Pictures
- Dog Breeders
- Tools & Games
- Our Dog Blog
- Product Reviews
- Link to Us
- Contact / About Us
- Account Login

Husky Pups
Pictures, Breed Profiles & Breeders Browse Dogs For Sale & Find a Pet!
www.NextDayPets.com

Alaskan Hotel & Bar
Juneau's cheapest and most centrally-located hotel
thealaskanhotel.com

Siberian Husky
Learn About Housebreaking, Training Barking, Biting, Grooming & Diet.
SiberianHusky.TrainPetDog.com

Siberian Husky History

As the name would suggest, Siberian Huskies are native to Siberia, where they have been trained for hundreds of years by the Chukchi people to pull sleds. The Chukchi are semi-nomadic people, and the Siberian Husky's ability to pull sleds with light loads for long distances made it a useful companion. Recent DNA analysis has shown the Siberian Husky to be one of the oldest breeds of dog.

A team of Siberian Huskies was brought to Alaska in 1909 to compete in the All Alaska Sweepstakes Race. Following their debut a large number were imported to Alaska, and a team of Siberian Huskies won the same race the following year. In subsequent years, Siberian Huskies went on to win many different races and gain fame for their speed and endurance.

Siberian Huskies were made even more famous in 1925, when the city of Nome, Alaska was struck by a diphtheria outbreak. Several different teams of sled dogs, most of them Siberian Huskies, relayed the necessary serum back to Nome. After this story became national news, Leonhard Seppala, a famous breeder of Siberian Huskies and a key figure in the Nome rescue, toured New England with his team. These events helped to popularize the breed, and in 1930 the Siberian Husky was recognized as a breed by the American Kennel Club. They are still used in various sledding, carting, and racing events, and are largely responsible for the popularization of these activities. In recent years, however, the Alaskan Husky, which is specially bred for speed, has largely replaced the Siberian in many races; in response, a movement has started to create races specifically for Siberian Huskies. Recently, the breed has found success as a hiking companion, therapy dog, and as a loving pet.

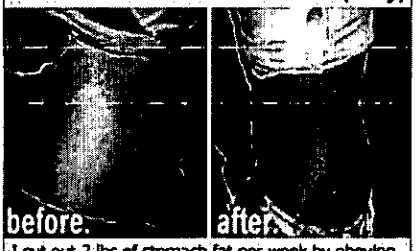
Siberian Husky Names
Save on Information on Pets Compare & Buy from 1000s of Stores



More Siberian Husky Pictures

Sponsored

2 Rules To A Flat Stomach: (obey)



I cut out 2 lbs of stomach fat per week by obeying 1 Golden Rule. ***Learn More***

Affection: ★★★★★★★★☆☆

Alaskan Husky

From Wikipedia, the free encyclopedia

Alaskan Husky



Six-year-old Alaskan Husky

Country of origin	United States (Alaska)
Traits	[hide]
Classification & standards	[show]

The **Alaskan Husky** is not so much a breed of dog as it is a type or a category. It falls short of being a breed in that there is no preferred type and no restriction as to ancestry; it is defined only by its purpose, which is that of a highly efficient sled dog. That said, dog drivers usually distinguish between the Alaskan Husky and "hound crosses", so perhaps there is informal recognition that the Alaskan Husky is expected to display a degree of northern dog type. Specializations in type exist within the breed, such as freighting dogs (Mackenzie River Husky), sprint Alaskans, and distance Alaskans. Most Alaskan Huskies have pointy ears, meaning they are in fact classified as a spitz-type dog.

The Alaskan is the sled dog of choice for world-class dog sled racing sprint competition. None of the purebred northern breeds can match it for sheer racing speed. Demanding speed-racing events such as the Fairbanks, Alaska Open North American Championship and the Anchorage Fur Rendezvous are invariably won by teams of Alaskan huskies, or of Alaskans crossed with hounds or gun dogs. Hounds are valued for their toughness and endurance. Winning speeds often average more than 19 miles per hour (31 km/h) over three days' racing at 20 to 30 miles (32 to 48 km) each day.

Alaskan huskies that fulfill the demanding performance standards of world-class dogsled racing are extremely valuable. A top-level racing lead dog can be worth $10-15,000. Alaskans that fail to meet the performance standards of the musher who bred them often go on to be sold to less competitive mushers, allowing them to continue to run.

Contents

- 1 Description
  - 1.1 Appearance
  - 1.2 Temperament
- 2 Health
- 3 History
  - 3.1 Recent history

Description

Appearance

The Alaskan Husky is a heavily diluted wolfdog breed which has northern or husky-type ancestry, much like the Siberian Husky.

Alaskan Huskies (at least those used for speed racing) are moderate in size, averaging perhaps 46 to 60 pounds (21 to 25 kg) for males and 38 to 42 pounds (17 to 19 kg) for females. Some of them superficially resemble racing strains of the Siberian Husky breed (which is undeniably part of the Alaskan Husky genetic mix), but are usually taller and larger with more pronounced tuck-up.



Two Alaskan Huskies in the harness.

Color and markings are a matter of total indifference to racing drivers; Alaskans may be of any possible canine color and any pattern of markings. Eyes may be of any color and are often light blue. Coats are almost always short to medium in length, never long, and usually less dense than those of northern purebreds; the shorter coat length is governed by the need for effective heat dissipation while racing.

In very cold conditions, Alaskans often race in "dog coats" or belly protectors. Particularly in long distance races, these dogs often require "dog booties" to protect their feet from abrasion and cracking. Thus the considerations of hardiness and climate resistance prevalent in breeds such as the Siberian Husky and Canadian Inuit Dog are subordinated in the Alaskan Husky to the overriding consideration of speed. On long distance races they require considerable care and attention on the trail at rest stops.

Temperament

Racing sled dogs are bred for stamina, strength, speed, and endurance. A positive working attitude is essential. Sled dogs that come in contact with the public at races or in excursion businesses must not be aggressive toward humans.

Alaskan huskies are popular as pets in Alaska; older dogs that have outlived their usefulness as racing dogs make excellent pets for people willing to exercise them regularly. Older ex-racers tend to be very alert and well behaved, as well as somewhat less energetic than their younger counterparts.

Young huskies make good pets if given plenty of space to run and play, but their high demand for exercise and activity makes them a poor choice for urban residents.

Huskies are often healthier in drier climates such as that of interior Alaska. In the more humid regions, they are prone to develop ear and related infections.

If multiple huskies are kept in the same lot they tend to be vocal, howling and barking at each other and any other dogs in the vicinity unless they are trained to be quiet. In crowded neighborhoods this can be a very irritating nuisance to neighbors. They can be trained for silence, albeit with some effort. They are accomplished diggers and will tunnel underneath fences and houses to hunt burrowing animals or to escape their enclosures.

Huskies make relatively poor household dogs. They shed heavily during the Spring and Fall and may be considered hyperactive by sedate humans, running in circles inside a house when bored or cramped. If left alone in a dwelling for long periods they may engage in destructive behavior out of boredom, mischief or malice. They enjoy hunting small and large animals due to a deeply wired instinct known as SMAR or small mammal attack response. When they are hooked up to a sled, and will have to stay there for a while, they may get crazy and excited and start to chew the gang line.

In Alaska and other extreme northern regions they are occasionally killed by moose in the winter. Infrequently, moose in search of non-existent winter browse of willows and mountain ash during desperate times of long cold snaps and deep snow will enter human areas attracted by the scent of fresh straw used as bedding for the dogs. True to their wolf ancestors, huskies tend not to back down from such encounters and an angry moose can easily stomp and kick several dogs causing severe injuries. Most moose/husky encounters occur during runs when a musher accidentally startles a moose on a trail. Most of the time moose avoid fights, but in cases of deep snow when escape is difficult a moose may confuse a sled team for a wolf pack and cause some serious trouble.

Normally, moose are aware that huskies are domesticated, tethered and not a threat and will frequently bed down adjacent to sled dog kennels in order to use the huskies as sentries who will alert the sleeping moose of approaching wolves. Sled dogs tethered in far northern forests may be attacked and killed on their stakeouts by wolves when other prey is unavailable. However this is rare. Professional dog sled racers often surround their lots with high fences to prevent wildlife attacks. More important is a low fence to keep out diseased rodents which can infect dogs by carrying parasites.

Health

The Alaskan Husky is generally a healthy dog. Some strains are prone to genetic health problems similar to those found in purebred dog breeds. These may include PRA, hypothyroidism, etc. Dogs with an esophagus disorder, termed "wheezers" sometimes occur. This disorder makes the dog unable to bark, but have the ability to produce a low-pitched howling noise. The defect is genetically linked and appeares rarely. Theories of common exterior traits among "wheezers" abound, but are conflicting and undocumented. The life span of the Alaskan Husky is usually between 10 to 15 years.

History

The Alaskan Husky is derived from a mix of northern types, most notably the Siberian Husky. The history of the Alaskan Husky really began with the Gold Rushes of the late nineteenth century; sled and draft dogs used by miners of that era were typically heavy draft dogs with obvious Saint Bernard ancestry. The importation into Alaska of dogs from across the Bering Strait in Siberia in 1908 and subsequent years changed Alaskan sled dogs radically and permanently towards a smaller dog with lighter weight and much greater speed. With the increasing prevalence of motorized winter transport in the mid twentieth century, working sled dogs became less common in the northern villages. The Alaskan sled dog experienced a revival in the 1970s. George Attla, a Native Alaskan from the village of Huslia, was largely responsible for this. Many successful racing dogs today trace their lineage back to Attla dogs.

Recent history

Various attempts have been made in the past to organize breeders of Alaskan Huskies and to establish a registry for these dogs; such attempts have never received widespread support. Although racing sled dog kennels can be large, sometimes harboring well over a hundred dogs, and the breed population arguably in excess of one hundred thousand, this canine variety remains an informal and unregistered category of dog.

The Alaskan Husky, like its cousin the Border Collie, is a working large dog and defined by its ability to work. Serious aficionados of the breed are hesitant to cede the breed definition to "looks" (external appearance) in fear of losing the dog's defining working qualities and character by placing form over function, as has happened to many other breeds such as the Poodle (which was once regarded as an outstanding hunting dog rather than fashion accessory). This preference for form over function can be seen in other northern breeds such as the AKC Alaskan Malamute which is bred for a curly tail: the curly tail is a purely decorative standard, and results in a shorter back that is not beneficial to running.

Retrieved from "http://en.wikipedia.org/wiki/Alaskan_Husky"
Categories: Dog breeds | Sled dog breeds | Dog breeds originating in the United States
Hidden categories: Articles lacking sources from February 2007 | All articles lacking sources

- This page was last modified on 8 January 2009, at 03:59.
- All text is available under the terms of the GNU Free Documentation License. (See **Copyrights** for details.)
  Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a U.S. registered 501(c)(3) tax-deductible nonprofit charity.

Bill seeks to name Alaskan Malamute as Alaska state dog

Mary Pemberton/The Associated Press

Published Friday, January 23, 2009



ANCHORAGE, Alaska -- It's time to stop dissing the dog.

That's the message that an inquisitive kindergartner brought to her teacher more than two years ago when she wanted to know why Alaska - the state that has a fondness for most things canine - didn't have an official state dog.

She even offered up her personal choice: the Alaskan Malamute.

The youngster's idea, and the hard work of other students, inspired a bill that if passed would make the Alaskan Malamute the official state dog. The large, rugged dogs with super thick coats suited for Arctic climes would join the list of other official state symbols, including the state insect (four spot skimmer dragonfly), the state fish (the Chinook salmon), the state flower (Forget-Me-Not), state gem (jade), and the state fossil (Wooly Mammoth.)

Rep. Berta Gardner, D-Anchorage, is sponsoring the bill in the House. It got its first reading on the opening day of the Legislature on Tuesday and was referred to the State Affairs Committee.

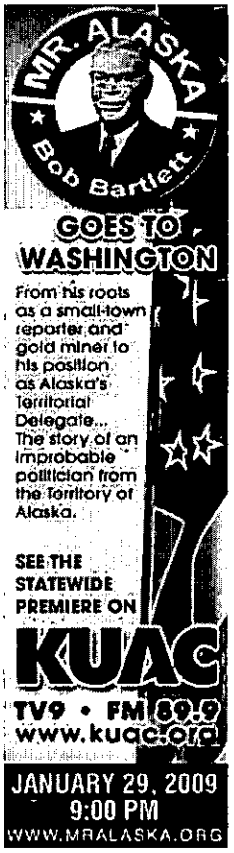
Gardner is asking for a quick hearing so that the children can see the rewards of their hard work soon, she said.

"To tell you the truth, I don't have a great passion for why the Malamute or why we should have the state dog," Gardner said. "This is their project and I am simply their tool."

Carol Bartholomew, a teacher at the Polaris K-12 School in Anchorage, said the school decided last year to forge ahead with the project, which was broken down into several segments. The youngest students researched what the dogs look like. The next older group looked into the connection between the dogs and the Mahlemut tribe. The oldest students put the dog in a historical context.

"I found out that the Alaskan Malamute originated in Alaska and the Mahlemut tribe

PRINT STORY
E-MAIL STORY
COMMENTS
DIGG
DELICIOUS
FACEBOOK
MIXX
REDDIT
STUMBLE IT!





FOR SALE



TL-1528 Badger Road
North Pole
$200,000
50.7 Acres

homes.newsminer.com

Alaskan Malamute In Alaska
Consult Breeders & Find The Perfect Pet. View 1000s Of Profiles Today!
www.NextDayPets.com/A

MOST POPULAR STORIES

1. Protest abortion January 22 | 136 comments
2. Borough Assembly recommends Dogs Bar closure January 23 | 63 comments
3. Bill seeks to name Alaskan Malamute as Alaska state dog January 23 | 14 comments
4. Obama takes historic spot as first black president January 20 | 288 comments
5. Palin institutes hiring freeze for Alaska January 22 | 72 comments
6. Interior Alaska delegation gives Palin high marks, wants more details January 23 | 29 comments
7. Fairbanks Police Department starts online drug reporting program January 23 | 20 comments
8. Fairbanksans protest, celebrate anniversary of Roe v. Wade decision January 23 | 24 comments
9. Palin offers congratulations to Obama January 22 | 37 comments
10. Palin to media: Leave my kids alone January 21 | 186 comments

See most emailed

used to use them to haul game, take care of children, and um, helped in World War II to haul stuff where people couldn't. They also helped in Arctic explorations," said 10-year-old Atticus Madland, a Polaris student.

"They are known to usually be nice to people and kind of take care of them. Sometimes, they are mean to other dogs but generally are really nice to people," he said.

The students came up with a PowerPoint presentation. They got letters from community and city leaders. They collected signatures of support. They got the American Kennel Club and the Student Government Association of Alaska to support the idea.

The students submitted a legislative packet before the Dec. 15 deadline.

Madland hopes lawmakers pass the bill.

"After all the hard work, I think we deserve it," he said.

The Alaskan Malamute would be a good choice for the state dog, said Ione Zeller, former president of the Alaskan Malamute Club of America whose has lived with and loved Malamutes for 35 years.

"I believe most Alaskans think for themselves. They seem to be rather independent. They are not the kind that fawns over people and things, and neither are these dogs," she said.

According to the AKC, the Alaskan Malamute is one of the oldest Arctic sled dogs. They were named after a native tribe, the Mahlemuts, that settled along the shores of Kotzebue Sound in northwestern Alaska. The dogs were used primarily to haul game, belongings and supplies. The breed was recognized by the AKC in 1935.

Nancy Russell, in charge of judges education for the Alaskan Malamute Club of America, said the Alaskan Malamute is the only AKC registered breed that is native to the United States. While other breeds were developed here, the dogs used to develop those breeds came from outside the United States.

The Alaskan Malamute was already here, Russell said.

"The Alaskan Malamute is basically the native dog of the United States," she said.

Russell had a team of her Malamutes in the 1994 Iditarod Trail Sled Dog Race to see if the dogs, better at hauling freight than running marathons, could do it. Most of the dogs used in the 1,100-mile race are Alaskan huskies, a mixed-breed dog bred for speed.

The Malamute team made it 600 miles before scratching.

"They did just fine," she said. "They got to Ruby. That is not too bad for a Malamute team."

Community Discussion

Newsminer.com doesn't necessarily condone the comments here, nor does it review every post. Read our full user's agreement.

mackie1

Suggest removal

Close this window
Print this page

FAIRBANKS
Daily News - Miner

Anchorage students look to elevate malamute as Alaska's official top dog

By Dermot Cole

Published Saturday, January 10, 2009

We have an official state sport, which is dog mushing, as well as an official fish, land mammal, marine mammal, tree, flower, gem, mineral, bird, insect and fossil.

Somehow, with all of that, we have failed to crown an official canine.

Students at the Polaris K-12 school in Anchorage want to recognize the malamute as top dog.

The students put it this way: "The Alaskan malamute is an important part of Alaska history. They helped the Inuit hunt, carry food and watch over their children. They hauled supplies during the Gold Rush and World War II. They were part of the teams that brought medicine to Nome during the serum run."

"Their endurance, strength, loyalty and intelligence make the Alaskan malamute a great dog to represent Alaska."

Anchorage Rep. Berta Gardner has heard their call from the wild and prefiled a short bill that states, "The Alaskan malamute is the official state dog."

She said the students plan to present a case to the Legislature and answer questions about why the malamute should be elevated to official status.

"I think this is really going to be a very fun project. The kids and their teachers have done a fantastic job and have boundless enthusiasm," Gardner said.

The malamute breed won recognition from the American Kennel Club in 1935, "largely as a result of selective breeding programs by New England sled dog fanciers using original stock from Alaska," Russell Tabbert writes in the "Dictionary of Alaskan English."

The word has been spelled in different ways, he said, though the most common choices today are whether to us an "a" or an "e" in the second syllable, the latter option followed by the Lathrop Malemutes, for example.

•••

GROCERY ROUTE: The shutdown of major highway routes into Seattle this week because of flooding will have some impact on Alaska grocery shipments.

But a spokeswoman for Safeway said the resumption of traffic on Interstate 5 on Friday means that it will "not be as great as it could have been."

Safeway usually ships to Alaska twice a week. The Tuesday shipment didn't happen, and the Thursday deliveries totaled about 35 containers, instead of the normal 50 to 60.

"The impact will hit in the middle of next week, yet we will have more than enough going up next week on regular containers," said Cherie Myers of Safeway's Seattle office.

•••

WARMING TREND: The National Weather Service said Friday that a "dramatic" warming trend is expected by Tuesday or Wednesday.

The temperatures were 30 below to 50 below Friday, but there is some discussion that the hills might see readings near freezing or warmer by late next week.

During the past two weeks, the coldest weather has been on the Yukon Flats and between Tok and Eagle, with readings from 45 below to 65 below. The coldest spot was Chicken at 68 below Thursday.

For this weekend, the forecast is for warming of a "few degrees," with a more sizable increase in the hills.

•••

NO FIREWORKS: The fireworks display to celebrate the 50th anniversary of Alaska statehood will not be held this weekend.

Michelle Roberts of Festival Fairbanks says the aerial display awaits warmer weather. She

adn.com
Anchorage Daily News

Print Page Close Window

Students think Alaska needs state dog

Bill introduced to make malamute the official pooch

By MARY PEMBERTON
The Associated Press
(01/25/09 21:39:40)

It's time to stop dissing the dog.

That's the message that an inquisitive kindergartner brought to her teacher more than two years ago when she wanted to know why Alaska -- the state that has a fondness for most things canine -- didn't have an official state dog.

She even offered up her personal choice: the Alaskan malamute.

The youngster's idea, and the hard work of other students, inspired a bill that if passed would make the Alaskan malamute the official state dog. The large, rugged dogs with super thick coats suited for Arctic climes would join the list of other official state symbols, including the state insect (four spot skimmer dragonfly), the state fish (the Chinook salmon), the state flower (Forget-Me-Not), state gem (jade), and the state fossil (wooly mammoth.)

Rep. Berta Gardner, D-Anchorage, is sponsoring the bill in the House. It got its first reading on the opening day of the Legislature on Tuesday and was referred to the State Affairs Committee.

Gardner is asking for a quick hearing so that the children can see the rewards of their hard work soon, she said.

"To tell you the truth, I don't have a great passion for why the malamute or why we should have the state dog," Gardner said. "This is their project and I am simply their tool."

class act

Carol Bartholomew, a teacher at the Polaris K-12 School in Anchorage, said the school decided last year to forge ahead with the project, which was broken down into several segments. The youngest students researched what the dogs look like. The next older group looked into the connection between the dogs and the Mahlemut tribe. The oldest students put the dog in a historical context.

"I found out that the Alaskan malamute originated in Alaska and the mahlemut tribe used to use them to haul game, take care of children, and um, helped in World War II to haul stuff where people couldn't. They also helped in Arctic explorations," said 10-year-old Atticus Madland, a Polaris student.

"They are known to usually be nice to people and kind of take care of them. Sometimes, they are mean to other dogs but generally are really nice to people," he said.

The students came up with a PowerPoint presentation. They got letters from community and city leaders. They collected signatures of support. They got the American Kennel Club and the Student Government Association of Alaska to support the idea.

The students submitted a legislative packet before the Dec. 15 deadline.

Madland hopes lawmakers pass the bill.

"After all the hard work, I think we deserve it," he said.

NATIVE BREED

The Alaskan malamute would be a good choice for the state dog, said Ione Zeller, former president of the Alaskan Malamute Club of America, who has lived with and loved malamutes for 35 years.

"I believe most Alaskans think for themselves. They seem to be rather independent. They are not the kind that fawns over people and things, and neither are these dogs," she said.

According to the AKC, the Alaskan malamute is one of the oldest Arctic sled dogs. They were named after a native tribe, the Mahlemuts, that settled along the shores of Kotzebue Sound in northwestern Alaska. The dogs were used primarily to haul game, belongings and supplies. The breed was recognized by the AKC in 1935.

Nancy Russell, in charge of judges education for the Alaskan Malamute Club of America, said the Alaskan malamute is the only AKC registered breed that is native to the United States. While other breeds were developed here, the dogs used to develop those breeds came from outside the United States.

The Alaskan malamute was already here, Russell said.

"The Alaskan malamute is basically the native dog of the United States," she said.

Russell had a team of her malamutes in the 1994 Iditarod Trail Sled Dog Race to see if the dogs, better at hauling freight than running marathons, could do it. Most of the dogs used in the 1,100-mile race are Alaska huskies, a mixed-breed dog bred for speed.

The malamute team made it 600 miles before scratching.

"They did just fine," she said. "They got to Ruby. That is not too bad for a malamute team."

Print Page Close Window

Copyright © Tue Jan 27 15:36:33 UTC-0900 20091900 The Anchorage Daily News (www.adn.com)

December 10, 2008

To whom it may concern,

My name is Paige Hill and when I was a kindergartner, my grandma Shirley came to Alaska to spend Easter with my family. Since I was a kindergartner she came and spent the day with my class at Polaris K-12 School.

You see, my grandma Shirley teaches second grade in North Carolina and she wanted to teach us about things from where she came from. One of the first things she taught us about was her state's symbols. We learned that their state dog is a plott hound. She wanted to know what Alaska's state dog was and we all looked at each other. Nobody knew for sure what it was! Later, we found out we didn't even have a state dog and this is where it all began.

My teacher, Terry Powers, decided to help us do some investigating. We wanted to figure out how our state could get a state dog. We found out that two other symbols, the willow ptarmigan in 1955 and the four-spotted dragon fly in 1995 both became state symbols because of the efforts of school children just like us.

After lots of discussion, we narrowed our choice down to two types of dogs, the husky and the Alaskan malamute. We finally voted for the Alaskan Malamute. One of the reasons we picked the Alaskan malamute is because it's big like Alaska and because it's a hard working dog like the people of Alaska.

The next school year our class asked two older classes, Jamie Rodriguez's 4/5 and Carol Bartholomew's 2/3, to join us and help research more about the Alaska malamute's history to show that it's the very best choice to be Alaska's official state dog.

Sincerely.
Paige Hill, 2nd grader
Polaris K-12 School

POLARIS K-12 SCHOOL

6200 Ashwood Street, Anchorage, AK 99507-1911
Denise Greene-Wilkinson, Principal
(907) 742-8700 fax: (907) 742-8777

April 30, 2008

Representative Berta Gardner
AK State Capitol, Room # 422
Juneau, AK 99801

Dear Representative Gardner,

My name is Florence Boots and I am in the fifth grade in Jamie's class at Polaris K-12 School. My class along with two others is working together to make the Alaskan Malamute the Alaska state dog.

The Alaskan Malamute has a deep connection with Alaskan history. Their origins reach back to the early days of Alaska with the Mahlemut people. The Mahlemut People, now known as the Inuits, lived in Northwestern Alaska. They lived and worked closely with their dogs, using them to haul loads and even to help watch children. Also, the Alaskan Malamutes were a very popular breed during the Klondike Gold Rush when they were used to help haul supplies. The Alaskan Malamute dogs were so valued back then that one person would pay $500 dollars for one good dog and $1500 for a small team! The Alaskan Malamute also assisted with Admiral Richard Byrd's expedition to the South Pole. The Alaskan Malamute also proved useful in World War II, as a helping and hauling dog. So the Alaskan Malamute would be a very good choice as the official Alaska state dog.

Please add your voice to ours by writing a letter to support making the Alaskan Malamute our official state dog. We will add it to our legislative packet along with our bill and informational presentation. We would greatly value the opportunity to add your voice to our growing number of supporters. Thank you very much.

Sincerely,

Florence S. Boots

Florence S. Boots

ALASKA KENNEL CLUB, INC.
P.O. BOX 232151
ANCHORAGE, ALASKA
99523

May 24, 2008

Ryan M. Terry
Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507-1911

Dear Mr. Terry:

Reference is made to your letter of April 30, 2008, regarding a bill to make the Alaskan Malamute the official state dog.

Your letter arrived after our May meeting so it had to wait for the Board Meeting for action. The Board of the Alaska Kennel Club has voted to support your effort to make the Alaskan Malamute the official state dog of Alaska. Please feel free to include this letter in your legislative packet.

Good luck in your efforts.

Sincerely,

ALASKA KENNEL CLUB

Donna Coker

By: Corresponding Secretary

Organized in the Interest of Pure-Bred Dogs



May 15, 2008

Polaris Elementary School
6200 Ashwood Street
Anchorage, Alaska 99507

To: Christopher Gray;

This is a letter to support your class campaign to make the Alaskan Malamute the State Dog of Alaska. The Alaskan Malamute has played an important role in the history of our state and nation. It is an icon of Alaska in the legends and visual imagery of our state. In addition, it continues to be a highly valued companion and working dog in our modern society. Granting this honor to the breed would be an appropriate recognition of one of Alaska's native treasures.

Sincerely;

Kathleen Stephenson

Kathleen Stephenson
President
Alyeska Canine Trainers

AMERICAN KENNEL CLUB℠

Daisy L. Okas
Assistant Vice President,
Communications

April 15, 2007

Jessica Husa
Carols Family Group
Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507-1911

Dear Jessica:

Thank you for contacting the American Kennel Club. The Alaskan Malamute is a wonderful breed and we support your efforts to make it the state dog of Alaska.

There are currently nine state dogs in the United States. We have included a magazine article that appeared in the *AKC Gazette* in July 2006 that explains how these dogs became state symbols. In Wisconsin, a group of students wanted to make the American Water Spaniel their state dog. They contacted their representative and a bill was created and eventually passed!

Your class should contact your local state representative with your proposal. They will have to write and introduce legislation. For information on how a bill goes through the legislative process, visit http://www.lrc.ky.gov/kidspages/how_a_bill_becomes_law_.htm
This is an example from the state of Kentucky. It is in coloring book format and titled "How the Beagle Could Become Kentucky's State Dog."

If you need more information about the Alaskan Malamute, you can visit our web site at http://www.akc.org/breeds/alaskan_malamute/

You can also contact local dog clubs in your area (http://www.akc.org/clubs/search/index.cfm) or the Alaskan Malamute Club of America for more information and for support of your proposal:

Alaskan Malamute Club of America, Inc.
Corresponding Secretary: Leneia Rogowski
Address: 640 E 50 N, Hyrum, UT 84319-1454
Website: www.alaskanmalamute.org
Email: leneia.rogowski@ihc.com

Good luck!

Sincerely,

Daisy Okas
AVP of Communications

260 Madison Avenue New York, NY 10016 Tel 212 696-8342 Fax 212 696-8345 E-Mail dlo@akc.org

Central Middle School of Science
1405 E Street
Anchorage, Alaska 99501
Ph. 907/742-5100 Fax 907/742-5125

April 3, 2008

Carol Bartholomew's Classroom
Polaris K-12 School
6200 Ashwood Street
Anchorage, Alaska 99507-1911

Dear Carol's Class:

It has been brought to my attention by a well-written letter from Khaner Smith that your classroom is trying to pass a law to make the Alaska Malamute our official state dog. I understand how much research you have been doing and the reasons you are trying to make a difference on a state-wide issue such as an official state dog. Some of your research has me intrigued such as:

They were bred in Alaska.
They sniffed bombs during WWII.
They carried airplane parts.

Although Central Middle School of Science's mascot is the Husky, I can support your efforts in making the official state dog the Malemute. Please let me know how I can be of assistance to your classroom and thank you for inviting my support! Your classroom is filled with a beautiful group of motivated, intelligent, civic-minded students who are responsible for their learning - how could I not support your cause?

Sincerely,

Lisa Zelenkov,
Principal of Central Middle School of Science

COFFEY CONSULTING, LLC

3606 RHONE CIRCLE
SUITE 100
ANCHORAGE, ALASKA 99508

Telephone: (907) 646-7855 *Facsimile: (907) 274-4258*

E mail: dancoffey@gci.net

Carol's Family Group
6200 Ashwood Street
Anchorage, Alaska 99507

Dear Katie:

I received your letter concerning your efforts to have the Alaska Malamute named the official state dog.

From reading your letter it is clear that you have done your homework. You have learned a lot about Malamutes and how they have served the First People and those who came after them. Well done! I applaud your efforts to have this fine animal and friend to man named the state dog.

If this letter can help you achieve your goal, then please feel free to send copies to the legislature and the governor.

Good luck on your project.

Regards,

Dan K. Coffey

Carol's Family Group 4-3-08

I'd Like To Thank you For The LeTTer I recieved, From your group, and my granddaughTer, Desiree, regvarding [redacted] Alaska's OFFicial sTaTe dog. IT was very ThoughTFuL and imFormiTive. I Learned many Things From your LeTTer, buT Two ThaT sTand ouT are, ThaT we didn'T have a OFFiciaL sTaTe dog, and The Long and imporTanT hisTory The malamuTe has had in Alaska. I agree wiTh you, ThaT The maLamuTe would be The best pick For our sTaTe dog, and supporT your moTion. I also Think iT's really nice ThaT your group is doing Things To heLp The communiTy. Keep up The good worK.

ThankyOU

Jim WhiTaker

DOG TIRED
DOGGIE DAYCARE
...because a tired dog is a happy dog

April 8, 2008

Miss Jessica Husa
Carol's Family Group
Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507-1911

Dear Miss Husa:

We are pleased to send this letter of support for your class's proposal to make the Alaska Malamute the official dog of the State of Alaska. We were very interested to learn about all the ways that these dogs have helped throughout the history of our great state. They are a unique breed and we agree that they should be recognized for their contributions. Our official education dogs Lucy and Maverick are pleased to add their support!

We wish you well in your efforts!

Sincerely,

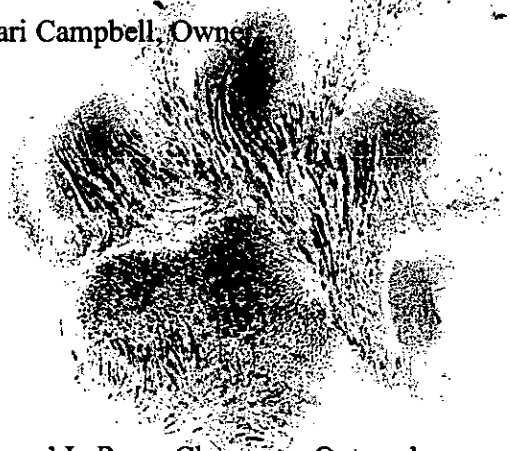
DOG TIRED DOGGIE DAYCARE

Kari Campbell

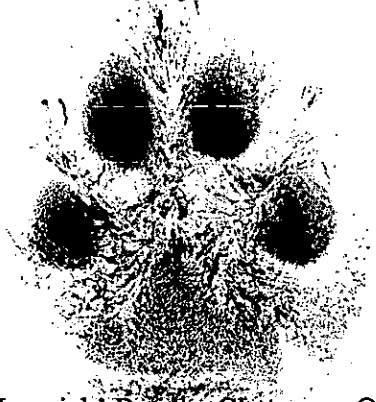
Kari Campbell, Owner

Peg Banks

Peg Banks, Daycare Manager



'Lucy' LaRose, Classroom Outreach



'Maverick' Bandle, Classroom Outreach

UAA UNIVERSITY of ALASKA ANCHORAGE
Office of the Chancellor

May 16, 2008

Taylor J. Seitz
c/o Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507-1911

Dear Taylor,

Until I received your letter I did not know the origin of the Alaskan Malamute and its rich historical connection to the Inuit people and to Alaska. I also did not know that it is one of the 12 ancient breeds. Thank you for providing such a wealth of information about the Alaskan Malamute – including that this breed of dog was vital to miners during the Gold Rush; that Alaskan Malamutes helped during Admiral Byrd's expedition to the South Pole; and that Alaskan Malamutes were part of the dog team that made the historical Serum Run to Nome. The Alaskan Malamute truly is a wonderful dog that is hard working and loyal. I agree that these are the kind of attributes that Alaskans would consider important in naming an Alaska state dog.

I wish you and your class much success in your efforts to have the Alaska Malamute named Alaska state dog.

Sincerely,

Fran Ulmer

Fran Ulmer
Chancellor

3211 Providence Drive • Anchorage, Alaska 99508-4614 • T 907.786.1437 • F 907.786.6123 • chancellor@uaa.alaska.edu

Gary Drew
3760 Amber Bay Loop
Anchorage, AK 99515
8 April 2008

To whom it may concern,

I am writing this letter in support of the proposal to make the Alaskan Malamute the official State dog of Alaska. I have been impressed with the job that the students at Polaris k-12 in Anchorage have done in making the case for the Malamute. I for one was educated by the class and felt they had done an exceptional job researching the topic. Given the importance of dogs in the history and culture of Alaska, I can think of no better way to honor this contribution than to select a true working dog, the Alaskan Malamute, as the official State dog

Sincerely,

Gary Drew

Gary Dew

3/31/08

DEAR JACOB,

THANK YOU FOR THE INTERESTING LETTER.

I WOULD BE GLAD TO SUPPORT YOUR IDEA FOR PROMOTING THE ALASKAN MALEMUTE TO BE THE ALASKAN STATE DOG.

YOU HAVE DONE A LOT OF RESEARCH ON THE HISTORY OF THE DOG AND HAVE FOUND OUT HOW PEOPLE WANTED THEM TO BE PART OF THEIR FAMILY.

GOOD LUCK WITH YOUR RESEARCH, I AM SURE YOU WILL FIND MORE INTERESTING FACTS THAT WILL CONVINCE YOU, EVEN MORE, THAT THE MALEMUTE WOULD BE AN EXCELLENT CHOICE TO REPRESENT ALASKA.

THANK YOU FOR YOUR LETTER AND I WILL TELL MY FRIENDS ABOUT YOUR PROJECT.

LOVE YOU,

GRANDMA ELAINE.

March 28, 2008

Gwyneth Meek
Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507

Dear Gwyneth,

Thank you for your letter asking for support to make the Malamute the Alaska State Dog. I learned several things about Malamutes that I did not know before.

I think your project to have the Malamute named as the state dog is a wonderful idea, and I fully support this effort. I encourage the Alaska Legislature to learn more about the Alaska Malamute and make it our official state dog.

I wish you success with your project,

Jeff Friedman
Anchorage School Board Member
1534 D Street
Anchorage, AK 99501

Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 http://www.muni.org

Mayor Mark Begich

Office of the Mayor

May 13, 2008

Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507-1911
Attn: Sarah Bartholomew

Dear Ms. Bartholomew:

Thank you for your letter regarding the Malamutes and how helpful they have been to people in the Arctic region. Your letter was very insightful and had alot of information that I was unaware of pertaining to this breed of dog. I agree this is one of the oldest and toughest dogs to come out of this region, probably even one of the first dogs to be domesticated here in Alaska being able to withstand the Northern Arctic's harsh climate.

Passage of a bill would be special recognition for an animal that has done so much for the people living in Alaska and other Arctic regions. I would love to support you and your school on this bill, and I believe the community would agree the Malamute should be our state dog. Having this breed originate from our own state should be more than a good enough reason to consider it as our state dog.

Good Luck with your school project to get this bill passed.

Sincerely,

Mark Begich
Mayor

Community, Security, Prosperity

Senate Labor and Commerce Committee, Chair
•
Legislative Budget and Audit Committee
•
Senate Rules Committee
•
Committee on Committees

ALASKA STATE LEGISLATURE

While in Session
State Capitol, Rm. 9
Juneau, AK 99801
(907) 465-3704
Fax: (907) 465-2529

While in Anchorage
716 W. 4th Ave, Ste. 440
Anchorage, AK 99501
(907) 269-0169
Fax: (907) 269-0172

SENATOR JOHNNY ELLIS
SENATE MAJORITY LEADER

March 31, 2008

Carol's Family Group
6200 Ashwood Street
Anchorage, Alaska 99508

Dear Kaya,

Thank you very much for your delightful letter about making the Alaska Malamute the official State dog for Alaska. I am very impressed with the research you and your class did to learn more about the Malamute and its historical contribution to Alaska and its people.

I am very supportive of your efforts to work toward achieving this very important goal and you have very clearly justified why the Alaska Malamute is an excellent choice for our State. This process will be an excellent learning opportunity for you, and I am most appreciative of your class for selecting this very worthwhile project.

Please feel free to call on me for any further assistance I may provide on behalf of your mission. The Alaska Malamute has proven its value to the State and, now, should be honored for its contributions.

Best wishes,

Johnny Ellis

cc: Representative Berta Gardner

April 1, 2008

To Whom It May Concern:

This letter is to support officially declaring the Alaska Malamute as the State Dog.

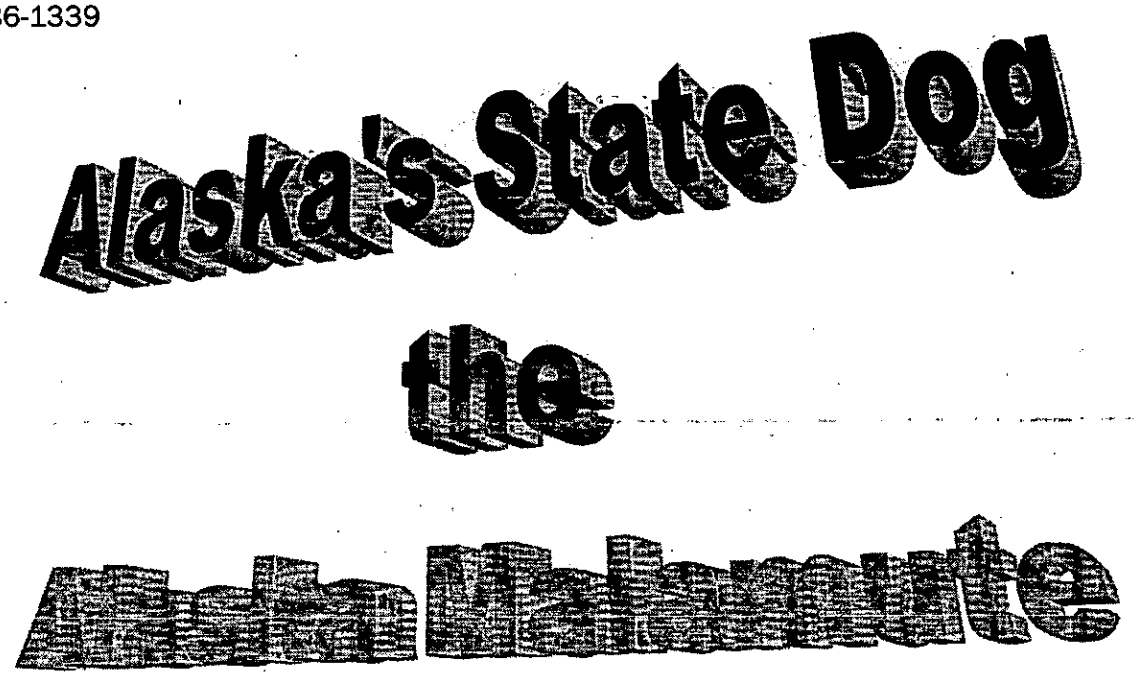
As the result of the wonderful work of a second grade class at Polaris K-12 in Anchorage I was made aware of the tremendous role the Alaska Malamute has played in Alaska history.
At the top of the list:

- They helped gold miners dig for gold.
- They are strong workers and are used to pull heavy burdens.
- Their role in the Iditarod is obvious.

Please accept these brief words as my support. Feel free to contact me with any questions.

Sincerely,

Troy J. Bowler
tbowler@tanainachildren.org
786-1339



TANANA VALLEY KENNEL CLUB, INC.

P.O. Box 72019
Fairbanks, Alaska 99707-2019

May 18, 2008

Polaris K-12 School
6200 Ashwood Street
Anchorage, AK 99507

To Whom It May Concern,

We at the Tanana Valley Kennel Club wish to add our support in the effort to make the Alaskan Malamute Alaska's official state dog. The Alaskan Malamute has played a very important role in Alaska's history. It would be a well deserved honor for this breed to be recognized as Alaska's state dog.

Sincerely,

Becky Fuller
Correspondence Secretary
Tanana Valley Kennel Club

April 7, 2008

Dear Robby,

I received your letter requesting support for the Alaska Malamute to be the official dog for the state of Alaska. You made a very strong case for the Alaska Malamute. You presented many facts to support your position. I did not know Alaska Malamutes had such important jobs in World War II. From the reasons you presented, I understand why you think the Alaska Malamute should be the state dog.

Please know you have my support. Good luck!

Very truly yours,

Teresa Patka

Teresa A. Patka

UNIVERSITY OF ALASKA ANCHORAGE
INSTITUTE OF SOCIAL AND ECONOMIC RESEARCH
College of Business and Public Policy
3211 Providence Drive • Anchorage, Alaska 99508-8180

April 29, 2008

Dear Members of the Alaska State Legislature:

I am writing in support of making the Alaska malamute the official state dog of Alaska. The arguments supporting this proposal, as articulated by the students of Polaris, have convinced me that the Alaska malamute is an appropriate symbol for our state. The breed represents the best of our unique state, as a strong, beautiful animal that has contributed greatly to the survival of peoples in this tough region for thousands of years.

I also think it is exciting to see young people get engaged in thinking about, and making public policy and history.

I urge you to support this effort.

Thank you.

Diane Hirshberg
Assistant Professor of Education Policy
Hirshberg@uaa.alaska.edu
907/786-5413

Telephone (907) 786-7710 • Fax (907) 786-7739 • E-mail: ayiser@uaa.alaska.edu

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re Amendments to HB 14 Alaskan Malamute as State Dog

Please draft two separate amendments to this bill:

Amendment #1
Delete "Alaskan Malamute" and replace with the **Alaska Sled Dog**

Amendment #2
Delete "Alaskan Malamute" and replace with **Alaska Husky**

ALASKA STATE LEGISLATURE

Juneau
State Capitol Bldg. Rm 422
Juneau, AK 99801-1182
Phone (907) 465-4930
Fax (907) 465-3834
1-800-331-4930

Anchorage
716 W. 4th Avenue
Anchorage, AK 99501
Phone (907) 269-0174
Fax (907) 269-0177

Representative Berta Gardner

House District 24

Memorandom

Date: January 22, 2009

To: Representative Bob Lynn, Chair
House State Affairs Committee

From: Representative Berta Gardner

Re: Hearing request for HB 14

I am requesting that House Bill 14, "An Act designating the Alaskan malamute as the Alaska State Dog" be scheduled for a hearing in the House State Affairs Committee at your earliest convenience.

The Alaskan malamute has played a crucial role in Alaska's history for at least four thousand years. Considered to be one of the twelve ancient breeds, it's believed that the malamute originated with the ancient Mahlemut people, now known as the Inuits, with whom they lived and worked side by side. They played crucial roles in the Alaska gold rush and beyond as a valuable freight dog, and they played a role during the 1925 Serum Run to Nome. The Alaskan malamute assisted with Admiral Richard Byrd's expeditions to the South Pole in 1928 and 1934, and contributed to America's efforts during WWII. With its long and distinguished history, the Alaskan malamute has always been an intelligent, hardworking and loyal partner and deserves to be recognized as the Alaska's official state dog.

Included in this packet:

- A Current Version of HB 14
- Sponsor Statement
- Backup Information
- Letters of Support

If necessary, other backup will be forthcoming. Please contact my staffer Noah Hanson at 465-4068 or Noah_Hanson@legis.state.ak.us with any questions.

Thank you,

Representative Berta Gardner

Nancy Manly

From: Noah Hanson
Sent: Wednesday, February 25, 2009 11:20 AM
To: Nancy Manly

Nancy, not sure if you need this but I will give it to you anyway. Here are the names of the student who will be testifying tomorrow:

Paige Hill
Ciara Brady
Raia Stamm
Kai Roberts
Sanne Cassee
Cally Shafer — DNA
Thomas Tunnell
Atticus Madland
Adeline Wright
Walker Platzek
Chris Gray
Rosemary Flesher — ?
Kaitlan McLanlen — ?
Abbigale Seitz
Onni Ennis-Cochran
Jasmine Riski
Kenji Matsuoka
Clara Veelman
Sabrina Urban
Raleigh Pigg
Oceana Gamel-Howes
Desiree Armstrong
Ryan Terry
Will Roberson — Apologize
Joey Aist
Trent Devereux
Gwyneth Meek
Taylor Bagdon
Jessica Husa
Duncan Wright
Yungshu Wong
Sam Brown
Kaya Porter
Owen McGee
Maeve Wiley
Madeline Flores

Bob — Gardner's office promises the testimony will be short - no longer than 15-20 min for all kids to testify. They have been practicing & timing themselves.

Teachers?

Thanks,

Noah Hanson
Office of Rep· Berta Gardner
Legislative Staff
Ph: 907-465-4068
Fax: 907-465-3834

HB 24

HOUSE COMMITTEE REPO[illegible]

(7)
Date Referred to Committee: April 1, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 4-9-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 24**

"An Act relating to a public procurement preference for Alaska veterans."
HB 24 PROCUREMENT PREFERENCE FOR VETERANS

Recommends it be replaced with [ ] HCS *or* [X] CS for HB 24 (MLV)
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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
Admin				X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Carl Gatto	Gatto	✓			
Paul Seaton	Seaton	✓			
Pete Petersen	Petersen	X			
Chair: Bob Lynn	LYNN	X			
Chair:					

non-deployed troops.

- Fibromyalgia, a persistent body pain lasting at least three months, was present in 20 of every 1,000 deployed GIs and 12 of every 1,000 non-deployed GIs.
- Skin rashes occurred in 346 of every 1,000 deployed troops and 268 of every 1,000 non-deployed troops.
- Stomach pain was reported by 91 of every 1,000 Gulf vets compared to 60 of every 1,000 non-deployed troops.

Decorated Vets Comprise Commission

Listed below are members of the Veterans Disability Benefits Commission (see *Issues Up Front* on page 16). Law states that seven members must hold the Medal of Honor, Distinguished Service Cross, Navy Cross, Air Force Cross or Silver Star.

Appointments were made by President Bush, Senate Majority Leader Bill Frist (R-Tenn.), Senate Minority Leader Harry Reid (D-Nev.), Speaker of the House Dennis Hastert (R-Ill.) and House Minority Leader Nancy Pelosi (D-Calif.). One position is still vacant. Appointees are:

- James T. Scott, retired Army lieutenant general. He is commissioner.
- Nick D. Bacon, director, Arkansas Dept. of Veterans Affairs
- Larry G. Brown, retired Army colonel
- Jennifer S. Carroll, former executive director, Florida Department of Veterans Affairs
- Donald M. Cassiday, retired Air Force colonel
- John H. Grady, former chairman, Department of Defense Retirement Board of Actuaries
- Charles Joeckel, former national adjutant, Disabled American Veterans
- Ken Jordan, retired Marine Corps colonel
- James Livingston, retired Marine Corps major general
- Dennis V. McGinn, retired Navy vice admiral
- Rick Surrat, deputy national legislative director, Disabled American Veterans
- Joe Wynn, regional director, National Association for Black Veterans

---------- SECURITY ----------

16 Killed in Afghanistan Crash

The worst single combat loss for Americans in the Afghanistan War occurred June 28 when an MH-47 helicopter carrying eight soldiers and eight sailors was shot down near Asadabad. All 16 aboard were killed.

Seven of the soldiers were assigned to 3rd Bn., 160th Special Operations Aviation Regt. They were: Staff Sgt. Shamus O. Goare; Chief Warrant Officer Corey J. Goodnature; Sgt. Kip A. Jacoby; Sgt. 1st Class Marcus V. Muralles; Maj. Stephen C. Reich; Sgt. 1st Class Michael L. Russell; and Chief Warrant Officer Chris J. Scherkenbach.

Master Sgt. James W. Ponder III of the regiment's HQ Company also was killed.

Five of the sailors were assigned to SEAL Team 10: Chief Petty Officer Jacques J. Fontan; Lt. Cmdr. Erik S. Kristensen; Petty Officer 1st Class Jeffery A. Lucas; Lt. Michael M. McGreevy, Jr.; and Petty Officer 1st Class Jeffrey S. Taylor.

Three sailors were assigned to SEAL Delivery Vehicle Team One: Senior Chief Petty Officer Daniel R. Healy; Petty Officer 2nd Class Eric S. Patton; and Petty Officer 2nd Class James Suh.

The helicopter was responding to a call from four Navy SEALs: Petty Officer 2nd Class Matthew G. Axelson; Petty Officer 2nd Class Danny P. Dietz; and Lt. Michael P. Murphy were KIA. The fourth SEAL was rescued.

VFW Travels to Indochina

Three VFW officials traveled to Southeast Asia in March to gather firsthand knowledge of U.S. efforts to account for Americans missing from the Vietnam War. Senior Vice Commander-in-Chief Jim Mueller, Junior Vice Commander-in-Chief Gary Kurpius and Washington Office Executive Director Bob Wallace visited Hawaii, Thailand, Vietnam and Laos on the 14th such trip taken by VFW leaders since 1991.

They learned that 1,836 Americans are still unaccounted for from the war. Of that figure, 1,399 were lost in Vietnam, 375 in Laos, 55 in Cambodia and seven in China.

Mueller, Kurpius and Wallace met with personnel from the Joint POW/MIA Accounting Command (JPAC). JPAC's 425-person organization is divided into three detachments. Det. 1 in Bangkok, Thailand investigates cases in Cambodia. Det. 2, based in Hanoi, coordinates operations in Vietnam. Det. 3 is in Laos. Additional efforts are aimed at investigating cases from WWII, the Korean War and the Cold War.

"These trips emphasize that VFW is serious about attaining the fullest possible accounting of our MIAs," Mueller said. "We are able to see firsthand what is going on and personally thank the U.S. troops and diplomats who are working daily on this issue."

---------- EMPLOYMENT ----------

Tax Credits for Hiring New Vets

A bill pending in the House offers tax credits of up to $2,400 to employers who hire veterans of Iraq and Afghanistan. The proposal also extends to dependents of National Guardsmen and reservists called to active duty in either country, as well as dependents of GIs killed in either war.

H.R. 1352—the *Veterans Employment and Respect Act of 2005*—was introduced by Rep. Allyson Schwartz (D-Pa.), daughter of a Korean War vet, and is co-sponsored by 161 House members, including Rep. Joe Schwarz (R-Mich.), a Vietnam vet. Schwarz told the *New York Times* that the tax credits could be a "mini-windfall" for a small company: "It will make a difference." At press time, the bill had been referred to the House Ways and Means Committee.



VFW VETERANS HELPLINE

Call VFW's Tactical Assessment Center if you have questions, concerns or issues about VA care you are receiving.

(800) VFW-1899

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Bill 24

"An Act relating to a public procurement preference for Alaska veterans"

Alaska law, Sec. 36.30.180, states that "The purpose of bidder preference for resident firms when the state acts as a market participant is to encourage local industry, strengthen and stabilize the economy, decrease unemployment, and strengthen the tax and revenue base of the state." House Bill 24 will expand this preference to include Alaska Veteran Owned Businesses.

The National Conference of State Legislatures (NCSL) identified 132 state bills (either introduced, in process, or passed into law in the past two years) that address, to some degree, the veteran business communities concerns at the state level. House Bill 24 brings Alaska into the national effort to encourage veterans to start businesses in Alaska and help them succeed.

I urge your support on this piece of legislation.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

Alaska State Legislature

Representative Anna Fairclough – House District 17

CS House Bill 24 (MLV)

"An Act relating to a public procurement preference for Alaska veterans."

Explanation of Changes

Page 1, Lines 12 through line 16, until "In"

Removed language that stated if an Alaska bidder, is a qualifying entity, is on the register established under (d) of this section, and is the lowest responsible and responsive bidder with a bid that is not more than 10 percent higher than the lowest bid, the procurement officer shall award the contract to that bidder.

Inserted:

"and is a qualifying entity, a 5 percent cost preference shall be applied to the bid price. The preference shall not exceed five thousand dollars."

Page 2, Lines 14 & 15

Removed language that required the department to maintain a register of individuals who qualify under this section as Alaska veterans.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

Alaska State Legislature

Representative Anna Fairclough – House District 17

CS House Bill 24

"An Act relating to a public procurement preference for Alaska veterans."

Sectional Analysis

Section 1. Amends AS 36.30.170(a)

Clean up language for referencing a new section that defines Alaska veterans' preference

Section 2. Amends AS 36.30 by adding a new section

Adds in a preference for Alaska veterans and defines what a qualified entity is.

Section 3. Amends AS 36.30.250(b)

Clean up language for referencing a new section that defines Alaska veterans' preference

Section 4. Amends AS 36.30.335

Clean up language for referencing a new section that defines Alaska veterans' preference

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

26-LS0135\S

April 1, 2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **CS HB 24**
() Publish Date:

Identifier (file name): **CS(HMLV)HB024-DOA-DGS-4-02-09**
Dept. Affected: Administration
Title: An Act relating to a public procurement preference for Alaska veterans
RDU: Centralized Administrative Services
Component: Purchasing
Sponsor: Reps. FAIRCLOUGH, GATTO, LYNN, Dahlstrom...
Requester: (H)MLV
Component Number: 60

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	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	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: *(Attach a separate page if necessary)*

This legislation establishes a state procurement preference for Alaska veteran-owned businesses of 5 percent (up to a maximum of $5,000 per award). The department does not anticipate additional expenses in implementing this preference. While the preference may result in awards to higher priced offers as a result of application of the preferece, we are unable to determine those costs.

Prepared by: Vern Jones, Director — Phone 465-4817
Division: General Services — Date/Time 4/2/09 8:52 AM
Approved by: Rachael Petro — Date 4/2/2009
Deputy Commissioner

(Revised 03/30/08 OMB)

NATIONAL CONFERENCE
of STATE LEGISLATURES

The Forum for America's Ideas

7700 East First Place Denver, Colorado 80230
303-364-7700 Fax: 303-364-7800

2008 Legislation regarding Hiring and Procurement Veteran Preferences
June 18, 2008

AK S 274

AUTHOR: Wielechowski [D]
TITLE: State Procurement Preferences and Veterans
INTRODUCED: 02/15/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to a public procurement preference for Alaska veterans with service-related disabilities.
STATUS:

02/15/2008	INTRODUCED.
02/15/2008	To SENATE Committee on STATE AFFAIRS.
02/15/2008	To SENATE Committee on FINANCE.

CA A 873

AUTHOR: Davis [D]
TITLE: Public Utilities: Procurement
INTRODUCED: 02/22/2007
DISPOSITION: Pending
SUMMARY:
Extends the minority-, women, and disabled veteran-owned business enterprises procurement requirements to water corporations with specified gross incomes. Encourages each electrical, gas, water, and telephone corporation that is not required to submit a plan to voluntarily adopt a plan for increasing women, minority, and disabled veteran business enterprise procurement in all categories.
STATUS:

06/17/2008	From SENATE Committee on ENERGY, UTILITIES AND COMMUNICATIONS: Do pass as amended to Committee on APPROPRIATIONS.

CA A 1189

AUTHOR: Veterans Affairs Cmt
TITLE: Disabled Veteran Business Enterprise Program
INTRODUCED: 02/23/2007
DISPOSITION: Pending

SUMMARY:
Requires an awarding department to verify that the contractor has received certification as a disabled veteran business enterprise and that the certification is valid and to enforce the terms of any contract it enters into under the state Disabled Veteran Business Enterprise Program. Provides that each contract shall require any prime contractor that enters into a subcontract with such enterprise to certify that all payments under the contract have been made.
STATUS:
09/11/2007 In SENATE. To Inactive File.

CA A 1818 **AUTHOR:** Fuentes [D]
TITLE: Housing: Veterans
INTRODUCED: 01/18/2008
DISPOSITION: Pending
SUMMARY:
Amends existing law that established the Multifamily Housing Program under the Department of Housing and Community Development. Authorizes the sponsor of a supportive housing development funded under the program to restrict occupancy of the development to veterans under specified circumstances.
STATUS:
06/17/2008 From SENATE Committee on TRANSPORTATION AND HOUSING: Do pass.

CA A 1942 **AUTHOR:** Ruskin [D]
TITLE: Public Contracts: Small and Disabled Veteran Business
INTRODUCED: 02/13/2008
DISPOSITION: Pending
SUMMARY:
Increases the period of certification suspension for a small business or microenterprise or disabled veteran business from bidding on or participating in a state contract for fraudulent representing or withholding information. Imposes civil penalties, cancels the contract, and imposes costs against a person for fraudulently representing a disabled veteran business and revokes business certification to participate in a state contract. Provides civil penalties for contract fraudulent misrepresentation.
STATUS:
06/05/2008 To SENATE Committees on VETERANS AFFAIRS and GOVERNMENTAL ORGANIZATION.

CA A 2360 **AUTHOR:** Levine [D]
TITLE: Public Contracts: State Contracts: Healthy Lifestyle
INTRODUCED: 02/21/2008
DISPOSITION: Pending
SUMMARY:

Requires prospective bidders having a specified number of employees in the state, other than a certified small business or disabled veteran business enterprise, that bid on a contract let or under the jurisdiction of the Department of General Services involving expenditures of over a specified amount, to certify in a standard form of questionnaire that it provides fitness and wellness benefits for its employees.

STATUS:

05/22/2008 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee.

CA A 2773

AUTHOR: Price [D]
TITLE: Public Contracts: Small Business Procurement
INTRODUCED: 02/22/2008
DISPOSITION: Pending
SUMMARY:

Relates to The Small Business Procurement and Contract Act. Permits a state agency to award a contract to a certified small business, including microbusiness and a disabled veteran business enterprise, without complying with specified competitive bidding requirements. Increases the maximum amount of the contract and requires the contractor to report the actual percentage of small business or disabled veteran business enterprise participation that was achieved.

STATUS:

06/12/2008 To SENATE Committee on GOVERNMENTAL ORGANIZATION.

CA A 3020

AUTHOR: Salas [D]
TITLE: State Contract Act: Definition: Department
INTRODUCED: 02/22/2008
DISPOSITION: Pending
SUMMARY:

Expands the definition of department for purposes of contracting for a public work to include the Military Department.

STATUS:

06/10/2008 From SENATE Committee on GOVERNMENTAL ORGANIZATION: Do pass to Committee on APPROPRIATIONS.

CA A 3066

AUTHOR: Veterans Affairs Cmt
TITLE: Unemployment Insurance: Training Panel: Veterans
INTRODUCED: 03/05/2008
DISPOSITION: Pending
SUMMARY:

Expands the number of employment training programs and the Employment Training Panel that qualify for priority funding to include projects that support veterans and members of the State National Guard, especially

individuals who have become disabled as a result of their military service.
STATUS:
05/29/2008 To SENATE Committee on VETERANS AFFAIRS.

CA S 159
AUTHOR: Wyland [R]
TITLE: Prompt Payment Act: Disabled Veteran Businesses
INTRODUCED: 01/30/2007
DISPOSITION: Pending
SUMMARY:
Includes a disabled veteran business enterprise, as defined under the state Disabled Veteran Business Program, among the entities to whom higher penalties are payable under the state Prompt Payment Act.
STATUS:
08/30/2007 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee.

CA S 1397
AUTHOR: Negrete McLeod [D]
TITLE: Prison Industry Authority: Procurement
INTRODUCED: 02/21/2008
DISPOSITION: Pending
SUMMARY:
Requires the Prison Industry Board in procuring any goods of services, to comply with certain provisions of law that give preference to small businesses and disabled veteran business enterprises in awarding contracts.
STATUS:
04/01/2008 In SENATE Committee on PUBLIC SAFETY: Not heard.

CT S 259
INTRODUCER: Joint Committee on Veteran Affairs
TITLE: Disable Veterans
INTRODUCED: 02/19/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Concerns a state Set Aside Program for disabled veterans; provides a Set Aside Program for disabled veterans.
STATUS:
04/07/2008 Reported out of Legislative Commissioner's Office.
04/07/2008 Reissued by Legislative Commissioner's Office with File No. 506.

FL H 687
SIMILAR: FL S 108
AUTHOR: Government Efficiency and Acc Council Cmt
TITLE: Service-Disabled Veteran Business Enterprises
INTRODUCED: 03/04/2008
ENACTED: 06/12/2008
DISPOSITION: Enacted

CHAPTER: 2008-155
SUMMARY:
Creates the Service-Disabled Veteran Business Enterprise Opportunity Act; provides a selection preference in state contracting for certified service-disabled veteran business enterprises; provides a certification procedure to be established by the Department of Management Services and the Department of Veterans' Affairs and reviewed biennially and updated as necessary; provides for data reporting by the Small Business Development Center.
STATUS:
06/12/2008 Signed by GOVERNOR.
06/12/2008 Filed as Chapter No. 2008-155

FL S 108

SIMILAR: FL H 687
AUTHOR: Military Affairs and Domestic Security Cmt
TITLE: State Contracts
INTRODUCED: 03/04/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to state contracts; provides a statewide goal for each state agency or political subdivision to award specified governmental contracts with disabled veteran business enterprises; provides for businesses to be certified and for duties of the Department of Veterans' Affairs and the Department of Management Services.
STATUS:
04/23/2008 In SENATE. Placed on Special Order Calendar.
04/23/2008 In SENATE. Substituted on SENATE floor by H 687.
04/23/2008 In SENATE. Laid on table.

GA H 930

AUTHOR: Benton [R]
TITLE: Eligibility Certificate
INTRODUCED: 01/15/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to disabled veterans and blind persons engaging in peddling, operating businesses, or practicing professions, so as to provide that a certificate of eligibility of exemption from the payment of occupation taxes, administrative fees, or regulatory fees must first make application to the judge of the probate court of the county in which he or she resides shall be valid for a period of ten years.
STATUS:
03/27/2008 From SENATE Committee on REGULATED INDUSTRIES and UTILITIES. Favorably Reported.

GA S 114

AUTHOR: Shafer [R]
TITLE: Real Estate Brokers

INTRODUCED: 02/09/2007
ENACTED: 05/24/2007
DISPOSITION: Enacted
ACT: 249
SUMMARY:
Relates to real estate brokers and salespersons; relates to points given to disabled veterans taking examinations for licensing; provides that a certain time periods must have passed after completing a sentence for certain criminal convictions before applying for licensure; provides additional criminal offenses for which the Real Estate Commission may deny a license; change the term in-class hour to instructional hour; change the number of instructional hours for a prelicense course of study.
STATUS:
05/24/2007 Signed by GOVERNOR.
05/24/2007 Act No. 249

IA H 24

AUTHOR: Dolecheck [R]
TITLE: Nonresident Veterans State Employment Preference
INTRODUCED: 01/16/2007
DISPOSITION: Pending - Carryover
SUMMARY:
Concerns preference for state employment for nonresident veterans.
STATUS:
01/16/2007 INTRODUCED.
01/16/2007 To HOUSE Committee on VETERANS AFFAIRS.

IA H 80

AUTHOR: Hunter [D]
TITLE: Veteran Benefits
INTRODUCED: 01/22/2007
DISPOSITION: Pending - Carryover
SUMMARY:
Concerns veterans; includes employment preference and other benefits.
STATUS:
01/31/2007 In HOUSE Committee on VETERANS AFFAIRS: Subcommittee assignments: D. Taylor, Bell, Granzow, Thomas, Watts.

IA S 2113

AUTHOR: Rielly [D]
TITLE: Veterans State Job Information
INTRODUCED: 02/06/2008
DISPOSITION: Pending
SUMMARY:
Requires the department of administrative services to provide state job information to veterans.
STATUS:
02/13/2008 In SENATE Committee on VETERANS AFFAIRS:

Subcommittee assignments: Danielson, Horn, and McKinley.

IL H 668

SPONSOR: Chapa-LaVia [D]
TITLE: Veterans Preference Act
INTRODUCED: 02/06/2007
ENACTED: 08/31/2007
DISPOSITION: Enacted
PUBLIC ACT: 95-566
SUMMARY:
Amends the Veterans Preference Act as regards employment and public works. Increases the fine for a violation. Includes the reserve forces and the state national guard.
STATUS:
08/31/2007 Signed by GOVERNOR.
08/31/2007 Public Act No. 95-566

IL H 678

SPONSOR: Mautino [D]
TITLE: Veterans Preference
INTRODUCED: 02/06/2007
DISPOSITION: Pending
SUMMARY:
Amends the Metropolitan Water Reclamation District Act. Provides that the Director of Personnel shall give preference for original and promotional appointments to persons who have at least 180 consecutive days of active duty military service at any time in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Reserves. Further provides for points added to the promotion examination for certain military veterans.
STATUS:
05/15/2008 In SENATE. Committee Reading Deadline Extended to 05/22/2008.

IL H 1172

SPONSOR: Franks [D]
TITLE: Vietnam Veterans
INTRODUCED: 02/09/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Act. Makes a technical change in a Section concerning Vietnam veterans.
STATUS:
03/23/2007 Rereferred to HOUSE Committee on RULES.

IL H 1174

SPONSOR: Franks [D]
TITLE: Public Works Positions
INTRODUCED: 02/09/2007
DISPOSITION: Pending

SUMMARY:
Amends the Veterans Preference Act. Makes a technical change in a Section concerning a preference given to veterans in employment and appointment to fill certain public works positions.
STATUS:
03/23/2007 Rereferred to HOUSE Committee on RULES.

IL H 1234

SPONSOR: Wait [R]
TITLE: Illinois Procurement Code
INTRODUCED: 02/09/2007
DISPOSITION: Pending
SUMMARY:
Amends the Illinois Procurement Code. Requires that each chief procurement officer establish a goal of at least 12% of the total dollar amount of State contracts of agencies under the officer's jurisdiction to be awarded to veteran-owned businesses.
STATUS:
05/15/2008 In SENATE. Committee Reading Deadline Extended to 05/22/2008.

IL H 1621

SPONSOR: Chapa-LaVia [D]
TITLE: Minimum Admission Standards
INTRODUCED: 02/22/2007
DISPOSITION: Pending
SUMMARY:
Amends the Board of Higher Education Act. Provides that, beginning with the 2008-2009 academic year, the minimum admission standards established by the Board of Higher Education for public community colleges and universities must provide for a preference for persons who were engaged in the active military or naval service of the United States for a period of at least one year and who were honorably discharged.
STATUS:
03/23/2007 Rereferred to HOUSE Committee on RULES.

IL H 1850

SPONSOR: Chapa-LaVia [D]
TITLE: Vietnam Veterans
INTRODUCED: 02/23/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Act. Makes a technical change in a Section concerning Vietnam veterans.
STATUS:
03/14/2008 Rereferred to HOUSE Committee on RULES.

IL H 1860

SPONSOR: Brauer [R]
TITLE: Educational Preference

INTRODUCED: 02/23/2007
DISPOSITION: Pending
SUMMARY:
Amends the Illinois Municipal Code. Makes technical changes in a Section concerning veteran's and educational preference.
STATUS:
03/23/2007 Rereferred to HOUSE Committee on RULES.

IL H 1861

SPONSOR: Brauer [R]
TITLE: Veterans Preferences
INTRODUCED: 02/23/2007
DISPOSITION: Pending
SUMMARY:
Amends the Illinois Municipal Code. Makes a technical change in a Section concerning veterans preferences.
STATUS:
03/23/2007 Rereferred to HOUSE Committee on RULES.

IL H 2180

SPONSOR: D'Amico [D]
TITLE: Veterans' Employment Act
INTRODUCED: 02/26/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Act. Makes a technical change in a Section concerning Vietnam veterans.
STATUS:
04/27/2007 Rereferred to HOUSE Committee on RULES.

IL H 2181

SPONSOR: Madigan [D]
TITLE: Veterans' Employment Representative Act
INTRODUCED: 02/26/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Representative Act. Makes a technical change in a Section concerning the qualifications and duties of a Veterans' Employment Representative.
STATUS:
04/27/2007 Rereferred to HOUSE Committee on RULES.

IL H 2182

SPONSOR: Madigan [D]
TITLE: Veterans Preference Act
INTRODUCED: 02/26/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans Preference Act. Makes a technical change in a Section concerning a preference given to veterans in employment and appointment

to fill certain public works positions.
STATUS:
04/27/2007 Rereferred to HOUSE Committee on RULES.

IL H 2332
SPONSOR: Bradley J [D]
TITLE: City of West Frankfort
INTRODUCED: 02/26/2007
DISPOSITION: Pending
SUMMARY:
Amends the Illinois Municipal Code. Provides that the redevelopment project in the tax increment financing district created by a specified ordinance adopted by the City of West Frankfort must be completed within a specified time frame.
STATUS:
05/15/2008 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

IL H 4612
SPONSOR: Ford [D]
TITLE: State Employment Application Act
INTRODUCED: 01/24/2008
DISPOSITION: Failed
SUMMARY:
Prohibits state employment applications from questioning if an applicant was convicted of a non-violent offense. Requires such applications to inquire if an applicant has been convicted of a felony crime of violence. Allows applications to inquire if an applicant has been convicted of a disqualifying offense. Provides preference points on entrance exams for veterans. Increases the preference points for veterans with a disability and former members of the Armed Forces, the Reserves, or the National Guard.
STATUS:
05/29/2008 In HOUSE. Placed on Short Debate Calendar Third Reading.
05/29/2008 In HOUSE. Tabled Amendment No. 2.
05/29/2008 In HOUSE. Read third time. Failed to pass HOUSE.

IL H 5389
SPONSOR: Madigan [D]
TITLE: Veterans' Employment Representative
INTRODUCED: 02/14/2008
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Representative Act. Makes a technical change in a Section concerning the qualifications and duties of a Veterans' Employment Representative.
STATUS:
02/14/2008 INTRODUCED.
02/14/2008 To HOUSE Committee on RULES.

IL H 5390

SPONSOR: Madigan [D]
TITLE: Veterans Preference and Public Works Positions
INTRODUCED: 02/14/2008
DISPOSITION: Pending
SUMMARY:
Amends the Veterans Preference Act. Makes a technical change in a Section concerning a preference given to veterans in employment and appointment to fill certain public works positions.
STATUS:
02/14/2008 INTRODUCED.
02/14/2008 To HOUSE Committee on RULES.

IL H 5826

SPONSOR: Cross [R]
TITLE: Veterans Preference Act
INTRODUCED: 02/15/2008
DISPOSITION: Pending
SUMMARY:
Amends the Veterans Preference Act. Makes a technical change in a Section concerning a preference given to veterans in employment and appointment to fill certain public works positions.
STATUS:
02/15/2008 INTRODUCED.
02/15/2008 To HOUSE Committee on RULES.

IL H 5828

SPONSOR: Cross [R]
TITLE: Veterans' Employment Act
INTRODUCED: 02/15/2008
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Act. Makes a technical change in a Section concerning the short title.
STATUS:
02/15/2008 INTRODUCED.
02/15/2008 To HOUSE Committee on RULES.

IL H 5851

SPONSOR: Cross [R]
TITLE: Veterans Preferences
INTRODUCED: 02/15/2008
DISPOSITION: Pending
SUMMARY:
Amends the Illinois Municipal Code. Makes a technical change in a Section concerning veterans preferences.
STATUS:
02/15/2008 INTRODUCED.
02/15/2008 To HOUSE Committee on RULES.

IL H 5906

SPONSOR: Wait [R]
TITLE: Participation Loans for Small Businesses
INTRODUCED: 02/15/2008
DISPOSITION: Pending
SUMMARY:
Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code. Authorizes the Department of Commerce and Economic Opportunity to make participation loans to small businesses that are at least a certain percentage owned and managed by one or more persons who are veterans for the purposes of promoting the creation of veteran-owned small businesses and promoting the creation of jobs within small businesses. Provides for no rule making authority.
STATUS:

05/15/2008	In SENATE. Committee Reading Deadline Extended to 05/22/2008.

IL S 414

SPONSOR: Dillard [R]
TITLE: Personnel Intern Programs
INTRODUCED: 02/07/2007
DISPOSITION: Pending
SUMMARY:
Amends the Personnel Code. Includes intern programs within the provisions concerning trainee programs. Prohibits an intern or trainee, or former intern or trainee, who has not been granted a veteran preference from being appointed in other than an intern or trainee capacity to a position for which a qualified veteran preference recipient is eligible. Prohibits an intern or trainee, or former intern or trainee, who has not been granted a veteran preference.
STATUS:

02/07/2007	INTRODUCED.
02/07/2007	To SENATE Committee on RULES.

IL S 923

SPONSOR: Meeks [I]
TITLE: Qualifications and Duties of Veterans
INTRODUCED: 02/08/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Representative Act. Makes a technical change in a Section concerning the qualifications and duties of a Veterans' Employment Representative.
STATUS:

12/03/2007	Rereferred to SENATE Committee on RULES.

IL S 924

SPONSOR: Demuzio [D]
TITLE: Vietnam Veterans

INTRODUCED: 02/08/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans' Employment Act. Makes a technical change in a Section concerning Vietnam veterans.
STATUS:
12/03/2007 Rereferred to SENATE Committee on RULES.

IL S 926

SPONSOR: Demuzio [D]
TITLE: Veterans Preference
INTRODUCED: 02/08/2007
DISPOSITION: Pending
SUMMARY:
Amends the Veterans Preference Act. Makes a technical change in a Section concerning a preference given to veterans in employment and appointment to fill certain public works positions.
STATUS:
12/03/2007 Rereferred to SENATE Committee on RULES.

IL S 1685

SPONSOR: Jones J [R]
TITLE: Department of Veterans Affairs
INTRODUCED: 02/09/2007
DISPOSITION: Pending
SUMMARY:
Amends the Department of Veterans Affairs Act. Creates the office of Veterans' State Employment Ombudsman within the Department. Provides that the Ombudsman shall monitor hiring done through the Department of Central Management Services and other State agencies to ensure that veterans' hiring preferences are being followed.
STATUS:
02/09/2007 INTRODUCED.
02/09/2007 To SENATE Committee on RULES.

IL S 2620

SPONSOR: Jones J [R]
TITLE: Veterans State Employment Ombudsman
INTRODUCED: 02/15/2008
DISPOSITION: Pending
SUMMARY:
Amends the Department of Veterans Affairs Act. Creates the office of Veterans' State Employment Ombudsman within the Department. Provides that the Ombudsman shall monitor hiring done through the Department of Central Management Services and other State agencies to ensure that veterans' hiring preferences are being followed.
STATUS:
02/15/2008 INTRODUCED.
02/15/2008 To SENATE Committee on RULES.

KS H 2562

AUTHOR: Appropriations Cmt
TITLE: Veterans State Employment
INTRODUCED: 03/02/2007
ENACTED: 04/21/2008
DISPOSITION: Enacted
CHAPTER: 2008-99
SUMMARY:
Relates to veterans and notices of job openings for state employment; concerns veterans preference and powers of attorney; provides for a disabled veteran; includes spouses; relates to veterans service representatives.
STATUS:
06/09/2008 Chapter No. 2008-99

KY H 57

BR: 346
SPONSOR: Cherry [D]
TITLE: Military Service
INTRODUCED: 01/08/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Honors military service; expands the state hiring preference honoring military service; requires the adding of five or ten preference points to a military-connected individual's examination score used for state hiring in classified positions; permits the total of an examination score and preference points to exceed 100; requires that a register certificate of finalists for a state job identify all finalists entitled to preference points.
STATUS:
01/28/2008 To SENATE Committee on STATE AND LOCAL GOVERNMENT.

KY S 181

BR: 2131
SPONSOR: Gibson [R]
TITLE: Honoring Military Service
INTRODUCED: 02/21/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to honoring military service; establishes a state hiring preference honoring military service; requires that certain individuals receive an additional five or ten preference points on an examination score used for state hiring in classified positions; permits the total of the examination score and the preference points to exceed 100.
STATUS:
03/11/2008 To HOUSE Committee on SENIORS, MILITARY AFFAIRS AND PUBLIC SAFETY.

MA H 2776

AUTHOR: Vallee [D]

TITLE: Veteran Hiring Practices
INTRODUCED: 01/10/2007
DISPOSITION: Pending
SUMMARY:
Strengthens veterans hiring practices.
STATUS:
03/27/2008 From JOINT Committee on PUBLIC SERVICE: Accompanied Study Order H 4607.

MA H 3726

AUTHOR: Spellane [D]
TITLE: Veteran Owned Small Business
INTRODUCED: 01/10/2007
DISPOSITION: Pending
SUMMARY:
Relates to veteran owned small business.
STATUS:
03/24/2008 From JOINT Committee on VETERANS AND FEDERAL AFFAIRS: Ought to pass.
03/24/2008 To HOUSE Committee on WAYS AND MEANS.

MA S 528

AUTHOR: Morrissey [D]
TITLE: Pilots Commission
INTRODUCED: 01/10/2007
DISPOSITION: Pending
SUMMARY:
Relates to veterans preference on the pilots commission.
STATUS:
04/24/2008 From JOINT Committee on ENVIRONMENT, NATURAL RESOURCES AND AGRICULTURE: Accompanied Study Order S 2593.

MA S 2141

AUTHOR: Morrissey [D]
TITLE: Employment Protection for Disabled Veterans
INTRODUCED: 01/10/2007
DISPOSITION: Pending
SUMMARY:
Provides employment protection for disabled veterans and veterans who are not members of civil service.
STATUS:
03/11/2008 From JOINT Committee on VETERANS AND FEDERAL AFFAIRS: Accompanied Study Order S 2547.

MD H 747

CROSSFILED WITH: MD S 648
AUTHOR: Minnick [D]

TITLE: Disabled Veteran
INTRODUCED: 02/04/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Establishes a specified participation goal for certified service disabled veteran business enterprises for procurement contracts; requires an awarding unit to consider specified efforts by and award specified contracts to bidders or offerors that meet or make a good-faith effort to meet specified participation goals.
STATUS:

02/04/2008	INTRODUCED.
02/04/2008	To HOUSE Committee on HEALTH AND GOVERNMENT OPERATIONS.

MD H 1431

AUTHOR: Health and Government Cmt
TITLE: Small Business Preference Program
INTRODUCED: 02/11/2008
ENACTED: 05/22/2008
DISPOSITION: Enacted
CHAPTER: 695
SUMMARY:
Alters the amount of a percentage price preference that specified State agencies must establish for small businesses; establishes price preferences for businesses owned and controlled by one or more veterans or disabled veterans.
STATUS:

05/22/2008	Signed by GOVERNOR.
05/22/2008	Chapter No. 695

MD H 1435

AUTHOR: Appropriations Cmt
TITLE: State Employees
INTRODUCED: 02/11/2008
ENACTED: 05/22/2008
DISPOSITION: Enacted
CHAPTER: 696
SUMMARY:
Alters the calculation, for purposes of a layoff, of the total number of seniority points by providing ten points for eligible veterans and two points for eligible veterans who have a service-connected disability or are former prisoners of war.
STATUS:

05/22/2008	Signed by GOVERNOR.
05/22/2008	Chapter No. 696

MD S 648

CROSSFILED WITH: MD H 747

AUTHOR: Peters [D]
TITLE: Disabled Veteran Businesses
INTRODUCED: 02/01/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Establishes a specified participation goal for certified service disabled veteran business enterprises for procurement contracts; requires an awarding unit to consider specified efforts by and award specified contracts to bidders or offerors that meet or make a good-faith effort to meet specified participation goals.
STATUS:

03/25/2008	To HOUSE Committee on HEALTH AND GOVERNMENT OPERATIONS.

MI S 732

SPONSOR: Richardville [R]
TITLE: Veteran Owned Businesses
INTRODUCED: 09/06/2007
DISPOSITION: Pending
SUMMARY:
Allows designation of certain veteran-owned businesses as Michigan patriot businesses.
STATUS:

10/10/2007	In SENATE. Read third time. Passed SENATE. *****To HOUSE.
10/10/2007	To HOUSE Committee on MILITARY & VETERANS AFFAIRS & HOMELAND SECURITY.

MI S 733

SPONSOR: Allen [R]
TITLE: Economic Development Corporations
INTRODUCED: 09/06/2007
DISPOSITION: Pending
SUMMARY:
Relates to economic development corporations; requires website for certain veteran entrepreneurs.
STATUS:

10/10/2007	In SENATE. Read third time. Passed SENATE. *****To HOUSE.
10/10/2007	To HOUSE Committee on MILITARY & VETERANS AFFAIRS & HOMELAND SECURITY.

MI S 750

SPONSOR: Basham [D]
TITLE: National Guard Military Police
INTRODUCED: 09/06/2007
ENACTED: 03/13/2008
DISPOSITION: Enacted
PUBLIC ACT: 28

SUMMARY:
Modifies employment preference for national guard military policy.
STATUS:
03/13/2008 Signed by GOVERNOR.
03/13/2008 Public Act No. 28

MI S 751

SPONSOR: Pappageorge [R]
TITLE: State Contract Veterans Preference
INTRODUCED: 09/06/2007
ENACTED: 05/21/2008
DISPOSITION: Enacted
PUBLIC ACT: 133
SUMMARY:
Increases disabled veterans' preference for contracts for expenditures for construction, goods and services.
STATUS:
05/21/2008 Signed by GOVERNOR.
05/21/2008 Public Act No. 133

MI SR 103

SPONSOR: Allen [R]
TITLE: Civil Service Commission
INTRODUCED: 09/06/2007
ADOPTED: 11/28/2007
DISPOSITION: Adopted
SUMMARY:
Urges the Michigan Civil Service Commission to amend the civil service rules regarding the veterans' hiring preference to extend the eligibility period from 5 years to 10 years following completion of active military duty.
STATUS:
11/28/2007 In SENATE. Passed SENATE.

MN H 30

AUTHOR: Severson [R]
TITLE: State Government
INTRODUCED: 01/08/2007
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to state government; veterans; designates veteran-owned small businesses as targeted group businesses for purposes of awarding certain state and metro agency procurement contracts.
STATUS:
01/08/2007 INTRODUCED.
01/08/2007 To HOUSE Committee on AGRICULTURE, RURAL ECONOMIES AND VETERANS AFFAIRS.

MN H 137

COMPANION: MN S 255
AUTHOR: Haws [DFL]

TITLE: State Government
INTRODUCED: 01/16/2007
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to state government; veterans; designates veteran-owned small businesses as targeted group businesses for purposes of awarding certain state and metro agency procurement contracts.
STATUS:

01/16/2007	INTRODUCED.
01/16/2007	To HOUSE Committee on AGRICULTURE, RURAL ECONOMIES AND VETERANS AFFAIRS.

MN H 780

COMPANION: MN S 819
AUTHOR: Tschumper [DFL]
TITLE: State Government
INTRODUCED: 02/08/2007
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to state government; designates veteran-owned small businesses as targeted group businesses for purposes of awarding certain state and metro agency procurement contracts.
STATUS:

02/08/2007	INTRODUCED.
02/08/2007	To HOUSE Committee on GOVERNMENTAL OPERATIONS, REFORM, TECHNOLGY AND ELECTIONS.

MN H 3344

COMPANION: MN S 3652
AUTHOR: Severson [R]
TITLE: Veterans
INTRODUCED: 02/21/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to veterans; changes veteran's preference provisions.
STATUS:

03/10/2008	From HOUSE Committee on AGRICULTURE, RURAL ECONOMIES AND VETERANS AFFAIRS: Do pass as amended.
03/10/2008	Rereferred to HOUSE Committee on GOVERNMENTAL OPERATIONS, REFORM, TECHNOLOGY AND ELECTIONS.

MN H 3417

COMPANION: MN S 3067
AUTHOR: Tillberry [DFL]
TITLE: Business Organizations
INTRODUCED: 02/25/2008

DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to business organizations; waiver of reinstatement fee after certain dissolution of an entity when a principal of the entity is a returns combat veteran.
STATUS:

03/17/2008	From HOUSE Committee on AGRICULTURE, RURAL ECONOMIES AND VETERANS AFFAIRS: Do pass as amended.
03/17/2008	Rereferred to HOUSE Committee on FINANCE.

MN H 3427

COMPANION: MN S 3055
AUTHOR: Dettmer [R]
TITLE: Veterans
INTRODUCED: 02/25/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to veterans; establishes a loan program of a onetime interest free to borrowers of eligible businesses that have sustained or likely to sustain economic injury as a result of the call to active service for a certain amounts of time; adds certain veterans to those eligible for a program; changes an unemployment compensation provision; makes an appropriation to the Commissioner of Employment and Economic Development to establish a revolving loan account.
STATUS:

03/17/2008	From HOUSE Committee on AGRICULTURE, RURAL ECONOMIES AND VETERANS AFFAIRS: Do pass as amended.
03/17/2008	Rereferred to HOUSE Committee on FINANCE.

MN S 32

AUTHOR: Kubly [DFL]
TITLE: Veterans
INTRODUCED: 01/08/2007
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to veterans; allows a classified government service preference for the parent of a disabled veteran.
STATUS:

01/08/2007	INTRODUCED.
01/08/2007	To SENATE Committee on AGRICULTURE AND VETERANS.

MN S 255

COMPANION: MN H 137
AUTHOR: Wergin [R]
TITLE: State Government
INTRODUCED: 01/25/2007

DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to state government; veterans; designates veteran-owned small businesses as targeted group businesses for purposes of awarding certain state and metro agency procurement contracts.
STATUS:

03/05/2007	From HOUSE Committee on AGRICULTURE, RURAL ECONOMIES AND VETERANS AFFAIRS: Do pass.
03/05/2007	Rereferred to HOUSE Committee on FINANCE.

MN S 819

COMPANION: MN H 780
AUTHOR: Erickson Ropes [DFL]
TITLE: Agency Procurement Contracts and Veterans
INTRODUCED: 02/15/2007
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to state government; designates veteran-owned small businesses as targeted group businesses for purposes of awarding certain state and metro agency procurement contracts.
STATUS:

02/15/2007	INTRODUCED.
02/15/2007	To SENATE Committee on STATE AND LOCAL GOVERNMENT OPERATIONS AND OVERSIGHT.

MN S 3055

COMPANION: MN H 3427
AUTHOR: Koch [R]
TITLE: Military Reservist Economic Injury Loans
INTRODUCED: 02/25/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Establishes the Military Reservist Economic Injury Loans program; authorizes the issuance of interest free loans to businesses that sustain economic injury as a result of the call to service of an employee; amends workforce development articles to include veterans in the definition of dislocated worker; provides that unemployment benefits paid shall not be used to compute the tax rate of an employer when an applicant was a replacement worker and was laid off because the employee returned from active duty.
STATUS:

03/25/2008	From SENATE Committee on STATE AND LOCAL GOVERNMENT OPERATIONS AND OVERSIGHT: Do pass.
03/25/2008	Rereferred to SENATE Committee on FINANCE.

MN S 3067

COMPANION: MN H 3417

AUTHOR: Olson M [DFL]
TITLE: Business Organizations
INTRODUCED: 02/25/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to business organizations; concerns waiver of reinstatement fee after certain dissolution of an entity when a principal of the entity is a returning combat veteran.
STATUS:

03/11/2008	From SENATE Committee on JUDICIARY: Do pass as amended.
03/11/2008	Rereferred to SENATE Committee on FINANCE.

MN S 3652

COMPANION: MN H 3344
AUTHOR: Dille [R]
TITLE: Veterans
INTRODUCED: 03/11/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to veterans; changes veteran's preference provisions.
STATUS:

03/11/2008	INTRODUCED.
03/11/2008	To SENATE Committee on AGRICULTURE AND VETERANS.

MO H 1313

SPONSOR: Wright B [R]
TITLE: Veterans Contracting Preference
INTRODUCED: 01/09/2008
DISPOSITION: To Governor
SUMMARY:
Gives a preference in all state purchasing contracts to certain disabled veterans doing business in the state when the quality of work is equal to, or better than, and the price is the same as, or less than, that of the competition.
STATUS:

05/29/2008	*****To GOVERNOR.

NC H 1412

AUTHOR: Martin [D]
TITLE: Veterans Preference
INTRODUCED: 04/12/2007
ENACTED: 07/27/2007
DISPOSITION: Enacted
CHAPTER #: 2007-286
SUMMARY:
Clarifies the veterans preference with State departments, agencies and institutions.
STATUS:

07/27/2007 Signed by GOVERNOR.
07/27/2007 Session Law Number 2007-286

NJ A 769

SPONSOR: Conners [D]
TITLE: Veterans Civil Service Preference
INTRODUCED: 01/08/2008
DISPOSITION: Pending
SUMMARY:
Expands eligibility for veterans' civil service preference; creates additional preference benefits.
STATUS:
05/22/2008 From ASSEMBLY Committee on APPROPRIATIONS.

NJ A 2923

SPONSOR: Chiappone [D]
TITLE: Civil Service Examinations Fee
INTRODUCED: 06/12/2008
DISPOSITION: Pending
SUMMARY:
Exempts veterans from $15 fee for open and competitive civil service examinations and from local residency requirements.
STATUS:
06/12/2008 INTRODUCED.
06/12/2008 To ASSEMBLY Committee on STATE GOVERNMENT.

NJ ACR 98

IDENTICAL: NJ SCR 24
SPONSOR: Conners [D]
TITLE: Civil Service Preference
INTRODUCED: 01/08/2008
DISPOSITION: Pending
SUMMARY:
Proposes constitutional amendment to permit disabled veterans who served in U.S. Armed Forces at any time to receive civil service preference.
STATUS:
02/28/2008 From ASSEMBLY Committee on MILITARY AND VETERANS AFFAIRS.

NJ S 800

SPONSOR: Cunningham [D]
TITLE: Civil Service Exams
INTRODUCED: 01/28/2008
DISPOSITION: Pending
SUMMARY:
Exempts veterans from $15 fee for open and competitive civil service examinations and from local residency requirements.
STATUS:

	01/28/2008	INTRODUCED.
	01/28/2008	To SENATE Committee on STATE GOVERNMENT.

NJ S 1453

SPONSOR: Girgenti [D]
TITLE: Veterans Civil Service Preference
INTRODUCED: 03/06/2008
DISPOSITION: Pending
SUMMARY:
Expands eligibility for veterans' civil service preference; creates additional preference benefits.
STATUS:

03/06/2008	INTRODUCED.
03/06/2008	To SENATE Committee on LAW AND PUBLIC SAFETY AND VETERANS AFFAIRS.

NJ S 1612

SPONSOR: Allen [R]
TITLE: Operation Noble Eagle
INTRODUCED: 05/05/2008
DISPOSITION: Pending
SUMMARY:
Provides civil service preference to veterans of Operation Noble Eagle.
STATUS:

05/05/2008	INTRODUCED.
05/05/2008	To SENATE Committee on STATE GOVERNMENT.

NJ SCR 24

IDENTICAL: NJ ACR 98
SPONSOR: Allen [R]
TITLE: Civil Service Disabled Veterans
INTRODUCED: 01/08/2008
DISPOSITION: Pending
SUMMARY:
Proposes constitutional amendment to permit disabled veterans who served in United States Armed Forces at any time to receive civil service preference.
STATUS:

01/08/2008	INTRODUCED.
01/08/2008	To SENATE Committee on STATE GOVERNMENT.

NM H 453

AUTHOR: Cote [D]
TITLE: Economic Development
INTRODUCED: 01/24/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to economic development; protects certain New Mexico small businesses; amends the procurement code to provide for preferences for disabled veteran-owned businesses; enacts a new section of the procurement

code to provide for separate pricing of certain components in certain circumstances.

STATUS:

01/24/2008	INTRODUCED.
01/24/2008	To HOUSE Committee on RULES AND ORDER OF BUSINESS.

NY A 2398

SAME AS: NY S 5297
SPONSOR: Morelle [D]
TITLE: Veterans Credits Added to Civil Service Examination
INTRODUCED: 01/17/2007
DISPOSITION: Pending
SUMMARY:
Authorizes veteran's credits to be added to an individual's civil service examination.
STATUS:

04/30/2008	Passed ASSEMBLY. *****To SENATE.
04/30/2008	To SENATE Committee on VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS.

NY A 3125

SPONSOR: Tonko [D]
TITLE: Federal Veterans Reemployment Act
INTRODUCED: 01/23/2007
DISPOSITION: Pending
SUMMARY:
Relates to veterans' credit received under the Federal Veterans' Reemployment Act.
STATUS:

01/23/2007	INTRODUCED.
01/23/2007	To ASSEMBLY Committee on GOVERNMENTAL EMPLOYEES.

NY A 4328

SAME AS: NY S 1568
SPONSOR: Ortiz [D]
TITLE: Disability Payments for Disabled Veterans
INTRODUCED: 02/02/2007
DISPOSITION: Pending
SUMMARY:
Proposes constitutional amendment to eliminate requirement that disabled veterans receive disability payments in order to qualify for the crediting of additional points on a civil service exam for appointment or promotion in the civil service system.
STATUS:

05/15/2007	Substituted by S 1568.

NY A 4353 **SPONSOR:** Zebrowski [D]
TITLE: Veterans Injured in Combat
INTRODUCED: 02/02/2007
DISPOSITION: Pending
SUMMARY:
Authorizes veterans injured in combat after September 11, 2001 to receive extra credit on competitive examinations.
STATUS:
04/20/2007 Enacting clause stricken.

NY A 5402 **SPONSOR:** Pretlow [D]
TITLE: Age Limit for Firefighter Appointment
INTRODUCED: 02/15/2007
DISPOSITION: Pending
SUMMARY:
Requires that any person applying for appointment as a firefighter in civil service be not more than 29 years of age on the date he or she takes the written competitive examination for such appointment; provides that any time spent on military duty or terminal leave, not to exceed 6 years, shall be subtracted from such age limit.
STATUS:
02/15/2007 INTRODUCED.
02/15/2007 To ASSEMBLY Committee on GOVERNMENTAL EMPLOYEES.

NY A 5664 **SPONSOR:** Tedisco [R]
TITLE: Positions for Disabled Veterans
INTRODUCED: 02/21/2007
DISPOSITION: Pending
SUMMARY:
Establishes that by enactment of a local law, any county, city, town or village may determine a number of positions that may be performed by disabled veterans and veterans with disabilities who are found otherwise qualified to perform satisfactorily the duties of any such position.
STATUS:
02/21/2007 INTRODUCED.
02/21/2007 To ASSEMBLY Committee on GOVERNMENTAL EMPLOYEES.

NY A 5797 **SPONSOR:** Tedisco [R]
TITLE: Employment of Veterans With Disabilities
INTRODUCED: 02/23/2007
DISPOSITION: Pending
SUMMARY:
Provides for employment of veterans with disabilities by municipalities; allows municipal civil service commissions in the state to prescribe a

number of positions, not to exceed two hundred, with duties to be performed by disabled veterans.

STATUS:

02/23/2007	INTRODUCED.
02/23/2007	To ASSEMBLY Committee on GOVERNMENTAL EMPLOYEES.

NY A 5799

SPONSOR: Towns [D]
TITLE: Civil Service Exam Credit Entitlement
INTRODUCED: 02/23/2007
DISPOSITION: Pending
SUMMARY:

Proposes an amendment to the New York state constitution which would expand the entitlement to civil service exam credit of certain members of the United States armed forces who were disabled during service by eliminating the requirement that the service be wartime service and allowing the credit regardless of dates of service; changes the reference to the veterans administration to the department of veterans affairs.

STATUS:

02/19/2008	Opinion referred to JUDICIARY.

NY A 5812

SAME AS: NY S 304
SPONSOR: Towns [D]
TITLE: Preference To Disabled Veterans
INTRODUCED: 02/23/2007
DISPOSITION: Pending
SUMMARY:

Grants a preference to disabled veterans for the purposes of occupancy in Mitchell Lama projects; provides for disabled veterans to have the same preference as displaced families.

STATUS:

06/13/2007	From ASSEMBLY Committee on RULES.
06/13/2007	Substituted by S 304.

NY A 6025

SPONSOR: McDonald [R]
TITLE: Affordable Housing Veterans Preference
INTRODUCED: 02/28/2007
DISPOSITION: Pending
SUMMARY:

Provides for preferences under the affordable home ownership program for service related disabled veterans.

STATUS:

02/28/2007	INTRODUCED.
02/28/2007	To ASSEMBLY Committee on HOUSING.

NY A 6106

SAME AS: NY S 3305

SPONSOR: Thiele [R]
TITLE: Veterans With Disabilities
INTRODUCED: 03/02/2007
DISPOSITION: Pending
SUMMARY:
Authorizes veterans with disabilities who were classified as veterans and used such classification in his or her original appointment or promotion and were later classified as a veteran with disabilities, to be afforded the same opportunity to receive additional credits granted by section 85 of the civil service law.
STATUS:
06/20/2007 From ASSEMBLY Committee on RULES.
06/20/2007 Substituted by S 3305.

NY A 7172

SAME AS: NY S 3946
SPONSOR: Ortiz [D]
TITLE: Preferred Sources in Procurement Among Veterans
INTRODUCED: 03/30/2007
DISPOSITION: Pending
SUMMARY:
Relates to preferred sources in procurement; provides for a separate agency to facilitate distribution of orders among veterans' workshops.
STATUS:
03/30/2007 INTRODUCED.
03/30/2007 To ASSEMBLY Committee on VETERANS AFFAIRS.

NY A 7733

SAME AS: NY S 4218
SPONSOR: Ortiz [D]
TITLE: Service Disabled Veteran Owned Small Businesses
INTRODUCED: 04/25/2007
DISPOSITION: Pending
SUMMARY:
Gives preference to service disabled veteran owned small businesses with respect to state contracts.
STATUS:
06/02/2008 Amended in ASSEMBLY Committee on GOVERNMENTAL OPERATIONS.

NY A 7734

SAME AS: NY S 3547
SPONSOR: Quinn [R]
TITLE: Service Related Disabled Veteran Owned Businesses
INTRODUCED: 04/25/2007
DISPOSITION: Pending
SUMMARY:
Creates the Service Related Disabled Veteran Owned Business Enterprise

Act to promote such business enterprises.

STATUS:

04/25/2007	INTRODUCED.
04/25/2007	To ASSEMBLY Committee on GOVERNMENTAL OPERATIONS.

NY A 9935

SPONSOR: Towns [D]
TITLE: Points Granted to Disabled Veterans
INTRODUCED: 02/06/2008
DISPOSITION: Pending
SUMMARY:
Increases from 10 to 13, the number of additional points granted to disabled veterans on competitive civil service original appointment exams; increases from 5 to 6 the number of additional points granted on promotion exams; and increases such points for non-disabled veterans from 5 to 8 on original appointment exams and from 2 1/2 to 3 1/2 on promotion exams.
STATUS:

02/06/2008	INTRODUCED.
02/06/2008	To ASSEMBLY Committee on VETERANS AFFAIRS.

NY A 10486

SPONSOR: Abbate [D]
TITLE: State Employment of Veterans with Disabilities
INTRODUCED: 04/08/2008
DISPOSITION: To Governor
SUMMARY:
Relates to the employment by the state of veterans with disabilities, allowing for up to five hundred positions with duties such as can be performed by disabled veterans.
STATUS:

05/28/2008	From SENATE Committee on VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS.
05/28/2008	Substituted for S 7791.
05/28/2008	Passed SENATE.

NY S 304

SAME AS: NY A 5812
SPONSOR: Maltese [R]
TITLE: Housing Preference to Disabled Veterans
INTRODUCED: 01/03/2007
ENACTED: 08/01/2007
DISPOSITION: Enacted
CHAPTER: 420
SUMMARY:
Grants a preference to disabled veterans for the purposes of occupancy in Mitchell Lama projects with a closed list; provides that such preference shall

be given upon the opening of the waiting list; provides that persons residing in a limited-profit housing project shall be given first priority for an internal transfer in the project in which they are residing in accordance with existing rules and regulations.

STATUS:

08/01/2007	Signed by GOVERNOR.
08/01/2007	Chapter No. 420

NY S 1568

SAME AS: NY A 4328
SPONSOR: LaValle [R]
TITLE: Disability Payments for Disabled Veterans
INTRODUCED: 01/23/2007
ADOPTED: 05/17/2007
DISPOSITION: Adopted
SUMMARY:

Proposes a constitutional amendment to eliminate the requirement that disabled veterans receive disability payments in order to qualify for the crediting of additional points on a civil service exam for appointment or promotion in the civil service system.

STATUS:

05/17/2007	Filed with Secretary of State.

NY S 1790

SPONSOR: Kruger [D]
TITLE: Public Housing Veterans Preference
INTRODUCED: 01/25/2007
DISPOSITION: Pending
SUMMARY:

Provides preferences in certain public housing projects for certain service in the armed forces; provides recipients of expeditionary medals in Vietnam, Lebanon, Granada, Panama and Persian Gulf conflict same preference to public housing as Vietnam veterans.

STATUS:

01/25/2007	INTRODUCED.
01/25/2007	To SENATE Committee on HOUSING, CONSTRUCTION AND COMMUNITY DEVELOPMENT.

NY S 1902

SPONSOR: Sampson [D]
TITLE: Disabled Veterans Civil Service Exam Points
INTRODUCED: 01/29/2007
DISPOSITION: Pending
SUMMARY:

Increases from 10 to 13, the number of additional points granted to disabled veterans on competitive civil service original appointment exams; increases from 5 to 6 the number of additional points granted on promotion exams; and increases such points for non-disabled veterans from 5 to 8 on original

appointment exams and from 2 1/2 to 3 1/2 on promotion exams.

STATUS:

01/29/2007	INTRODUCED.
01/29/2007	To SENATE Committee on VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS.

NY S 2565

SPONSOR: Kruger [D]
TITLE: Veteran Civil Service Credits
INTRODUCED: 02/07/2007
DISPOSITION: Pending
SUMMARY:

Provides that every person who has served in more than 1 time of war shall be entitled to additional credit as a veteran or disabled veteran in competitive examinations for original appointment or promotion for every such time of war during which person served regardless of whether any such person has utilized such credit for a competitive examination for original appointment or a competitive examination for promotion.

STATUS:

02/07/2007	INTRODUCED.
02/07/2007	To SENATE Committee on VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS.

NY S 3305

SAME AS: NY A 6106
SPONSOR: LaValle [R]
TITLE: Veterans With Disabilities
INTRODUCED: 03/02/2007
VETOED: 08/28/2007
DISPOSITION: Vetoed
SUMMARY:

Authorizes veterans with disabilities who were classified as veterans and used such classification in his or her original appointment or promotion and were later classified as a veteran with disabilities, shall be entitled to credits due a disabled veteran less the number of credits allowed for the prior appointment.

STATUS:

08/28/2007	Vetoed by GOVERNOR. Veto No. 146 of 2007.

NY S 3547

SAME AS: NY A 7734
SPONSOR: DeFrancisco [R]
TITLE: Disabled Veteran Owned Business Enterprise Act
INTRODUCED: 03/08/2007
DISPOSITION: Pending
SUMMARY:

Creates the Service Related Disabled Veteran Owned Business Enterprise

Act to promote such business enterprises.

STATUS:

05/27/2008	From SENATE Committee on VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS.
05/27/2008	To SENATE Committee on FINANCE.

NY S 3946

SAME AS: NY A 7172
SPONSOR: Seward [R]
TITLE: Preferred Sources In Procurement
INTRODUCED: 03/21/2007
DISPOSITION: Pending
SUMMARY:

Relates to preferred sources in procurement; provides for a separate agency to facilitate distribution of orders among veterans' workshops.

STATUS:

01/09/2008	Withdrawn from SENATE Committee on RULES.
01/09/2008	To SENATE Committee on FINANCE.

NY S 4218

SAME AS: NY A 7733
SPONSOR: Leibell [R]
TITLE: Service Disabled Veteran Owned Small Businesses
INTRODUCED: 03/30/2007
DISPOSITION: Pending
SUMMARY:

Gives preference to service disabled veteran owned small businesses with respect to state contracts.

STATUS:

06/12/2008	Passed SENATE. *****To ASSEMBLY.
06/12/2008	To ASSEMBLY Committee on GOVERNMENTAL OPERATIONS.

NY S 5297

SAME AS: NY A 2398
SPONSOR: Robach [R]
TITLE: Civil Service Examination Veterans Credits
INTRODUCED: 04/25/2007
DISPOSITION: Pending
SUMMARY:

Authorizes veteran's credits to be added to an individual's civil service examination.

STATUS:

05/13/2008	From SENATE Committee on VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS.

NY S 6713

SPONSOR: LaValle [R]

TITLE: Veterans With Disabilities
INTRODUCED: 01/10/2008
DISPOSITION: Pending
SUMMARY:
Authorizes veterans with disabilities who were classified as veterans and used such classification in his or her original appointment or promotion and were later classified as a veteran with disabilities, to be afforded the same opportunity to receive additional credits granted by section 85 of the civil service law.
STATUS:
02/20/2008 Opinion referred to JUDICIARY.

NY S 7344

SPONSOR: Adams [D]
TITLE: Veteran Examination Credit
INTRODUCED: 04/02/2008
DISPOSITION: Pending
SUMMARY:
Authorizes veterans who served in combat during Operation Iraqi Freedom after March 20, 2003 to receive extra credit on competitive examinations.
STATUS:
06/16/2008 Passed SENATE. *****To ASSEMBLY.
06/16/2008 To ASSEMBLY Committee on GOVERNMENTAL EMPLOYEES.

NY S 7791

SPONSOR: Leibell [R]
TITLE: State Employment of Disabled Veterans
INTRODUCED: 04/28/2008
DISPOSITION: Pending
SUMMARY:
Relates to the employment by the state of veterans with disabilities, allowing the commission to determine up to five hundred positions with duties such as can be performed by disabled veterans.
STATUS:
05/28/2008 Substituted by S 10486.

NY S 7792

SPONSOR: Leibell [R]
TITLE: Military Civil Service Exams
INTRODUCED: 04/28/2008
DISPOSITION: Pending
SUMMARY:
Relates to providing members of the armed forces of the United States with the opportunity to take special military make-up civil service exams.
STATUS:
05/29/2008 Substituted by A 10381.

OR H 3626 a

AUTHOR: Elections, Ethics, and Rules Cmt

TITLE: Pre Disaster Mitigation Fund
INTRODUCED: 02/04/2008
ENACTED: 03/11/2008
DISPOSITION: Enacted
SUMMARY:
Clarifies authority of a local government officer with custody of public money; creates the Pre-Disaster Mitigation Fund and the Disaster Response Fund; appropriates money to the Military Department for certain purposes; requires the Department of Human Services to consider certain issues before granting initial residential care facility license; creates the Veterans' Small Business Repair Loan Program; requires evaluation of the community mental health care component of mental health care delivery system.
STATUS:

03/11/2008	*****To GOVERNOR.
03/11/2008	Signed by GOVERNOR.

PA H 62

PN: 87
AUTHOR: Markosek [D]
TITLE: Military Affairs Code
INTRODUCED: 01/30/2007
DISPOSITION: Pending
SUMMARY:
Amends the Military Affairs Code. Provides for service-disabled veteran-owned business participation goals.
STATUS:

01/30/2007	INTRODUCED.
01/30/2007	To HOUSE Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS.

PA S 87

PN: 1197
AUTHOR: Tomlinson [R]
TITLE: Procurement Code
INTRODUCED: 02/13/2007
DISPOSITION: Pending
SUMMARY:
Amends the Procurement Code. Provides for contracting with veteran-owned businesses. Imposes duties on the Department of General Services and other state purchasing agencies.
STATUS:

06/20/2007	In SENATE. Read third time. Passed SENATE. *****To HOUSE.
06/20/2007	To HOUSE Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS.

SC S 1009

AUTHOR: Ford [D]
TITLE: Shelter Preference to Homeless Veterans

INTRODUCED: 01/17/2008
DISPOSITION: Pending
SUMMARY:
Gives preference to homeless veterans at all shelters funded in whole or in part by public funds.
STATUS:

01/17/2008	INTRODUCED.
01/17/2008	To SENATE Committee on GENERAL COMMITTEE.

VA H 1386

AUTHOR: Miller J [R]
TITLE: Small Business Programs
INTRODUCED: 01/09/2008
ENACTED: 03/10/2008
DISPOSITION: Enacted
CHAPTER: 521.
SUMMARY:
Relates to service-disabled veteran-owned businesses; provides for a program with federal eligibility requirements set by the U.S. Department of Veterans Affairs for service disabled veteran owned small business; provides for small businesses owned by non-citizens who are in full compliance with immigration law..
STATUS:

03/28/2008	Acts of Assembly. Chapter No. 521.

VA S 680

AUTHOR: Wagner [R]
TITLE: Service Disabled Veteran Owned Small Business
INTRODUCED: 01/14/2008
ENACTED: 03/27/2008
DISPOSITION: Enacted
CHAPTER: 767.
SUMMARY:
Aligns the state's eligibility requirements for participation in the Service-Disabled Veteran-Owned Small Business Program with federal eligibility requirements set by the U.S. Department of Veterans Affairs.
STATUS:

04/21/2008	Acts of Assembly. Chapter No. 767.

WA H 1065

COMPANION: WA S 5029
AUTHOR: Kelley [D]
TITLE: Civil Service Examinations and Veterans Scoring
INTRODUCED: 01/08/2007
ENACTED: 05/14/2007
DISPOSITION: Enacted
CHAPTER: 2007-449
SUMMARY:

Revises veterans' scoring criteria in civil service examinations; provides that veterans points added to a promotional examination shall be added only until the first promotion.

STATUS:

05/21/2007 Chapter No. 2007-449

WA H 1665

COMPANION: WA S 5253
AUTHOR: Kelley [D]
TITLE: Veteran Owned Businesses
INTRODUCED: 01/24/2007
DISPOSITION: Failed - Adjourned

SUMMARY:

Creates a list of and decal for veteran-owned businesses; requires the development and maintenance of a current list of veteran-owned businesses; and make the list available on the department's public web site.

STATUS:

01/24/2007 INTRODUCED.
01/24/2007 To HOUSE Committee on STATE GOVERNMENT AND TRIBAL AFFAIRS.

WA H 2196

AUTHOR: Goodman [D]
TITLE: Increase State Contracts With Veteran Owned Businesses
INTRODUCED: 02/13/2007
DISPOSITION: Failed - Adjourned

SUMMARY:

Increases state contracts with businesses owned by veterans with disabilities; requires the development of a procedure for certifying businesses owned by veterans with disabilities and maintain a list of businesses owned by veterans with disabilities on the department's public web site.

STATUS:

02/13/2007 INTRODUCED.
02/13/2007 To HOUSE Committee on STATE GOVERNMENT AND TRIBAL AFFAIRS.

WA H 2210

AUTHOR: Skinner [R]
TITLE: State Contracts With Veteran Owned Businesses
INTRODUCED: 02/13/2007
DISPOSITION: Failed - Adjourned

SUMMARY:

Increases state contracts with veteran-owned businesses; recognizes the unique sacrifices made by veterans and the substantial challenges that returning veterans face after a period of military duty away from home. Recognizes that veterans who own private businesses may face particular hardships as a direct result of their military service.

STATUS:

02/16/2008 To SENATE Committee on GOVERNMENT OPERATION AND ELECTIONS.

WA H 2755 **AUTHOR:** Kelley [D]
TITLE: Adjusting Veterans Scoring Criteria
INTRODUCED: 01/16/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Adjusts veterans scoring criteria; adjusts veterans' scoring criteria.
STATUS:
02/26/2008 From SENATE Committee on GOVERNMENT OPERATION AND ELECTIONS: Do pass.

WA H 2806 **AUTHOR:** Schual-Berke [D]
TITLE: Diseased Veterans
INTRODUCED: 01/16/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Gives hiring preferences to children of deceased veterans and children of veterans with disabilities.
STATUS:
01/16/2008 INTRODUCED.
01/16/2008 To HOUSE Committee on STATE GOVERNMENT AND TRIBAL AFFAIRS.

WA H 2940 **AUTHOR:** Kelley [D]
TITLE: Veteran Owned Business Linked Deposit Program
INTRODUCED: 01/18/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Establishes the veteran-owned business linked deposit program.
STATUS:
01/31/2008 Referred to HOUSE Committee on FINANCE.

WA H 3360 **AUTHOR:** Hasegawa [D]
TITLE: Veteran Owned Business
INTRODUCED: 02/07/2008
ENACTED: 03/27/2008
DISPOSITION: Enacted
CHAPTER: 2008-187
SUMMARY:
Specifies that in order to participate in the linked deposit program a veteran owned business qualified under this section must be certified by the department as a business in which the veteran owner possesses and exercises sufficient expertise in the business's field of operation that is organized for

profit and performing a commercially useful function and that meets the criteria for a small business concern.

STATUS:

03/27/2008	Signed by GOVERNOR.
03/27/2008	Chapter No. 2008-187

WA S 5253

COMPANION: WA H 1665
AUTHOR: Kilmer [D]
TITLE: Veteran Owned Businesses
INTRODUCED: 01/15/2007
ENACTED: 04/09/2007
DISPOSITION: Enacted
CHAPTER: 2007-11
SUMMARY:

Creates a list of and logo for veteran-owned businesses; requires a current list of veteran-owned businesses available on the department's public web site; declares that, in order to qualify as a veteran-owned business, the business must be at least 51% owned and controlled by a veteran or an active or reserve member in any branch of the armed services.

STATUS:

04/09/2007	Signed by GOVERNOR.
04/09/2007	Chapter No. 2007-11

WA S 5289

AUTHOR: Kilmer [D]
TITLE: State Contracts With Veteran Owned Businesses
INTRODUCED: 01/16/2007
DISPOSITION: Failed - Adjourned
SUMMARY:

Increases state contracts with veteran-owned businesses; declares that the purpose of this act is to mitigate economic damage to veteran-owned businesses as a result of military service, and to provide opportunities to them in recognition of the outstanding service they have given to their country; requires a report to the legislature outlining the progress made in implementing this agreement.

STATUS:

02/26/2007	From SENATE Committee on GOVERNMENT OPERATION AND ELECTIONS: Do pass as substituted.

WI A 70

AUTHOR: Benedict [D]
TITLE: Veteran Status Employment Discrimination
INTRODUCED: 02/13/2007
DISPOSITION: Failed
SUMMARY:

Relates to employment discrimination based on veteran status and employment of veterans in the state civil service, local government, and

school districts.
STATUS:
03/21/2008 Failed to pass pursuant to Senate Joint Resolution 1.

WI A 811
AUTHOR: Moulton [R]
TITLE: Procurements to Woman Owned Businesses
INTRODUCED: 02/15/2008
DISPOSITION: Failed
SUMMARY:
Relates to awarding procurements to woman-owned businesses, veteran-owned businesses, minority businesses, and small businesses.
STATUS:
03/21/2008 Failed to pass pursuant to Senate Joint Resolution 1.

WI A 924
AUTHOR: Sherman [D]
TITLE: State Procurements
INTRODUCED: 03/11/2008
DISPOSITION: Failed
SUMMARY:
Relates to awarding state procurements to certified disabled veteran-owned businesses, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.
STATUS:
03/21/2008 Failed to pass pursuant to Senate Joint Resolution 1.

WV H 2238
SIMILAR TO: WV S 95
SPONSOR: Hrutkay [D]
TITLE: State National Guard
INTRODUCED: 01/09/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Provides service credits for service in the State National Guard and Reserve for Public Employees Retirement System and Civil Service examinations.
STATUS:
02/15/2008 From HOUSE Committee on PENSIONS AND RETIREMENT: Do pass.
02/15/2008 To HOUSE Committee on FINANCE.

WV H 3122
SPONSOR: Longstreth [D]
TITLE: Eligible Veteran
INTRODUCED: 01/09/2008
DISPOSITION: Failed - Adjourned
SUMMARY:
Relates to the definition of eligible veteran for certain state training and employment preference benefits.
STATUS:

	03/03/2008	From SENATE Committee on MILITARY: Do pass.
	03/03/2008	To SENATE Committee on FINANCE.

WV H 3209

SIMILAR TO: WV S 95
SPONSOR: Rodighiero [D]
TITLE: Military Benefits
INTRODUCED: 01/09/2008
DISPOSITION: Failed - Adjourned
SUMMARY:

Provides benefits for those who have served in the military service; provides service credits for purposes of public employment retirement for service in any branch of the military including the West Virginia National Guard and Reserve; awards additional testing credit points in civil service examinations for members of the National Guard and Reserve who are applying for state employment.

STATUS:

01/09/2008	INTRODUCED.
01/09/2008	To HOUSE Committee on FINANCE.

Powered By STATENET

L

Alaska State Legislature

Representative Anna Fairclough – House District 17

MEMORANDUM

Date: April 1st, 2009

To: Representative Bob Lynn
Chair

From: Representative Anna Fairclough

Re: CSHB 24 (MLV) "An Act relating to a public procurement preference for Alaska veterans"

I am requesting a hearing for CSHB 24 (MLV) "An Act relating to a public procurement preference for Alaska veterans" at your earliest convenience. I have attached relevant materials for your committee.

Thank you in advance for your consideration.

Attachments:

I. Sponsor Statement
II. Section Analysis
III. Explanation of Changes
IV. CSHB 24
V. HB 24
VI. Zero Fiscal Note
VII. Back up Documentation

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

HB

42

HB 42: May be available to testify
Leg. Study Group: Online Campaign Reporting

Available for comments and questions:

Holly Hill, Executive Director
Alaska Public Office Commission
276-4176

Chris Ellingson, Assistant Director
Alaska Public Office Commission
276-4176

Patty Ware, Administrator of Juneau Branch Office
Alaska Public Office Commission — Rm 104
2465-4864

Potential witnesses:

Andy Rogers, Chief Executive Officer
PangoMedia Software Engineers
868-8092

Craig Fisher, Software Developer — Ont. LIO
PangoMedia Software Engineers
868-8092

Contact: Mike Sica, 465-4965 **Revised: Jan. 28, 2009**

Library

House Bill 42
APOC Campaign Forms

Leg Study Group:
Online Campaign Reporting

Calendar
Summary
Income
Expenses
Debts

2008 REPORT DUE DATES CANDIDATES AND GROUPS

Anchorage Tuesday, April 1, 2008 Municipal Election

	Report:	Covers:	Due:
Anchorage	February 15 Report	Begin – February 01	Feb. 15, 2008
Anchorage	30 Day Report	February 02 – February 29	March 3
Anchorage	7 Day Report	March 1 – March 22	March 25
Anchorage	24 Hour Reports*	March 23 - March 31	Daily*
Anchorage	Yearend Report	March 23 – Feb. 01	February 15, 2009

State Election Reports

	Report:	Covers:	Due:
8/ 26 Primary	February 15 Report	Begin – February 01	February 15, 2008
	30 Day Report	February 2 – July 25	July 28, 2008
	7 Day Report	July 26 – August 16	August 19, 2008
	24 Hour Reports*	August 17 – August 25	Daily*
	Yearend Report	August 17 – Feb 1	February 15, 2009
11/4 General (+Denali Bor.)	February 15 Report	Begin – February 01	February 15, 2008
	30 Day Report	August 17 – October 3	Oct. 6, 2008
	7 Day Report	October 4 – October 25	Oct. 28, 2008
	24 Hour Reports*	October 26 – November 3	Daily*
	Yearend Report	October 26 – February 01	February 15, 2009

Statewide Tuesday, October 7, 2008 Municipal Elections

	Report:	Covers:	Due:
Municipal	February 15 Report	Begin – February 01	February 15, 2008
Municipal	30 Day Report	February 02 – September 05	Sept. 8
Municipal	7 Day Report	September 06– September 27	Sept. 30
Municipal	24 Hour Reports*	September 28 – October 6	Daily*
Municipal	Yearend Report	September 28 – February 1	February 15, 2009

February 12, 2007 3:30 pm

File this report with:
Alaska Public Offices Commission
2221 E. Northern Lights Blvd. Rm 128
Anchorage, AK 99508-4149
Fax: 907-276-7018
Phone: 907-276-4176 or
1-800-478-4176

CAMPAIGN DISCLOSURE STATEMENT

COVER PAGE

FOR CANDIDATES AND GROUPS



CANDIDATE/GROUP NAME: _____

CAMPAIGN ADDRESS: _____

_____

OFFICE/RACE: _____ **DISTRICT/SEAT:** _____

REPORTING PERIOD (From _____ Through _____)

(Please enter beginning and ending dates and check appropriate boxes)

TYPE	ELECTION	REPORT
MUNICIPAL:	☐ MUNICIPAL ☐ RUNOFF ☐ SPECIAL	☐ 30 DAY REPORT ☐ 7 DAY REPORT ☐ YEAR-END REPORT
STATE:	☐ PRIMARY ☐ GENERAL ☐ SPECIAL	
	☐ NO ELECTION ☐ OTHER	

Check below if applicable:

☐ **NO ACTIVITY. During the time period above, we received NO contributions, made NO expenditures, and incurred NO debts. Our closing cash on hand is identical to the closing cash on hand disclosed in our last report. If this is the case, file this page only.**

☐ **FINAL REPORT. We have closed out our campaign account. Our closing cash on hand is zero and we have no outstanding debts.**

CERTIFICATION: I, in my capacity as candidate or campaign treasurer, certify that, to the best of my knowledge, this report is true, correct, and complete.

Sign _____ **Date** _____
(Original signature of candidate or treasurer required)

Print Name _____ **Title** _____

CAMPAIGN INCOME

☐30 Day Report ☐7 Day Report ☐Year-End Report

☐Municipal ☐Primary ☐General ☐Final

NAME OF CANDIDATE OR GROUP: _____

IMPORTANT – CHANGE PLEASE NOTE

CANDIDATES: Report all contributions up to **$50** by Date Received, Check Number, Contributor Name and Address. Report all Contributions in excess of **$50** by Date, Check Number, Contributor Name, Address, Principal Occupation and Employer.

GROUPS: Report all contributions in excess of **$100** by Date Received, Check Number, Contributor Name, Address, Principal Occupation and Employer.

Date Rec'd	Check # Non-Mon Description Loan	Contributor, Address, Zip	Occupation, Employer	Amount this Period
				Annual Total:
				Annual Total:
				Annual Total:
				Annual Total:
				Annual Total:
				Annual Total:
				Annual Total
				Annual Total:
				Annual Total:
				Annual Total:

TOTAL: $
Include subtotals from any Additional Income sheets

ONLY GROUPS REPORT AGGREGATE TOTALS: Number of UNDER $100: contributors gave
(INCLUDE THIS TOTAL IN YOUR TOTAL REPORTED INCOME.)

CAMPAIGN EXPENSES
Including donated goods/services

☐ 30 Day Report ☐ 7 Day Report ☐ Year End

☐ Municipal ☐ Primary ☐ General ☐ Final

NAME OF CANDIDATE OR GROUP:

Date	Check # Non-Mon Description	Payee Name, Address, Zip	Purpose of Expenditure	Amount

Total Expenses: _____

(Include subtotals from any additional expense sheets)

CAMPAIGN DEBTS
(Includes accrued expenditures, unpaid loans, etc.)

☐ 30 Day Report ☐ 7 Day Report ☐ Year End

☐ Municipal ☐ Primary ☐ General ☐ Final

NAME OF CANDIDATE OR GROUP:

Date Incurred	Name, Address, Zip	Description or purpose	Original Amount	Balance Remaining

Debts Total: _____

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Changes from HB 42, Version R, to CS for HB 42(STA), Version E
Legislative Study Group: Online Campaign Reporting

There was a small change in the bill by adding three words to ensure that the chair of the Legislative Study Group is a legislative member.

The CS for HB 42(STA), Version E, on page 2, line 13:

Following the words, "(b) The chair of the study group shall be," adds the words "a legislative member."

Contact: Mike Sica, 465-4965 **Revised: Feb. 2, 2009**

26-LS0226\E
Bullard
2/2/09

CS FOR HOUSE BILL NO. 42(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE LYNN

A BILL

FOR AN ACT ENTITLED

"An Act establishing the Legislative Study Group on the Establishment of an Immediate Online Political Campaign Reporting System; and directing the study group to prepare a report on the possibility of creating an immediate online state political campaign reporting system."

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

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

LEGISLATIVE STUDY GROUP ON THE ESTABLISHMENT OF AN IMMEDIATE ONLINE POLITICAL CAMPAIGN REPORTING SYSTEM. (a) The Legislative Study Group on the Establishment of an Immediate Online Political Campaign Reporting System is established in the legislative branch of state government. The study group consists of nine voting members as follows:

(1) one member of the house of representatives appointed by the speaker of the house of representatives;

(2) one member of the house of representatives appointed by the minority leader of the house of representatives;

(3) one member from the senate appointed by the president of the senate;

(4) one member from the senate appointed by the minority leader of the senate;

(5) the executive director of the Alaska Public Offices Commission or the executive director's designee;

(6) one member who has expertise and training directly related to online banking technologies, appointed by the governor;

(7) one member from a banking entity who has expertise related to Alaska financial organizations, appointed by the governor; and

(8) two public members appointed by the governor.

(b) The chair of the study group shall be a legislative member selected by a majority vote of the members of the study group. The staff of the members who are legislators shall serve as staff to the study group.

(c) A majority of the study group constitutes a quorum for the transaction of business and is necessary for any action taken by the study group.

(d) The study group established under (a) of this section

(1) may begin work immediately on the appointment of its full membership;

(2) shall hold public hearings and may perform research related to its work;

(3) shall give public notice of all meetings of the study group and ensure that all meetings are open to the public;

(4) may meet in the interim and may meet telephonically;

(5) shall submit a written interim report of the study group's progress to the State Affairs committees of the house of representatives and the senate by January 19, 2010; and

(6) shall submit the full written report of its findings and recommendations to the State Affairs committees of the house of representatives and senate on or before February 1, 2011; the committees shall hold one or more public hearings to receive testimony; the hearings may be joint hearings.

(e) The study group shall prepare a report that

(1) reviews how the technologies employed in existing online banking systems that are used by individuals and businesses to monitor financial transactions, check account balances, and transfer funds might be used for state political campaign reporting; and

(2) contains policy recommendations regarding how technologies employed in online banking might be used by the Alaska Public Offices Commission or a financial institution retained by the Alaska Public Offices Commission to make reports of contributions to, expenditures of, and services supplied to state political campaigns immediately accessible to the public online.

(f) Members of the study group are entitled to transportation expenses and per diem allowances provided by law.

(g) The Legislative Study Group on the Establishment of an Immediate Online Political Campaign Reporting System is terminated on February 8, 2011.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 42
() Publish Date:

Identifier (file name): HB42-LEG-COU-2-2-09
Dept. Affected: Legislature
Title "An act establishing a Legislative Study Group on the Establishment of an Immediate Online Political Campaign..."
RDU Legislative Council
Component Council and Subcommittees
Sponsor Representative Bob Lynn
Requester House State Affairs
Component Number 783

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel	4.0		4.0	0.0	0.0	0.0	0.0
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**4.0**	**0.0**	**4.0**	**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	4.0	0.0	4.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**4.0**	**0.0**	**4.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

HB42 establishes a nine member study group re: The establishment of an Immediate Online Political Campaign Reporting System. The Presiding Officers and Minority Leaders of each house will appoint four Legislators, and the Governor will appoint four public members, two of these members shall have expertise in banking. The Executive Director of APOC or their designee will also serve on the study group. It is anticipated that the study group will meet two times in person, once when they are established and once prior to submitting a final report to the State Affairs Committees, which is due by February 1, 2011. All other meetings of the study group will be by teleconference. The final report will contain policy recommendations re: how technologies employed in online banking might be used to make contributions and expenditures of state political campaigns immediately accessible to the public online.

Prepared by: Karla Schofield, Deputy Director
Phone 465-6626
Division Legislative Affairs Agency
Date/Time 2/2/09 4:08 PM
Approved by: Pamela Varni, Executive Director
Date 2/2/2009
Legislative Affairs Agency

(Revised 9/10/2008 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. HB42

ANALYSIS CONTINUATION

The staff of the members who are Legislators shall serve as staff to the study group.

Travel costs for the Legislative Members of the study group are estimated to be $ 3.0 per meeting which will be absorbed within existing Legislative budgets. Travel costs for the APOC Director will be absorbed within Executive Branch budgets. Travel costs for the public members are estimated to be $ 4.0 per meeting and these costs are included in this fiscal note.

The costs for teleconferencing meetings and for printing the report will be absorbed by the Legislative Affairs Agency.

House Bill 42

Legislative Study Group: Online Campaign Reporting

Sponsored by Rep. Bob Lynn

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

SPONSOR STATEMENT

HB 42: Leg Group Study: Online Campaign Reporting

This bill attempts to bring campaign finance reporting into the 21st Century by investigating whether the latest on-line banking technologies can be applied to campaign disclosures. A system that allows on-line public reports and transactions to be available to the public – immediately – would help maintain and build the public trust.

HB 42 establishes a legislative study group to prepare a report on the feasibility of an immediate online state political campaign reporting system, and consider recommendations for further legislation.

Under HB 42, the study group consists of nine voting members:

- one member of the House of Representatives appointed by the House Speaker.
- one member of the House of Representatives appointed by the House Minority Leader.
- one member of the Senate appointed by the Senate President.
- one member of the Senate appointed by the Senate Minority Leader.
- the Executive Director of the Alaska Public Offices Commission or the executive director's designee.
- an expert in online banking technologies, appointed by the Governor.
- a representative of the banking industry, appointed by the Governor.
- two public members appointed by the Governor.

The legislative study group will investigate adapting and adopting technologies employed in online banking to the reporting of political contributions, expenditures and services supplied to state political campaigns.

The group shall submit written reports on its progress, findings and recommendations to the State Affairs committees of the House of Representatives and the Senate within two years

Contact: Mike Sica, 465-4965 **Revised: Jan. 28, 2009**

House Bill 42
Research and Background

Leg Study Group:
Online Campaign Reporting

Legislative Research Report Summary

Rep. Bob Lynn APOC Filings

LEGISLATIVE RESEARCH REPORT

NOVEMBER 24, 2008

REPORT NUMBER 09.048

ONLINE CAMPAIGN FINANCIAL DISCLOSURES

PREPARED FOR REPRESENTATIVE BOB LYNN

BY CHUCK BURNHAM, LEGISLATIVE ANALYST

You asked about electronic campaign finance disclosure systems. Specifically, you wanted to know whether any states have an "online banking and reporting system." That is, a system that allows the public to view contributions received and expenditures made as those transactions are executed through the financial institutions in which campaign accounts are held.

Our research located no state that allows "real-time" public access to the financial transactions of campaigns.[1] Most states, including Alaska, operate on a scheduled financial disclosure regime whereby reports are due on specific dates. At least one state—Oregon—operates on a "transaction-based" system and a number of other states have reporting requirements that are triggered by contributions and/or expenditures above a specified dollar amount. Often such transaction-based triggers become effective in the days or weeks just prior to an election.

OREGON'S TRANSACTION-BASED DISCLOSURE SYSTEM

Oregon represents an exception to the near universal schedule-based campaign finance disclosure employed in other states. In 2005, Oregon enacted a transaction-based system that requires most contributions and expenditures to be reported within thirty days of the date of an applicable transaction.[2] In addition, contributions or expenditures within six weeks of an election must be reported within seven days. Reports are filed online through the website of the Secretary

---

[1] Particularly helpful in our research were the staff and research of the Campaign Disclosure Project—a joint effort of the University of California Los Angeles School of Law, the Center for Governmental Studies, and the California Voter Foundation (*http://www.campaigndisclosure.org/*). The project has published a model campaign finance law, which we include as Attachment A. Although the model law does not contain the real-time reporting elements that you envision, it may be useful to you as an example of the disclosure regime certain campaign finance experts would like to see states enact.

[2] Oregon's unique system was brought to our attention by Kim Alexander, president and founder of the California Voter Foundation, which describes itself as a "nonprofit, nonpartisan organization promoting and applying the responsible use of technology to improve the democratic process." Ms. Alexander can be reached at (916) 441-2494.

907-465-3991
907-465-3908 (fax)

Alaska Legislature
Legislative Research Services
w3.legis.state.ak.us/laa/research/research.php

State Capitol
Juneau, AK 99801

of State on standardized electronic forms and are made public immediately following their submittal.[3]

According to Oregon Director of Elections, John Lindback, his agency faced a number of challenges as it advocated for what represented a major change in the state's financial disclosure system, which, prior to 2005, did not even include electronic reporting capabilities. Mr. Lindback identifies the following challenges—and positive outcomes to those challenges—that campaign finance disclosure reform has produced in Oregon as follows:

- **Resistance from the legislature**—In 2005, the Oregon Legislature was in the wake of what Mr. Lindback identifies as an "embarrassing" corruption scandal involving a legislator's improper use of campaign funds for personal use. The following legislative session saw wide support for reform through a major ethics bill and an overhaul of the financial disclosure. Nonetheless, substantial opposition to elements of HB 3458 resulted in a number of changes to the original bill, including an increase in reporting timeframes from seven to thirty days.

  Outcome—The switch from a seven-day reporting requirement to one of thirty-days was a political compromise that was necessary to garner enough support to pass the legislation. Mr. Lindback stated that the thirty-day period has actually worked quite well and seems to enjoy support among most of the system's users.

- **Steep learning curve for division staff and end-users**—The change from a schedule-based to a transaction-based system required a complete overhaul of technical capabilities at significant cost to the state. In addition, staff had to learn new technical skills and have become multi-tasking regulators/help desk attendants as end-users seek assistance with the new system.

  Outcome—The division regularly holds training sessions for staff, campaign committees, the news media, and the public. Director Lindback believes strongly that such training is a vital component of switching to a transaction-based reporting system. Although the duties of the elections division staff have changed, Mr. Lindback feels that the new system provides a more even workload than schedule-based reporting, which tend to have a "feast or famine" character, with workloads increasing dramatically around reporting dates then tapering off to very low levels in other parts of the year.

- **Technical issues can cause candidates to run afoul of the law**—Inevitable technical glitches and computer system outages can cause financial disclosure reports to be late, thereby forcing campaign committees into technical violation of campaign finance laws.

  Outcome—Oregon law provides the elections division with a certain degree of latitude to consider mitigating circumstances when reports are late. Also, when the system initially came online the director instituted an informal (and

[3] We include relevant excerpts of the Oregon *Campaign Finance Manual* and of Oregon HB 3458 (2005), the legislation that authorized the system, as Attachment B. Provisions regarding timing and manner of electronic disclosure filings are contained in Section 14 of the Oregon bill (pp. 6-7).

unannounced) six month "amnesty period," which allowed flexibility for the division and end users as technical issues were worked out and campaign committees became familiar with the system.[4]

COMPONENTS OF TRANSACTION-BASED DISCLOSURE IN OTHER STATES

There are a number of states that have transaction-based elements within their scheduled disclosure regimes. Most commonly, such requirements are triggered when a certain contribution or expenditure threshold is reached within a specified time-frame immediately prior to an election. In Alaska, for example, pursuant to AS § 15.13.110, campaign committees are required to report within twenty-four hours any contributions exceeding $250 that occur within nine days of an election.

A number of other states have multiple triggers for transaction-based report requirements. California, for example, has the following requirements:

- Campaign committees are to report within twenty-four hours any contributions of $1,000 or more received from a single source if the election is scheduled to occur in fewer than ninety days.
- "In kind" contributions, and "independent expenditures" made on behalf of a candidate or ballot question, of $1,000 or more must be reported within twenty-four hours if those transactions occur within fourteen days of the election.[5]
- An "issue advocacy report" must be filed within forty-eight hours if a payment or promise of a payment of $50,000 or more is made during the forty-five days prior to an election for a communication that clearly identifies a state candidate being voted on in the election but does not expressly advocate the election or defeat of the candidate.[6]

Michigan also has certain transaction-based reporting requirements within its larger schedule-based system as follows:

- Campaign committees must file "late contribution reports" within forty-eight hours for any single contribution of $200 or more that is received between fifteen and three days prior to an election.
- In the two weeks prior to an election, caucus committees are required to report within twenty-four hours any contribution received or expenditure made of over $1,000.[7]

---

[4] Personal communication with John Lindback, (503) 986-2339.

[5] As you may know, "in-kind" contributions are donations of time or goods rather than cash. In Oregon, "independent expenditures" are those made for a communication in support of or opposition to a clearly identified candidate or measure without the cooperation, prior consent of, in consultation with, or at the request or suggestion of a campaign committee.

[6] We include a table showing California's financial disclosure schedule for the November 4, 2008, election as Attachment C. Additional information is available through the website of the California Secretary of State at *http://www.fppc.ca.gov/index.html?id=491*.

[7] We include an excerpt related to Immediate Disclosure Reports from the Michigan Candidate Committee Manual as Attachment D. Additional information is available on the website of the Michigan Secretary of State at *http://www.michigan.gov/sos*.

OPINIONS OF SELECTED EXPERTS ON "INSTANT DISCLOSURE"

We discussed the instant disclosure model you proposed with three experts in the field of campaign finance disclosure reporting systems. Kim Alexander and Will Barrett are the respective president/founder and program manager for the California Voter Foundation. Robert Stern is the president of the Center for Governmental Studies.[8] We asked all three to identify potential drawbacks or challenges that an instant disclosure system might face. Kim Alexander and Will Barrett composed the following joint response:

> One potential drawback of establishing ongoing disclosure with no regular reporting periods could be the lack of summary information benchmarks. With regular reporting periods, it is easier for the public and the media to compare and contrast the totals raised and spent by each candidate. Oregon's system addresses this with an option that summarizes the financial activities for the committee during a calendar year, including the totals received and given, the committee cash balance, and overall financial status.
>
> The lack of periodic reporting deadlines could also be a drawback in that the press may not be as active in reporting campaign finances if there is no set reporting date to look forward to and prepare to cover. The release of regular disclosure reports can act as a hook for the media to report what candidates are receiving. One way to address the lack of a news hook is that the disclosure agency could be required by law to produce periodic summary reports showing basic information on the totals raised and spent by political committees. Alaska already produces summaries of candidate financial activity and disclosure reform legislation could include a provision that mandates this practice to ensure it continues with a shift to ongoing reporting. These summary reports provide important contextual information to the public.
>
> On the issue of gaming the system [here the respondents are referring to the practice of candidates strategically withholding information or making false deposits/expenditures for political purposes], campaign field audits could also be included to ensure that candidates and committees aren't gaming the system. Currently, Alaska requires desk reviews of campaign reports but doesn't require field audits of campaign records. A stricter review process could help alleviate concerns of questionable filings.

Ms. Alexander further emphasized that any disclosure system should include provisions stating that the "clock" on reporting deadlines starts on the day contributions are received. Her view is informed by an episode in California in which a candidate tried to outflank the reporting system by receiving undated checks and other such chicanery.

Mr. Stern provided the following comments:

---

[8] Mr. Stern can be reached at (310) 470-6590, ext. 117. According to the Center for Governmental Studies website, the non-profit organization "uses research, advocacy, technology and education to improve the fairness of governmental policies and processes, empower the underserved, improve communication between voters and candidates for office and help implement public policy reforms." More information on the organization is available at *http://www.cgs.org/*.

I was part of a task force set up by the California Secretary of State to examine disclosure issues. The one part that was vehemently opposed by campaign treasurers and campaign attorneys centered on instant disclosure. They said it would drive them out of business since they couldn't guarantee that their staffs could report every transaction each day. I am not sure I agree with them, but I wanted to let you know how strongly they felt about this.

I think a compromise is disclosure of large contributions ($1,000 or more) within 24 hours. This gives the public necessary information but doesn't burden the filers as much as full disclosure.

California requires electronic filing of $5,000 contributions within 10 business days except for the 90 days before the election when the threshold drops to $1,000 and within 24 hours. It has worked well.

RESPONSE OF JOHN LINDBACK

We discussed with Director Lindback a number of the issues raised by the three experts with whom we spoke. Those *issues* and Mr. Lindback's responses are as follows:

Transaction-based disclosures may not be as heavily scrutinized by the public or news media as are scheduled reports.

Oregon's experience has been the opposite—its reporting system has brought about an increase in scrutiny of financial disclosures by the media and general public, according to Mr. Lindback. He notes, however, that these increases are almost certainly due to increased functionality in the system's electronic public interface tools rather than the changes in the reporting regime per se. The new system provides numerous online search features and extensive database tools for sorting information.

Field audits may be necessary to ensure the accuracy of disclosures.

Mr. Lindback does not have sufficient manpower to conduct field audits. Instead, the Oregon elections division is authorized by law to conduct random spot-checks of up to eight transactions per campaign committee during an election cycle. The director believes that these checks are effective in motivating campaigns to provide accurate disclosure and has not necessitated his hiring additional staff to conduct the checks.

Changes to the campaign finance disclosure system in Alaska will likely be resisted by campaign committees and others.

Director Lindback agrees with the experts we consulted on this point. As we mentioned, his organization met significant resistance in reforming Oregon's system. Mr. Lindback added that such opposition was one of the more difficult and "stressful" aspects of making changes to the state's disclosure regime, and that a number of the system's users continue to resist those changes.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

ANCHORAGE: (907) 276-4176
JUNEAU: (907) 465-4864

Alaska Public Offices Commission

All Reports

filed by LYNN, BOB

Published Reports Shown

Reports filed with the APOC are generally published within 5 business days of a report due date, when all report detail has been entered and verified, or in the case of electronic filings, when all reports for candidates for the same office in an election have been entered and verified. Letters of Intent, Registrations, Exemptions and 24-Hour Reports are published as soon as the data is entered and verified. See About Campaign Disclosure Reports for more information.

Display Summaries

Select Election to List All Reports Filed, or Report to View Content

Election:	Report:	Due:*	Starting:	Ending:	Filed:	Status:	Published:
2002 State Primary	REGISTRATION	05/28/2002			05/13/2002	Filed On Time	Yes
2002 State Primary	30-DAY REPORT	07/29/2002	01/01/2002	07/26/2002	07/29/2002	Filed On Time	Yes
2002 State Primary	30-DAY REPORT	07/29/2002	01/01/2002	07/26/2002	08/19/2002	Amendment	Yes
2002 State Primary	30-DAY REPORT	07/29/2002	01/01/2002	07/26/2002	09/05/2002	Amendment	Yes
2002 State Primary	7-DAY REPORT	08/20/2002	07/27/2002	08/17/2002	08/19/2002	Filed On Time	Yes
2002 State Primary	7-DAY REPORT	08/20/2002	07/27/2002	08/17/2002	09/05/2002	Amendment	Yes
2002 State Primary	10-DAY REPORT	09/06/2002	08/18/2002	09/03/2002	09/05/2002	Filed On Time	Yes
2002 State General	30-DAY REPORT	10/07/2002	09/04/2002	10/04/2002	10/07/2002	Filed On Time	Yes
2002 State General	7-DAY REPORT	10/29/2002	10/05/2002	10/26/2002	10/28/2002	Filed On Time	Yes
2002 State General	7-DAY REPORT	10/29/2002	10/05/2002	10/26/2002	12/31/2002	Amendment	Yes
2002 State General	10-DAY REPORT	11/15/2002	10/27/2002	11/12/2002	11/15/2002	Filed On Time	Yes
2002 State General	10-DAY REPORT	11/15/2002	10/27/2002	11/12/2002	12/31/2002	Amendment	Yes
2002 State General	YEAR-END REPORT	02/15/2003	11/13/2002	02/01/2006	02/11/2003	Filed On Time	Yes
2002 State General	CLOSE-OUT REPORT	02/15/2004 +2	01/01/2003	02/01/2004	09/22/2003	Filed On Time	Yes
2004 State Primary	REGISTRATION	05/06/2003			12/31/2003	Filed	Yes
2004 State Primary	YEAR-START REPORT	02/15/2004 +2	01/01/2003	02/01/2004	02/17/2004	Filed On Time	Yes
2004 State Primary	30-DAY REPORT	07/26/2004	02/02/2004	07/23/2004	07/26/2004	Filed On Time	Yes
2004 State Primary	7-DAY REPORT	08/17/2004	07/24/2004	08/14/2004	08/17/2004	Filed On Time	Yes
2004 State Primary	7-DAY REPORT	08/17/2004	07/24/2004	08/14/2004	08/18/2004	Amendment	Yes
2004 State General	30-DAY REPORT	10/04/2004	08/15/2004	10/01/2004	10/03/2004	Filed On Time	Yes
2004 State General	7-DAY REPORT	10/26/2004	10/02/2004	10/23/2004	10/26/2004	Filed On Time	Yes
2004 State General	7-DAY REPORT	10/26/2004	10/02/2004	10/23/2004	01/31/2005	Amendment	Yes
2004 State General	24-HOUR REPORT	11/02/2004			11/02/2004	Filed On Time	Yes
2004 State General	YEAR-END REPORT	02/15/2005	10/24/2004	02/01/2005	02/04/2005	Filed On Time	Yes
2006 State Primary	REGISTRATION	05/03/2005			04/18/2005	Filed On Time	Yes
2006 State Primary	YEAR-START REPORT	02/15/2006	05/07/2005	02/01/2006	02/13/2006	Filed On Time	Yes
2006 State Primary	30-DAY REPORT	07/24/2006	02/02/2006	07/21/2006	07/24/2006	Filed On Time	Yes

2006 State Primary	7-DAY REPORT	08/15/2006	07/22/2006	08/12/2006	08/13/2006	Filed On Time	Yes
2006 State Primary	24-HOUR REPORT	08/19/2006			08/18/2006	Filed On Time	Yes
2006 State General	30-DAY REPORT	10/09/2006 +1	08/13/2006	10/06/2006	10/07/2006	Filed On Time	Yes
2006 State General	7-DAY REPORT	10/31/2006	10/07/2006	10/28/2006	10/31/2006	Filed On Time	Yes
2006 State General	24-HOUR REPORT	11/01/2006			10/31/2006	Filed On Time	Yes
2006 State General	24-HOUR REPORT	11/05/2006			11/05/2006	Filed On Time	Yes
2006 State General	YEAR-END REPORT	02/15/2007	10/29/2006	02/01/2007	02/09/2007	Filed On Time	Yes
2008 State Primary	YEAR-START REPORT	02/15/2008	05/04/2007	02/01/2008	02/15/2008	Filed On Time	Yes
2008 State Primary	30-DAY REPORT	07/28/2008	02/02/2008	07/25/2008	07/28/2008	Filed On Time	Yes
2008 State Primary	7-DAY REPORT	08/19/2008	07/26/2008	08/16/2008	08/19/2008	Filed On Time	Yes
2008 State General	30-DAY REPORT	10/06/2008	08/17/2008	10/03/2008	10/06/2008	Filed On Time	Yes
2008 State General	7-DAY REPORT	10/28/2008	10/04/2008	10/25/2008	10/28/2008	Filed On Time	Yes
Individual Contributions	(Contributions reported by individuals at any time)						

*Reports that are due on a State holiday are not considered late if filed by the next business day.

Microsoft SQL Server Production Node READY - Last Update: 01/26/2009 - Public Access

Preferences: *CSS=apoc, LINKS=image, PAGESIZE=20*

State of Alaska Home About APOC-IQ Legislative Ethics Committee State of Alaska Division of Elections Webmaster

Version 2.3.55 Build 05/29/2007 10:18:52

ANCHORAGE: (907) 276-4176
JUNEAU: (907) 465-4864

Alaska Public Offices Commission

2008 State Primary Reports

filed by LYNN, BOB

Reports filed with the APOC are generally published within 5 business days of a report due date, when all report detail has been entered and verified, or in the case of electronic filings, when all reports for candidates for the same office in an election have been entered and verified. Letters of Intent, Registrations, Exemptions and 24-Hour Reports are published as soon as the data is entered and verified. See About Campaign Disclosure Reports for more information.

Display 2008 State Primary Summaries

Select Report to View Content

Report:	Due:*	Starting:	Ending:	Filed:	Status:	Published:
YEAR-START REPORT	02/15/2008	05/04/2007	02/01/2008	02/15/2008	Filed On Time	Yes
30-DAY REPORT	07/28/2008	02/02/2008	07/25/2008	07/28/2008	Filed On Time	Yes
7-DAY REPORT	08/19/2008	07/26/2008	08/16/2008	08/19/2008	Filed On Time	Yes
Individual Contributions	(Contributions reported by individuals at any time)					

*Reports that are due on a State holiday are not considered late if filed by the next business day.

ANCHORAGE: (907) 276-4176
JUNEAU: (907) 465-4864

Alaska Public Offices Commission

2008 State Primary 30-DAY REPORT
filed July 28, 2008
by LYNN, BOB
(Candidate)

Covering Period From 02/02/2008 through 07/25/2008

Reports filed with the APOC are generally published within 5 business days of a report due date, when all report detail has been entered and verified, or in the case of electronic filings, when all reports for candidates for the same office in an election have been entered and verified. Letters of Intent, Registrations, Exemptions and 24-Hour Reports are published as soon as the data is entered and verified. See About Campaign Disclosure Reports for more information.

Select Type of Content:

Campaign Disclosure (1 transaction)
Summary (1 transaction)
Income (4 transactions)
Expenses (8 transactions)
No Debts Transactions

House Bill 42
News Reports, Articles, Etc.

Leg Study Group:
Online Campaign Reporting

ADN Compass by Rep. Bob Lynn, 01/11/09

adn.com
Anchorage Daily News

Online campaign reporting offers instant exposure

COMPASS: Other points of view

By REP. BOB LYNN

(01/11/09 21:35:58)

It's past time to bring political campaign disclosure into the 21st century. Instant transparency is needed. That's why I'll be filing legislation in January to establish an On-Line Campaign Banking and Reporting System that will make campaign contributions and expenditures visible to the world in real time.

The current system presents campaign finance snapshots, accurate only for the dates of the reports. This invites "game playing" by allowing candidates to "hide" information from opponents and the public for as long as possible.

Large contributions from controversial people or Political Action Committees can be deposited after a report due date to delay political repercussions. Likewise, candidates can delay large media buys until after a report due date, thereby keeping opponents in the dark about an oncoming television onslaught. Another tactic employed by some candidates is to scribble campaign reports, and mail them to the state before midnight on the due date. The report to the state would be "on time," but late for transcription to the Internet for the general public.

Campaign reporting games can affect the outcome of elections. Such games can significantly hinder Alaskans from getting the campaign transparency they deserve in a timely manner -- which is the purpose of campaign disclosures. The advent of "early voting" makes this especially important.

The current problem is fixable. I'm filing legislation for an Internet online campaign reporting system similar to the personal online banking systems we use in our private lives.

With campaign online banking, anyone in the world could see campaign disclosure on the Internet, without a password. Campaign contributions would show up on the Internet immediately when deposited. Campaign expenditures (say for signs) would be displayed on the Internet as soon as campaign checks are cashed. Campaign account balances would be up-to-date instantly for the world to see.

This system would benefit everybody involved in the campaign process, from voters to candidates to state agencies.

There are several ways to implement online campaign banking. There could be a bid from Alaska banks to perform the service for a fee to be paid by the state, or by the candidate, or shared between a candidate and the state.

Or an arrangement could be made for needed software to be made available to an Alaska bank of the candidate's choosing. Banks already do online banking, so this shouldn't be a major problem.

Likewise online reporting will need to display names, addresses, and occupations of campaign contributors, and recipients of campaign expenditures. If computer gurus can develop software that guides objects to distant planets, they can figure out how to do this. If there's a will, there's a way.

Our Legislative Research people tell me Alaska would be first in the nation to adopt instant reporting. Transparency through campaign disclosure is good. Instant transparency through online reporting is better. Let's lead the way!

Bob Lynn is a Republican state representative from Anchorage.

Copyright © Thu Jan 29 08:52:43 UTC-0900 20091900 The Anchorage Daily News (www.adn.com)

HB 42: May be available to testify
Leg. Study Group: Online Campaign Reporting

Available for comments and questions:

Holly Hill, Executive Director
Alaska Public Office Commission
276-4176

Chris Ellingson, Assistant Director
Alaska Public Office Commission
276-4176

Patty Ware, Administrator of Juneau Branch Office
Alaska Public Office Commission
2465-4864

Potential witnesses:

Joe Beedle, Vice President
Northrim Bank
261-3302

Andy Rogers, Chief Executive Officer
PangoMedia Software Engineers
868-8092

Contact: Mike Sica, 465-4965 **Revised: Jan. 28, 2009**

HB 45

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 45**
() Publish Date:

Identifier (file name):HB45-DOR-TRS-1-20-09
Title: Sudan Divestiture
Sponsor: Representative Gara
Requester: House State Affairs

Dept. Affected: Revenue
RDU: Treasury
Component: ARMB/ARMB Custody/Treasury
Component Number: 2813/2812/121

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***
CAPITAL EXPENDITURES	***	***	***	***	***	***	***
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	***	***	***	***	***	***	***

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: *(Attach a separate page if necessary)*

This bill requires the fiduciaries of state investment funds to divest of certain investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. While Treasury believes that active and passive separate account managers will not charge additionally for divestment, Treasury does not believe that mangers of passive commingled funds will be able to comply with the divestment policy and that Sudan-free replacement funds will need to be identified. Currently, there are 25 funds (primarily participant directed funds) that would need to be replaced. Costs for conducting a search for a single fund is approximately $25,000, although multiple fund searches would result in reduced costs. Other costs to be considered would include the opportunity cost of staff time to implement new contracts and any cost impact resulting from introducing additional plan options to participants. The effect this bill will have on investment performance is unknown.

Prepared by: Pamela Green, Comptroller — Phone 465-2300
Division: Treasury Division — Date/Time
Approved by: Jerry Burnett, Deputy Commissioner — Date 1/23/2009
Department of Revenue

(Revised 9/10/2008 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 45
() Publish Date:

Identifier (file name): HB45-REV-APFC-01-26-09
Dept. Affected: Revenue
Title: DIVEST INVESTMENTS IN SUDAN
RDU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Sponsor: Representative Gara
Requester: House State Affairs
Component Number: 109

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual	20.0		20.0	20.0	20.0	20.0	20.0
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous	30.0		30.0	30.0	30.0	30.0	30.0
TOTAL OPERATING	**50.0**	**0.0**	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**
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							
1105 APFC Receipts	50.0		50.0	50.0	50.0	50.0	50.0
TOTAL	**50.0**	**0.0**	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**

Estimate of any current year (FY2009) cost: 30.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill would require that APFC divest any securities of publicly traded companies that are held in actively or passively managed separate (non-commingled) funds. This bill would also require that APFC send letters to managers of actively traded commingled funds requesting that they consider divesting the listed securities. APFC is directed to develop a divestment list: administrative cost of purchasing lists of publicly traded companies doing business in Sudan from external sources each year as part of research process totals $30.0. Active separate account managers have stated that they will not charge customization fees. Stated customization charge in addition to regular management fees for passive accounts (as of Jan 2009) of $20.0.

Prepared by: Michael J. Burns
Phone 907-796-1520
Division: Alaska Permanent Fund Corporation
Date/Time: January
Approved by:
Date

(Revised 9/10/2008 OMB)

LEGISLATIVE RESEARCH REPORT

JANUARY 27, 2009

REPORT NUMBER 09.118

DIVESTMENT OF QUALIFYING COMPANIES OPERATING IN SUDAN FROM ALASKA PUBLIC FUNDS

PREPARED FOR REPRESENTATIVE LES GARA

BY DANIEL LESH, LEGISLATIVE ANALYST

You asked about state economic sanctions against the government of Sudan via the divestment of public assets in certain companies. Specifically, you asked for a review of relevant U.S. state laws and a description of the potential effects of a "targeted divestment" law on the State of Alaska with respect to the Alaska Permanent Fund and other Alaska state funds.

SUMMARY

As of January 21st, 2009, at least 31 states have adopted or are considering implementing policies to divest state assets from Sudan, where the U.S. Congress has declared that genocide is taking place. Twenty-seven of these states have enacted divestment policies. By our calculation, as of December 31st, 2008, state investments totaling roughly $19.6 million would be subject to divestment under legislation currently introduced in Alaska (HB 5, HB 45, SB 37). If any one of these bills became law, divestment of these assets would be accomplished over an 18-month period and would incur additional administrative costs.

STATUS OF STATE DIVESTMENT LEGISLATION

As of January 21st, 2009, at least 31 states have adopted or are considering implementing policies to divest state assets from Sudan, where the U.S. Congress has declared that genocide is taking place.[1] Lawmakers in 20 states have enacted laws that require state funds to divest holdings in some or all companies operating in Sudan. Seven additional states have adopted similar policies through their executive branches. Louisiana's legislature has passed a law encouraging divestment, but state officials do not appear to be following this recommendation. Lawmakers in another three states are considering measures that address divestment from Sudan. Please see Table 1 for details on Sudan divestment legislation in each of these states.

[1] Data on state legislation are from *Lexis.com* and the Sudan Divestment Task Force's chart of "Divestment Statistics."

907-465-3991
907-465-3908 (fax)

Alaska Legislature
Legislative Research Services
w3.legis.state.ak.us/laa/research/research.php

State Capitol
Juneau, AK 99801

The laws and pending legislation listed in Table 1 generally follow one of two models. Of the 31 divestment policies, 21—including the policy proposed in Alaska—follow a targeted approach that is applicable only to specific types of foreign companies operating in Sudan.[2] A targeted approach relies on the creation and maintenance of lists of companies that are deemed to be supporting the genocide in Sudan. Most of the targeted companies participate in Sudan's oil industry and pay taxes and royalties that fund the Sudanese government.

States that do not follow a targeted divestment approach prohibit investment in any company operating in Sudan, though generally with an exception for humanitarian and various other types of organizations. A number of states (Colorado, Florida, Georgia, Kentucky, Louisiana, Maryland, and Missouri) have also included other countries, such as Iran, North Korea, and Syria, in their divestment policies.

On December 31st, 2007, President Bush signed the Sudan Accountability and Divestment Act, which authorizes—but does not require—state and local governments to disassociate from companies operating in Sudan and prohibits the granting of new federal contracts to those foreign companies.

As you may know, no domestic companies are affected by state divestment laws, because U.S. companies are prohibited from operating in Sudan by federal executive orders dating from 1997.[3]

[2] Targeted divestment is advocated by the Sudan Divestment Task Force (SDTF), a prominent organization in this area. We apply their model legislation—which is substantially the same as bills introduced in Alaska—in this report.

[3] Executive Orders 13067 (1997), 13400 (2006), and 13412 (2006).

Table 1: Status of State Legislation Related to Divestment of Public Funds from Sudan

State	Citation	Pending Legislation
Targeted divestment measure		
Alaska		HB 5, HB 45, SB 37
Arizona	Ariz. Rev. Stat. § 35-391 (2008)	
California	Cal. Gov. Code § 7513.6 (2007)	
Colorado	Colo. Rev. Stat. § 24-54.8 (2007)	
Florida	Fla. Stat. § 215.473 (2007)	
Hawaii	Act No. 192, Session Law 2007	
Indiana	Ind. Code. Ann. § 5-10.2-9	
Iowa	Iowa Code § 12F (2007)	
Kansas	Kan. Stat. Ann. § 74-4923 and 74-4960 (2007)	
Massachusetts	Chapter 151, Session Law 2007	
Michigan	Mich. Comp. Laws Ann. § 38.1133 (2008)	
Minnesota	Minn. Stat. § 11A.243 (2007)	
Nebraska		LB 140
New Hampshire	N.H. Rev. Stat. Ann. § 100-D (2008)	
New Mexico	Executive Branch Policy	
New York	Executive Branch Policy	
North Carolina	N.C. Gen. Stat. § 147-86 (2008)	
Ohio	Executive Branch Policy	
South Carolina	S.D. Codified Laws § 9-16-55 (2008)	
Texas	Tex. Govt Code Ann. § 806.001 (2007)	
Vermont	Executive Branch Policy	
Non-targeted (blanket) divestment measure		
Georgia		HB 99
Illinois[a]	40 Ill. Comp. Stat. 5/1-110.6 (2007)	
Maine	Me. Rev. Stat. Ann. tit. 5, § 1956 (2007)	
Maryland	Md. Code Ann. § 21-123.1 (2008)	
Missouri	Executive Branch Policy	
New Jersey	N.J. Stat. Ann. § 52:18A-89.9 (2007)	
Oregon	Or. Rev. Stat. § 293.811-817 (2006)	
Non-binding measures encouraging divestment		
Arkansas[b]	SCR 20 & Executive Branch Policy	
Connecticut[b]	Conn. Gen. Stat. § 3-21e (2007) & Executive Branch Policy	
Louisiana	La. Rev. Stat. Ann. § 11:312 (2007)	

NOTES: Pending legislation in some states may not have been captured by our search and this list should not be treated as exhaustive. (a) Illinois' 2007 legislation replaced the state's 2005 law, which was found unconstitutional. (b) Laws in Arkansa and Connecticut are non-binding, but the states have divested significant assets. **SOURCES:** *Lexis.com*; Sudan Divestment Task Force.

TARGETED DIVESTMENT OF ALASKA STATE FUNDS

The state of Alaska maintains invested assets totalling about $60 billion.[4] Of these investments, a small portion (about $20 million) would be subject to divestment under a targeted approach.[5] As of December 31st, 2008, we calculate that a maximum of about $15.8 million in Permanent Fund investments (about 0.05% of the $29.7 billion market value of the fund at that time) would require divestment using the Sudan Divestment Task Force's list of targeted companies (see Table 2). In addition, we indentified about $3.8 million in other state assets that would be targeted for divestment, using a list of holdings also current through December 31st, 2008.

Table 2: Alaska Permanent Fund and Other State Stock Holdings Subject to Divestment

Company	Market Value	Country
Permanent Fund		
China Petroleum (Petrochina)	$ 14,353,173	China
Dongfeng Automobile Company Limited	$ 1,302,581	China
Wartsila	$ 93,466	Finland
Lundin Petroleum	$ 44,681	Sweden
TOTAL FOR PERMANENT FUND	$ 15,793,900	
Other State Funds Managed by Division of Treasury		
Alstom	$ 1,596,456	France
Abb	$ 1,216,860	Switzerland
Wartsila	$ 987,127	Finland
TOTAL FOR OTHER STATE FUNDS	$ 3,800,443	
GRAND TOTAL	**$ 19,594,343**	

NOTES: Data current as of December 31, 2008. Holdings subject to divestment determined using the Sudan Divestment Task Force's (SDTF) divestment lists. Some of the stocks listed above may be indirect holdings in actively managed investment funds, which are exempt from divestment under the SDTF targeted divestment model applied in this report.
SOURCES: Alaska Permanent Fund holdings obtained from the fund's website, *http://www.apfc.org/*. Data on stock holding sin other state funds obtained from Pam Green, state comptroller, Department of Revenue, (907) 465-3751.

[4] As of November 30th, 2008—the most recent date for which these data are available—the state's investments include the following: the Alaska Permanent Fund ($28.9 billion); funds under the fiduciary responsibility of the Alaska Retirement Management Board, including the Public Employees' Retirement System ($8.6 billion), Teachers' Retirement System ($3.9 billion), Judicial Retirement System ($0.1 billion), National Guard/Naval Militia Retirement System funds ($.02 billion), Supplemental Benefits System funds ($1.8 billion), and Alaska Deferred Compensation Plan funds ($0.4 billion); funds under the fiduciary responsibility of the Commissioner of the Department of Revenue, including the General Fund and other Non-segregated Investments (GeFONSI; $7.8 billion), Constitutional Budget Reserve Fund ($6.1 billion), and other funds ($1.3 billion; including the Public School Trust Fund, Alaska Children's Trust, Investment Loss Trust Fund, General Obligation Bonds, International Airports funds, Retiree Health Insurance Fund, Power Cost Equalization Endowment Fund, Illinois Creek Mine Restoration Fund, Permanent Fund Dividend Fund, and Alaska Sport Fish Construction Fund); and other state funds ($0.2 billion; including the University of Alaska Trust Fund, Alaska Student Loan Corporation funds, Exxon Valdez Oil Spill Investment Fund, and Mental Health Trust Reserve Fund). Information on state funds obtained from the website of the Department of Revenue.

[5] Only the portions of funds with publicly-traded equity would be affected, which for these funds is typically a small proportion of total investments. Furthermore, the targeted approach we apply here includes an exception for indirect holdings in actively managed, commingled investment funds—the most difficult and expensive type of fund to customize.

Under the targeted divestment bills currently under consideration in Alaska (HB 5, HB 45, SB 37), divestment of the assets described in Table 2 would occur over an 18-month period following the effective date of the legislation. In the first step of the process, fund directors would be allowed 90 days to compile and adopt a "scrutinized companies list" based on criteria and sources outlined in the legislation. Following adoption of the list, funds would be required to contact all scrutinized companies in which they have direct holdings and allow them 90 days to change their offending operations before becoming subject to divestment.[6] Within nine months of the adoption of the "scrutinized companies list," funds would be required to complete the divestment of 50 percent of holdings in scrutinized companies. Within 15 months, 100 percent of holdings in scrutinized companies would be required to be divested. Funds would not be required to divest indirect, actively managed holdings. This timeframe is within that described by Alaska fund managers as reasonable.[7] Lastly, ongoing reporting requirements and the screening of future investments would be required.

In conversations with our office roughly one year ago, the Alaska Permanent Fund and the state's chief investment officer expressed reservations about divestment, citing increased administrative costs and possible declines in fund performance.[8] We note, however, that divestment research we reviewed, which ultimately argues against divestment, concludes that fund performance changes are usually "negligible, and in most cases zero."[9]

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

[6] Under the divestment models outlined in HB 5 and SB 37, fund directors would also be required to contact mutual fund managers managing *indirect* assets targeted for divestment and held by state funds. In this communication, state fund directors would be required to request consideration that such mutual fund managers divest targeted companies from their applicable portfolios, or create an alternative fund portfolio without holdings in targeted companies.

[7] Personal correspondence in January 2008 with Laura Achee, research and communications liaison, Alaska Permanent Fund Corporation, (907) 796-1522. Ms. Achee stated that most of the assets could be divested in several weeks. However, managers of two accounts that do not allow customization would have to be replaced, a process which generally requires several months. In a January 2008 conversation, Gary Bader, chief investment officer, Alaska Department of Revenue, (907) 465-4399, described a similar process, including the necessity to review contracts with seven asset account managers hired by the Alaska Retirement Management Board.

[8] Ms. Achee, research and communications liaison, Alaska Permanent Fund Corporation, expressed concern that new manager searches could yield managers that do not perform as well as current managers. Overall, in her view, divestment "would have a dampening effect on the Permanent Fund to some degree, without any guarantee that the actions would bring about the desired result in the targeted country." Gary Bader, chief investment officer, Alaska Department of Revenue, expressed his belief that Alaska funds would likely perform substantially worse after divestment.

[9] See page 6 of "Should Public Plans Engage in Social Investing?," a publication of the Center for Retirement Research at Boston College, for a description of empirical research on the impacts of divestment on fund performance.

HB 53

AMENDMENT #1

OFFERED IN THE HOUSE BY

TO: CS HB 53, Draft Version "E"

page 1, line 12

Delete "service" and insert "serving"

26th Legislature(2009-2010)

Bill History/Action for 26th Legislature

BILL: HB 53

SHORT TITLE: CANDIDATES INELIGIBLE FOR BDS/COMMISSIONS

BILL VERSION:

CURRENT STATUS: (H) STA
THEN JUD

STATUS DATE: 01/20/09

SPONSOR(s): REPRESENTATIVE(s) DOOGAN

HEARING: (H) STA Mar 23 8:00 AM CAPITOL 106 TELECONFERENCE

TITLE: "An Act relating to eligibility for membership on state boards, commissions, and authorities."

Bill Number: Search Bills | Next Bill

Full Text | Minutes | Documents

Sponsor Statement

Display Committee Action with Bill History

Jrn-Date	Jrn-Page	Action
01/20/09	0035	(H) PREFILE RELEASED 1/9/09
01/20/09	0035	(H) READ THE FIRST TIME - REFERRALS
01/20/09	0035	(H) STA, JUD
01/20/09	0035	(H) REFERRED TO STATE AFFAIRS

Similar Subject Match or Exact Subject Match
BOARDS & COMMISSIONS
CAMPAIGNS
ELECTIONS
ETHICS
EXECUTIVE BRANCH

Bill Number: Display Bill

Next Bill

Return to Basis Main Menu (26th Legislature)

Bill Previously Heard on 3/18/10
Please Bring your Bill Packet

* New Documents
- CS Version E
- Summary of Changes
- Statutes Listed in Bill on Page 2, Lines 8-10 regarding how one "seeks nomination (re: Rep Seatons question on 3/18/10)

26-LS0296\E
Bullard
3/22/10

CS FOR HOUSE BILL NO. 53( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DOOGAN

A BILL

FOR AN ACT ENTITLED

"An Act relating to eligibility to serve on state boards, commissions, and authorities."

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

*** Section 1.** AS 39.05.100 is amended by adding new subsections to read:

(c) A person is not eligible to serve on a state board, commission, or authority if the person sought nomination or became a candidate for elective municipal, state, or federal office during the preceding year, unless holding a particular elective municipal, state, or federal office is required by law for appointment.

(d) A member of a state board, commission, or authority who seeks nomination or becomes a candidate for elective municipal, state, or federal office terminates membership on the state board, commission, or authority unless the member is standing for reelection to the municipal, state or federal office, and is service as an ex-officio member of the state board, commission, or authority.

(e) In this section, a person seeks nomination or becomes a candidate if the person

(1) under regulations adopted by the Alaska Public Offices

Commission to implement AS 15.13.100, indicates an intention to become a candidate for elective municipal office, including a seat on a municipal school board, or state executive or legislative office;

(2) has filed a nominating petition, declaration of candidacy, or other required filing for elective municipal office, including a seat on a municipal school board, with a municipal clerk or other municipal official designated to receive filings for municipal office;

(3) has filed a nominating petition under AS 15.25.140 - 15.25.200, AS 15.30.026, AS 15.40.180, 15.40.190, 15.40.270 - 15.40.290, or 15.40.430 - 15.40.450 to become a candidate for elective state or federal executive or legislative office;

(4) has filed a declaration of candidacy for elective state or federal office under AS 15.25.030; or

(5) campaigns as a write-in candidate for elective municipal, state, or federal executive or legislative office.

* **Sec. 2.** AS 39.25.160(e)(8) is repealed.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 39.05.100(c) - (e), added by sec. 1 of this Act, and the amendment of AS 39.25.160(e) made by sec. 2 of this Act, apply only to

(1) members of state boards, commissions, or authorities seeking nomination or becoming a candidate for elective municipal, state, or federal office on or after the effective date of this Act; and

(2) the eligibility for appointment to state boards, commissions, or authorities of persons seeking nomination or becoming a candidate for elective municipal, state, or federal office on or after the effective date of this Act.

Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Summary of Changes in CS for HB 53

The following changes have occurred between HB 53\R and HB 53\E.

Title Change

The title has been changed back to the original title to include "authorities." The bill includes conforming language, adding "authority" every time board and commission are mentioned.

Adds municipal candidates to those who must resign their position on a board, commission, or authority when they run for elective state or federal office

Bill adds municipal candidates to the bill in all places where state and federal candidates are mentioned. Section (e) (2) is added on page 2, line 4 to include language regarding how a person seeks nomination or becomes a candidate for municipal office.

HB 53 defines "Sought Nomination" under Section 1(e)(2) of the bill with the following language:

"Has filed a nominating petition under AS 15.25.140 – 15.25.200, AS 15.30.026, AS 15.40.180, AS 15.40.270 – 15.40.290, or 15.40.430 – 15.40.450 to become a candidate for elective state or federal executive or legislative office."

The statutes mentioned in this section are listed out in more detail below:

AS 15 Elections.

Chapter 25. Nomination of Candidates

Article 2. Nominations by Petition.

AS 15.25.140- Candidates not representing a political party are nominated by petition

AS 15.25.150- Outlines dates for petitions to be filed

AS 15.25.160- Stipulates the required number of signatures for statewide office

AS 15.25.170- Stipulates the required number of signatures for district-wide office

AS 15.25-180- Outlines requirements for petition

AS 15.25.185- Eligibility of candidate

AS 15.25.190- Candidates properly nominated by petition shall be placed on general election ballot

AS 15.25.200- Withdrawal of candidates name due to death or withdrawal of petition

Chapter 30. National Elections

Article 1. President.

AS 15.30.026- Qualifications for independent candidates for President of the United States and selection of a candidate for Vice President

Chapter 40. Special Elections and Appointments

Article 1. United States Congress

AS 15.40.180- Special election petition, both dates of nominations and actual delivery methods

AS 15.40.190- Requirements for petition for no-party candidates

Article 2. Governor and Lieutenant Governor

AS 15.40.270- Dates of nominations and delivery of petitions

AS 15.40.280- Requirements of petitions for no-party candidates

AS 15.40.290- Requirements of petitions for party candidates

Article 3. Legislature

AS 15.40.430- If a vacancy occurs less than 1 calendar month before the filing date and more than 3 calendar months before the next general election, candidates shall be nominated by petition.

AS 15.40.440- Requirements of petitions for no-party candidates

AS 15.40.450- Requirements of petitions for party candidates

26th Legislature(2009-2010)

Bill History/Action for 26th Legislature

BILL: HB 53 **SHORT TITLE:** CANDIDATES INELIGIBLE FOR BDS/COMMISSIONS

BILL VERSION:

CURRENT STATUS: (H) STA THEN JUD **STATUS DATE:** 01/20/09

SPONSOR(s): REPRESENTATIVE(s) DOOGAN

HEARING: (H) STA Mar 18 8:00 AM CAPITOL 106 TELECONFERENCE

TITLE: "An Act relating to eligibility for membership on state boards, commissions, and authorities."

Bill Number: Search Bills Next Bill

Full Text Minutes Documents

Sponsor Statement

Display Committee Action with Bill History

Jrn-Date	Jrn-Page	Action
01/20/09	0035	(H) PREFILE RELEASED 1/9/09
01/20/09	0035	(H) READ THE FIRST TIME - REFERRALS
01/20/09	0035	(H) STA, JUD
01/20/09	0035	(H) REFERRED TO STATE AFFAIRS

Previously Heard
Bring your
Bill file from 1/28/10

Similar Subject Match or Exact Subject Match
BOARDS & COMMISSIONS
CAMPAIGNS
ELECTIONS
ETHICS
EXECUTIVE BRANCH

Bill Number: Display Bill

Next Bill

Return to Basis Main Menu (26th Legislature)

26-LS0296\R
Bullard
2/10/10

CS FOR HOUSE BILL NO. 53( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DOOGAN

A BILL

FOR AN ACT ENTITLED

"An Act relating to eligibility to serve on state boards or commissions."

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

*** Section 1.** AS 39.05.100 is amended by adding new subsections to read:

(c) A person is not eligible to serve on a board or commission of the state government if the person sought nomination or became a candidate for elective state or federal office during the preceding year, unless holding a particular elective state or federal office is required by law for appointment.

(d) A member of a board or commission of the state government who seeks nomination or becomes a candidate for elective state or federal office terminates membership on the board or commission.

(e) In this section, a person seeks nomination or becomes a candidate if the person

(1) under regulations adopted by the Alaska Public Offices Commission to implement AS 15.13.100, indicates an intention to become a candidate for elective state executive or legislative office;

(2) has filed a nominating petition under AS 15.25.140 - 15.25.200, AS 15.30.026, AS 15.40.180, 15.40.190, 15.40.270 - 15.40.290, or 15.40.430 - 15.40.450 to become a candidate for elective state or federal executive or legislative office;

(3) has filed a declaration of candidacy for elective state or federal office under AS 15.25.030; or

(4) campaigns as a write-in candidate for elective state or federal executive or legislative office.

* **Sec. 2.** AS 39.25.160(e)(8) is repealed.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 39.05.100(c) - (e), added by sec. 1 of this Act, and the amendment of AS 39.25.160(e) made by sec. 2 of this Act, apply only to

(1) members of state boards, commissions, or authorities seeking nomination or becoming a candidate for elective state or federal office on or after the effective date of this Act; and

(2) the eligibility for appointment to state boards, commissions, or authorities of persons seeking nomination or becoming a candidate for elective state or federal office on or after the effective date of this Act.

Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Summary of Changes in CS for HB 53

The following changes have occurred between the original version of HB 53 and CS HB 53.

Eligibility requirements relate to service rather than appointment.

HB 53 Version\A Section 1 (c) stipulates that a person is not eligible for appointment to a state board, commission, or authority if that person sought nomination or became a candidate of elective state or federal office during the preceding year.

It was determined upon review that this would allow people currently serving on boards, commissions, and authorities to continue their service even if they sought nomination or became a candidate for elective state or federal office, a conflict the bill was supposed to eliminate. Version \R fixes this loophole.

Under the committee substitute, Section 1 (c) determines that neither a sitting legislator nor a legislative challenger could be appointed or serve on a state board if the person sought nomination or became a candidate for elective state or federal office during the preceding year, unless holding a particular elective state or federal office is required by law for appointment.

The committee substitute also adds a subsection (d) (page 1, line 8), which notes that seeking nomination or becoming a candidate for elective state or federal office terminates one's membership on the board or commission.

LEGAL SERVICES

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

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

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

MEMORANDUM February 10, 2010

SUBJECT: CSHB 53( ) and questions relating to legislators serving on state boards, commissions, and authorities
(Work Order No. 26-LS0296\R)

TO: Representative Mike Doogan
Attn: Priya Keane

FROM: Alpheus Bullard
Legislative Counsel

You asked two questions relating to House Bill 53 (26-LS0296\A). In discussing these questions, Priya informed me that there are sitting legislators who currently serve as public members on state boards, commissions, and authorities (boards). This I did not know. After reviewing the bill and in light of this information, I've enclosed a blank committee substitute that addresses your questions. The questions, their answers, and a note about legislators serving as public members follow.

Constitutionality of legislators serving as public members of state boards.

The constitutionality of the practice that prompts your questions, legislators serving on state boards, is not assured. Article II, section 5 of the Alaska State constitution provides:

> No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

In Begich v. Jefferson, 441 P.2d 27 (Alaska 1968), the Alaska Supreme Court provided its view of the policy underlying art. II, sec. 5:

> Alaska's constitutional prohibition against members of our three separate branches of state government holding any other positions of profit under the State of Alaska reflects the intent to guard against conflicts of interest,

> self-aggrandizement, concentration of power, and dilution of separation of powers in regard to the exercise by these governmental officials of the executive, judicial, and legislative functions of our state government. The rationale underlying such prohibitions can be attributed to the desire to encourage and preserve independence and integrity of action and decision on the part of individual members of our state government.

Id. at 35. This statement by the court is illuminating in that it finds that one of the purposes of this section is the maintenance of separation of powers among the executive, legislative, and judicial branches of government.

The only other published guidance as to the interpretation of the first sentence of art. II, sec. 5 of the Alaska Constitution is found in opinions of the Department of Law.

The Department of Law has maintained that there are two distinct types of positions that legislators are prohibited from holding: (1) any office of the state or of the United States, and (2) any position of profit. Thus the department has concluded that "of profit" modifies "position" but does not modify "office". 1988 Inf. Alaska Att'y Gen. Op., file no. 663-88-0371 (February 29); see also, 1977 Inf. Alaska Att'y Gen. Op., file no. J-66-674-77 (June 21). The department's view then is that a legislator may not serve on a state board or commission even if that service is without compensation because the membership on the board would constitute an office of the state. This is certainly one conclusion that can be drawn from the language of art. II, sec. 5. Another plausible construction of that language is that "of profit" applies to "office" as well as "position". In such a case if the office was without compensation, there may be no violation of art. II, sec. 5.

In regard to the separation of powers issue, the Department of Law has fairly consistently taken the position that legislators may not serve on executive boards whether salaried or not. See, 1988 Inf. Alaska Att'y Gen. Op., file no. 663-88-0371 (February 29); 1980 Inf. Alaska Att'y Gen. Op., file no. J-66-212-81 (September 24). In regard to the state bond committee, the department found that

> The Alaska Constitution provides for the separation of powers between the legislative, judicial, and executive branches of the government. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976); Leege v. Martin, 379 P.2d 447 (Alaska 1963). The doctrine of the separation of powers precludes one branch from exercising the power of another. Nor may one branch intrude into the functions of another. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The State Bond Committee is within the executive branch and performs executive functions. AS 37.15.101 - 160; cf., Walker v. Alaska State Mtg. Ass'n., 416 P.2d 245 (Alaska 1966). Accordingly, membership on the committee by members of the legislature would violate the separation of powers doctrine.

> Additionally, the Alaska Constitution prohibits members of the legislature from holding any other office. Alaska Const., art. II, § 5; Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). While some jurisdictions allow inter-branch committees for financial matters, the prohibition contained in art. II, § 5 are literally and strictly enforced in Alaska. Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976); Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). Membership on the state bond committee would constitute dual-office holding for legislators and violate the prohibition.

1977 Inf. Alaska Att'y Gen. Op., file no. J-66-265-78 (Nov. 16) (non-Alaska citations omitted). The department reached a similar conclusion with regard to legislator members of the Alaska Statehood Commission, 1980 Inf. Alaska Att'y Gen. Op., file no. J-66-212-81 (September 24), and the University of Alaska Board of Regents (December 27, 1976).

Does the bill require a legislator sitting as a public member on a state board, commission, or authority (board) to step down?

The first draft of the bill prohibited any person who sought nomination or became a candidate for elective state or federal office during the proceeding year from being appointed (unless serving ex officio) to a state board. The bill did not require either an incumbent legislator or a legislative challenger to resign from a state board. The bill's applicability section provided that this membership restriction applied only to persons appointed to a board on or after the effective date of the bill. Consequently, no currently sitting legislator would have been required to step down as a public member of a state board, even if they had run for office in the year preceding the bill's enactment and would have only been ineligible for appointment or reappointment once the legislator again ran for state executive or legislative office.

The enclosed blank committee substitute prohibits any person who sought nomination or became a candidate for elective state or federal office during the proceeding year from service on a state board, and provides that any person who indicates an intention to become a candidate for elective state or federal executive or legislative office terminates the person's board membership.

If HB 53 (26-LS0296\A), if enacted, would not require a sitting legislator to cease serving as a public member on a state board, is there a constitutional equal protection issue, because the legislator could remain on the board, but a challenger (for the legislator's seat) would be prohibited under the bill?

Under the first draft of the bill, a sitting legislator would, like the legislator's challenger, be ineligible for appointment or reappointment to the board if the sitting legislator was again seeking nomination or had again become a candidate for elective state or federal office during the proceeding year. Both the legislative incumbent and the challenger would have been similarly situated in their eligibility for appointment to the board. Similarly, both an incumbent legislator and a legislative challenger could continue to

serve on the state board while running for office. So the question became whether a legislator's ability to continue to serve, while a legislative challenger could not be appointed, created an equal protection issue. Without a specific set of facts it's difficult to know whether this would have created an equal protection issue. Facially, both a legislator and a legislative challenger were similarly situated vis a vis appointment and ability to continue to serve, so it seems unlikely that the bill would have been interpreted to create an equal protection violation.

Under the blank committee substitute, neither a sitting legislator nor a legislative challenger could be appointed or serve on a state board if the person sought nomination or became a candidate for elective state or federal office during the preceding year, unless holding a particular elective state or federal office is required by law for appointment.

If you have further questions, please do not hesitate to contact me.

TLAB:ljw
10-079.ljw

Enclosure

Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

SPONSOR STATEMENT

HB 53
Conflict of Interest and State Boards, Commissions & Authorities

It is currently legal for individuals serving without pay on state boards, commissions, and authorities to raise money for state or federal elective office. House Bill 53 would require they resign their position before they declare their candidacy and begin raising money.

Ethics laws serve many purposes. Among these is the elimination of conflicts of interest, both real and perceived. Allowing members of boards, commissions, and authorities to run for political office and raise money from the very people who have a stake in matters before these bodies leaves open a window of opportunity for abuse – a window that should be permanently closed.

Current law only requires members of state boards, commissions, and authorities who receive salaries to resign their post prior to declaring candidacy for state or federal office. That only covers 22 of the 120 boards, commissions, and authorities in the state, however. HB 53 would expand the law to cover all 120 state boards, commissions and authorities, requiring both paid and unpaid members to resign their position before declaring candidacy. The bill does provide an exception for people appointed to state boards, commissions, or authorities due to their elective office.

HB 53 also stipulates that people who ran for elective office would not be eligible for appointment to a state board, commission, or authority for one calendar year following a bid for elective office. This creates a "cooling off" period after a person's bid for office, removing them from the immediate influence – real or perceived – of contributors who may have business before their board, commission or authority in the future.

Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

SECTIONAL ANALYSIS

HB 53
An Act relating eligibility for membership on state boards, commissions & authorities

Section 1: Amends AS 39.05.100 to stipulate that a person is not eligible for appointment to a state board, commission, or authority if said person sought nomination or became a candidate for elective state or federal office during the preceding year. Provides exception for positions where holding a particular elective state or federal office is required by law for appointment.

Section 2: Amends AS 39.25.160(e) to stipulate that members of boards, commissions or authorities who do not receive salaries are no longer exempt from the requirement to resign once they seek nomination or become a candidate for state or national elective political office.

Section 3: States that the prohibition against appointment to a board, commission or authority for one year following a bid for office as outlined in Section 1 applies only to candidates who run for office after the effective date of the Act.

Staff Contact: Priya Keane
(907) 465-2734

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 53
() Publish Date:

Identifier (file name): HB053-GOV-EO-01-22-10
Dept. Affected: OOG
Title "An Act relating to eligibility for membership on state boards, commissions and authorities"
RDU Executive Operations
Component Executive Office
Sponsor Representative Doogan
Requester (H) State Affairs
Component Number 6

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

HB 53 relating to membership qualifications for appointments to boards, commissions and authorities has no fiscal impact on the Office of the Governor.

Prepared by: Linda Perez, Director
Division Administrative Services
Phone 465-3876
Date/Time 1/22/2010 12:00 noon
Approved by: Linda Perez, Administrative Director
Office of the Governor
Date 1/22/2010

(Revised 11/6/2009 OMB)

LEGISLATIVE RESEARCH REPORT

JANUARY 3, 2008

REPORT NUMBER 08.084

COMPENSATION FOR MEMBERS OF BOARDS, COMMISSIONS AND RELATED ORGANIZATIONS IN ALASKA

PREPARED FOR REPRESENTATIVE MIKE DOOGAN

BY THERESA SVANCARA, LEGISLATIVE ANALYST

You asked about boards, commissions, and related organizations, such as authorities, councils, committees, and conferences, in Alaska. Specifically, you wanted to know the number of such organizations that provide compensation other than per diem and travel reimbursement to their members.

Of the 120 currently active boards, commissions, and related organizations listed on the Office of the Governor's website, 22 organizations provide compensation besides per diem and travel reimbursement to their members.[1] Typically, the additional compensation includes salaries or honoraria paid to members for the days they attend meetings.[2] Table 1 shows the name of each organization and whether members receive additional compensation.

---

[1] Member compensation for these boards, commissions, and related organizations is available from the Office of the Governor, "List of Boards and Commissions: Fact Sheets, Rosters, and Websites," online at *http://gov.state.ak.us/boards/list.php*. According to Jacob Good, executive secretary for the Governor's Boards and Commissions Office, (907) 465-3500, this is a complete list of active boards and commissions to which the governor makes appointments. For organizations that do not address the details of member compensation on the website, we obtained this information directly from the organizations. Personal communication with James Marcotte, executive director, Board of Fisheries, (907) 465-6095; Dan Seamount, governor's official representative, Interstate Oil and Gas Compact Commission, (907) 793-1221; David Witherell, deputy director North Pacific Fishery Management Council, (907) 271-2809; Gordy Williams, special assistant, Pacific Salmon Commission - Northern Panel and Pacific Salmon Commission - Transboundary Panel, (907) 465-6143; Nancy Bird president, Prince William Sound Science Center, Prince William Sound Oil Spill Recovery Institute Advisory Board, (907) 424-5800; Kim Skipper, aide for Representative Fairclough Task Force to Review the Council on Domestic Violence and Sexual Assault (907) 694-8944; and Ann Wilde, commission section manager, Regulatory Commission of Alaska, (907) 263-2163. A contact for the Alaska Statehood Celebration Commission had not returned phone calls to provide member compensation information by the time this report was completed

[2] Salaries are based on State of Alaska and federal pay scales honoraria range from $50-$400 per day

Table 2 shows the total number of organizations that provide additional compensation reported by the type of organization. As you will see, 12 of the 58 boards provide compensation beyond per diem and travel reimbursement to their members. Six of the 29 commissions and two of the four authorities provide additional compensation. Also, one council and one committee compensate their members beyond per diem and travel reimbursement.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

Table 1: Compensation for Members of Alaska Boards, Commissions, and Related Organizations, January 2008

Organization	Compensation for Members Other than Per Diem and Travel
Accountancy, Alaska State Board of Public	
Aerospace Development Corporation Board of Directors, Alaska	industry/business/public members $100/day
Aging, Alaska Commission on	
Agriculture and Conservation Board	
Alaska Health Care Strategies Planning Council	
Alaska Retirement Management Board	$400/day
Alaska Statehood Celebration Commission	(a)
Alaska-Alberta Bilateral Council	
Alcoholic Beverage Control Board	
Alcoholism and Drug Abuse, Advisory Board on	
Architects, Engineers, & Land Surveyors, State Board of Registration for	
Arts, Alaska State Council on the	
Assessment Review Board, State	
Aviation Advisory Board	
Bald Eagle Preserve Advisory Council, Alaska Chilkat	
Bar, Board of Governors of the Alaska	
Barbers and Hairdressers, Board of	
Big Game Commercial Services Board	
Boating Safety Advisory Board	
Broadcasting Commission, Alaska Public	
Children's Trust Board, Alaska	
Chiropractic Examiners, Board of	
Clemency Advisory Committee	
Commemorative Coin Commission, Alaska	
Commercial Fisheries Entry Commission, Alaska	exempt state salary range for Juneau, 26C
Commercial Fishing and Agriculture Bank Board of Directors	not to exceed $250/day
Community Service Commission, Alaska	
Denali Access System Advisory Committee	
Dental Examiners, Board of	
Disabilities and Special Education, Governor's Council on	
Domestic Violence and Sexual Assault, Council on	
Domestic Violence and Sexual Assault, Task Force to Review the Council on	
Education and Early Development, Board of	
Education Commission of the States	
Emergency Medical Services, Alaska Council on	
Emergency Response Commission, Alaska State	

Table 1: Compensation for Members of Alaska Boards, Commissions, and Related Organizations, January 2008
(continued)

Organization	Compensation for Members Other than Per Diem and Travel
Employment and Rehabilitation of People With Disabilities, Governor's Committee on	
Exxon Valdez Oil Spill Settlement Trustees	
Faith-Based and Community Initiatives Advisory Council	
Fire Standards Council	
Fisheries, Board of	state salary range 20A for board meetings ($210/day); 1/2 Range 20A for other meetings ($105/day)
Fishermen's Fund Advisory and Appeals Council	
Forestry, Board of	
Game, Board of	state salary range 20A for regulatory meetings ($210/day); 1/2 Range 20A for other meetings ($105/day)
Historical Commission, Alaska	
Historical Records Advisory Board, State	
Homeless Council	
Housing Finance Corporation, Alaska	$100/day
Human Rights, State Commission for	
Humanities Forum, Alaska	
Independent Living Council, Statewide	
Industrial Development and Export Authority, Alaska	$100/day
Interstate Oil and Gas Compact Commission	
Judicial Conduct, Commission on	
Judicial Council, Alaska	
Juvenile Justice Advisory Committee, Alaska	
Knik Arm Bridge And Toll Authority, Alaska	$300/day
Labor Relations Agency	
Libraries, Advisory Council on	
Local Boundary Commission	
Marine Pilots, Board of	
Marine Transportation Advisory, Board of	
Marital and Family Therapy, Board of	
Medical Board, State	
Mental Health Board, Alaska	
Mental Health Trust Authority Board of Trustees, Alaska	$200/day
Midwives, Board of Certified Direct-Entry	
Minerals Commission, Alaska	
Municipal Bond Bank Authority, Alaska	
Natural Gas Development Authority, Alaska	
Natural Resources Conservation & Development Board	

Table 1: Compensation for Members of Alaska Boards, Commissions, and Related Organizations, January 2008
(continued)

Organization	Compensation for Members Other than Per Diem and Travel
North Pacific Anadromous Fish Commission - Advisory Panel to the U.S. Section	
North Pacific and Bering Sea Fisheries Advisory Body	
North Pacific Fishery Management Council	non-governmental members federal salary, GS 15-10 ($465/day)
North Pacific Research Board	
Nursing, Board of	
Occupational Safety and Health Review Board	$50/day
Oil and Gas Conservation Commission, Alaska	salary of $118,000 annually
Optometry, Board of Examiners in	
Pacific Marine Fisheries Commission	
Pacific Salmon Commission, Commissioners Panel	
Pacific Salmon Commission, Northern Panel	federal salary, $553/day
Pacific Salmon Commission, Transboundary Panel	federal salary, $553/day
Parole, State Board of	$250/day
Permanent Fund Corporation Board of Trustees, Alaska	$400/day
Personnel Board	
Pharmacy, Board of	
Physical Therapy and Occupational Therapy Board, State	
Pioneers' Homes Advisory Board, Alaska	
Police Standards Council, Alaska	
Postsecondary Education, Alaska Commission on	
Prince William Sound Oil Spill Recovery Institute Advisory Board	
Professional Counselors	
Professional Teaching Practices Commission	
Psychologist and Psychological Associate Examiners, Board of	
Public Offices Commission, Alaska	$50/day
Railroad Corporation, Board of Directors of the Alaska	$400/day
Real Estate Appraisers, Board of Certified	
Real Estate Commission	
Regents, University of Alaska Board of	
Regulatory Commission of Alaska	members receive monthly salaries at exempt state salary range 26C ($7,142/month); chair at range 27C ($7,402/month)
Royalty Oil and Gas Development Advisory Board, Alaska	
Safety Advisory Council, Alaska	
Seafood Marketing Institute, Alaska	

Table 1: Compensation for Members of Alaska Boards, Commissions, and Related Organizations, January 2008
(continued)

Organization	Compensation for Members Other than Per Diem and Travel
Seismic Hazards Safety Commission, Alaska	
Social Work Examiners, Board of	
Student Loan Corporation, Alaska	
Subsistence Resource Commissions, National Park and Park Monument	
Suicide Prevention Council	
Uniform State Laws, National Conference of Commissioners on	
Veterans Advisory Council, Alaska	
Veterinary Examiners, Board of	
Violent Crimes Compensation Board	
Water and Wastewater Works Advisory Board	
Western Interstate Commission for Higher Education	
Wood-Tikchik State Park Management Council	
Workers' Compensation Appeals Commission	
Workers' Compensation Board, Alaska	members, except chair, $50/day
Workforce Investment Board (formerly AHRIC), Alaska	
Yukon River Panel	members and alternates, federal salary, GS-15 ($360/day)

Notes: The compensation amounts listed are provided to members for actual meeting days, unless otherwise specified.
(a) A contact for the Alaska Statehood Celebration Commission had not returned phone calls to provide member compensation information, by the time this report was completed.

Sources: Details on the compensation of members of Alaska state boards, commissions, and related organizations are available from the Office of the Governor, "List of Boards and Commissions: Fact Sheets, Rosters, and Websites," online at http://gov.state.ak.us/boards/list.php. For organizations that do not address the details of member compensation on the website, we obtained this information directly from the organizations. Personal communication with James Marcotte, executive director, Board of Fisheries, (907) 465-6095; Dan Seamount, governor's official representative, Interstate Oil and Gas Compact Commission, (907) 793-1221; David Witherell, deputy director, North Pacific Fishery Management Council, (907) 271-2809; Gordy Williams, special assistant, Pacific Salmon Commission - Northern Panel and Pacific Salmon Commission - Transboundary Panel, (907) 465-6143; Nancy Bird, president, Prince William Sound Science Center, for the Prince William Sound Oil Spill Recovery Institute Advisory Board, (907) 424-5800; Kim Skipper, aide for Representative Fairclough, Task Force to Review the Council on Domestic Violence and Sexual Assault, (907) 694-8944; and Ann Wilde, commission section manager, Regulatory Commission of Alaska, (907) 263-2163.

Table 2: Number of Alaska Boards, Commissions and Related Organizations Providing Additional Member Compensation, January 2008

Type of Organization	Total Number	Number that Provide Compensation Besides Per Diem and Travel
Board	58	12
Commission	29	6
Council	22	1
Committee	5	1
Authority	4	2
Conference	1	0
Agency	1	0
Total	**120**	**22**

Note: A contact for the Alaska Statehood Celebration Commission had not returned phone calls to provide member compensation information by the time this report was completed.

Sources: Details on the compensation of members of Alaska state boards, commissions, and related organizations are available from the Office of the Governor, "List of Boards and Commissions: Fact Sheets, Rosters, and Websites," online at http://gov.state.ak.us/boards/list.php. For organizations that do not address the details of member compensation on the website, we obtained this information directly from the organizations. Personal communication with James Marcotte, executive director, Board of Fisheries, (907) 465-6095; Dan Seamount, governor's official representative, Interstate Oil and Gas Compact Commission, (907) 793-1221; David Witherell, deputy director, North Pacific Fishery Management Council, (907) 271-2809; Gordy Williams, special assistant, Pacific Salmon Commission - Northern Panel and Pacific Salmon Commission - Transboundary Panel, (907) 465-6143; Nancy Bird, president, Prince William Sound Science Center, for the Prince William Sound Oil Spill Recovery Institute Advisory Board, (907) 424-5800; Kim Skipper, aide for Representative Fairclough, Task Force to Review the Council on Domestic Violence and Sexual Assault, (907) 694-8944; and Ann Wilde, commission section manager, Regulatory Commission of Alaska, (907) 263-2163.

TOTAL NUMBER OF MEMBERS ON BOARDS, COMMISSIONS, AND AUTHORITIES

	Organization	Compensation for Members Other than Per Diem and Travel	Number of Members
1	Accountancy, Alaska State Board of Public	industry/business/public members $100/day	7
2	Aerospace Development Corporation Board of Directors, AK		11
3	Aging, Alaska Commission on		11
4	Agriculture and Conservation Board		7
5	Alaska Health Care Strategies Planning Council	$400/day	14
6	Alaska Retirement Management Board		9
7	Alaska Statehood Celebration Commission		9
8	Alaska-Alberta Bilateral Council		16
9	Alcoholic Beverage Control Board		5
10	Alcoholism and Drug Abuse, Advisory Board on		15
11	Architects, Engineers, & Land Surveyors, State Board of Registration for		11
12	Arts, Alaska State Council on the		11
13	Assessment Review Board, State		5
14	Aviation Advisory Board		11
15	Bald Eagle Preserve Advisory Council, Alaska Chilkat		12
16	Bar, Board of Governors of the Alaska		12
17	Barbers and Hairdressers, Board of		6
18	Big Game Commercial Services Board		9
19	Boating Safety Advisory Board		7
20	Broadcasting Commission, Alaska Public		9
21	Children's Trust Board, Alaska		7
22	Chiropractic Examiners, Board of		5
23	Clemency Advisory Committee		3
24	Commemorative Coin Commission, Alaska	exempt state salary range for Juneau, 26C	11
25	Commercial Fisheries Entry Commission, Alaska	not to exceed $250/day	3
26	Commercial Fishing and Agriculture Bank Board of Directors		7
27	Community Service Commission, Alaska		19
28	Denali Access System Advisory Committee		9
29	Dental Examiners, Board of		9
30	Disabilities and Special Education, Governor's Council on		28
31	Domestic Violence and Sexual Assault, Council on		7
32	Domestic Violence and Sexual Assault, Task Force to Review the Council		13
33	Education and Early Development, Board of		9
34	Education Commission of the States		7
35	Emergency Medical Services, Alaska Council on		17

36	Emergency Response Commission, Alaska State		16
37	Employment and Rehabilitation of People With Disabilities, Governor's Committee on		14
38	Exxon Valdez Oil Spill Settlement Trustees		6
39	Faith-Based and Community Initiatives Advisory Council		23
40	Fire Standards Council	state salary range 20A for board meetings ($210/day); 1/2 Range 20A for other meetings ($105/day)	11
41	Fisheries, Board of		8
42	Fishermen's Fund Advisory and Appeals Council		6
43	Forestry, Board of	state salary range 20A for board meetings ($210/day); 1/2 Range 20A for other meetings ($105/day)	8
44	Game, Board of		8
45	Historical Commission, Alaska		9
46	Historical Records Advisory Board, State		9
47	Homeless Council	$100/day	12
48	Housing Finance Corporation, AK		7
49	Human Rights, State Commission for		7
50	Humanities Forum, Alaska		20
51	Independent Living Council, Statewide	$100/day	13
52	Industrial Development and Export Authority, AK		5
53	Interstate Oil and Gas Compact Commission		3
54	Judicial Conduct, Commission on		9
55	Judicial Council, Alaska		7
56	Juvenile Justice Advisory Committee, Alaska	$300/day	23
57	Knik Arm Bridge and Toll Authority, Alaska		7
58	Labor Relations Agency		6
59	Libraries, Advisory Council on		12
60	Local Boundary Commission		5
61	Marine Pilots, Board of		7
62	Marine Transportation Advisory, Board of		9
63	Marital and Family Therapy, Board of		5
64	Medical Board, State		8
65	Mental Health Board, Alaska	$200/day	13
66	Mental Health Trust Authority Board of Trustees, AK		7
67	Midwives, Board of Certified Direct-Entry		5
68	Minerals Commission, Alaska		11
69	Municipal Bond Bank Authority, Alaska		5
70	Natural Gas Development Authority, Alaska		7
71	Natural Resources Conservation & Development Board		6

72	North Pacific Anadromous Fish Commission - Advisory Panel to the U.S. Section		7
73	North Pacific and Bering Sea Fisheries Advisory Body	non-governmental members federal salary, GS 15-10 ($465/day)	12
74	North Pacific Fishery Management Council		15
75	North Pacific Research Board		20
76	Nursing, Board of	$50/day	7
77	Occupational Safety and Health Review Board	salary of $118,000 annually	3
78	Oil and Gas Conservation Commission, AK		3
79	Optometry, Board of Examiners in		5
80	Pacific Marine Fisheries Commission		3
81	Pacific Salmon commission, Commissioners Panel	federal salary, $553/day	2
82	Pacific Salmon Commission, Northern Panel	federal salary, $553/day	10
83	Pacific Salmon Commission, Transboundary Panel	$250/day	7
84	Parole, State Board of	$400/day	5
85	Permanent Fund Corporation board of Trustees, AK		6
86	Personnel Board		3
87	Pharmacy, Board of		7
88	Physical Therapy and Occupational Therapy Board, State		7
89	Pioneers' Homes Advisory Board, Alaska		8
90	Police Standards Council, Alaska		11
91	Postsecondary Education, Alaska Commission on		14
92	Prince William Sound Oil Spill Recovery Institute Advisory Board		16
93	Professional Counselors		5
94	Professional Teaching Practices Commission		9
95	Psychologist and Psychological Associate Examiners, Board of	$50/day	5
96	Public Offices Commission, AK	$400/day	5
97	Railroad Corporation, Board of Directors of the AK		7
98	Real Estate Appraisers, Board of Certified		5
99	Real Estate Commission		7
100	Regents, University of Alaska board of	members receive monthly salaries at exempt state salary range 26C ($7,142/month); chair at range 27C ($7,402/month)	11
101	Regulatory Commission of AK		5
102	Royalty Oil and Gas Development Advisory Board, Alaska		8
103	Safety Advisory Council, Alaska		14
104	Seafood Marketing Institute, Alaska		7
105	Seismic Hazards Safety Commission, Alaska		11
106	Social Work Examiners, Board of		5

107	Student Loan Corporation, Alaska		5
108	Subsistence Resource Commissions, National Park and Park Monument		63
109	Suicide Prevention Council		15
110	Uniform State Laws, National conference of Commissioners on		6
111	Veterans Advisory Council, Alaska		13
112	Veterinary Examiners, Board of		5
113	Violent Crimes Compensation Board		3
114	Water and Wastewater Works Advisory Board		8
115	Western Interstate Commission for Higher Education		3
116	Wood-Tickchik State Park Management Council		7
117	Workers' Compensation Appeals Commission	members, except chair, $50/day	5
118	Workers Compensation Board, AK		19
119	Workforce Investment Board (formerly AHRIC), Alaska	members and alternates, federal salary, GS-15 ($360/day)	26
120	Yukon River Panel		19
		Total Number of Members on Boards, Commissions, and Authorities:	**1160**
		Total Number of Members on Boards, Commissions, and Authorities affected by current law:	**176**
		Total Number of Members on Boards, Commissions, and Authorities affected by HB 53:	**984**

NUMBER OF SALARIED MEMBERS ON BOARDS, COMMISSIONS, AND AUTHORITIES

	Organization	Compensation for Members Other than Per Diem and Travel	Number of Members
1	Aerospace Development Corporation Board of Directors, AK	industry/business/public members $100/day	11
2	Alaska Retirement Management Board	$400/day	9
3	Commercial Fisheries Entry Commission, AK	exempt state salary range for Juneau, 26C	3
4	Commercial Fishing and Agriculture Bank Board of Directors	not to exceed $250/day	7
5	Fisheries, Board of	state salary range 20A for board meetings ($210/day); 1/2 Range 20A for other meetings ($105/day)	8
6	Game, Board of	state salary range 20A for board meetings ($210/day); 1/2 Range 20A for other meetings ($105/day)	8
7	Housing Finance Corporation, AK	$100/day	7
8	Industrial Development and Export Authority, AK	$100/day	5
9	Knik Arm Bridge and Toll Authority, Alaska	$300/day	7
10	Mental Health Trust Authority Board of Trustees, AK	$200/day	7
11	North Pacific Fishery Management Council	non-governmental members federal salary, GS 15-10 ($465/day)	15
12	Occupational Safety and Health Review Board	$50/day	3
13	Oil and Gas Conservation Commission, AK	salary of $118,000 annually	3
14	Pacific Salmon Commission, Northern Panel	federal salary, $553/day	10
15	Pacific Salmon Commission, Transboundary Panel	federal salary, $553/day	7
16	Parole, State Board of	$250/day	5
17	Permanent Fund Corporation board of Trustees, AK	$400/day	6
18	Public Offices Commission, AK	$50/day	5
19	Railroad Corporation, Board of Directors of the AK	$400/day	7
20	Regulatory Commission of AK	members receive monthly salaries at exempt state salary range 26C ($7,142/month); chair at range 27C ($7,402/month)	5
21	Workers Compensation Board, AK	members, except chair, $50/day	19
22	Yukon River Panel	members and alternates, federal salary, GS-15 ($360/day)	19
		Total Number of Members Receiving Compensation Other than Per Diem and Travel:	176

Section 39.05.100 QUALIFICATIONS FOR APPOINTMENT.

(a) A person appointed to a board or commission of the state government shall be and have been before the last general election, (1) a registered voter in the state, if the appointment is made at large or (2) a registered voter from the judicial district, if the appointment is made from a specific judicial district. The student member of the Board of Regents of the University of Alaska appointed under AS 14.40.150(b), the student member of the Alaska Commission on Postsecondary Education appointed under AS 14.42.015 (e), and a member of the Alaska Human Relations Commission appointed under AS 44.19.600 , are exempt from the requirement of this subsection if the member was not old enough to be a registered voter in the last general election.

(b) A member of a board or commission of the state government who ceases to reside in the state during the member's term terminates membership on the board or commission. For the purposes of this section, the acceptance of employment outside the state for a six-month period or longer, or physical absence from the state for one year or longer, or registration as a voter in a municipal, county, district, state, or national election in a voting precinct outside the state is considered as discontinuing residence in the state.

ALASKA STATUTES

Title 39. PUBLIC OFFICERS AND EMPLOYEES
Chapter 39.25. STATE PERSONNEL ACT
Article 04. PROHIBITIONS
Sec. 39.25.160. Prohibitions generally.

(a) A classified employee may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified, partially exempt, or exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service. The employee's position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office. This subsection applies to employees in the exempt service, except those listed below, notwithstanding AS 39.25.110 . This subsection does not apply to

(1) a justice, judges, magistrates, and employees of the judicial branch, including employees of the judicial council;

(2) the governor or the lieutenant governor;

(3) a member of the legislature;

(4) an employee seeking election as a delegate to a constitutional convention;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education and Early Development as correspondence teachers, teachers in skill centers operated by the Department of Education and Early Development, or teachers at Mt. Edgecumbe School;

~~(8) members of boards and commissions and authorities if the member is not entitled to compensation other than per diem and travel for service on the board, commission, or authority;~~

(9) emergency fire-fighting personnel employed by the Department of Natural Resources for a fire emergency or for fire prevention and related activities conducted under AS 41.15.030 ;

(10) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;

(11) students employed by the state institutions in which the students are enrolled;

(12) persons engaged in employment or pre-employment training programs operated by the Department of Military and Veterans' Affairs;

(13) a participant in the Alaska temporary assistance program under AS 47.27 who holds a temporary position with the state in order to obtain job training or experience.

LEGISLATIVE RESEARCH REPORT

JANUARY 27, 2010

REPORT NUMBER 10.130

COMPENSATION FOR MEMBERS OF BOARDS, COMMISSIONS AND RELATED ORGANIZATIONS IN ALASKA

PREPARED FOR REPRESENTATIVE MIKE DOOGAN

BY ROGER WITHINGTON, LEGISLATIVE ANALYST

You asked about boards, commissions, and related organizations, such as authorities, councils, committees, and conferences, in Alaska. Specifically, you wanted to know the number of such organizations that provide compensation other than per diem and travel reimbursement to their members.

Of the 123 currently active boards, commissions, and related organizations listed on the Office of the Governor's website, 22 organizations appear to provide compensation besides per diem and travel reimbursement to their members.[1] Typically, the additional compensation includes salaries or honoraria paid to members for the days they attend meetings.[2] Table 1 provides the name of each organization where members receive additional compensation.

Table 2 provides the total number of organizations that provide additional compensation reported by the type of organization. As you will see, 13 of the 58 boards provide compensation beyond per diem and travel reimbursement to their members, while five of the 31 commissions provide additional compensation.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

---

[1] Member compensation for these boards, commissions, and related organizations is available from the Office of the Governor, "List of Boards and Commissions: Fact Sheets," online at *http://gov.alaska.gov/parnell/services/boards-commissions/list-of-active-boards.html.*

[2] Salaries are based on State of Alaska and federal pay scales; honoraria range from $50-$400 per day.

907-465-3991
907-465-3908 (fax)

Alaska Legislature
Legislative Research Services
w3.legis.state.ak.us/laa/research/research.php

State Capitol
Juneau, AK 99801

Table 1: Compensation for Members of Alaska Boards, Commissions, and Related Organizations, January 2010

Organization	Compensation for Members Other than Per Diem and Travel
Aerospace Development Corporation Board of Directors, Alaska	Industry, business, public members, $100 per day
Alaska Retirement Management Board	Public members - $400/day
Commercial Fisheries Entry Commission, Alaska	By statute, salary is exempt, Range 26C (Juneau)
Commercial Fishing and Agriculture Bank Board of Directors	Not to exceed $250 per day as determined by board, plus actual expenses
Fisheries, Board of	Range 20A for board meetings; 1/2 Range 20A for other meetings
Game, Board of	Range 20A for regulatory meetings; 1/2 Range 20A for other meetings
Housing Finance Corporation, Alaska	Public members receive honorarium of $100 per day
Industrial Development and Export Authority, Alaska	Public members receive $100 per day
Knik Arm Bridge And Toll Authority, Alaska	Honorarium of $300 per day
Mental Health Trust Authority Board of Trustees, Alaska	Honorarium of $200 per day
North Pacific Fishery Management Council	Non-governmental members receive additional compensation based on the federal salary GS 15-7 (currently $400 per day) [(a)]
Occupational Safety and Health Review Board	Honorarium of $50 per day
Oil and Gas Conservation Commission, Alaska	Annual salary is approximately $118,000
Pacific Salmon Commission, Northern Panel	Non governmental Panel members receive salary for meeting days based on the federal salary schedule GS-15 (currently $480 per day) [(b)]
Parole, State Board of	Honorarium of $250 per day
Permanent Fund Corporation Board of Trustees, Alaska	Public members receive honorarium of $400 per day
Prince William Sound Oil Spill Recovery Institute Advisory Board	Federal provisions for compensation
Public Offices Commission, Alaska	Honorarium of $50 per day
Railroad Corporation, Board of Directors of the Alaska	Honorarium of $400 per day
Regulatory Commission of Alaska	Salaries at Range 27, exempt service
Workers' Compensation Board, Alaska	Members, except chair, receive honorarium of $50 per day
Yukon River Panel	Members and alternates compensated federal daily rate of GS-15, currently $400 per day

Notes: The compensation amounts listed are provided to members for actual meeting days, unless otherwise specified.
Sources: Details on the compensation of members of Alaska state boards, commissions, and related organizations are available from the Office of the Governor, "List of Boards and Commissions: Fact Sheets," online at *http://gov.alaska.gov/parnell/services/boards-commissions/list-of-active-boards.html*.
(a) Gail Bendixen, Finance Officer/Executive Assistant, North Pacific Fishery Management Council, 907-271-2809.
(b) Gordy Williams, Special Assistant, Pacific Salmon Commission, 907-465-6143.

Table 2: Number of Alaska Boards, Commissions and Related Organizations Providing Additional Member Compensation, January 2010

Type of Organization	Total Number	Number that Provide Compensation Besides Per Diem and Travel
Board	58	13
Commission	31	5
Council	21	1
Committee	6	1
Authority	4	2
Agency	2	0
Task Force	1	0
Total	**123**	**22**

Notes: The compensation amounts listed are provided to members for actual meeting days, unless otherwise specified.

Sources: Details on the compensation of members of Alaska state boards, commissions, and related organizations are available from the Office of the Governor, "List of Boards and Commissions: Fact Sheets," online at *http://gov.alaska.gov/parnell/services/boards-commissions/list-of-active-boards.html.*

Boards With Influence Over Constituent Groups

This list is a compilation of boards, commissions, and authorities that have influence over various constituencies. Of the 123 currently active boards, commisions, and authorities, we found 98 that fall into this category. Information came from the Boards and Commissions webpage managed by the Governor's Office. This list simply serves to illustrate how many of the boards, commissions, and authorities regulate or interact with Alaskans.

1	Alaska State Board of Public Accountancy
2	Board of Directors of the Alaska Aerospace Corporation
3	Board of Agriculture and Conservation
4	Alcoholic Beverage Control Board
5	State Board of Registration for Architects, Engineers, and Land Surveyors
6	Alaska State Council on the Arts
7	State Assessment Review Board
8	Board of Governors of the Alaska Bar Association
9	Board of Barbers and Hairdressers
10	Big Game Commercial Services Board
11	Alaska Public Broadcasting Commission (APBC)
12	Alaska Children's Trust Board
13	Board of Chiropractic Examiners
14	Executive Clemency Advisory Committee
15	Alaska Commercial Fishing and Agriculture Bank Board of Directors
16	Alaska State Community Service Commission
17	Board of Dental Examiners
18	Governor's Council on Disabilities and Special Education
19	Council on Domestic Violence and Sexual Assault
20	Board of Education and Early Development
21	Governor's Committee on Employment and Rehabilitation of People with Disabilities
22	Exxon Valdez Oil Spill Trustee Council
23	Alaska Fire Standards Council
24	Board of Fisheries
25	Fishermen's Fund Advisory and Appeals Council
26	Board of Forestry
27	Board of Game
28	Alaska Historical Commission
29	State Historical Records Advisory Board
30	Alaska Housing Finance Corporation Board of Directors
31	State Commission for Human Rights
32	laska Humanities Forum Board of Directors
33	Alaska Industrial Development and Export Authority (AIDEA)
34	Interstate Oil and Gas Compact Commission (National Commission)
35	Alaska Retirement Management Board
36	Commission on Judicial Conduct
37	Alaska Judicial Council
38	Knik Arm Bridge and Toll Authority
39	Alaska Labor Relations Agency

40	Local Boundary Commission
41	Board of Marine Pilots
42	Marine Transportation Advisory Board (MTAB)
43	Board of Marital and Family Therapy
44	State Medical Board
45	Alaska Mental Health Board
46	Alaska Mental Health Trust Authority Board of Trustees
47	Board of Certified Direct-Entry Midwives
48	Alaska Minerals Commission
49	Alaska Municipal Bond Bank Authority
50	Alaska Natural Resources Conservation and Development Board
51	Alaska Natural Gas Development Authority
52	North Pacific Anadromous Fish Commission - Advisory Panel to the U.S. Section
53	North Pacific Fishery Management Council (NPFMC)
54	North Pacific Research Board
55	Board of Nursing
56	Occupational Safety and Health Review Board
57	Alaska Oil and Gas Conservation Commission
58	Board of Examiners in Optometry
59	Pacific States Marine Fisheries Commission
60	Pacific Salmon Commission
61	Pacific Salmon Commission - Northern Panel
62	Pacific Salmon Commission - Transboundary Panel
63	State Board of Parole
64	Board of Trustees of the Alaska Permanent Fund Corporation
65	Personnel Board
66	Board of Pharmacy
67	State Physical Therapy and Occupational Therapy Board
68	Alaska Pioneers' Homes Advisory Board
69	Alaska Police Standards Council
70	Alaska Commission on Postsecondary Education
71	Prince William Sound Oil Spill Recovery Institute Advisory Board
72	Board of Professional Counselors
73	Professional Teaching Practices Commission
74	Board of Psychologists and Psychological Associate Examiners
75	Alaska Public Offices Commission (APOC)
76	Board of Directors of the Alaska Railroad Corporation
77	Board of Certified Real Estate Appraisers
78	Real Estate Commission
79	University of Alaska Board of Regents
80	Regulatory Commission of Alaska (RCA)
81	Renewable Energy Fund Advisory Committee
82	Alaska Royalty Oil and Gas Development Advisory Board
83	Alaska Seafood Marketing Institute Board of Directors (ASMI)
84	Board of Social Work Examiners
85	State Officers Compensation Commission
86	Alaska Student Loan Corporation Board of Directors

87	National Park and Park Monument Subsistence Resource Commissions
88	Governor's Coordinated Transportation Task Force
89	Alaska Veterans Advisory Council (AVAC)
90	Board of Veterinary Examiners
91	Violent Crimes Compensation Board
92	Water and Wastewater Works Advisory Board
93	Western Interstate Commission for Higher Education (WICHE)
94	Wood-Tikchik State Park Management Council
95	Workers' Compensation Appeals Commission
96	Alaska Workers' Compensation Board
97	Alaska Workforce Investment Board
98	Yukon River Panel Advisory Committee

HB

63

HOUSE COMMITTEE REPC r

(7)
Date Referred to Committee: January 20, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2-12-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 63**

"An Act relating to the Council on Domestic Violence and Sexual Assault."

HB 63 COUNCIL DOMESTIC VIOLENCE: MEMBERS, STAFF

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 63 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DOC/Admin				X
Public Safety		X		

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Gatto	Gatto	✓			
Paul Seaton	SEATON	✓			
Gruenberg	Gruenberg	–			
Peggy Wilson	WILSON	↘			
Pete Petersen	PETERSEN	X			
Chair: Bunn	LYNN	X			
Chair:					

CS FOR HOUSE BILL NO. 63(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FAIRCLOUGH, HOLMES, COGHILL AND WILSON, Herron

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Council on Domestic Violence and Sexual Assault."

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

*** Section 1.** AS 18.66.020 is amended to read:

Sec. 18.66.020. Membership, terms, vacancies, and disqualification. (a) The council consists of

(1) **four public members** [THREE PERSONS] appointed by the governor**, one of whom shall be from a rural area; the governor may consult** [AFTER CONSULTATION] with the Network on Domestic Violence and Sexual Assault, a nonprofit corporation**, in appointing the public members under this paragraph**; the **Alaska** Network on Domestic Violence and Sexual Assault shall submit a list to the governor of persons recommended for appointment;

(2) the commissioner of public safety or the designee of the commissioner of public safety;

(3) the commissioner of health and social services or the designee of the commissioner of health and social services;

(4) the commissioner of education and early development or the designee of the commissioner of education and early development; [AND]

(5) the attorney general or the designee of the attorney general**; and**

(6) the commissioner of corrections or the designee of the commissioner of corrections.

(b) The term of office of a **public** member appointed under (a)(1) of this section is **three** [TWO] years. A **public** member appointed under (a)(1) of this section serves at the pleasure of the governor and may not serve more than two consecutive terms. A vacancy on the council shall be filled for the unexpired term by appointment by the governor**. The governor may consult** [AFTER CONSULTATION] with the **Alaska** Network on Domestic Violence and Sexual Assault **on an appointment of a public member made under this subsection**.

(c) A person who receives compensation from or is an employee of **the State of Alaska or** a domestic violence, sexual assault, or crisis intervention or prevention program may not be appointed **as a public member of** [TO] the council.

*** Sec. 2.** AS 18.66.020 is amended by adding a new subsection to read:

(d) In this section, "rural area" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 1,500 or less that is connected by road or rail to Anchorage or Fairbanks.

*** Sec. 3.** AS 18.66.040 is amended to read:

Sec. 18.66.040. Meetings and quorum. The council shall meet at least four times a year. At least one meeting each year shall include a statewide public teleconference hearing. The time and place of a meeting shall be set by the presiding officer or by three members who submit a written request for a meeting to the presiding officer. **Five** [FOUR] members of the council constitute a quorum.

*** Sec. 4.** AS 18.66.050 is amended to read:

Sec. 18.66.050. Duties of the council. The council shall

(1) hire an executive director, and the executive director may hire staff; the executive director **is** [AND STAFF ARE] in the exempt service under AS 39.25.110 **and staff members are in the classified service under AS 39.25.100**;

(2) elect one of its members as presiding officer;

(3) in consultation with authorities in the field, develop, implement, maintain, and monitor domestic violence, sexual assault, and crisis intervention and prevention programs, including educational programs, films, and school curricula on the cause, prevention, and treatment of domestic violence and sexual assault;

(4) coordinate services provided by the Department of Law, the Department of Education and Early Development, the Department of Public Safety, the Department of Health and Social Services, **the Department of Corrections,** and other state agencies and community groups dealing with domestic violence, sexual assault, and crisis intervention and prevention, and provide technical assistance as requested by those state agencies and community groups;

(5) develop and implement a standardized data collection system on domestic violence, sexual assault, and crisis intervention and prevention;

(6) conduct public hearings and studies on issues relating to violence, including domestic violence and sexual assault, and on issues relating to the role of crisis intervention and prevention;

(7) receive and dispense state and federal money and award grants and contracts from appropriations for the purpose to qualified local community entities for domestic violence, sexual assault, and crisis intervention and prevention programs;

(8) oversee and audit domestic violence, sexual assault, and crisis intervention and prevention programs that receive money under this chapter;

(9) provide fiscal and technical assistance to plan, organize, implement and administer domestic violence, sexual assault, and crisis intervention and prevention programs;

(10) make an annual report to the governor on the activities of the council, plans of the council for new services and programs, and concerns of the council, including recommendations for legislation necessary to carry out the purposes of this chapter; the council shall notify the legislature that the report is available;

(11) adopt regulations in accordance with AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter and to protect the health, safety, well-being, and privacy of persons receiving services financed with grants or contracts under this chapter;

(12) consult with the Department of Health and Social Services in the formulation of standards and procedures for the delivery of services to victims of domestic violence by health care facilities and practitioners of healing arts and personnel in those facilities as required in AS 18.66.300;

(13) consult with the Alaska Police Standards Council and other police training programs in the state to develop training programs regarding domestic violence for police officers and for correction, probation, and parole officers;

(14) consult with public employers, the Alaska Supreme Court, school districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to provide continuing education courses in domestic violence to employees.

*** Sec. 5.** AS 39.25.110(38) is amended to read:

(38) the executive director [AND STAFF] of the Council on Domestic Violence and Sexual Assault established under AS 18.66.010;

*** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

ADDITION OF MEMBER TO THE COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT AND EXTENSION OF CERTAIN MEMBERS' TERMS. (a) The governor shall appoint a new member to the Council on Domestic Violence and Sexual Assault under AS 18.66.020(a)(1), as amended by sec. 1 of this Act, within 30 days after this Act takes effect.

(b) Notwithstanding any other provision of law, the term of office of each public member of the Council on Domestic Violence and Sexual Assault serving under AS 18.66.020(a)(1) on the effective date of this section shall be extended one year.

Nancy Manly

From: Nancy Manly
Sent: Thursday, February 12, 2009 4:31 PM
To: Londi Ensor
Subject: HB 63 Fiscal Notes
Attachments: HB63-DOC-OC-02-09-09.pdf; HB063-DPS-CDVSA-02-12-2009.pdf

Here's the electronic fiscal notes for HB 63 that passed out of HSTA this morning. ☺

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

Library

7

26-LS0138\P
2/12/09

Conceptual
AMENDMENT Passed

OFFERED IN THE HOUSE
TO: HB63

Page 1, line 10:
Following **"the"**
Insert **"Alaska"**

Also occurs on page 2
Line 10

HOUSE STATE AFFAIRS
COMMITTEE
Amendment # 1

To Bill Number HB 63

Sponsor: ~~Fairclough~~ Seaton offered

Date: 2/12/09 Logged By: NM

Library

State of Alaska
Department of Public Safety
Council on Domestic Violence & Sexual Assault

Sarah Palin, Governor
Joseph A. Masters, Commissioner

February 8, 2009

Representative Anna Fairclough
Alaska State Capitol
Juneau, Alaska 99801

Subject: HB63 "An Act relating to the Council on Domestic Violence and Sexual Assault"

Dear Representative Fairclough:

The Council on Domestic Violence and Sexual Assault supports HB63, which proposes statutory changes based on the 2008 CDVSA Legislative Task Force recommendations. We have thoroughly reviewed these recommendations and agree that the proposed changes will strengthen the Council's ability to meet its statutory purpose: "to provide for planning and coordination of services to victims..." (AS16.66.101)

Adding the Commissioner of Corrections or his/her designee and including an additional seat for a rural designated public member will give the Council broader insights into policy decisions and funding recommendations. It will also further strengthen our board for public members to have three year terms. Many members have pointed out the limitations of two-year terms, saying they are leaving their service just as they have learned the work. Longer terms will allow members time to apply what they have learned in making decisions and setting direction. We also agree, in the interests of keeping balance, that public members should not be state employees.

Council members are supportive of the change making it optional for the Governor to consult the Alaska Network on Domestic Violence and Sexual Assault about public member appointments. However, in our discussions, we agreed that it is a good idea for the governor's office to ask for such recommendations, and we encourage making that connection in order to secure a pool of well qualified applicants.

The Council also agrees with the CDVSA Task Force that classifying the staff positions (other than the Executive Director) is an important tool for recruiting and retaining staff. It will also help to ensure continuity in the agency during periods of administration changes.

We appreciate the work you are doing to strengthen the state's response to the crimes of domestic violence, sexual assault, stalking and dating violence. Thank you.

Sincerely,

Ann House
Chair

Council on Domestic Violence & Sexual Assault
P.O. Box 111200 - Juneau, AK 99811 - Voice (907) 465-4356 - Fax (907) 465-3627

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Bill 63

"An Act relating to the Council on Domestic Violence and Sexual Assault."

The Legislative Task Force, created by House Bill 215 in 2007, was directed to consider the Council's relationship and consultation with other state agencies; the statutory responsibilities and priorities of the Council; the appointment process for members of the Council; the location of the Council within the state administrative structure; the Council's compliance with grant management requirements; and the Council's mission and the focus of the Council's mission on prevention, intervention, crisis response, and perpetrator accountability.

House Bill 63 provides corrections in law in direct response to the work assigned the Task Force by the Legislature. It is one of a number of actions that are now underway in response to the findings and recommendations of the Legislative Task Force.

It also expands the Council to include representation from the Department of Corrections and Alaska's rural communities. The Department of Corrections plays a large role in dealing with the perpetrators of domestic violence and sexual assault, but they currently are not a member of the Council.

House Bill 63 also makes staff positions in the Council non-exempt, other than the Executive Director. The Executive Director remains exempt or partially exempt. This change is being recommended by the Task Force because we concur with the Executive Director that the current exempt status creates challenges in the recruitment and retention of quality employees.

The Task Force agreed that it is critical that "public" members not be state employees to ensure that there remain voices on the Council who are independent of state agencies and their influences. HB 63 ensures that "public" positions on the council are not employees of the state.

House Bill 63 changes language in the statute from "shall" to "may" in regards to the Governor consulting the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) regarding the appointment of public members to the Council. In 2001, the auditor reported that the Council allowed changes in reporting requirements for the grantees of the Network in violation of federal grant guidelines.

Currently, Council members serve two-year terms, only allowing them to serve through one grant cycle. This limits their ability to understand the issues and process that the council goes through in its grant cycle. By extending the term to three years this allows members of the Council to be far more effective.

Implementation of these legislative changes, along with the Council's new Strategic Plan and other reforms will significantly improve the Council as it attempts to wrestle with the ongoing issues of domestic violence and sexual assault across Alaska.

I urge your support on this important piece of legislation.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Bill 63

"An Act relating to the Council on Domestic Violence and Sexual Assault."

Sectional Analysis

Section 1. Amends AS 18.66.020(1)

Changes the number of members on the council from three public members to four public members

Adds language that states that one of the public members must be from a rural area

Adds a new subsection adding in the commissioner of corrections or a designee of the commissioner of corrections as a member of the council

Section 1. Amends AS 18.66.020(b)

Changes the term of office of a public member from two years to three years

Changes language from "shall" to "may" in regards to the Governor consulting the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) regarding the appointment of public members to the Council.

Section 1. Amends AS 18.66.020(c)

Adds language that deals with members appointed to the council that states they may not be an employee of the State of Alaska

Section 2. Amends AS 18.66.020(d)

Adds new subsection that defines the term "rural area"

Section 3. Amends AS 18.66.040

Changes the quorum requirement from four members to five members

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

Section 4. Amends AS 18.66.050

Changes language making staff positions in the Council non-exempt, other than the Executive Director

Adds language for the Department of Corrections in regards to coordinating services

Section 5. Amends AS 39.25.110(38)

Removes language about staff dealing with the council

Section 6. Amends Uncodified law of the State of Alaska

Adds new subsection that deals with the appointing of a new member to the council within 30 days after this Act takes effect

Extends the term of the public members from two years to three years

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: HB63-DOC-OC-02-09-09
Bill Version:
() Publish Date:

Identifier (file name): HB63-DOC-OC-02-09-09
Dept. Affected: DOC
Title: An Act relating to the Council on Domestic Violence and Sexual
RDU: Administration & Support
Component: Office of the Commissioner
Sponsor: Fairclough, Holmes, Coghill, Wilson, Herron
Requester: Governor
Component Number: 694

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Passage of this legislation should not have a fiscal impact on the Department of Corrections.

Prepared by: Leslie Houston, Director
Phone 465-3339
Division: Administrative Services Division
Date/Time 02/09/2009 1630
Approved by: Dwayne Peeples, Deputy Commissioner
Date 2/9/2009
Office of the Commissioner

(Revised 9/10/2008 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB063
() Publish Date:

HB063-DPS-CDVSA-02-10-09
Dept. Affected: Public Safety

Title: "An Act relating to the Council on Domestic Violence and Sexual Assault."
RDU: CDVSA
Component: CDVSA

Sponsor: Representative Fairclough
Requester: House State Affairs Committee
Component Number: 521

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel	7.9		7.9	7.9	7.9	7.9	7.9
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**7.9**	**0.0**	**7.9**	**7.9**	**7.9**	**7.9**	**7.9**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	7.9		7.9	7.9	7.9	7.9	7.9
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**7.9**	**0.0**	**7.9**	**7.9**	**7.9**	**7.9**	**7.9**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill adds two members to the Council on Domestic Violence and Sexual Assault: a public member from rural Alaska and the commissioner of the Department of Corrections or his or her designee. The increased travel costs for the new members to attend four meetings per year is estimated at $7.9.

Prepared by: Chris Ashenbrenner, Executive Director — Phone (907) 465-5504
Division: Council on Domestic Violence and Sexual Assault — Date/Time 2/10/09 9:01 AM
Approved by: Commissioner Joseph Masters — Date
Department of Public Safety

(Revised 9/10/2008 OMB)

Juneau Office
130 Seward St #209
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org

ANDVSA
Alaska Network on Domestic Violence & Sexual Assault

Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907)747-7547

January 19, 2009

Representative Anna Fairclough
State Capitol, Room 421
Juneau, AK 99801-1182

Dear Representative Fairclough:

On behalf of the nineteen member domestic violence and sexual assault programs throughout the state that comprise the Alaska Network on Domestic Violence and Sexual Assault (the Network), thank you for introducing HB 63. ANDVSA works closely with the Council on Domestic Violence and Sexual Assault (the Council) on numerous issues.

I had the honor of serving on the CDVSA Task Force that you helped create with HB 215 in 2007. The CDVSA Task Force reviewed the Council's relationship to other state agencies; their statutory responsibilities and priorities; the appointment process for public members; the location of the Council within the administrative structure; compliance with grant management requirements; and their mission and focus.

We fully support the recommended changes in HB 63. Expanding the Council to include representation from the Department of Corrections (DOC) ensures that DOC has a much needed seat at the table for domestic and sexual violence issues, particularly as they relate to batterer and perpetrator programs. The bill also ensures that public members are indeed public and not governed by any state influences. We also wish to extend our service to the Governor whenever she/he would like our consultation and recommendation for public members. We have consistently put forth qualified individuals who do not have a history of perpetration of domestic or sexual violence; qualified individuals regardless of political party affiliation that balance both Alaska's geography and its urban and rural counterparts. Our services remain there for the asking as the experts in the domestic and sexual violence field for over 30 years.

Thank you for your time and commitment to improving the Council and sponsoring this progressive bill.

Regards,

Peggy Brown
Executive Director

cc: Lisa Mariotti, Policy Research Associate

CDVSA LEGISLATIVE TASK FORCE

March 1, 2008

Council on Domestic Violence & Sexual Assault
Legislative Task Force

Report to the Legislature

"That which we allow, we encourage."



Bethel Peace Walk
Bethel, AK
October 5, 2007

CDVSA LEGISLATIVE TASK FORCE

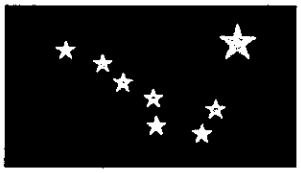


Table of Contents

Members.....3

Letter to the Legislature.....4

Task Force Authority & Acronyms.....6

Methodology.....7

CDVSA and the Network.....9

Findings and Recommendations.....11

- **Council's relationship and consultation with other state agencies**.....11
- **Statutory responsibilities and priorities of the Council**.....13
- **Appointment process for members of the Council**.....15
- **Location of the Council within the state administrative structure**.....16
- **Council's compliance with grant management requirements**.....17
- **Council's mission, and the focus of the Council's mission on prevention**.....18
- **Other issues**.....21
- **Batterer's Intervention Program**.....23

Meeting Summaries.....25

- **Bethel, Alaska: October 4th & 5th, 2007**.....25
- **Fairbanks, Alaska: December 13th & 14th, 2007**.....27
- **Anchorage, Alaska: January 8th & 9th, 2008**.....29
- **Juneau, Alaska: January 31st – February 2nd, 2008**.....31

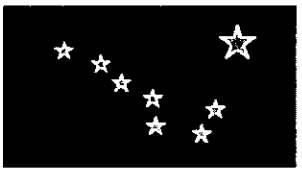
Closing Remarks.....33

Appendices.....34

- **HB 215**.....34
- **Alaska State Statute 18.66.010**.....40
- **CDVSA Meeting Minutes 9-4-07**.....42
- **Letter from Legislative Budget & Audit Committee**.....48-49

610

CDVSA LEGISLATIVE TASK FORCE



CDVSA Legislative Task Force Members

Representative Anna Fairclough, Chair

Senator Con Bunde

Senator Kim Elton

Senator Donald Olson

Representative John Coghill

Representative Lindsey Holmes

Todd Brocious, Department of Education

Terri Campbell, Department of Education

John Glass, Department of Public Safety

Samuel Edwards, Department of Corrections

Stephen Wallace, Department of Law

William Hogan, Department of Health & Social Services

Leanndra Ross, Urban Public Member

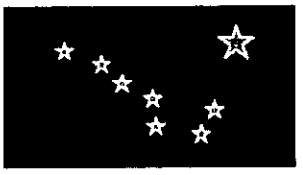
Yvonne Sarren, Rural Public Member

Chris Ashenbrenner, CDVSA – Ex officio

Peggy Brown, ANDVSA – Ex Officio

Task Force Aides
Renée Limoge, Staff to Representative Anna Fairclough
Karen Lidster, Staff to Representative John Coghill

CDVSA LEGISLATIVE TASK FORCE



March 1, 2008

Dear Members of the Legislature:

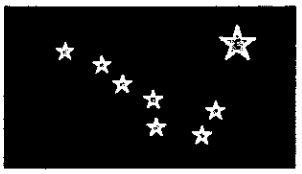
House Bill 215 established The Council on Domestic Violence & Sexual Assault (CDVSA) Legislative Task Force to examine recurring issues and questions that continue to arise during reauthorization of the CDVSA.

The recommendations contained in this report to the Legislature follow hours of public testimony in Bethel, Fairbanks, Anchorage and Juneau, site visits to victim service providers in these cities, and hours of discussion among Task Force members.

The CDVSA Legislative Task Force recommendations summarized in the attached report directly address the six issues the legislature tasked our body to address. In addition, our travels throughout Alaska made evident a number of recurring themes and issues related to the associated problems of domestic violence and sexual assault which cannot be effectively addressed within the confines of the six legislatively enumerated areas of inquiry. Because we conclude that these other issues merit mention in this report, we have included an additional section for your review.

First, throughout all the public hearings and comment we have revealed a very significant truth: ***that which we allow, we encourage.***

Second, domestic violence and sexual assault within Alaska occur with alarming frequency. The collateral costs to our State of this continuing problem are significant and quantifiable. Moreover, this epidemic presents a very real threat to the safety of Alaskans. Unfortunately, the problem does not readily lend itself to any single or easy solution. The causes are complex and flow from a myriad of factors including at a very foundational level how Alaskans view, tolerate, and permit interpersonal violence. One challenge exists in the diverse cultural make up of Alaskan society. Another challenge is presented by rural and urban populations and the difficulties presented in finding solutions that will work throughout the State. What may work in one area may not be a solution in another. Thus, it is apparent that a one-size fits all approach to the problem of domestic violence and sexual assault will not address the issue. Traditionally applied criminal justice solutions will not solve the problem. However, we conclude that raising individual public awareness and creating an environment of outspoken intolerance for acts of domestic violence and sexual assault is a necessary first step toward addressing



and ending this plague upon Alaska. For example, Alaskans need to recognize that shelter and victim service organizations are not anti-family or anti-man.

Instead, Alaskans need to recognize that shelters exist to deal with a very real problem by providing women, children, and men a safe place to escape violence. The societal shift, in and of itself, would represent a meaningful step toward a solution.

Third, although the Task Force was specifically formed to look at CDVSA, it is obvious that the number of State agencies tasked with addressing domestic violence and sexual assault far exceed the reach and responsibility of CDVSA. At present, CDVSA has an ambitious number of legislatively stated goals, generally designed to address four areas: prevention, intervention, crisis management, and accountability. CDVSA's current budget may not be enough to address each of these areas. Consequently, interests such as prevention and accountability of offenders go underfunded. Until prevention is brought to the forefront and adequate funding is made available, our State's response to domestic violence and sexual assault will remain reactive. Our report therefore includes recommendations designed to address solutions that may exist outside the purview of the CDVSA.

The Task Force agreed on one overarching recommendation from the outset: the Council needs to develop and implement a strategic plan. It is our hope that many of the recommendations found within this report will be considered when the Council embarks on that task. The Chair has sponsored legislation to extend the Council's sunset date in an effort to give CDVSA an opportunity to develop and implement a plan and have concrete results when they come before the Legislature for reauthorization in the future.

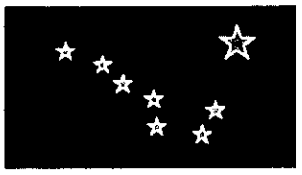
Other than HB 334 which is currently moving through the Legislature to extend the Council to 2014, our Task Force does not recommend bringing forth a legislative package in the current legislative session. However, we do believe that the recommendations contained in this report will result in changes to statute in future years.

The problems presented by domestic violence and sexual assault are complex. Solutions require change that must come from Alaska as a society. Individuals, families, and communities must all become involved until everyone is clear that domestic violence and sexual assault will not be tolerated. Our collective experience tells us that until such change is achieved, Alaska will have the shameful distinction of leading the nation in incidence of domestic violence and sexual assault.

Respectfully submitted,

Members of the CDVSA Legislative Task Force

CDVSA LEGISLATIVE TASK FORCE



Task Force Authority and Direction

The CDVSA Legislative Task Force was created by House Bill 215 to consider the following issues:

- the Council's relationship and consultation with other state agencies;
- the statutory responsibilities and priorities of the Council;
- the appointment process for members of the Council;
- the location of the Council within the state administrative structure;
- the Council's compliance with grant management requirements; and
- the Council's mission, and the focus of the Council's mission on prevention, intervention, crisis response, and perpetrator accountability.

These issues were identified based on findings in the 2001 and 2005 Legislative Audits of the Council, as well as anecdotal conversations in the Capitol in 2007 regarding challenges to the reauthorization of CDVSA.

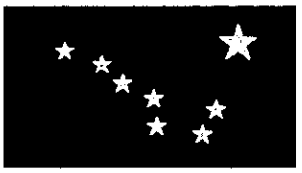
Findings and recommendations on the above issues were to be submitted in a Report to the Legislature by March 1, 2008.

House Bill 215 is shown as Appendix 1.

The statutes governing CDVSA, AS 18.66.010, are shown as Appendix 2.

Acronyms

AS – Alaska State Statutes
ANDVSA – Alaska Network on DV/SA
AWARE - Aiding Women in Abuse & Rape Emergencies
AWAIC – Abused Women's Aid In Crisis
BIP – Batterer's Intervention Programs
CDC – Center for Disease Control
CDVSA – Council for DV/SA
DOC – Department of Corrections
DPS – Department of Public Safety
DV – Domestic Violence
DV/SA – Domestic Violence/Sexual Assault
DHSS – Department of Health & Social Services
LIO – Legislative Information Office
MOU – Memorandum of Understanding
Network - ANDVSA
OCS – Office of Children's Services
SA – Sexual Assault
SART – Sexual Assault Response Team
VAWA – Violence Against Women Act
VPSO – Village Public Safety Officer



Methodology

House Bill 215, creating the CDVSA Legislative Task Force was signed into law by Governor Palin on September 28, 2007. Shortly following, the Task Force met via teleconference to select a chair, determine the rural community that would be visited and set a timeline to accomplish our goals. Representative Anna Fairclough was selected by her colleagues to chair the Task Force and it was decided that Bethel would be our rural location. Fairbanks, Anchorage and Juneau were designated meeting locations per HB 215. The Task Force determined they would hold public hearings and conduct site visits in each of these communities.

Following her selection as chair, Representative Fairclough generated a letter requesting input from current Council members and attended the Council's September 4, 2007 meeting in order to discuss with the board the Task Force's formation, purpose and plans for meetings throughout the state, culminating in a Report to the Legislature. Representative Fairclough personally requested their input at the meeting.

Meeting minutes are shown as Appendix 3.

In Bethel, Fairbanks, Anchorage and Juneau, the Task Force made site visits to the local victim's service providers and others, scheduled public hearings and listened to several hours of public testimony.

Prior to our arrival in each community, we invited law enforcement, the court system, medical providers, native organizations, school districts, community leaders and other service providers to participate in the public hearing process or provide written comments.

In each community the Task Force visited local shelters. Site visits were also made to visit Anchorage's Sexual Assault Response Team (SART) Center, and also the Child Advocacy Center, Stevie's Place in Fairbanks.

At each public hearing we presented who we were, who the Council was and what issues we were seeking answers to. Additionally, in each community, a series of questions were placed before the public to consider in their comments:

1. What would your community like this Task Force to know about DV/SA within your community?

2. What community resources do you have? Who do you work with in your community?



3. What will it take to prevent DV/SA in your community? What is the responsibility of the community? Responsibility of the state?

4. What can the legislature do? New laws, enforce existing laws?

5. What didn't we ask that you want to tell us about?

In addition to articulating our mandate with regard to the Council the Task Force encouraged testimony about possible solutions to Alaska's domestic violence and sexual assault problems.

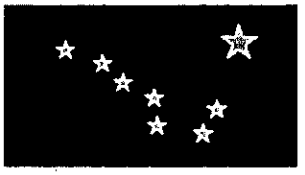
Additionally, the Task Force felt that it was important to have an opportunity to speak with the Legislative Auditor, Pat Davidson. A number of findings in Legislative Audits from 2001 and 2005 were recurring questions for members of the Legislature when reauthorization for CDVSA came before the body.

Finally, the Task Force had the opportunity to hear from Jayne Andreen, one of the longest serving Executive Directors of CDVSA. She engaged in useful dialog with the members, providing insight into some of the methodologies used by the Council, as well as answering questions about the Council's history. Ms. Andreen also reconfirmed item by item the recommendations that the Task Force has heard throughout Alaska.

As a group, the Task Force expressed their willingness to come back together to review any proposed strategic plan that the Council develops.

Through public testimony and lengthy internal discussions, the Task Force was able to develop findings and recommendations on each of the six points we were charged with addressing. Those findings and recommendations are contained in this report.

CDVSA LEGISLATIVE TASK FORCE



The Council on Domestic Violence & Sexual Assault

Mission: The mission of the Council on Domestic Violence and Sexual Assault is to reduce the causes and incidence and to alleviate the effects of domestic violence and sexual assault.

Purpose: The Council, which is an administrative, policy-making body, is composed of three public members appointed by the Governor after consultation with the [Alaska Network on Domestic Violence & Sexual Assault], and representatives from the Departments of Public Safety, Law, Education, and Health and Social Services. The purpose of the Council is to "provide for planning and coordination of services to victims of domestic violence and sexual assault and to perpetrators of domestic violence and sexual assault and to provide for crisis intervention and prevention programs" (AS 18.66.010).[1]

The Council's purpose, as defined in statute, reads: "There is established in the Department of Public Safety the Council on Domestic Violence and Sexual Assault. The purpose of the Council is to provide for planning and coordination of services to victims of domestic violence or sexual assault or to their families and to perpetrators of domestic violence and sexual assault and to provide for crisis intervention and prevention programs."[2]

The Council and the Network – What's the Difference?

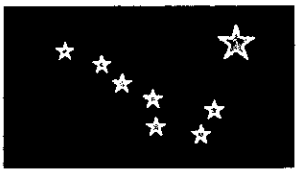
The *Alaska Network on Domestic Violence and Sexual Assault* (Network) is a statewide nonprofit organization that is a coalition to end violence against women. Created in 1978 by concerned women to address domestic violence in Alaska, it is now comprised of 19 domestic violence/sexual assault programs from across Alaska.

The Network worked closely with the Alaska Legislature in 1981 to establish the *Council on Domestic Violence and Sexual Assault* (Council) in the Alaska Department of Public Safety. The Network provides technical assistance, legal advocacy support, connections to pro-bono attorneys, training and resource materials to member programs, attorneys, community organizations and other stakeholders. The Network also works with state and federal policy makers on legislative and other policy issues affecting victims of violence.

---

[1] Council on Domestic Violence & Sexual Assault website. http://www.dps.state.ak.us/Cdvsa/, February 5, 2008.
[2] AK 2007 Statutes, 18.66.010. February 7, 2008.

CDVSA LEGISLATIVE TASK FORCE



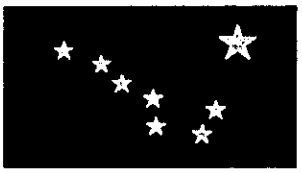
The Council is a State agency that coordinates the Alaska government response to domestic violence and sexual assault by coordinating services, gathering and disseminating data, and securing funding for services through federal and state sources. The Council provides funding and oversees funds to 21 victim service programs, funds 8 batterer intervention programs and certifies all 15 batterer intervention programs in Alaska.

The seven-member Council includes representatives from the Departments of Law, Public Safety, Education & Early Development, and Health & Social Services. Additionally, three public members are appointed by the Governor to two-year terms who oversee activities of the Council. The Network is authorized by Alaska statute to recommend to the Governor applicants for the Council's public seats.

The Network and the Council have worked cooperatively together since 1981 to ensure a comprehensive response to the crimes of domestic violence and sexual assault.

Coordinated activities include:

- Co-sponsoring statewide training, conferences and media campaigns
- Providing resource materials
- Advancing legislation to promote victim safety and hold offenders of domestic violence and sexual assault accountable for their actions



The Council's relationship and consultation with other state agencies.

Findings:

- AS 18.66.050 (4) states that the Council shall "coordinate services provided by the Department of Law, the Department of Education and Early Development, the Department of Public Safety, the Department of Health and Social Services, and other state agencies and community groups dealing with domestic violence, sexual assault, and crisis intervention and prevention, and provide technical assistance as requested by those state agencies and community groups."

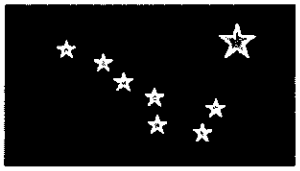
- Despite AS 18.66.050 the Council has no authority to mandate the actions of other departments.

- There is interaction and coordination of key state departments at the Council's quarterly meetings and through cooperative projects.

- The 2005 Legislative Audit found that the Council was not living up to its statutory responsibility to work with the Department of Education and Early Development to develop curricula on domestic violence and sexual assault for use in schools. Further, it was not consulting with Health and Social Services to develop standards and procedures for delivery of services in health care facilities.[3]

- AS 14.30.360(b) states that "The state board shall establish guidelines for a health and personal safety education program. Personal safety guidelines shall be developed in consultation with the Council on Domestic Violence and Sexual Assault. Upon request, the Department of Education and Early Development, the Department of Health and Social Services, and the Council on Domestic Violence and Sexual Assault shall provide technical assistance to school districts in the development of personal safety curricula. A school health education specialist position shall be established and funded in the department to coordinate the program statewide. Adequate funds to enable curriculum and resource development, adequate consultation to school districts, and a program of teacher training in health and personal safety education shall be provided."

[3] 2005 Legislative Audit, Legislative Budget & Audit Committee. http://www.legaudit.state.ak.us/pages/audits/2006/pdf/20039rpt.pdf, February 7, 2008.



- Currently there is not a health education specialist position in the Department of Education & Early Development, or program funding to support consultation to districts or teacher training in health and personal safety education.

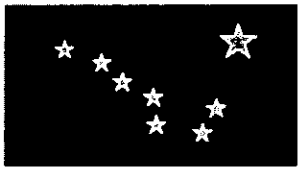
Recommendations:

- Memoranda of Understanding (MOU's) would better equip the Council to work with various state agencies.

- The Legislature should provide additional funds to support the school health education specialist position as required by AS 14.30.360 to assist districts in the coordination and development of curriculum to address domestic violence, sexual assault, and interpersonal violence.

- The Council and State agencies need to demonstrate greater coordination of services at the department and division level in order to strengthen service provision at the local level. We recommend this be discussed during the strategic planning process.

CDVSA LEGISLATIVE TASK FORCE

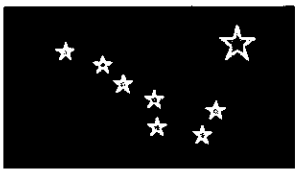


The statutory responsibilities and priorities of the Council.
– Structural issues within the Council.

Findings:

- When the Council was formed, the Department of Corrections (DOC) was housed in the Department of Health and Social Services (DHSS). Therefore a DHSS employee would have also represented the interests of DOC.
- Since that time, DOC has moved from DHSS into its own Department.
- The Department of Corrections plays a large role in dealing with the perpetrators of domestic violence and sexual assault, yet no corrections representative is currently present on the Council. Other major state departments, such as the Department of Law and the Department of Health and Social Services are represented.
- A disproportionate number of domestic and sexual assault victims are of Alaska Native descent.
- The rural community is not adequately represented on the Council.
- In the past, public seats on the Council have been held by employees of state departments. This gives the perception that the Council member could be beholden to the department rather than the best interests of the public and Council. It also skews the membership too heavily toward government employees.
- Currently the Council has 14 statutory mandates. The Task Force believes this is overly ambitious and very demanding. The Task Force is not making a recommendation to change the 14 mandates, but want to acknowledge the huge challenge that this presents to the Council.
- All Council staff are currently exempt positions. There is a perception that this causes challenges in the recruitment and retention of quality employees.

CDVSA LEGISLATIVE TASK FORCE



Recommendations:

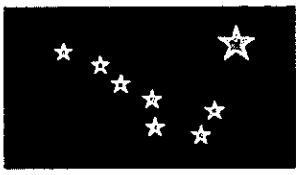
- The Council should be expanded to include seats for the Department of Corrections and an additional public seat to be filled by a representative from Alaska's rural communities.

- Public seats on the Council should be representative of our Alaskan communities and not filled by employees of departments within the State of Alaska. This will ensure that the Council not appear to represent the state department interests only with few or no true public members.

- Staff of the Council should have non-exempt status to increase staff retention.

- The only member of the Council's staff that should be either exempt or partially exempt is the Executive Director.

CDVSA LEGISLATIVE TASK FORCE



The appointment process for members of the Council.

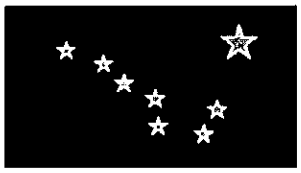
Findings:

- In 2001, the auditor reported that the Council allowed changes in reporting requirements for the grantees of the Network in violation of federal grant guidelines.
- The auditor concluded that the changes to the reporting requirements were allowed because of undue influence by the Network due to statutory language requiring the Governor to review recommendations for public members from the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA).
- The Task Force recognizes and appreciates the diligence of the auditors, but found no basis for concluding the existence of a causal relationship between changes in reporting requirements identified by the auditor and any resulting changes in grant management practices.
- Moreover, the identified perceived problem has not recurred even though the Network has continued to submit names to the Governor for consideration.
- There is confusion about who the Council is, their role and how they are different from the Network.
- Currently, Council members serve two-year terms, only allowing them to serve through one grant cycle. This limits their ability to understand the issues and process that the Council goes through in its grant cycle.

Recommendations:

- Mandatory ethics training for all Council members to make clear their role on the Council.
- Change language in statute from "shall" to "may" in regards to the Governor consulting ANDVSA regarding the appointment of public members to the Council.
- Extend terms from two to three years.

CDVSA LEGISLATIVE TASK FORCE



The location of the Council within the state administrative structure.

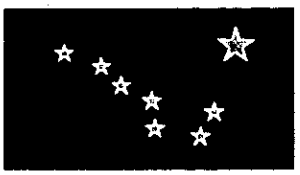
Findings:

- CDVSA is currently housed within the Department of Public Safety (DPS).
- Domestic violence and sexual assault are crimes.
- Crimes require evidence collection, interviews and investigations; investigations require interaction with the medical community, law enforcement and the court system in regard to domestic violence and sexual assault.
- Victims need to be acknowledged, validated and recognized as having experienced a criminal act and perpetrators need to know that they will be held accountable as criminals.
- It is appropriate for the Council staff to be in an agency that has the culture of law enforcement with the resources necessary to eradicating these offenses and hold criminals accountable for their actions.
- The relevant agencies, through their representatives on the Task Force, agree that the Council is appropriately housed in the Department of Public Safety.
- In extensive public hearings in four communities across the state it was never suggested that the Council be housed anywhere other than Public Safety.

Recommendations:

- The Council on Domestic Violence and Sexual Assault should remain in the Alaska Department of Public Safety.

CDVSA LEGISLATIVE TASK FORCE



The Council's compliance with grant management requirements.

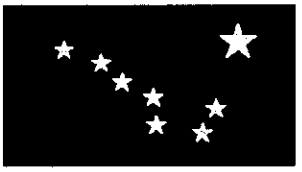
Findings:

- The grant application and management process is excessively time consuming, complex, outdated and onerous, especially for victim service providers.
- The current grant application and management process requires a duplication of effort for already overburdened staff among the state's victim service providers.
- Frequent staff turnover at CDVSA has created inconsistency in understanding and applying grant oversight.
- The Council has stewardship to ensure state monies are appropriately allocated through a fair and thoughtful grant process, that victims are served appropriately and that grantees are in compliance with state and federal grant conditions.
- Everyone could benefit from a more streamlined grant process with a view towards measurable outcomes.

Recommendations:

- The Council should consult with the State Department of Health and Social Services regarding their work with the Rasmuson Foundation in an effort to streamline the grant process and reduce the administrative burden for grantees and the state.
- Grant terms should allow a renewal period extension for an additional period if grant compliance is maintained and grant conditions have not changed.
- The Council should continue to work to establish clear guidelines, standards and parameters for grant applicants.

CDVSA LEGISLATIVE TASK FORCE



The Council's mission, and the focus of the Council's mission on prevention.

The Statutory mission of the Council is:

The purpose of the council is to provide for planning and coordination of services to victims of domestic violence or sexual assault or to their families and to perpetrators of domestic violence and sexual assault and to provide for crisis intervention and prevention programs. (AS 18.66.010)

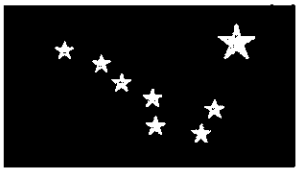
The mission of the Council is:

The mission of the Council on Domestic Violence and Sexual Assault is to reduce the causes and incidence and to alleviate the effects of domestic violence and sexual assault.

Findings:

- The mission statement does not reflect the Council's statutory mission.
- The council continues to be reactive; responding to victims with immediate needs versus the overarching issues of ending violence through prevention and intervention.
- There are four key areas the Council should be addressing: prevention, intervention, crisis response and perpetrator accountability. The Council should address investment in each of these areas weighted on results-based data.
- The funds currently allocated to the Council focus primarily on providing statewide victim services with relatively small amounts available for accountability (batterers programs) and prevention.
- The state does not have adequate data collection systems and ongoing research on the prevalence of domestic violence and sexual assault upon which to make policy decisions and measure program outcomes.

CDVSA LEGISLATIVE TASK FORCE



Findings Continued...

- Batterer's Intervention Programs (BIP) around the state have low referral and high dropout rates. In some cases, the perpetrators start the program in prison, and are released before finishing the program or their probation expires before program completion. Due to cost, distance from a program or lack of consequences for not following up, many perpetrators stop attending and fail to complete the BIP.

- Anger management is different from batterer's intervention.

- Insufficient information is currently being gathered to determine the effectiveness of batterer intervention programs which applies both to funded and unfunded (but certified) programs. Measurable outcomes are needed, especially in the areas of batterer's intervention programs. With Alaska facing a deficit in coming years, future funding should be tied to evidence based outcomes.

Recommendations:

- The Council needs to develop a strategic plan. The strategic plan needs to simplify the Council's mission and focus on the four key areas.

- The Legislature and the Governor should extend the Council until 2014 to allow the Council time to develop and implement their strategic plan. (HB 334 is already moving through the Legislature to accomplish this.)

- The Council's mission statement should be rewritten to create a more proactive approach to the issues of domestic violence and sexual assault. The purpose of the Council should be to reduce domestic violence and sexual assault, not just respond to it.

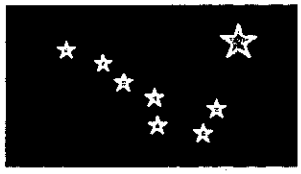
- The Task Force suggests peer training for members of the Court system to ensure that victims receive a fair hearing when child custody is at stake.

- The Council should re-examine their 14 mandates to determine if any should be rewritten in statute.

CDVSA LEGISLATIVE TASK FORCE



- The Council should collaborate with the national programs and organizations such as the Centers for Disease Control and Office of Violence Against Women, to solicit grants specifically geared toward prevention in an effort to focus some funding on preventing domestic violence and sexual assault.



Other issues of interest to the Task Force.
– Factors Outside the Purview of the Council

State Crime Lab

- Alaska is currently experiencing massive delays in analyzing evidence of crimes. This includes a significant backlog of DNA in sexual assault cases due to a high volume of reported incidents around the state.

- Sexual Assault Response Team (SART) forensic nurses around the state collect samples from victims that report an assault, and beginning in 2009, collection will be made available, even if those victims who choose not to press charges. Those samples will need to be stored in a safe and secure environment.

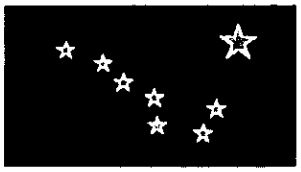
- State legislation requiring all convicted felons to submit DNA samples will increase the demand for storage. However, having that information stored will aid in future convictions if the felon reoffends.

- Collection and processing of DNA for entry into a national database can detect serial offenders.

Statewide Media Campaign

- Alaska has seen a number of public service campaigns, such as "Click it or Ticket" and "Drink. Drive. Go to jail," that have raised awareness statewide on specific issues.

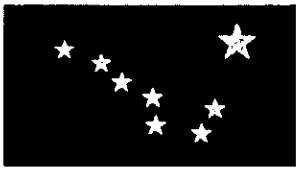
- The Council should consider developing a statewide media campaign that targets Alaska's various demographic groups and addresses the issues of domestic violence and sexual assault. Using models developed nationally, the messages should target specific groups by using spokespeople they can relate to.



Apparent Low Incidence of Law Enforcement Referral of Reports for Prosecution

- Anecdotally, in a number of public comments, we heard mention of the low incidents of referral of cases for prosecution statewide. While we have not collected statistical data to back this up, the public perception seems to be that there may exist a significant difference in the number of individuals that report being victims and the number of cases prosecuted. We recognize that there are a number of reasons why this might occur, but felt it should be mentioned in the report.

- Another aspect of this is the number of batterer's who fail to complete the Batterer's Intervention Program as a condition of their parole and have a warrant issued for them. While those warrants exist, law enforcement and prosecution don't have the resources to enforce them.



Batterer's Intervention Program

The Task Force received a letter dated July 18, 2007, from the Chair of the Legislative Budget and Audit Committee, Representative Ralph Samuels. The letter references the Batterer's Intervention Programs and reads, in part, "significant changes are needed for the organization and administration of the Batterer's Intervention Program (BIP) to allow for collection and analysis of program data."

July 18, 2007 letter from Representative Ralph Samuels is Appendix 4.

In response to this letter, and to the issue of BIP's in Alaska, the Task Force made the following recommendations.

Recommendations:

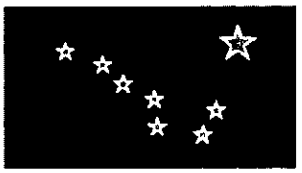
- Program funding should be contingent on the provider demonstrating the effectiveness of the program in preventing or reducing recidivism. If they cannot provide the documented effectiveness of the program, CDVSA should not provide funding nor should they certify these programs. Performance measures must be instituted and DOC's regulations will need to be changed to impose new reporting requirements. Defunding programs is not the only answer.

- State departments should establish a Memorandum of Understanding to develop an initiative to collect data. The goal would be to collect data regarding:

  - those ordered by the courts to participate in BIP;
  - those who attended and completed the BIP;
  - those who started but failed to complete the BIP;
  - and those who never participated

  A comparison should be done as to which groups have the greatest rate of recidivism and a clear definition of what constitutes recidivism (arrest for DV related incident, violation of an existing restraining order, or the filing of a new restraining order could serve as easy reference points).

CDVSA LEGISLATIVE TASK FORCE

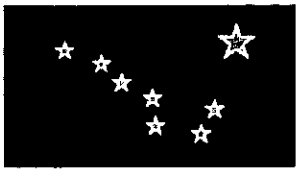


Recommendations continued...

- CDVSA should also look at the sharp decline in the numbers of second and third offences when compared to the number who commit the first domestic violence offense. This would give greater insight into designing programs which have the greatest chance of making a positive impact. There is likely much benefit to implementing an assessment process to determine the need for a person to participate in a BIP and at what level. This assessment would function much like the one individuals are required to obtain regarding substance abuse.

- If we put into place a method of determining the level of need, we can likely come closer to identifying that core group of hardcore offenders and focus the limited resources on them rather than diluting the resources on the larger group.

CDVSA LEGISLATIVE TASK FORCE



Bethel, Alaska
October 4th & 5th, 2007

Task Force members met at the Long House Hotel in Bethel on October 4th and convened the first official meeting.

Members shared their knowledge and experience on the subjects of domestic violence and sexual assault, with many having spent time working in the field of victim services, law enforcement or court system.

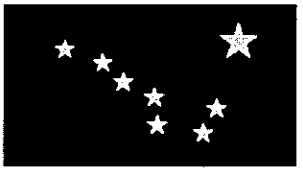
Members discussed their feelings and opinions on the issue of domestic violence and sexual assault and determined what they hoped to get from each public hearing. In doing so, a list of community questions were developed to be asked at each public hearing.

Members then had an opportunity to tour the Tundra Women's Coalition, a shelter and center designed to deal with domestic violence and sexual assault in Bethel and resources for numerous villages along the Kuskokwim. Shelter Director Michelle DeWitt showed members the facility and discussed the challenges of running a rural shelter with 4000-6000 visits annually and astronomical heating costs. Currently, their building is undergoing renovations, including window replacement and winterization upgrades.

That evening, the Task Force held its first public hearing. There was a great turnout with citizens from all areas of the community from the Mayor, to a SART nurse, teachers, victims, law enforcement, tribal leaders, victim's service providers and community activists.

The issues raised at the Bethel meeting include:

- The need for educational outreach funding.
- DV/SA are learned behaviors that can be changed with outreach to youth.
- Importance of keeping families together – either in the home or with other family members.
- Importance of educating a community and helping the community move out of poverty.
- Importance of regulation and control of BIPs.
- The lack of BIPs in many rural areas.
- Overworked law enforcement in the region make tackling the problem more difficult.
- Game violations appear to be a higher priority to the troopers than domestic violence and sexual assault. (public comment)

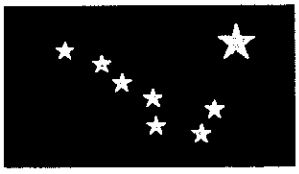


- School systems misinterpret the signs of domestic abuse – viewing the child as lazy or disinterested rather than scared and hungry.
- The need for enhancement of the VPSO program.
- High levels of poverty translate to high rates of DV/SA and alcohol abuse.
- Language barriers and cultural differences have a huge impact.
- In smaller villages, victims may have to deal with seeing their perpetrator walking around free.
- Shelter is almost always full.
- There is no Yupik word for justice.
- Yupik culture teaches you to work together and live together.
- A successful program in rural Alaska will have to be developed in rural Alaska by rural Alaskans.
- Programs work on alcohol abuse, but then the individuals are sent back to an environment where drinking is still taking place.
- The license requirements for substance abuse treatment providers are difficult to meet in the bush.
- 50% of all cases reported to OCS involve violence. (public comment)
- There is a lack of hope in some communities.

The following day the Task Force came back together to debrief from the previous evening's public hearing. Members also had presentations from both Peggy Brown of the Network and Chris Ashenbrenner of the Council.

When the meeting concluded, many members participated in the Bethel Peace Walk, joining community members in a march to end violence.

CDVSA LEGISLATIVE TASK FORCE



Fairbanks, Alaska
December 13th & 14th, 2007

The Task Force met at the Fairbanks Legislative Information Office on December 13th and discussed what they wanted to accomplish in Fairbanks, and what had been accomplished in Bethel. There was a sense that nothing is changing in regards to violence in Alaska; we've been facing the same problems for last 25 years.

It was clear from the Bethel meeting that answers to the instances of domestic violence and sexual assault need to come from inside the community, they can't be eradicated by CDVSA alone. There needs to be an increased focus on education, which is considered prevention. There seemed to be consensus that the rural community had to react and treat domestic violence and sexual assault differently because of the interdependent cultural dynamics of rural Alaska, and the language and cultural barriers.

The Task Force received a tour of the Interior Alaska Center for Nonviolent Living from Brenda Stanfield, Executive Director. It is a modern facility with a huge institutional kitchen that is being used to help teach job skills for people that come to the shelter so they can gain economic independence. Stevie's Place, designed to address the needs of children who are victims of domestic violence and sexual assault is at the far end of the same building housed in the Resource Center for Parents and Children side of the building. These two agencies work very closely together.

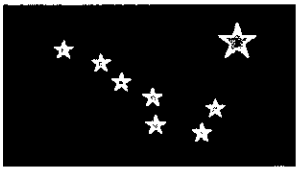
Below is a brief recap of the public hearing testimony we heard in Fairbanks.

The public hearing heard an in-depth discussion regarding SART providers and the coming mandate for exams for every patient whether or not a police report is filed. This change will require more money for additional DNA processing and an increase of storage space for evidence collection.

The current system of dealing with perpetrators of violence is inadequate. There is no follow-up and no accountability for those who don't complete the program.

There was discussion about the need for data regarding domestic violence and sexual assault sentencing and the need to educate judges. In addition, cross-cultural training for law enforcement and judges to better equip them to work with victims.

Engaging and educating the public on the benefits of reducing violence in our state will be necessary to promote society's passive acceptance of violence.



This is the first community where we heard testimony about the challenges with the military and dealing with perpetrators who are members of the armed services.

It was suggested that the Council review other states strategic plans during the development of Alaska's. In addition the Council should include strategies for education and prevention.

Tribal entities expressed concern at the lack of communication with their organizations when Alaska native women are disproportionately represented in DV and SA statistics. They told the Task Force we needed to find alternatives for women being removed for safety reasons, from rural communities to communicate and navigate city life. In addition, they advocated for alternative BIP noting that rural communities do not have access to the same programs as urban areas and questioned the possibility of video teleconferencing or other ideas to keep families intact. (this concludes public hearing comments)

Friday, December 14th during our working lunch, the major topics of discussion were accountability of perpetrators, education and rural challenges. Different programs were discussed as well as possible rural solutions, such as a tribal court system or talking circles.

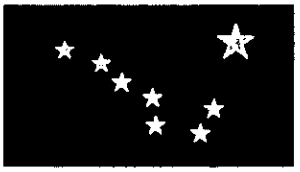
There is a limited amount of money to address the issue of DV and SA in Alaska. It was agreed by all that the Fairbanks shelter was a model organization for the coordination of services to victims of DV/SA. Data is lacking to know which programs are working and which are not. The need for the development of a strategic plan by CDVSA was emphasized. Also, the need for more education in the classroom continues to be an area of opportunity to prevent and intervene before violent behavior is passed from one generation to the next.

The topic of the location of CDVSA came up and through this discussion, the Task Force came to the conclusion that CDVSA should remain in DPS. The group discussed the audit findings and addressed the need for better coordination and education. Through this came a discussion of state mandated curriculum.

We looked at the makeup of the members as it relates to a cross-section of the state. It was confirmed that DOC should have a seat at the CDVSA table. There was also conversation about adding rural representation to the board.

The working lunch concluded with a discussion whether or not the Network should be able to submit names to the Governor for consideration when vacancies occur on the Council's Board of Directors. It was decided to table this issue until we met in Juneau and we spoke directly with the auditor about her findings and recommendations.

CDVSA LEGISLATIVE TASK FORCE



Anchorage, Alaska
January 8th & 9th, 2008

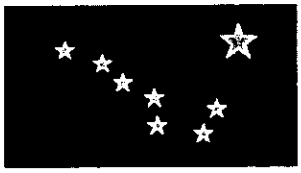
The Task Force met at the Legislative Information Office (LIO) in downtown Anchorage on January 8th and reviewed the proposed agenda for the two-day meeting.

The committee then drove to the Anchorage Domestic Violence Shelter- Abused Women's Aid in Crisis (AWAIC) and toured their facility. AWAIC provided lunch for the Task Force during which time they gave a presentation on the issues surrounding domestic violence, CDVSA's funding of AWAIC, and statistics for their shelter program. Following this meeting the committee proceeded to the SART (Sexual Assault Response Team) site for a tour and discussion with the Municipality of Anchorages SART Manager.

The committee reconvened at the Anchorage LIO for a community public hearing and finished the day with a brief wrap-up.

Below is a brief recap of Anchorage's public hearing comments.

- Keep CDVSA in Public Safety.
- Develop a strategic plan and long and short term goals.
- Provide focus on outcome measures.
- When developing a strategic plan consider including: education and prevention, council membership, other state departments, military court system and rural Alaska.
- Recognize Child Abuse as part of CDVSA's mission.
- Streamline the grant writing/reporting process for CDVSA.
- Fund someone to collect data/ Alaska based research is important.
- There is value in education/provide additional funding for DV/SA education.
- Better accountability after sentencing and arrests.
- Increase rural representation on the board.
- Clear scoring and priorities for grant awards.
- Increase access to legal services to hold perpetrators accountable.
- DV being used in custody battles "parental alienation."
- Expert witnesses key components in prosecution.
- New Violence Against Women Act (VAWA) recommendations as of 2009; may report SA without law enforcement-SART exams cost $1,000 and up depending on location.
- Increased need for storage of DNA with new VAWA requirement.
- Consider forensic representation on CDVSA.



- Facility audits are necessary for repair, renovation and equipment assessment.
- Rural sites have less availability to raise funds.
- Superior/Supreme Court Judges/Prosecutor training.
- Provide training to OCS and CASA's for DV & SA.

The Task Force met again on January 9th at the Anchorage LIO and proposed meeting times and dates for the final Task Force meeting in Juneau. The committee agreed that the public hearing should be on the first day of our meeting, wanted a tour of Juneau's domestic violence shelter – Aiding Women in Abuse and Rape Emergencies (AWARE), and approved meeting with the state auditor who prepared the 2001 and 2005 CDVSA audits to discuss her findings and recommendations.

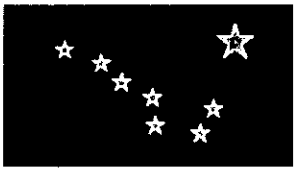
The committee recapped the public hearing from the night before and reconfirmed our intent to recommend a strategic planning process for the Council.

The second major theme was educating the court system on the issues surrounding DV/SA. A suggestion was made that a peer-to-peer group may work better at providing training inside the legal environment versus educators from individual DV/SA programs. It was pointed out that judges typically do not have a background in DV, SA and Child Abuse. There is a problem when Family Law in civil proceedings intersects with DV, SA and Child Abuse which is in Criminal Law.

Pay scales for those that work in shelters were discussed; it is believed that turnover is high because of low wages and marginal benefit packages. CDVSA turnover was discussed and it was suggested that their turnover may have to do with their status as exempt employees.

The discussion included the grant application and award process in CDVSA. It was stated that changes are currently underway at the Council, but it was clear from testimony at on site visits and during public hearings that the process was cumbersome, confusing and had unclear criteria when prioritizing the distribution of grant moneys. The Task Force discussed that this challenge should be part of the Council's strategic planning process. It was decided that the Task Force would recommend to the Legislature a time frame in which to have the strategic plan completed (no later than the end of 2008) but would not specifically dictate what the Council should address in the strategic plan (it is hoped they will review this document). To allow time to complete a strategic plan it was agreed that Rep. Fairclough and Sen. Elton would sponsor legislation to extend the reauthorization of CDVSA to 2014.

CDVSA LEGISLATIVE TASK FORCE



Juneau, Alaska
January 31st – February 2nd, 2008

The Task Force met at the State Capitol on January 31st and held our Juneau public hearing in the State Affairs room, reviewed our meeting agenda and coordinated a start time to tour AWARE, Juneau's DV shelter and meeting with Pat Davidson, Auditor and Director of Legislative Budget and Audit.

Following the public hearing portion committee invited the Executive Director of AWARE, a current Council board member and a former Executive Director of the Council to a roundtable discussion about the past and current challenges of the Council.

A brief recap of the public hearing and roundtable discussion follows.

- The state needs to provide additional dollars for prevention either though grant solicitation or other sources.
- It is challenging to retain employees in exempt positions at CDVSA.
- It was suggested a media campaign like "Click it or Ticket" should be implemented.
- Develop rational criteria to award grantees funding.
- Develop contract standards for operation of shelters.
- Support education to promote "healthy communities."
- Replicate the Council at community levels to develop solutions; true community plans.
- Standardize Batterer's programs; we heard people may not be able to afford or access programs.
- Research and compare that we are investing in programs which have a measureable benefit to our state.
- Alcohol is a big issue.
- Churches should be accessed to provide support in local communities.
- There needs to be training for the court system on understanding DV & SA.
- Consider using the Youth Risk Behavior Survey as a measurement tool.

On February 1st the Task Force met with Pat Davidson, Director and Auditor for Legislative Budget and Audit who made findings and recommendations on CDVSA's reauthorization both in 2001 and 2005. The auditor concluded that the changes to the reporting requirements were allowed because of undue influence by the Network due to the statutory language requiring the Governor to review recommendations for public

members from the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA). She noted that two of the members serving on the Council at that time were names submitted to the Governor by the Network.

The Task Force recognizes and appreciates the diligence of the auditors, but the Task Force found no basis for concluding the existence of a causal relationship between changes in reporting requirements identified by the auditor and any resulting changes in grant management practices. Moreover, the identified perceived problem has not recurred even though the Network has continued to submit names to the Governor for consideration.

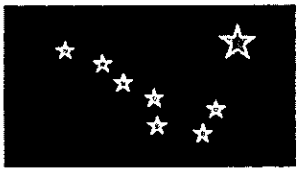
There is confusion about who the Council is, their role and how they are different from the Network. Currently, Council members serve two-year terms, only allowing them to serve through one grant cycle. This limits their ability to understand the issues and process that the Council goes through in its grant cycle.

On Saturday, February 2nd the Task Force met with AWARE's Executive Director and participated in a presentation about the challenges and innovative ideas needed to address DV & SA in Juneau. We toured the shelter and then returned to the capitol to finalize our recommendations for our report to the Legislature on March 1st. In addition, we met with the longest serving Executive Director of the Council who currently works for the State in another department. She articulated and confirmed what the Task Force had heard across the state and agreed with many of the recommendations we had already discussed.

A brief recap of those topics:

- Science based assessments; outcome based programs.
- A representative of the Department of Corrections should be added to the Council; to remain balanced she recommended another public member seat.
- Orientation training for Council members.
- The Council should develop a strategic plan.
- Extend the term of members serving on the Council.
- Use a Public Health Model in addressing violence.
- Remove CDVSA staff from their exempt personnel status.

Chris Ashenbrenner, Executive Director of the Council presented an overview of CDVSA's statutory responsibilities. This had been done at our first meeting in Bethel but we thought it wise to refresh committee members prior to discussing this Task Force mandate of reviewing statutory responsibilities of the Council.



Closing Remarks

The members of the CDVSA Legislative Task Force would like to thank everyone who assisted in the production of this report through participation in public hearings and arranging tours of victim service providers throughout the state.

This report can be found on the Task Force's webpage at:

http://housemajority.org/coms/index.php?c=79

The recommendations found in this report will not only require changes in statute, but also a great deal of effort on the part of the CDVSA Executive Director and Council, various State Departments and the Legislature itself.

The goal of this Task Force was not to simply find areas that the state should spend more money on to combat the problems of domestic violence and sexual assault. Any number of programs could benefit from increased funding. However, at the same time, the reality of these recommendations is that they will require investment on a state level to change behaviors.

The CDVSA Legislative Task Force respectfully requests that the Legislature consider the findings and recommendations contained within this report and make every effort to assist the Council in implementing the changes contained therein.

Alaska State Legislature

Representative Anna Fairclough – House District 17

MEMORANDUM

Date: February 5th, 2009

To: Representative Bob Lynn
Chair, House STA Committee

From: Representative Anna Fairclough

Re: HB 63 – "An Act relating to the Council on Domestic Violence and Sexual Assault."

I am requesting a hearing for HB 63, "An Act relating to the Council on Domestic Violence and Sexual Assault."

I have attached relevant materials and back-up for your committee.

Thank you in advance for your consideration.

Anna Fairclough

Attachments:
I. Sectional analysis
II. Sponsor statement
III. HB 63
IV. Letters of Support (forthcoming)

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

HB

73

HOUSE COMMITTEE REPC [illegible]

(7)
Date Referred to Committee: January 20, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-24-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 73**

"An Act relating to honorary foreign consul license plates; and providing for an effective date."

HB 73 HONORARY CONSUL LICENSE PLATES

Recommends it be replaced with [ ] HCS *or* [X] CS *for HB 73 (STA)
***For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____** [ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Admin				X

PREVIOUS FISCAL NOTES

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Pagel Kelly Seaton	Seaton	X			
Mary Margaret Gruenberg	Gruenberg	–			
Peggy Wilson	WILSON	V			
Bill Peterson	PETERSEN	X			
Chair:	LYNN	X			
Chair:					

Nancy Manly

From: jason groves [wjgroves@hotmail.com]
Sent: Monday, March 23, 2009 3:33 PM
To: Nancy Manly
Subject: HB73

I support HB 73 that would provide special license plates for firefighters and ems providers, we support the military already and these people put just as much on the line everyday.
Thank
Jason Groves
Cordova

Nancy Manly

From: david@vikingtrvl.net
Sent: Monday, March 23, 2009 3:32 PM
To: Nancy Manly
Subject: HB 73 - Special License Plates for firefighters and emergency service providers.

Hi

I support HB 73 that would provide special license plates for firefighters and ems providers.

As a volunteer chief with the PSG VFD, I rely on volunteers to help fill our ranks..
Anything we can offer our department is most appreciated, and somthing a little special.

Thanks
Dave Berg

David Berg
Viking Travel, Inc.
www.AlaskaFerry.com
907.772.3818 - Phone
907.772.3940 - Fax
101 N. Nordic, Box 787
Petersburg AK 99833

State of Alaska
Department of Public Safety
Division of
Fire and Life Safety

Sarah Palin, Governor
Joseph A. Masters, Commissioner

March 23, 2009

Representative Bob Lynn
Alaska State Capital, Room 104
Juneau, Alaska 99801-1182

Honorable, Representative Lynn,

The Alaska Division of Fire and Life Safety is pleased to support House Bill 73, "An Act relating to special fire fighter and emergency medical service provider license plates; and providing for an effective date".

The establishment of special license plates is an excellent way to recognize firefighters and EMT's for their efforts and sacrifices as they work to improve the safety of their communities. These emergency responders are a proud dedicated group of professionals who spend hundreds of hours training and preparing to respond to those in need. The majority of emergency responders in Alaska work for little or no pay and spend a large amount of time away from their families to provide this service. These commendable efforts are rarely recognized. HB 73 will provide a method for that daily recognition and also allow the firefighters and EMT's an opportunity to show their pride in belonging to the emergency services family.

My office whole heartedly supports this bill as an effective incentive to recognize the emergency responders within the community and encourage others to get involved.

Respectfully,

David L. Tyler
State Fire Marshal

Office of the State Fire Marshal
5700 E. Tudor Road – Anchorage, AK 99507 – Voice (907) 269-5491– Fax (907) 338-4375

ALASKA FIRE CHIEF'S ASSOCIATION
2358 Bradway Road, North Pole, Alaska 99705
Phone: (907) 488-3400 FAX: (907) 488-6118 EIN #92-0098649



March 23, 2009

Dear Alaska House Representatives:

The Alaska Fire Chief's Association fully endorses and supports the addition of Firefighter and Emergency Service Provider License Plates to House Bill 73.

The majority of Alaskan communities are served by volunteer firefighters and emergency medical technicians that routinely leave their family and jobs day and night to provide service to their local communities. These volunteers need recognition for the work they do and the service they provide in their neighbors times of need.

Establishing firefighter and emergency medical service provider license plates will give statewide recognition of the service and sacrifice these men and women make to their community and hopefully foster a spirit of volunteerism in Alaska.

Thank you for considering this addition to HB 73.

Cordially,

Michelle Weston
Government Relations
Alaska Fire Chief's Association

Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • http://www.muni.org
100 East Fourth Ave. • Anchorage, Alaska 99501 • Telephone: (907) 267-4936 • Fax: (907) 267-4977

Matt Claman,
Acting Mayor

Fire Department

March 23, 2009

Dear Alaska House Representatives:

On behalf myself and the Anchorage Fire Department, I would like to offer my support of House Bill 73 which provides for Firefighter and Emergency Service Provider License Plates.

Having such a license plate would allow for immediate recognition on the scene of an accident or any other emergency situation which would ultimately save valuable time getting through to the site.

Also, a large portion of Alaskan communities are served by volunteer firefighters and emergency medical technicians that routinely leave their family and jobs day or night to provide service to their local communities and assist their neighbors in their time of need. Having a specialized license plate would provide them recognition for the sacrifice they make – much like those recognizing our Veterans.

This is an excellent idea and I would like to thank you for considering this addition to House Bill 73.

Sincerely,

Michelle Weston, Acting for

Craig P. Goodrich
Fire Chief

Community, Security, Prosperity

26-LS0303\E
Luckhaupt
3/12/09

CS FOR HOUSE BILL NO. 73( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES LYNN, Harris

A BILL

FOR AN ACT ENTITLED

"An Act relating to special fire fighter and emergency medical service provider license plates; and providing for an effective date."

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

*** Section 1.** AS 28.10.181 is amended by adding new subsections to read:

(y) Special request active fire fighter and emergency medical service provider plates, former fire fighter and emergency medical service provider plates, and plates commemorating fire fighters and emergency medical service providers. On application by the owner of a motor vehicle, the department may issue registration plates for active fire fighters and emergency medical service providers, registration plates for former fire fighters and emergency medical service providers, and registration plates commemorating fire fighters and emergency medical service providers. The commissioner shall determine the design and color of the plates. The department may disapprove the issuance of registration plates under this subsection when the requested plates are a duplication of an existing registration. To be eligible for

(1) an active fire fighter and emergency medical service provider plate, a person must present satisfactory proof that the person is an active member of

(A) a fire department in this state and the fire department is recognized as a fire department by the state fire marshal; or

(B) an out-of-hospital emergency medical service certified by the Department of Health and Social Services;

(2) a former fire fighter and emergency medical service provider plate a person must present satisfactory proof that the person was an active member of

(A) a fire department in this state for a minimum of 10 years; or

(B) an out-of-hospital emergency medical service certified by the Department of Health and Social Services for a minimum of 10 years.

*** Sec. 2.** AS 28.10.421(d) is amended by adding a new paragraph to read:

(18) special request plates

(A) for active fire fighter and emergency medical service provider $30;

(B) for former fire fighter and emergency medical service provider $50;

(C) commemorating fire fighters and emergency medical service providers $100

plus a fee of $35 and the fee required for that vehicle under (b), (c), (h), or (i) of this section; the fee required by (A) - (C) of this paragraph shall be collected only on the first issuance of and the replacement of the plates; the $35 fee required by this paragraph shall be collected biennially in the same manner as the fee required under (b), (c), (h), or (i) of this section; the commissioner of administration shall separately account for the fees received under this paragraph that the department deposits in the general fund; notwithstanding (g) of this section, the annual estimated balance in the account that is in excess of the cost of issuing special request plates may be appropriated by the legislature for the purposes provided in AS 14.43.085.

*** Sec. 3.** This Act takes effect July 1, 2009.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

CS for HB 73 (26-LS0303\E)
Sponsor Statement

Changes to HB 73 – Removing Honorary Consul License Plates and adding, at the request of Representative Harris - Firefighter and Emergency Service Providers License Plates.

Special license plates for firefighters and emergency service providers are a way to say "thank you" to those who give of their time and risk their lives, to serve the people and communities of Alaska.

The purpose of these plates is two-fold. One is to recognize and thank firefighters and emergency service providers (EMS, Rescue), both volunteer and paid, active and former, who we know give much and ask so little.

The second is to encourage volunteerism.

By providing these license plates the hope is that residents of Alaska will recognize and acknowledge the importance of volunteerism, and possibly plant a seed in the hearts of some that will grow into action, resulting in more individuals volunteering not only in fire departments, but in their communities.

Contact: Nancy Manly 465-2794
Last revised 3/20/09

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **CS(HSTA)HB 73**
() Publish Date:

Identifier (file name): **CSHB073-DOA-DMV-03-16-09**
Dept. Affected: Administration
Title "An Act relating to firefighter and emergency medical service license plates..."
RDU Motor Vehicles
Component Division of Motor Vehicles
Sponsor Rep. LYNN, Harris
Requester H(STA)
Component Number 2348

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill does not fiscally impact the Division of Motor Vehicles (DMV). Revenue derived from the sale of the fire fighter and emergency medical service provider plates is expected to be minimal.

Prepared by: Whitney Brewster
Phone 907-269-5559
Division Motor Vehicles
Date/Time 3/16/09 10:30 AM
Approved by: Kevin Brooks
Deputy Commissioner
Date 3/16/2009

(Revised 9/10/2008 OMB)

Nancy Manly

From: Robert Dennard [robertd@cityofsitka.com]
Sent: Friday, March 20, 2009 10:08 AM
To: Nancy Manly
Cc: Suzie Hill Koklich
Subject: Firefighter commemorative Plates

I am in favor of the house bill supporting commemorative license plates for firefighters. I have been thru the board meetings with the Alaska State Firefighters for many years and have seen and heard a lot of talk from other firefighters who would also be in favor of this. Thank you for your time.
Robert Dennard
Sitka Fire Department
Fire Captain
Alaska State Firefighters

Nancy Manly

From: Brian Long [ffredrhino@hotmail.com]
Sent: Friday, March 20, 2009 10:38 AM
To: Nancy Manly
Subject: HB 73 support

I support HB 73 that would provide special license plates for firefighters and ems providers.
Thanks for your time and effort in seeking this simple yet great thing for us.
Brian Long

Nancy Manly

From: Gary [ggray1@arctic.net]
Sent: Friday, March 20, 2009 10:46 AM
To: Nancy Manly
Subject: HB 73

I am in support of HB 73.I feel that this is an important piece of legislation to support the emergency services of Alaska.

Sincerely

Gary A Gray
Firefighter/EMT
Unalaska, AK.

Nancy Manly

From: Schwan, Martin K. [SchwanMK@ci.anchorage.ak.us]
Sent: Friday, March 20, 2009 10:47 AM
To: Nancy Manly
Subject: FW: HB 73 - Help Sending Emails -Needs to be done today - PLEASE
Attachments: HB 73 copy FF Plates.pdf

I support HB 73 that would provide special license plates for firefighters and EMS providers.

Martin Schwan, Acting Fire Marshal
Division of Fire Prevention
Anchorage Fire Department
4700 Elmore Road
Anchorage AK 99504

"Ability can take you to the top, but it takes character to keep you there."

Office: 267-4968
Fax: 249-7596
Email: schwanmk@muni.org

Helping You Everyday

This correspondence may contain confidential information intended for the use of the individual or entity to which it is addressed. If the reader of this electronic message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying is strictly prohibited.

Nancy Manly

From: Gary Carlson [Gary.Carlson@north-slope.org]
Sent: Friday, March 20, 2009 10:49 AM
To: Nancy Manly
Subject: HB 73

I support HB 73 that would provide special license plates for firefighters and ems providers.

Thank you,

Gary Carlson Captain, Prevention Officer
North Slope Borough Fire Department
P.O. Box 069
Barrow, Ak 99723
phone 907.852.0234 ext 236
email gary.carlson@north-slope.org

Nancy Manly

From: Ronald Currit [rvcurrit@yahoo.com]
Sent: Friday, March 20, 2009 10:54 AM
To: Nancy Manly
Subject: HB 73

I support HB 73 that would provide special license plates for firefighters and ems providers.
Fire Chief
Ronald C Currit
Thorne Bay Volunteer fire dept

Nancy Manly

From: Rifley, Rick F (DOT) [rick.rifley@alaska.gov]
Sent: Friday, March 20, 2009 11:02 AM
To: Nancy Manly
Subject: Support HB 73

I support HB 73 and would like to see a license plate honoring firefighters and public safety employees. Thank you for supporting this bill.

Sergeant Rick Rifley
Airport Police & Fire Department
Fairbanks International Airport
(907) 474-2535 Office
(907) 474-2544 Fax
6450 Airport Way Ste 1
Fairbanks Ak 99709
rick.rifley@alaska.gov

Nancy Manly

From: Wes Perkins [njuswes@yahoo.com]
Sent: Friday, March 20, 2009 11:05 AM
To: Nancy Manly
Subject: HB 73 Special Plates

We are in support of HB 73, special lisence plates for EMS, Firefighters, in the State of Alaska. We have talked about this with Foster and Olson from our region before. Thanks Wes Perkins Safety Officer, Nome Volunteer Fire Dept. and EMT 1, Nome Volunteer Ambulance Dept. We support this bill.

Nancy Manly

From: Sean M. Huntley [seanh@searhc.org]
Sent: Friday, March 20, 2009 11:34 AM
To: Nancy Manly
Subject: HB 73

I support HB 73 that would provide special license plates for firefighters and ems providers. This would be a way for the Alaska State Firefighters' Association to provide help to the families of firefighters who have given the ultimate sacrifice to our state. It would also hopefully increase firefighter recruitment & retention by providing pride in the field.

Lt. Sean M. Huntley, Firefighter/EMT II
Capital City Fire/Rescue
President, Capital City Chapter of ASFA

Nancy Manly

From: arlen skaflestad [askaflestad@yahoo.com]
Sent: Friday, March 20, 2009 12:12 PM
To: Nancy Manly
Subject: License plates

I support HB 73 that would provide special license plates for firefighters and ems providers. It would give special recognition to a thankless job!!
Arlen Skaflestad
Captain
Hoonah VFD

Nancy Manly

From: CCFR.DC@gmail.com
Sent: Friday, March 20, 2009 1:18 PM
To: Nancy Manly
Subject: HB 73

I would like to express my support for HB 73 in developing a license plate for volunteer firefighters and EMS providers. Alaska relies heavly on these volunteers to provide emergency services. Recruitment is harder and harder. Retaining volunters is more and more dificult. This is one way to show our appriciation to them for the hundreds of hours they donate.

Rich Etheridge
Juneau, Alaska

Nancy Manly

From: Clime, Richard D (DOC) [richard.clime@alaska.gov]
Sent: Friday, March 20, 2009 2:19 PM
To: Nancy Manly
Subject: HB 73

Ms/Mrs. Manly,

I support HB 73 that would provide special license plates for firefighters and EMS providers. As being a 17 year active volunteer firefighter/Engineer/past-EMT here in Juneau for the Capital City Fire Rescue, I am support of the needs of a license plate representing the folks within the fire/EMS services, carreer/volunteer/combination, that represent our great state. Without the hard dedication and commitment it takes to do what they/we do, we'd be a hurting state of panic when the fire alarm/page goes out. Please consider this one vote/support of this house bill being presented next week to The House.

Mission Statement

"Readiness, Dedication, Service"

My personal motto in the fire services:
"All firefighters are pyromaniacs, we just keep it in control"
"If it wasn't for fire, we'd be out of a job"



Rych Clime
Volunteer FF/Engineer – Capital City Fire Rescue, Juneau – Douglas Volunteer Fire District
President – Douglas Volunteer Firefighters Association Fireclub (past vice president, past secretary/treasurer)
Vice President – Capital City Chapter of the Alaska State Firefighters Association, Juneau Alaska (past president, past secretary/treasurer)
Delegate Member of the Board of Directors, Alaska State Firefighters Association (past secretary/treasurer)
Delegate Member of the National Benefits Summit of National State Firefighters Association (2007/2008)

State of Alaska, United States of America
HAPPY 50TH ANNIVERSARY ALASKA!!
1/3/1959 - 1/3/2009

Nancy Manly

From: Scott Novak [novak@gci.net]
Sent: Friday, March 20, 2009 2:21 PM
To: Nancy Manly
Subject: HB 73

Please support HB 73, license plates for volunteer firefighters.

Scott Novak
volunteer firefighter
Capital City Fire & Rescue
Juneau, Alaska

666

Nancy Manly

From: Dan Tucker [tucker@mtaonline.net]
Sent: Friday, March 20, 2009 2:35 PM
To: Nancy Manly
Subject: Support for HB 73

Rep. Manly,

Please hear this plea in support of HB 73 – Special License Plates for firefighters and emergency service providers. I strongly support this measure.

As a 35+ year veteran of the fire service, including a 29 year career with the Anchorage Fire Department and some Volunteer service, I recognize that we are the unheralded heroes of a safe everyday life. We are usually proclaimed heroes just after a major event but most often simply overlooked most of the rest of the time.

We recognize Armed Service Veterans, appropriately, with vanity plates acknowledging their contribution to world and national security and peace. It is not inappropriate to recognize firefighters and other emergency responders for their contribution toward the common man's tranquility knowing that they can dial 911 and be taken care of.

It is said that "Only two defining forces have ever offered to die for you, Jesus Christ and the American G.I. One died for your soul, the other for your freedom. Thank them both today." (quote variously attributed) I often add the following when using this quote: "Firefighters and Police are the present-day, local representatives of this ethic. They willingly stand between you and your greatest fears."

Thank you for your effort on this bill.

Sincerely,
Dan
--
Daniel J. Tucker
Battalion Chief (Retired) Battalion One 'C'
Anchorage, Alaska, Fire Department 1973-2002
c/o 4330 Wickersham Way
Wasilla, AK 99654-7638
907/863-1313 cell
907/376-2630

Nancy Manly

From: Scott Johnson [scott.a.johnson@gmail.com]
Sent: Friday, March 20, 2009 2:44 PM
To: Nancy Manly
Cc: Sen. Donny Olson; Rep. Richard Foster
Subject: HB 73
Attachments: HB 73 copy FF Plates.pdf

Dear Ms. Manly,

I live in Nome and volunteer with the Nome Ambulance Department as an EMT. I have also served as an EMT with Copper River EMS out of Glennallen. I understand Representative Lynn has sponsored legislation in conjunction with Speaker Harris known as House Bill 73, an act providing for special license plates for firefighter and EMS personnel. I support this bill/amendment that I understand will be read into consideration some time next week. I have attached a copy of this bill which I have reviewed.

As I'm sure you are aware, in many areas of our state firefighting and EMS service is done by skilled volunteers, not paid professionals. These volunteers typically volunteer many long hours not only in the performance of their duties, but also in training time. This is a huge commitment of the individuals as well as their families. This is of course in addition to the many paid professionals who dedicate their careers to serving the residents of our great and wonderful state.

I believe these special commemorative license plates are a simple yet significant and appropriate way to recognize these individuals and their contribution to our communities and society in general.

Your assistance in passage of this legislation to the Senate would be very much appreciated.

Respectfully,

Scott A. Johnson

--
Scott Johnson
scott.a.johnson@gmail.com
mobile: +1.907.240.2483

PO Box 22092, Juneau, Alaska 99802

March 20, 2009

Representative Bob Lynn
Representative John Harris

On behalf of the Alaska State Firefighters Association, I would like to voice our unified support via this letter to HB 73, "An Act relating to special firefighter and emergency medical service provider license plates; and providing for an effective date."

As we have stated before, not only is this bill to recognize and thank both volunteer and paid personnel statewide, we feel it would be an effective tool in the recruitment and retention of volunteers.

Nationwide, as in Alaska, departments struggle with the recruitment of volunteers. Firefighters and emergency medical responders are called upon to do more than "show up" at an event. For volunteers their jobs require extensive training, taking valuable time from their families and home life. This is time given freely, without compensation and many times, without thanks from those they serve. People have just come to expect them to "show up" – paid or volunteer when there is an incident – and they do.

Our Mission:

To serve our members through professionalism and leadership there by

enhancing the Fire/Rescue services of Alaska.

PO Box 22092, Juneau, Alaska 99802

Both paid and volunteer personnel in the fire service, give more than is required by their jobs, they more times than naught volunteer in their off time within their communities to support various causes – helping their communities raise monies and put on programs that improve and add to the quality of life in communities all across the state.

The Alaska State Firefighters Association has applied for and been awarded more than $600,000 dollars in SAFER (Staffing for Adequate Fire and Emergency Response) Grants through FEMA. With these monies our organization is working with departments statewide to promote volunteerism and fund training for personnel. The Alaska State Firefighters Association is made up of both paid and volunteer firefighters and emergency service personnel – striving to enhance the fire and rescue service of the State of Alaska.

This bill would be a small token of appreciation and hopefully a "seed" of encouragement towards volunteerism.

Sincerely,

Dave Miller
President

Our Mission:

To serve our members through professionalism and leadership there by

enhancing the Fire/Rescue services of Alaska.

Nancy Manly

From: akvoyager@att.net
Sent: Friday, March 20, 2009 3:19 PM
To: Nancy Manly
Subject: Firefighter/EMS provider license plates

Ms. Manly,

I am wrtting you in support of HB 73 which provides for special license plate for firefighters and emergency services providers. I support this legislation for two basic reasons. First, I am a volunteer firefighter in my local community as well as an EMS responder. Secondly, and most importantly, if it were not for the acts of a group of EMS providers that came to my aid a year and a half ago I would not be here to send this email. I would have died of a major MI but with their assistance was able to pull through.

I have been to many incidents where similar fire/EMS has given their all and then some to protect property, save lives and provide a safe environment for us all to live in. They do this with very little, if any, recognition. I feel that a license plate would be a fitting was to recognize these dedicated individuals.

One last thing, in those communities utilizing volunteer fire/EMS personnel to protect their communities, having a special license plate would be a way for non-responders to recognize responding individuals when there was an emergency response in progress.

Thanks you for your time and I hope your support in recognizing these very important and dedicated individuals.

Richard Abbott
Juneau, Alaska

Nancy Manly

From: Paul Jennings [jennings_p@hotmail.com]
Sent: Friday, March 20, 2009 3:22 PM
To: Nancy Manly
Subject: HB 73

To whom it may concern,

I am the Vice President of the Petersburg Chapter of Alaska State Firefighters Association and a volunteer of that fire department. I have spoken with most of our department and some of the retired past members about this subject. So as the A representative of both active members and retired members of our department we support HB 73 that would provide special license plates for firefighters and ems providers.

Our department currently had about 60 members and about that many retired members that would fit the qualifications to get a license plate.

Thank you for taking the time to read this letter, Sincerely Paul Jennings and the Petersburg Volunteer Fire Department.

Express your personality in color! Preview and select themes for Hotmail®. See how.

Nancy Manly

From: jana harshey [janatorial@acsalaska.net]
Sent: Friday, March 20, 2009 3:27 PM
To: Nancy Manly
Subject: fire

I totally support the fire/ems plates. Thank-you Jana harshey sitka fire dept.
JANA HARSHEY

Nancy Manly

From: David Seng [dgseng@gmail.com]
Sent: Friday, March 20, 2009 3:41 PM
To: Nancy Manly
Subject: HB 73 Support

Hi Nancy,

I'm writing to voice my support for HB73 - the Special License Plates for firefighters and EMS providers. This would give recognition to the individuals that give so much of their hearts, souls and even lives to serve the public.

Dave Seng
Juneau, AK

Nancy Manly

From: Suzie Hill Koklich [arkalaska@yahoo.com]
Sent: Friday, March 20, 2009 5:35 PM
To: Nancy Manly
Subject: Re: FW: Firefighter/EMS provider license plates

Sorry I was out for a couple hours - what he is saying is not everyone responding has a blue light - no one in my community does any more - but if someone driving by sees a group of vanity plates w/firefighter or ems designation they will know there must be something going on - but these plates are NOT intended to give special privileges.

thanks - me

Suzie Hill Koklich
Alaska Director
National Volunteer Fire Council
P.O. Box 876
Valdez, Alaska 99686
(907) 835-4246 Email: arkalaska@yahoo.com

--- On **Fri, 3/20/09, Nancy Manly** <*Nancy_Manly@legis.state.ak.us*> wrote:

> From: Nancy Manly <Nancy_Manly@legis.state.ak.us>
> Subject: FW: Firefighter/EMS provider license plates
> To: "arkalaska@yahoo.com" <arkalaska@yahoo.com>
> Date: Friday, March 20, 2009, 3:27 PM
>
> Suzie: I was just reading Richard Abbot's letter. He mentions that having a special license plate would be a way for non-responders to recognize individuals when there is an emergency in progress. I hope that isn't the intent of getting these plates. These plates are vanity plates only. There will be no special privileges that will go with these plates. The way to recognize individuals when there is an emergency in progress will be the blue light on their car blinking to get out of the way. Am I misunderstanding? Please advise.
>
> Nancy Manly, Chief of Staff and
> House State Affairs Committee Aide *for*
> **Representative Bob Lynn**
> **House District 31**
> 907-465-2794 Fax: 907-465-4316
>
> ---
>
> **From:** akvoyager@att.net [mailto:akvoyager@att.net]

Sent: Friday, March 20, 2009 3:19 PM
To: Nancy Manly
Subject: Firefighter/EMS provider license plates

Ms. Manly,

I am wrtting you in support of HB 73 which provides for special license plate for firefighters and emergency services providers. I support this legislation for two basic reasons. First, I am a volunteer firefighter in my local community as well as an EMS responder. Secondly, and most importantly, if it were not for the acts of a group of EMS providers that came to my aid a year and a half ago I would not be here to send this email. I would have died of a major MI but with their assistance was able to pull through.

I have been to many incidents where similar fire/EMS has given their all and then some to protect property, save lives and provide a safe environment for us all to live in. They do this with very little, if any, recognition. I feel that a license plate would be a fitting was to recognize these dedicated individuals.

One last thing, in those communities utilizing volunteer fire/EMS personnel to protect their communities, having a special license plate would be a way for non-responders to recognize responding individuals when there was an emergency response in progress.

Thanks you for your time and I hope your support in recognizing these very important and dedicated individuals.

Richard Abbott
Juneau , Alaska

Nancy Manly

From: Steeves, Chris [Chris.Steeves@alyeska-pipeline.com]
Sent: Friday, March 20, 2009 7:14 PM
To: Nancy Manly
Subject: HB 73
Importance: High

Nancy-
I support HB 73 that would provide special license plates for firefighters and EMS providers.
Thank you for your support in this matter

Chris Steeves
Alyeska Fire and Rescue
Valdez Marine Terminal
Chris.Steeves@alyeska-pipeline.com
(907)250-6360

Nancy Manly

From: christinawuerker@uwalumni.com
Sent: Friday, March 20, 2009 8:24 PM
To: Nancy Manly
Subject: special license plates

I support HB 73 that would provide special license plates for firefighters and ems providers. This an absolutely amazing idea! So many states are already doing this.

Nancy Manly

From: Ken Lawrenson [kmlawrenson@yahoo.com]
Sent: Friday, March 20, 2009 9:57 PM
To: Nancy Manly
Subject: Support for HB73

As a Juneau volunteer firefighter, I urge the support of HB73, which authorizes the issue of specialized license plates to active and retired firefighters and EMS responders, and those who support them. This is a great idea to rally enthusiasm and support for those of us who are on the front line for our communities. It also provides an incentive for the recruitment of new firefighters, and retention of those in our ranks.

Thank you,

Ken
K. M. Lawrenson
pls reply to kmlawrenson@yahoo.com
503-334-6606 cell

Nancy Manly

From: saparilla@att.net
Sent: Friday, March 20, 2009 10:27 PM
To: Nancy Manly
Subject: HB 73

I support HB 73 that would provide special license plates for firefighters and ems providers.

Thank you,
Keturah Sadler

Nancy Manly

From: Carpenter, Pete [Pete.Carpenter@alyeska-pipeline.com]
Sent: Saturday, March 21, 2009 2:39 AM
To: Nancy Manly
Subject: HB 73 license plates!!!

I would most definitely support HB 73 to provide firefighters and EMS personnel with personalized license plates for our vehicles. This sounds like an amazing benefit for all emergency personnel.
Thanks for the support!

-Pete Carpenter-

Nancy Manly

From: jack.smith@gci.net
Sent: Saturday, March 21, 2009 7:54 AM
To: Nancy Manly
Subject: HB 73

This letter encourages the legislature to pass HB73 to provide license plates that recognize emergency service personnel that deliver critical life saving care to Alaska residents and visitors. Many of these personnel are volunteers that provide care with little compensation or recognition. As the number of emergency services volunteers decline around the country it is important that efforts are taken to provide recognition to this vital service.

Consideration and passage of this resolution is appreciated.

Jack M. Smith, Fire Chief
North Slope Borough Fire Department
P.O. Box 69
Barrow, Alaska 99723

Nancy Manly

From: Sean Wisner [akwisner@gmail.com]
Sent: Saturday, March 21, 2009 9:49 AM
To: Nancy Manly
Subject: HB 73

To whom it may concern,
I support of HB 73 - Special License Plates for firefighters and emergency service providers.
Thank You for your consideration regarding these matters.

--
Sean D. Wisner, Captain
Alyeska Fire and Rescue
Valdez Marine Terminal

Nancy Manly

From: Kathleen Miller [kmillerrn.juneau@gmail.com]
Sent: Saturday, March 21, 2009 1:56 PM
To: Nancy Manly
Subject: HB 73

Greetings from Skagway where I am stranded (weather) in the middle of an EMT 2 class. I had hoped to get back to Juneau for the Firefighter 1 class Saturday but we had to turn back due to snow squalls. I think that this email may be late but I do so heartily support HB 73 providing special license plates for fire fighting and EMS providers. I am currently a Public Health Nurse, in training to be an effective fire/EMS volunteer. I do know that when the 'all call' sounds for a fire or motor vehicle accident that we need to have a consistent, efficient way for law enforcement or other providers to recognize our vehicles for effective scene access. Not everyone will have a 'blue light' in their vehicle...in addition to which I suspect that lights can be purchased by 'anyone'. A special plate would be more official as well as a recognized identifier.

Thank you for working on HB 73, Kathy Miller RN, MPH, EMT 1 and Lynn Canal Station volunteer for CCF/R-Juneau

Nancy Manly

From: stefanie bromagen [stefaniebromagen@yahoo.com]
Sent: Saturday, March 21, 2009 7:37 PM
To: Nancy Manly
Subject: HB73

I support the HB73 for the Firefighter /EMS Liscense Plates.

Stefanie Bromagen
Firefighter/EMS
Ketchikan Gateway Chapter ASFA President

Nancy Manly

From: Gregory Brown [stormcloudff@hotmail.com]
Sent: Saturday, March 21, 2009 8:30 PM
To: Nancy Manly
Subject: Support of bill 73

I support house bill 73 as a member of Gateway Chapter.
Greg

Windows Live™ SkyDrive: Get 25 GB of free online storage. Check it out.

Nancy Manly

From: skillingsg@gmail.com
Sent: Saturday, March 21, 2009 9:52 PM
To: Nancy Manly
Subject: HB 73

I am a Sr. Fire Medic for the Ketchikan Fire Department and a volunteer with the North Tongass Volunteer Fire Dept. I support HB 73 that would provide special license plates for firefighters and ems providers.

Thank you,
Gretchen Skillings
Ketchikan

Nancy Manly

From: ken Montero [monteroken@gmail.com]
Sent: Sunday, March 22, 2009 6:19 AM
To: Nancy Manly
Subject: please support this bill

please support this bill.

Nancy Manly

From: Glen Hofmann [glenh15@hotmail.com]
Sent: Sunday, March 22, 2009 5:23 PM
To: Nancy Manly
Subject: HB 73

Nancy,
My name is Glen, I am a Paramedic/Firefighter for the City of Ketchikan.
I support HB 73.
Thank you.

Glen A. Hofmann

Windows Live™ SkyDrive: Get 25 GB of free online storage. Check it out.

Nancy Manly

From: Hill, Gail J (DOT) [gail.hill@alaska.gov]
Sent: Monday, March 23, 2009 7:26 AM
To: Nancy Manly
Subject: FF Plates

Good Morning Nancy,

I would like to let you know that I support HB 73 that would provide special license plates for firefighters and EMS providers. I am a volunteer EMT with the City of Ketchikan.

Thank you for your efforts in putting this forward.

Gail J. Hill
Administrative Officer II
Alaska Marine Highway System
(907)228-6868
gail.hill@alaska.gov

Nancy Manly

From: Hoff, Bradley S MIL USA USARPAC [bradley.s.hoff@us.army.mil]
Sent: Monday, March 23, 2009 7:20 AM
To: Nancy Manly
Subject: Public Safety license plates (UNCLASSIFIED)
Signed By: There are problems with the signature. Click the signature button for details.

Classification: **UNCLASSIFIED**

Caveats: NONE

I support HB 73 that would provide special license plates for firefighters and EMS providers. This is a potential recruiting tool to get more people involved into the drastically under manned public services with much needed staffing.

I am honored to be a veteran as well to know that our state has special license plates to honor them but our public also needs to be aware of then thousands of men and women who devote their lives to public safety.

V/R

Bradley Hoff
Fire Inspector & Public Education Coordinator
Fire & Emergency Services
FT. Wainwright, Alaska 99703
(907) 353- 9141/Desk; 353-9166/office; Fax: (907) 353-9100 FWA Fire Prevention

SMOKE ALARMS..DON'T STAY HOME WITHOUT ONE!

"Everyone Goes Home"

Firefighter Life Safety Initiatives

Leiutenant, North Star VFD, North Pole Alaska

Classification: **UNCLASSIFIED**

Caveats: NONE

Nancy Manly

From: fmonrean@kpunet.net
Sent: Monday, March 23, 2009 6:59 AM
To: Nancy Manly
Subject: Firefighter/Ems License plates

nancy:
I just wanted to let you know that I support the license plates for volunteer firefighter/EMS responders. It is about the worst job in the world cutting some poor person out of a car and tring to get them out alive. The risks are extreme. A little show of recognition would be nice.
Fred

---
mail2web.com - Microsoft® Exchange solutions from a leading provider -
http://link.mail2web.com/Business/Exchange

692

Nancy Manly

From: Jeff Jones [jeffj533@hotmail.com]
Sent: Monday, March 23, 2009 1:08 AM
To: Nancy Manly
Subject: HB 73

To Whom It May Concern:

I support HB 73 that would provide special license plates to firefighters and EMS providers.

Thank you for your time.

Jeff Jones
Ketchikan Fire Department

Internet Explorer 8 – Now Available. Faster, safer, easier. Download FREE now!

Nancy Manly

From: Victoria Godkin [Victoria_Godkin@ci.juneau.ak.us]
Sent: Friday, March 20, 2009 4:56 PM
To: Nancy Manly
Attachments: Victoria Godkin.vcf

I support house bill HB 73

Victoria Godkin
Administrative Assistant III
Capital City Fire/Rescue
820 Glacier Avenue
Juneau, Alaska 99801
(907)586-0262 PHONE
(907)586-8323 FAX

Nancy Manly

From: Valerie Allen [pwsec1@ci.petersburg.ak.us]
Sent: Friday, March 20, 2009 4:42 PM
To: Nancy Manly
Subject: Special License Plates

Good afternoon,

I support HB 73 that would provide special license plates for firefighters and ems providers. I am a current EMS lieutenant with the Petersburg Volunteer Fire Department and think this is a great way for the State to show our volunteers that we appreciate what they do for their communities.

Thank you,

Valerie Allen
P.O. Box 1863
Petersburg, AK 99833

Nancy Manly

From: Sam Dalin [revsamd@yahoo.com]
Sent: Friday, March 20, 2009 4:30 PM
To: Nancy Manly
Subject: Firefighter/EMS

As Chaplain of Capital City Fire/Rescue and Juneau Police Department Chaplain I am in favor of these plates. Chaplain Sam Dalin

Nancy Manly

From: Clime, Richard D (DOC) [richard.clime@alaska.gov]
Sent: Monday, March 23, 2009 8:34 AM
To: Nancy Manly
Subject: FW: Firefighter Support

From: reifen@gci.net [mailto:reifen@gci.net]
Sent: Saturday, March 21, 2009 10:36 PM
To: Clime, Richard D (DOC)
Subject: Firefighter Support

Rych, can you send this along? I can't seem to get the email address for Ms. Manly to work. Thanks. - G

This note is written in support of HB 73. I have been a firefighter/EMS provider in Juneau since 1974, am the retired District Chief for the Lynn Canal/Auke Bay District and currently serve in the capacity of Captain, Special Rescue Teams for Capitol City Fire/Rescue. In the 35 years that I have been a volunteer in the fire service I have been blessed to serve with numerous dedicated individuals, received great training opportunities and to had the satisfaction of serving my community. The rewards of saving property, protecting the environment and in several instances actually saving lives has enriched my life in ways that words can scarcely describe. As I near the end of this important and defining part of my life I realize that HB 73 makes the transition a little easier; we don't retire our pagers and helmets without profound regret or an acceptance that we'll not miss the calls and opportunity to serve.

Thanks,

George Reifenstein Jr., Captain, Special Teams, CCF/R
4202 Auke Lane,
Juneau, AK 99801

Nancy Manly

From: Sven Pearson [svenpearson@gmail.com]
Sent: Monday, March 23, 2009 9:56 AM
To: Nancy Manly
Subject: HB 73

I totally support HB 73 that would provide special license plates for firefighters! Many states have a similar program honoring firefighters that risk their lives for others.

Sven Pearson
Juneau, Alaska

HB

76

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 20, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-4-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 76**

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

HB 76 LEGISLATIVE COUNCIL & LB&A MEMBERSHIP

Recommends it be replaced with [ ] HCS *or* [X] CS for HB 76 ( )
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			X	
David Guttenberg	Gatto			X	
Paul Seaton	Seaton	X			
Mike Hawker	Gruenberg	-			
Pete Peterson	Peterson	X			
Chair: Bob Lynn	LYNN			X	
Chair:					

Nancy Manly

To: Londi Ensor
Subject: electronic fiscal note for HB 76
Attachments: 05 HB76-LEG-COU-1-22-10.pdf

Hi Londi: HB 76 passed out of the House State Affairs Committee amended this morning. Attached is the electronic fiscal note.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

701

CS FOR HOUSE BILL NO. 76(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, BUCH, CISSNA, DOOGAN, GARDNER, GUTTENBERG, HOLMES, KAWASAKI, KERTTULA, PETERSEN, SALMON, AND TUCK, Crawford, Gara, Neal Foster

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

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

*** Section 1.** AS 24.20.020 is amended to read:

Sec. 24.20.020. Membership. The legislative council is composed of the president of the senate and six other senators appointed by the president, and the speaker of the house of representatives and six other representatives appointed by the speaker. The membership from each house shall **meet the requirements of (b) of this section** [INCLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES]. The appointing authority in each house shall make and announce the appointment or reappointment of members of the council within 15 days after the convening of the first regular session of each legislature.

*** Sec. 2.** AS 24.20.020 is amended by adding a new subsection to read:

(b) The membership from each house must include at least one member from

each of the two major political parties. The membership from each house must also include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats to which the minority is entitled, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. For purposes of this subsection, "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

*** Sec. 3.** AS 24.20.040 is amended to read:

Sec. 24.20.040. Vacancies. When a vacancy occurs in the statutory or appointive membership of the council, the presiding officer of the house incurring the vacancy shall fill the vacancy within 30 days. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy occurs among the appointed members of the council, the remaining council members from the house incurring the vacancy shall appoint a new member. **After a vacancy is filled, the membership of the house that incurred the vacancy must meet the requirements of AS 24.20.020(b)** [A LEGISLATOR APPOINTED TO FILL A VACANCY SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE MEMBER VACATING THE SEAT, WHEN POSSIBLE].

*** Sec. 4.** AS 24.20.161 is amended to read:

Sec. 24.20.161. Membership. The Legislative Budget and Audit Committee is composed of 10 members: the **chairs** [CHAIRMEN] of the senate and house finance committees; one member selected from each of the senate and house finance committees and appointed by the president of the senate and the speaker of the house, respectively; and three members appointed from each house by the respective presiding officer. The **chair** [CHAIRMAN] of the finance committee may choose not to serve on the committee. If this occurs, the presiding officer of the appropriate house shall appoint a replacement from the finance committee. The membership from each house shall **meet the requirements of (b) of this section** [INCLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES]. The committee shall select its own **chair** [CHAIRMAN].

*** Sec. 5.** AS 24.20.161 is amended by adding a new subsection to read:

(b) The membership from each house must include at least one member from each of the two major political parties. The membership from each house must also include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats to which the minority is entitled, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. For purposes of this subsection, "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

*** Sec. 6.** AS 24.20.181 is amended to read:

Sec. 24.20.181. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. **After a vacancy is filled, the membership of the house that incurred the vacancy must meet the requirements of AS 24.20.161(b).**

*** Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The amendments made in this Act shall first apply on the date the First Regular Session of the Twenty-Seventh Alaska State Legislature first convenes and apply thereafter. Before that date of convening, AS 24.20.020, 24.20.040, 24.20.161, and 24.20.181 shall apply as they read on the day before the effective date of this Act.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794 Nancy
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re HB 76 26-LS0335\S

2/4/10
House State Affairs Committee passed out CS for HB 76 26-LS0335\S. Please draft a final CS. Thank you!

26-LS0335\S
Chenoweth/Cook
3/3/09

CS FOR HOUSE BILL NO. 76( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

Already Adopted 12-26-10 CS was adopted by committee

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, BUCH, CISSNA, DOOGAN, GARDNER, GUTTENBERG, HOLMES, KAWASAKI, KERTTULA, PETERSEN, SALMON, AND TUCK, Crawford

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

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

*** Section 1.** AS 24.20.020 is amended to read:

Sec. 24.20.020. Membership. The legislative council is composed of the president of the senate and six other senators appointed by the president, and the speaker of the house of representatives and six other representatives appointed by the speaker. The membership from each house shall **meet the requirements of (b) of this section** [INCLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES]. The appointing authority in each house shall make and announce the appointment or reappointment of members of the council within 15 days after the convening of the first regular session of each legislature.

*** Sec. 2.** AS 24.20.020 is amended by adding a new subsection to read:

(b) The membership from each house must include at least one member from

each of the two major political parties. The membership from each house must also include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats to which the minority is entitled, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. For purposes of this subsection, "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

*** Sec. 3.** AS 24.20.040 is amended to read:

Sec. 24.20.040. Vacancies. When a vacancy occurs in the statutory or appointive membership of the council, the presiding officer of the house incurring the vacancy shall fill the vacancy within 30 days. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy occurs among the appointed members of the council, the remaining council members from the house incurring the vacancy shall appoint a new member. **After a vacancy is filled, the membership of the house that incurred the vacancy must meet the requirements of AS 24.20.020(b)** [A LEGISLATOR APPOINTED TO FILL A VACANCY SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE MEMBER VACATING THE SEAT, WHEN POSSIBLE].

*** Sec. 4.** AS 24.20.161 is amended to read:

Sec. 24.20.161. Membership. The Legislative Budget and Audit Committee is composed of 10 members: the **chairs** [CHAIRMEN] of the senate and house finance committees; one member selected from each of the senate and house finance committees and appointed by the president of the senate and the speaker of the house, respectively; and three members appointed from each house by the respective presiding officer. The **chair** [CHAIRMAN] of the finance committee may choose not to serve on the committee. If this occurs, the presiding officer of the appropriate house shall appoint a replacement from the finance committee. The membership from each house shall **meet the requirements of (b) of this section** [INCLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES]. The committee shall select its own **chair** [CHAIRMAN].

* **Sec. 5.** AS 24.20.161 is amended by adding a new subsection to read:

(b) The membership from each house must include at least one member from each of the two major political parties. The membership from each house must also include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats to which the minority is entitled, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. For purposes of this subsection, "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

* **Sec. 6.** AS 24.20.181 is amended to read:

Sec. 24.20.181. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. **After a vacancy is filled, the membership of the house that incurred the vacancy must meet the requirements of AS 24.20.161(b).**

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The amendments made in this Act shall first apply on the date the First Regular Session of the Twenty-Seventh Alaska State Legislature first convenes and apply thereafter. Before that date of convening, AS 24.20.020, 24.20.040, 24.20.161, and 24.20.181 shall apply as they read on the day before the effective date of this Act.

5334
4316

Committee Action on Legislation

HOUSE RECORDS COMMITTEE SECRETARY: LORI ROLAND

JANUARY 26, 2010

HOUSE STATE AFFAIRS STANDING COMMITTEE

PAGE 1 OF 1

#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
HB 76	LEGISLATIVE COUNCIL & LB&A MEMBERSHIP	____ Moved Out of Cmte ____ Moved CS (____)Out of Cmte ____ Moved HCS (____)Out of Cmte ✓ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
		____ Moved Out of Cmte ____ Moved CS (____)Out of Cmte ____ Moved HCS (____)Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
		____ Moved Out of Cmte ____ Moved CS (____)Out of Cmte ____ Moved HCS (____)Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

Committee Minutes
Mar 27, 2008

HB 412-LEGISLATIVE COUNCIL & LB&A MEMBERSHIP

8:52:36 AM

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 412, "An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

8:52:44 AM

REPRESENTATIVE GRUENBERG introduced HB 412 as prime sponsor, on behalf of every member of the House Minority. He said the bill was introduced once before on behalf of every member of the House Minority in the Twenty-Third Alaska State Legislature. He stated that with one exception, HB 412 completes a concept that began back in approximately 1987 or 1988, in the Fifteenth Alaska State Legislature, when a member of the House Minority approached Representative Gruenberg, then the House Majority leader, asking for proportional representation on standing committees. At that time, he noted, "we were not in a coalition," and the members of the Democratic majority agreed to the concept of proportional representation on the standing committees and amended the Uniform Rules accordingly.

REPRESENTATIVE GRUENBERG said that for whatever reason, the membership of the Alaska Legislative Council and the Legislative Budget and Audit Committee was not made proportional at the same time. He noted that those two committees were created by statute and do not require a two-thirds vote, but rather follow a majority vote. He said the only committee that has not been included in HB 412 was the Joint Armed Services Committee, because "we just didn't feel that that was necessary."

8:55:22 AM

REPRESENTATIVE GRUENBERG said there are six sections to the bill which provide proportional representation on the Alaska Legislative Council and the Legislative Budget and Audit Committee. He said both the majority leader and the minority whip support the legislation, although neither one was able to attend today's meeting.

REPRESENTATIVE GRUENBERG, in response to a question from Chair Lynn, described the present make-up of the two committees and how the bill would change them. He said he would have the numbers written down for the chair by the next hearing of the bill.

8:57:10 AM

CHAIR LYNN announced that HB 412 was heard and held.

Personal transcription of
Senate Floor tapes, 5/9/88

1988--Senate Journal...

I'd like to move—I 'm trying to figure out how to do this, but I'd like to move that we rescind our action in passing CS for Duncan gives notice of reconsideration on HCR 42rescind previous action in passing it.

Halford...has it been reconsidered? ... we have a question now, we've used the reconsideration...

yes, we've done it both ways.

Notice of reconsideration...noted by president

Duncan...wants ...

Faiks says, we're sending them immediately, need to retrieve the bill. it's in the mill So if you're thinking about it, it's not impossible.

D—thinking about it...Voted against it, will so it again

Want to layout a scenario of difficulty that I think was overlooked, and I think it's potentially very serious. And I hope the members will listen very closely.

Wants to talk about serious problem it raises...been in both m and M...always ended up there through the organizational process. And once that organizational process has been put together, I've always assumed for the most part that that's the organization that was going to be maintained and continue with those committee seats for the duration of the legislature. Let me give you an example of what could happen under this concurrent resolution and under this rule 25%. Let's say we have a majority of 15 and minority of 5, that's the 25%. On a 7 member finance committee, the requirement is 1 minority seat because you ignore the fraction and 25% of 7 is 1.7 something so you ignore the fraction. But let's say that Senator X who is the 5th member of the L&C Committee or some other committee and is in the majority isn't very happy. And so he says to himself, "I can have a seat on finance. All I have to do is quit the majority and join the minority. And according to this rule, because there are now 6 minority members, they have to give me a seat on Finance or one of the other minority members a seat on Finance. And what that means is, one of the majority members on finance has to leave. And what that means is, Madame President, the organizational commitment that was made when you organized is broken. And what that probably means, Madam President, is you've got a disrupted organization. And you've got serious problems. And I guess what I think we're setting ourselves up for by tying in a 25 % ratio is that organizations 1) may never go together—it would be very difficult, but secondly, once they go together they'll keep moving back and forth and you'll never have any stability in the organization because the example I gave you could happen, and I've been around long enough to know that it probably would happen, and they're'd be serious problems within the organization. So I think without further thought, this causes some serious, serious problems. And I look primarily at what could happen when you go from 5 to 6, because 5 is only 1 member on a 7 member committee; 6 is two members on a 7-member committee. And once you do that, you've got to give that proportional representation and you've just broken organizational commitments.

. Say ... quite the majority to get a seat...then..b/c now 6 minority members, they get another seat on finance and a majority member has to leave. organizational commitment is broken

Disrupted organization. Serious problems. Setting up for it with this 25% ratio---organizations may never go together, and then moving back and forth. No stability. Probably would happen. Causes serious serious problems. Especially from 5-6. With 7-member committees.

Breaking organization commitments.

Eliason—I'd just presume you'd increase size of committee

Halford—I think essentially, all of what Senator Duncan said is potentially true. And that is why we'd probably be more apt to organize on the basis of ideology than promise of position.

Coghill—I think that if you read the whole article, the whole rule E and its context, you'll find that the committee on committees makes the report. The C on C report is subject to approval of the majority of the whole membership. I think that the good senator from Juneau is reaching way out there. There's all kinds of possibilities but if we try to justify or to resolve every if in this process, why we'd never pass anything.

Hensley—I listened very very hard to the comments from the senator from Juneau but whether or not the organization is put together on the basis of ideology or position, still it all still comes down to whether or not the commitment is not only strong and clear.

Faiks—that's correct.

Duncan—I agree and those commitments always should be strong and clear and should go through the organization. And the moment you put this rule into effect, commitments will not mean that much anymore because the rule will override them. And if you move one member to Finance and move one member off, that's reorganization. If you expand the committee from 7 to 9 so that you don't have to move any majority member off, I think that also causes serious problems because we all know what that does: the 7 members on Finance want to be there because there's a little bit of, supposed to be , a little bit of influence there and they're one of seven. But if they become one of nine it doesn't mean as much. And if they become one of eleven it doesn't mean as much. I just think, madam president, that it is an admirable try, but it doesn't do anything but cause us some long, long term problems which I've got to tell you, we're going to regret someday down the line probably in another year or two once this rule goes into effect. I would just urge people to carefully consider it. It's the last day; we're rushing into something that we really haven't considered that carefully on this side. And the impact that that rule change will have on future legislatures and future organizations and being able to progress in an orderly fashion, I think is a mistake and would ask people to vote against it.

only will cause long long term problems. Rushing into something not that carefully considered on this side.

Question—shall...pass the Senate?

Roll—passed the Senate on reconsideration on a vote of 13-7.

(someone, maybe Halford) Madam President, I don't know if it's passed the Senate or not.

Faiks—OH! It needs 14 for 2/3rds, you're right, it failed 13-7.

Senator Eiliasson--...305 Finance...

Faiks—will hold 305...and Sen. E, you need to make the motion to request this bill back from Hof R, it's gone. Cuz it's gone, this concurrent resolution. Would you make that motion.

E—madam president, us, too bad, it's gone.

Faiks—no you need to, we need to request it back from them, sir.

E—Do we really want to do that? (laughter) Madam Pres, I move and ask u consent that the Senate requests hcr 42 back from the House.

Halford—if it was not in the possession of the body, it was not available for reconsideration or rescinding.

Faiks—that's correct.

Halford—and the action in its passage is final.

Faiks—Senate will stand at ease.

E—I think we're going to have to void the last vote b/c we didn't have the resolution in our possession.

Faiks—the vote is void, sir. The resolution was not in our possession; it's back in the possession of the House of Representatives. A vote is not valid unless the vehicle is in our possession. So the vote on cs for hcr 42 jud on reconsideration is void.

And they move on toward adjournment sine die...

Passed on reconsideration 13-7. Oh, needs 14 so it failed. Eliason needs to ask for it back...from H.

Halford. if not in possession of body, then not available for reconsideration or recision...so vote is void.

Please bring your bill packet for HB 76

previously scheduled but not heard on 3/12/09.

Attached are additional documents for the HB 76 bill packet:

- List of Committee Members for LB&A
- List of Committee Members for Legislative Council
- Memo from Legislative Research with background information on proportional representation (total 3 pages)

Committee Informational Display

LEGISLATIVE COUNCIL

NO TIME AVAILABLE

Joint Committee

	CHAIR:	Representative Harris	
	VICE-CHAIR:	Senator Davis	
MEMBER:	Representative Chenault	MEMBER:	Senator Ellis
MEMBER:	Representative Coghill	MEMBER:	Senator Elton
MEMBER:	Representative Gatto	MEMBER:	Senator Hoffman
MEMBER:	Representative Stoltze	MEMBER:	Senator Olson
MEMBER:	Representative Wilson	MEMBER:	Senator Stedman
MEMBER:	Representative Guttenberg	MEMBER:	Senator Stevens

Committee Informational Display

LEGISLATIVE BUDGET & AUDIT

NO TIME AVAILABLE

Joint Committee

	CHAIR:	Senator Meyer	
	VICE-CHAIR:	Representative Dahlstrom	
MEMBER:	Representative Hawker	MEMBER:	Senator Hoffman
MEMBER:	Representative Neuman	MEMBER:	Senator Huggins
MEMBER:	Representative Thomas	MEMBER:	Senator Menard
MEMBER:	Representative Doogan	MEMBER:	Senator Stedman
ALTERNATE:	Representative Stoltze	ALTERNATE:	Senator Olson
ALTERNATE:	Representative Tuck		

LEGISLATIVE RESEARCH SERVICES

Alaska State Legislature
Division of Legal and Research Services
State Capitol, Juneau, AK 99801

(907) 465-3991 phone
Fax: (907) 465-3908 fax
research@legis.state.ak.us

March 13, 2009

Memorandum

TO: Representative Max Gruenberg
FROM: Patricia Young, Manager
RE: Proportional Representation of Membership on Legislative Committees
LRS Report 09.207

You asked for background materials available on HCR 42 from the 15th Alaska Legislature (1987-1988), which passed as Legislative Resolve 109. You were particularly interested in materials that might explain why when lawmakers amended Uniform Rule 1(e) to require proportional representation of minority members on standing committees, they did not also change AS § 24.20.020 and AS § 24.20.161 to provide similar proportional representation on Legislative Council and Legislative Budget and Audit.

The Bill History for HCR 42 shows that the measure was heard by the House Judiciary Committee. Minutes from the meeting reflect almost no discussion, although Representative Fritz Pettyjohn, who sponsored the measure, remarked that the change would improve legislative operation since each committee would more easily establish a quorum. The Judiciary Committee bill file contains only the marked up text for the CS and a zero fiscal note. Once passed to the Senate, the measure went straight to Rules. Minutes from that hearing would more accurately be described as *seconds*, and there is no Senate Rules Committee bill file. We attach a copy of the minutes from both committees. No corresponding resolution was considered in the Senate.

We have requested that the State Archives prepare copies of the audio tapes from the floor sessions for both the House and Senate. Those tapes may be available later today, but it is more likely that they will not be available until next week. We will let you know as soon as possible if those recordings reveal anything useful for your purposes.

Perhaps the only thing we can tell you short of speculation is that in the House—with a Democratic majority of 24 to 16—the measure passed unanimously; in the Senate—with a Republican majority of 12 to 8—the measure passed 15 to 5. Four of those five votes against the measure came from Democrats in the minority.[1]

It appears that no bills introduced would have affected the membership of Legislative Council or Legislative Budget and Audit until 2003, when Representative Ethan Berkowitz introduced HB 200, which was similar to your current HB 76. That bill—with every member of the House minority signed on—died without a hearing. As you will recall, you introduced a similar bill last year, HB 412. This bill, also supported by every member of the House minority, died in its first committee after one hearing.[2]

I hope this information is useful. If you have questions or need additional information, please let me know.

[1] Senators who voted against the measure were Republican Johne Binkley, and Democrats Jim Duncan, Jay Kerttula, Pat Rodey, and Mike Szymanski.

[2] Because Representative Richard Foster votes with the Republican caucus, we have excluded him from our count of minority sponsorship for both bills.

House Judiciary Committee,

April 25, 1988

Chairman Sund called the meeting to order at 1:40 p.m. Present were Representative Ulmer, Representative Gruenberg and Representative Barnes. Representative Taylor arrived at 1:41 p.m., Representative Navarre arrived at 1:50 p.m., and Representative Cotten arrived at 2:20 p.m.

HCR 42

Chairman Sund announced that HCR 42 would be heard first and asked Representative Pettyjohn to address the committee.

Representative Fritz Pettyjohn, sponsor of HCR 42, stated that the bill defines what a minority is. There is a requirement that at least one member of a minority serve on every standing committee. The definition of a minority for purposes of that rule has been a subject of some disagreement. In the bill, a minority is defined as "a group of members who have organized and elected a minority leader and who constitute at least 25% of the total house membership." The 25% is there so there cannot be more than one minority. In addition, it says there shall be a proportionate representation on committees, but in calculating the number of seats a minority would be entitled to, fractional numbers would be ignored. He gave examples to explain how it would work. He felt it would be an improvement on how the legislature operates, it would assist committees in getting a quorum to function more efficiently.

Chairman Sund said there would be two committees in the House that would be changed, Finance and Resources.

Representative Pettyjohn commented that if the percentage of the minority changed, it would apply differently.

Representative Gruenberg verified that the language in line 20 would not preclude giving the minority more than two seats, it was just a minimum.

Representative Taylor moved for passage of HCR 42 with individual recommendations. Chairman Sund suggested adding "proportional" to the title. Representative Pettyjohn agreed. Chairman Sund moved to change to title to reflect that and there was no objection, so the motion was adopted.

As there was no objection to passing CSHCR 42(JUD) with the title change, it moved from committee.

Senate Rules Committee

May 6, 1988

HCR42

The Senate Rules Committee was called to order by Chairman Eliason at 4:05 p.m. The first item on the agenda was HCR 42 (Proposing an amendment to Rule 1(e) of the Uniform Rules of the Alaska State Legislature).

Representative Fritz Pettyjohn, prime sponsor of HCR 42, stated the resolution does two things. First, it defines what a minority is (a group of a house comprising at least 25% of its membership) and, second, it states that the minority is entitled to proportional representation on committees. Fractions of its membership do not count.

Representa-tive Pettyjohn said he did not think it would be an impediment in the Senate with trying to figure out committee assignments. Further, he thought it would have an impact and be beneficial in the House as well.

Senator Eliason said the bill was in the Senate Rules Committee and would be calendared at a later date.

26-LS0335\S
Chenoweth/Cook
3/3/09

CS FOR HOUSE BILL NO. 76( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, BUCH, CISSNA, DOOGAN, GARDNER, GUTTENBERG, HOLMES, KAWASAKI, KERTTULA, PETERSEN, SALMON, AND TUCK, Crawford

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

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

*** Section 1.** AS 24.20.020 is amended to read:

Sec. 24.20.020. Membership. The legislative council is composed of the president of the senate and six other senators appointed by the president, and the speaker of the house of representatives and six other representatives appointed by the speaker. The membership from each house shall **meet the requirements of (b) of this section** [INCLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES]. The appointing authority in each house shall make and announce the appointment or reappointment of members of the council within 15 days after the convening of the first regular session of each legislature.

*** Sec. 2.** AS 24.20.020 is amended by adding a new subsection to read:

(b) The membership from each house must include at least one member from

each of the two major political parties. The membership from each house must also include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats to which the minority is entitled, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. For purposes of this subsection, "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

*** Sec. 3.** AS 24.20.040 is amended to read:

Sec. 24.20.040. Vacancies. When a vacancy occurs in the statutory or appointive membership of the council, the presiding officer of the house incurring the vacancy shall fill the vacancy within 30 days. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy occurs among the appointed members of the council, the remaining council members from the house incurring the vacancy shall appoint a new member. **After a vacancy is filled, the membership of the house that incurred the vacancy must meet the requirements of AS 24.20.020(b)** [A LEGISLATOR APPOINTED TO FILL A VACANCY SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE MEMBER VACATING THE SEAT, WHEN POSSIBLE].

*** Sec. 4.** AS 24.20.161 is amended to read:

Sec. 24.20.161. Membership. The Legislative Budget and Audit Committee is composed of 10 members: the **chairs** [CHAIRMEN] of the senate and house finance committees; one member selected from each of the senate and house finance committees and appointed by the president of the senate and the speaker of the house, respectively; and three members appointed from each house by the respective presiding officer. The **chair** [CHAIRMAN] of the finance committee may choose not to serve on the committee. If this occurs, the presiding officer of the appropriate house shall appoint a replacement from the finance committee. The membership from each house shall **meet the requirements of (b) of this section** [INCLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES]. The committee shall select its own **chair** [CHAIRMAN].

* **Sec. 5.** AS 24.20.161 is amended by adding a new subsection to read:

(b) The membership from each house must include at least one member from each of the two major political parties. The membership from each house must also include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats to which the minority is entitled, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. For purposes of this subsection, "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

* **Sec. 6.** AS 24.20.181 is amended to read:

Sec. 24.20.181. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. **After a vacancy is filled, the membership of the house that incurred the vacancy must meet the requirements of AS 24.20.161(b).**

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The amendments made in this Act shall first apply on the date the First Regular Session of the Twenty-Seventh Alaska State Legislature first convenes and apply thereafter. Before that date of convening, AS 24.20.020, 24.20.040, 24.20.161, and 24.20.181 shall apply as they read on the day before the effective date of this Act.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

HB 76 – LEGISLATIVE COUNCIL & LB&A MEMBERSHIP

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

Explanation of Changes in Sponsor CS:

The proposed CS for HB 76 (Work Draft 26-LS0355\S) adds a Section 7, which is an applicability section, to HB 76. Section 7 states that the amendments made in HB 76 shall apply on the date the First Regular Session of the Twenty-Seventh Alaska State Legislature first convenes.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

SPONSOR STATEMENT & SECTIONAL ANALYSIS
HB 76 – LEGISLATIVE COUNCIL & LB&A MEMBERSHIP

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

SPONSOR STATEMENT

HB 76 gives the minority proportional representation on the Legislative Council and the Legislative Budget and Audit Committee.

SECTIONAL ANALYSIS

Secs 1 and 2: Requires the membership of the Legislative Council from each house to include the number of minority members that is proportional to the number of minority members in the house compared to the total house membership. Uses the definition of "minority" that is used in the proportional representation requirement under Uniform Rule 1(e).

Sec. 3: Ensures that a vacancy in the legislative council is filled in a manner that preserves the proportional representation requirement.

Secs. 4 and 5: Applies a similar majority/minority proportional representation requirement to the Legislative Budget and Audit Committee membership from each house. Uses the definition of "minority" that is used in the proportional representation requirement under Uniform Rule 1(e).

Sec. 6: Ensures that a vacancy in the Legislative Budget and Audit Committee is filled in a manner that preserves the proportional representation requirement.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB76**
() Publish Date:

Identifier (file name): HB76-LEG-COU-3-11-09
Title "An Act relating to the membership of the Alaska Legislative Council and the membership of the..."
Sponsor Representatives Gruenberg, Buch, Cissna, Doogan..."
Requester House State Affairs

Dept. Affected: Legislature
RDU Legislative Council
Component Council and Subcommittees
Component Number 783

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
Division Legislative Affairs Agency
Phone 465-6626
Date/Time 3/11/09 8:41 AM

Approved by: Pamela Varni, Executive Director
Legislative Affairs Agency
Date 3/11/2009

(Revised 9/10/2008 OMB)

MINIMUM MINORITY MEMBERSHIP

ON STANDING COMMITTEES

(Uniform Rule 1(e))

HOUSE

SIZE OF MINORITY	SIZE OF COMMITTEE				
	5	7	9	11	13
19 (.475)	2	3	4	5	6
18 (.45)	2	3	4	4	5
17 (.425)	2	2	3	4	5
16 (.4)	2	2	3	4	5
15 (.375)	1	2	3	4	4
14 (.35)	1	2	3	3	4
13 (.325)	1	2	2	3	4
12 (.3)	1	2	2	3	3
11 (.275)	1	1	2	3	3
10 (.25)	1	1	2	2	3

SENATE

SIZE OF MINORITY	SIZE OF COMMITTEE				
	5	7	9	11	13
9 (.45)	2	3	4	4	5
8 (.4)	2	2	3	4	5
7 (.35)	1	2	3	3	4
6 (.3)	1	2	2	3	3
5 (.25)	1	1	2	2	3

ORGANIZATION OF FIRST SESSION

Rule 1. Organization of First Session. (a) At the time for convening of the first regular session of a legislature the lieutenant governor calls each house to order separately and calls the roll of members whose election has been certified. The lieutenant governor then administers the oath of office to the new members and, pending the election of temporary presiding officers, preserves order and decorum in the house.

(b) When the house by a majority vote of the full membership of the house selects a temporary presiding officer, the temporary presiding officer assumes the chair and the lieutenant governor withdraws. The temporary presiding officer then calls for nominations for a permanent presiding officer and the nominee receiving a majority vote of the full membership of the house becomes the permanent presiding officer for the two-year duration of the legislature. If a permanent presiding officer is not elected by the seventh legislative day, on the eighth legislative day the temporary presiding officer shall call for nominations for a permanent presiding officer from the floor. A roll call vote shall be taken on the persons nominated. Election of a permanent presiding officer requires a majority vote of the full membership of the house.

(c) Pending the organization of the house a secretary assigned by the Legislative Council assists the lieutenant governor and the temporary and permanent presiding officers in the performance of their duties.

(d) The Uniform Rules of the Legislature of the previous regular session or any authorized revision of those rules are used as the temporary rules until the Rules Committee reports on and the legislature in joint session adopts permanent uniform rules.

(e) The presiding officer shall announce, not later than the day following election, the appointment of a Committee on Committees consisting of five members including the presiding officer. The presiding officer chairs the Committee on Committees. The committee is responsible for nominating the members of the standing committees as set out in Rule 20 and the member who is to chair each standing committee to serve for the two-year duration of the legislature. The membership of each committee shall total to an uneven number. On each standing committee the minority is entitled to the number of seats that is proportional to the number of minority members compared to the total house membership or to one seat, whichever is greater. In calculating the number of seats the minority is entitled to, fractional numbers that represent the minority proportional entitlement to a seat shall be ignored. The report of the Committee on Committees is subject to approval by a majority vote of the full membership of the house. For purposes of this subsection "minority" means a group of members who have organized and elected a minority leader and who constitute at least 25 percent of the total house membership.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

TO: Representative Bob Lynn

FROM: Representative Max F. Gruenberg, Jr.

DATE: February 26, 2009

RE: HB 76: Legislative Council and Legislative Budget and Audit Committee

****

Please consider this memorandum as a request for the House Judiciary Committee to schedule a hearing on HB76. Accompanying this memo are the following documents:

- HB76 – 26-LS0335\E
- Sponsor Statement & Sectional Analysis

Thank you for considering my request for a hearing on HB76.

HB 77

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 20, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-12-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 77**

"An Act allowing certain public employees to take leave without pay to volunteer with the American Red Cross in a disaster."
HB 77 PUBLIC EMPLOYEE DISASTER LEAVE

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 77 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
	Gatto			X	
	Peterson	X			
	Gruenberg	-			
Chair: Paul W Seaton	Seaton	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re CS for HB 77 Public Employee Disaster Leave

3/12/09

The CS for HB 77 (26-LS0250\S) passed out of House State Affairs Committee this morning. Please draft a final CS. We want to try and get this read across this morning during session. Is that possible? Thank you.

Committee Action on Legislation

HOUSE RECORDS COMMITTEE SECRETARY: LORI ROLAND

MARCH 12, 2009

HOUSE STATE AFFAIRS STANDING COMMITTEE

# SHORT TITLE	ACTION TAKEN ON LEGISLATION
HB 77-PUBLIC EMPLOYEE DISASTER LEAVE	____ Moved Out of Cmte _✓_ Moved CS (STA)Out of Cmte ____ Moved HCS (____)Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

# SHORT TITLE	ACTION TAKEN ON LEGISLATION
HB 76-LEGISLATIVE COUNCIL & LB&A MEMBERSHIP	____ Moved Out of Cmte ____ Moved CS (____)Out of Cmte ____ Moved HCS (____)Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte _✓_ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

# SHORT TITLE	ACTION TAKEN ON LEGISLATION
	____ Moved Out of Cmte ____ Moved CS (____)Out of Cmte ____ Moved HCS (____)Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

26-LS0250\S
Wayne
3/10/09

CS FOR HOUSE BILL NO. 77( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MILLETT, Holmes, Dahlstrom

A BILL

FOR AN ACT ENTITLED

"An Act allowing certain public employees to take leave without pay to volunteer with the American Red Cross in a disaster."

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

*** Section 1.** AS 23.30.244 is amended by adding a new subsection to read:

(d) A person who is injured during the course and within the scope of providing service as an American Red Cross volunteer while on leave without pay from state service under AS 39.20.285 is not an employee of the state for purposes of a claim under this chapter for compensation for that injury.

*** Sec. 2.** AS 39.20 is amended by adding a new section to read:

Sec. 39.20.285. Leave without pay for disaster relief. (a) Notwithstanding AS 39.20.310(1) - (3) and (6) - (8), an employee may take leave without pay not to exceed 15 regularly scheduled work days in a calendar year to volunteer with the American Red Cross while that organization is providing relief from a disaster located in the state.

(b) Leave without pay under this section is subject to approval by the supervisor of the employee who requests it; however, approval may not be unreasonably withheld.

(c) While on leave without pay under this section,

(1) an employee is not eligible to accrue state employee pay and benefits;

(2) the employee, for the limited purpose of ensuring that the employee's eligibility for employer-provided group health or group life insurance is unaffected by the leave, shall be considered to be in pay status.

(d) Notwithstanding (g) of this section, an employee of the Alaska Housing Finance Corporation or the Alaska Railroad Corporation is not eligible for leave without pay under this section.

(e) A claim by an employee for an injury the employee sustains while on leave without pay under this section is subject to the limitations of AS 23.30.244(d).

(f) The director of personnel in the Department of Administration shall adopt regulations to carry out the purposes of (a) - (d) of this section.

(g) In this section,

(1) "disaster" means an event or circumstance that has been formally designated a disaster at level II or higher by the American Red Cross;

(2) "employee" means an employee of a branch of state government, including the University of Alaska, whether the employee is a permanent, nonpermanent, or temporary employee.

*** Sec. 3.** AS 39.20.310 is amended to read:

Sec. 39.20.310. Exceptions. Except as provided in AS 39.20.275 **and 39.20.285**, AS 39.20.200 - 39.20.330 do not apply to

(1) members of the state legislature, the governor, the lieutenant governor, and justices and judges of the supreme and superior courts and of the court of appeals, but nothing in AS 39.20.200 - 39.20.330 may be construed to diminish the salaries fixed by law for these officers by reason of absence from duty on account of illness or otherwise;

(2) magistrates serving the state on less than a full-time basis;

(3) officers, members of the teaching staff, and employees of the University of Alaska;

(4) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(5) members of boards, commissions, and authorities who are not otherwise employed by the state;

(6) temporary employees hired for periods of less than 12 consecutive months;

(7) persons employed by the division of marine transportation as masters and members of the crews operating the state ferry system who are covered by collective bargaining agreements as provided in AS 23.40.040, except as expressly provided by law;

(8) persons employed by the state who are covered by collective bargaining agreements as provided in AS 23.40.210, except as expressly provided by law.

Alaska State Legislature

Session:
State Capitol, Room 412
Juneau, AK 99801-1182
Phone: (907) 465-3879
Fax: (907) 465-2069

Representative Charisse Millett

Co-Chair, House Special Committee on Energy
District 30

March, 10, 2009

Explanation to CS
House Bill 77 ( ) 26-LS0250\E

Page Two, Line 10: Lists the Alaska Railroad Corporation employees as not eligible for leave without pay under this section

Page Two, line 20: Removes Alaska Railroad Corporation from the definition of employees subject to the legislation

Alaska State Legislature

Session:
State Capitol, Room 412
Juneau, AK 99801-1182
Phone: (907) 465-3879
Fax: (907) 465-2069

Representative Charisse Millett

Chair, House Special Committee on Energy
District 30

SPONSOR STATEMENT

HB 77 - Red Cross Disaster Assistance Bill

Disasters can strike anywhere at any time. Alaska's unique geography, small population and distance from the Lower-48 can make it even more difficult for the Red Cross of Alaska to respond to an in-state disaster.

Forty seven other states permit state employees to take unpaid time off and volunteer for the Red Cross when a disaster occurs. Alaska is one of the three states that do not.

House Bill 77 addresses this problem by permitting our state employees to join the Red Cross and use their skills to help their fellow Alaskans when a flood, earthquake, wildfire or other type of disaster hits our state.

The legislation makes Alaska more self sufficient when a disaster happens and state government benefits by having workers with this important supplemental training. Red Cross Disaster training is also provided at no cost to the state and its employees.

HB 77 is wholeheartedly endorsed by the Red Cross of Alaska.

L

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 77**
() Publish Date:

Identifier (file name): **HB077-DOA-DOP-03-11-09**
Dept. Affected: Administration

Title	An Act allowing certain public employees to take leave without pay to volunteer..."	RDU	Central Administrative Services
		Component	Personnel
Sponsor	Reps. MILLETT, Holmes, Dahlstrom		
Requester	(H)STA	Component Number	56

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
This bill will have no fiscal impact on the Division of Personnel and Labor Relations.

Prepared by: Nicki Neal, Director — Phone 465-4429
Division: Personnel & Labor Relations — Date/Time 3-10-09 / 4:00pm
Approved by: Kevin Brooks, Deputy Commissioner — Date 3/11/2009

(Revised 9/10/2008 OMB)

Alaska State House of Representatives

Interim:
716 W 4th Avenue, Suite 630
Anchorage, AK 99501
Phone: (907) 269-0222
Fax: (907) 269-0223

Session:
State Capitol, Room 412
Juneau, AK 99801-1182
Phone: (907) 465-3879
Fax: (907) 465-2069

Sponsor Statement from:

Representative Charisse Millett

R - District 30

RELEASED: January 21, 2009 **CONTACT**: Jeff Turner, 465-3879

HB77 - Public Employee Disaster Leave

"An Act allowing certain public employees to take leave without pay to volunteer with the American Red Cross in a disaster."

Status: PREFILE RELEASED >> (H) STA : 2009-01-20

Disasters can strike anywhere at any time. Alaska's unique geography, small population and distance from the Lower-48 can make it even more difficult for the Red Cross of Alaska to respond to an in-state disaster.

Forty seven other states permit state employees to take unpaid time off and volunteer for the Red Cross when a disaster occurs. Alaska is one of the three states that do not.

House Bill 77 addresses this problem by permitting our state employees to join the Red Cross and use their skills to help their fellow Alaskans when a flood, earthquake, wildfire or other type of disaster hits our state.

The legislation makes Alaska more self sufficient when a disaster happens and state government benefits by having workers with this important supplemental training. Red Cross Disaster training is also provided at no cost to the state and its employees.

HB 77 is wholeheartedly endorsed by the Red Cross of Alaska.

# # #

House Majority Press: http://housemajority.org/spon.php?id=26HB77

Alaska State Legislature

Session:
State Capitol, Room 412
Juneau, AK 99801-1182
Phone: (907) 465-3879
Fax: (907) 465-2069

Representative Charisse Millett
Chair, House Special Committee on Energy
District 30

FOR IMMEDIATE RELEASE **CONTACT:** Rep. Millett, 907-465-3879

MILLETT INTRO'S RED CROSS DISASTER ASSISTANCE BILL
HB 77 Would Allow State Employees to Assist Agency in Times of Need

Tuesday, January 20, 2009, Juneau, Alaska – Alaska's state employees will be able to serve on the front lines the next time a disaster strikes our state.

Representative Charisse Millett, R-Anchorage, is sponsoring House Bill (HB) 77, the Red Cross Disaster Assistance Bill. It allows state employees to take unpaid leave and serve as a disaster relief volunteer with the Red Cross of Alaska.

"Alaska is one of only three states in the nation that does not have this type of legislation in place," Millett said. "Our state employees can be an invaluable resource to the Red Cross and other Alaskans if a flood, earthquake, wildfire or other type of natural disaster strikes Alaska."

"This is an amazing partnership opportunity for state employees and the American Red Cross here in Alaska," Red Cross of Alaska Executive Director Michelle Houlihan said. "These volunteer opportunities will not only allow us to be more prepared but also allow us to be self-sustaining during times of large scale disaster. The free training that is provided to all American Red Cross volunteers will hopefully provide critical supplemental training to those state employees who join us in helping better prepare and respond to Alaska's need in times of disaster."

HB 77 has been referred to the House State Affairs and the House Finance Committees.

# # #

To find HB 77 on the web, log on to http://housemajority.org/millett/index.php?p=bills.

State Disaster Leave Laws

State	Time Allowed with Pay	Types of Disaster	Worker Comp Covered	Area of Coverage	Other Restrictions	ARC Mentioned
AL	15 days	IV and above	No	Not specified		Yes
AR	15 days	II and above	No	Contiguous	No more than 100 participants at a time	Yes
CA			Yes	Not specified	Administrative Policy	Yes
CO	5 days local/ 15 days national		No	Not specified		No
CT	14 days		No	Not specified		Yes
DE		III or above	No	Any Disaster		Yes
FL	15 days		No	Florida Only	Any state with approval of Governor & Cabinet	Yes
GA	15 days		No	Contiguous		Yes
HI	30 days	III and above	No	Not specified		Yes
ID	120 hours	III and above	No	Contiguous		Yes
IL	20 days	III and above	No	Not specified		Yes
IN	15 days	III and above	No	Indiana Only		Yes
IA	15 days		No	Iowa Only		Yes
KS	20 days		No	Contiguous		Yes
KY	30 days	III and above	No	Not Specified		Yes
LA	15 days	III and above	No	Louisiana Only		Yes
ME	15 days	Declared by Governor or President	No	All States		Yes
MD	15 days	II or above	No	Not specified	Includes temporary personnel	Yes

MA	15 days	Any Disaster	No	Any Disaster		Yes
MI	10 days		No	All States	Can take unpaid leave of absence based on employee classification	Yes
MN	15 days		No	Not specified		Yes
MS	20 days	II and above	No	Contiguous		Yes
MO	120 hours		No	Missouri Only	No more than 25 state employees at once	Yes
MT	15 days		No	Not specified		Yes
NE	15 days		No	Nebraska Only		Yes
NV	15 days	Assistance of Federal Govt. needed	No	Contiguous		Yes
NH	15 days	III and above	No	All States		Yes
NJ	10 days paid/ 10 more unpaid	III and above	No	All States		Yes
NY						Yes
NC	15 days	III and above	No	North Carolina Only		Yes
ND	5 days	II and above	No	All States		Yes
OH	30 days		No	Not specified		Yes
OK	15 days	III and above	No	Oklahoma Only	No more than 500 participants at one time	Yes
OR	15 days	II and above	No	Oregon Only		Yes
PA		Declared by the governor	No	Not specified		Yes
PR	30 days		Yes	Puerto Rico Only		Yes
RI	10 days	II and above	No	Rhode Island		Yes

				Only		
SC	10 days		No	Not specified		Yes
SD	10 days	Declared Disaster	No	South Dakota Only		Yes
TN	15 days		No	Not specified		Yes
TX	10 days		No		No more than 350 participants	Yes
UT	15 days	III and above	No	All states		Yes
VA	80 hours	Declared by Governor or President	No	All states		No
VT	15 days	III and above/ declared by Governor/ in VT	No	All states		Yes
VI	20 days			Not specified		Yes
WA						No
WV	15 days		No	Not specified	Total cost to state agencies not to exceed $100,000	Yes
WI	30 days		No	All states (With permission)		Yes
WY	15 days	III and above/ Declared by Governor	No	Not specified		Yes

401.485 Leaves of absence for disaster relief volunteers; requirements; maximum period; effect on status of employees. (1) State agencies and political subdivisions described in ORS 243.325 (2) to (6) may grant leaves of absence to any public employee who is a certified disaster services volunteer of the American Red Cross to participate in disaster relief services in the State of Oregon. Cumulative leave granted shall not exceed 15 work days in any 12-month period. Such leave granted shall not result in a loss of compensation, seniority, vacation time, sick leave or accrued overtime for which the employee is otherwise eligible. Compensation to an employee granted leave under this section shall be at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

(2) As used in this section, "disaster" means those disasters designated at level II and above by the American Red Cross. [1995 c.70 §1]

Note: 401.485 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.



American Red Cross

3 Important Reasons to Support an Alaskan Disaster Leave Bill

1. State employees already possess many skills needed during times of disaster. Some state employees have skills that can easily be transferred to disaster operations, such as, shelter management, mass feeding, damage assessment, and family services. While on assignment, state employees will gain experience and training that will benefit the state employee, their agencies, and the citizens they serve.

2. This Bill will strengthen our state disaster preparedness allowing us to be self sustaining until additional help arrives if ever needed. Locally trained volunteers would increase the state's ability to respond to disasters.

3. Disaster leave is not an additional expense for state government-state agencies have full authority to grant orderly requests for leave. The Bill states that employees must get approval from their supervisors, who can base decisions on competing demands. The training of state employees to become Red Cross certified disaster volunteers does not cost the state anything as all Red Cross training is provided at no cost.

American Red Cross



Alaska Needs a Disaster Leave Bill

The American Red Cross is a unique private, nonprofit organization with a humanitarian mission to provide relief to victims of disasters and help people prevent, prepare for, and respond to emergencies. A state Disaster Leave Bill will go a long way toward helping the Red Cross fulfill its mission locally, as well as help Alaska to be better prepared.

For over 125 years the American Red Cross has provided help to victims of disasters. Disaster relief is the primary service that Red Cross provides in communities across the United States. Every year Red Cross disaster workers respond to over 70,000 disasters including hurricanes, floods, earthquakes, tornadoes, and single family and apartment fires, along with other natural and human-caused disasters. Everyday in Alaska and across our nation someone is in need of emergency services. When a disaster strikes, American Red Cross needs qualified and trained volunteers who can answer the call for immediate recovery support.

This bill would allow state employees a maximum of 15 days paid leave during a 12-month period, without loss of seniority, vacation time, sick leave or earned overtime accumulation. This bill does not restrict the areas in which a state worker may serve and allows Alaskans to lend support to our fellow Alaskans. This proposed bill will provide Alaska with instant access to locally trained disaster workers, thus increasing our state's ability to respond to disasters independently and to be self sustaining.

There are 47 states that currently have disaster leave policies. The first state to enact disaster leave was Ohio in 1983. Since then 46 other states plus the US Virgin Islands and Puerto Rico have instituted Disaster Leave to help provide trained volunteers that are so critical during disaster response. These are volunteers that would have been able to help in the Tanana Valley this past summer when floods impacted thousands of Alaskans. Red Cross was asked to open and staff three shelters that providing a warm, dry place to sleep as well as hundreds of hot meals to impacted families and first responders. In 1964 Governor Egan declared American Red Cross the lead disaster relief agency for the state. This was all possible from the support of volunteers from all over the state.

This fall Alaskans were called upon to help with supporting operations after Hurricanes Gustav and Ike. American Red Cross of Alaska deployed 23 volunteers to assist in shelters and provide client casework in Alabama, Mississippi, Louisiana and Texas helping hundreds of thousands of displaced Americans. Hurricane Katrina and the terrorist attacks on September 11 have been other national disasters where American Red Cross of Alaska has been asked to help support our fellow Americans.

Help at Home
ALASKANS TO ALASKA

American Red Cross of Alaska

January 8, 2009

Representative Charisse Millett
State Capitol, Room 412
Juneau, Alaska 99801

Dear Representative Millett

This letter of support is on behalf of American Red Cross of Alaska volunteers and staff who firmly believe that House Bill 77 will be of great benefit to all Alaskans. This bill will allow State employees to volunteer their time, without penalty to their personal leave or seniority, during times of large scale disaster. Any state employee interested in volunteering within the Red Cross Disaster Preparedness and Response network will receive free training and instruction in disaster relief services.

This partnership will help to increase the number of volunteers engaged, from throughout Alaska, who will be trained in sheltering, case management, mass care and mental health to name just a few areas. The more people who are trained and prepared to respond the better our state will be able to sustain ourselves when a situation like the 1964 earthquake arrives or the floods within the Interior this past summer. All the training that is provided through American Red Cross is free, to any volunteer, which will allow minimal to no fiscal impact on our state operating budget. House Bill 77 will also set an example for other employers throughout our state, leading the way and demonstrating the importance and value of allowing individuals to give back to their community and the importance in investing in our State's level of preparedness and ability to respond to our own immediate needs during a disaster.

I thank you for identifying and realizing the importance of HB 77. American Red Cross looks forward to working with the State and its employees as we continue to raise our level of readiness throughout Alaska.

Sincerely,

Michelle Houlihan
Chief Executive Officer

235 East 8th Avenue, Suite 200 Anchorage, AK 99501 * **www.alaska.redcross.org** * 888.345.HERO (4376)

TELECONFERENCING REQUEST + WITNESS LIST

Please schedule a teleconference line for the bill hearing. LIO's are not necessary.

1) Michelle Houlihan, Executive Director, American Red Cross of Alaska

Representative Charisse Millett

Session
State Capitol Building, Room 412
Juneau, AK 99801
Phone (907) 465-3879
Fax (907) 465-2069

Interim
Anchorage LIO
716 W 4th Ave.
Anchorage, AK 99501
Phone (907) 269-0222
Fax (907) 269-0223

Memorandum

To: Chairman Bob Lynn, House State Affairs Committee

From: Rep. Charisse Millett

Subject: Hearing request for HB 77

Date: Monday, March 2, 2009

CC: Nancy Manly, House State Affairs Committee Aide

I am respectfully requesting a hearing for House Bill 77, the Red Cross Disaster Relief Bill in the House State Affairs Committee on Thursday, March 12, 2009. If that day is not available, I would like it considered for the next committee meeting.

Please find the following items in this hearing request:

1) Copy of HB 77

2) Sponsor statement for HB 77 and news release for HB 77

3) Request for teleconferencing and witness list

4) Name of my staff member working on the legislation

5) Red Cross research materials on similar legislation in other states

6) Letter of support from American Red Cross of Alaska

Please call Jeff Turner at (907) 465-6588 if you have any questions.

###

Representative Charisse Millett

Session
State Capitol Building, Room 412
Juneau, AK 99801
Phone (907) 465-3879
Fax (907) 465-2069

Interim
Anchorage LIO
716 W 4th Ave.
Anchorage, AK 99501
Phone (907) 269-0222
Fax (907) 269-0223

Memorandum

To: Chairman Bob Lynn, House State Affairs Committee

From: Rep. Charisse Millett

Subject: Staffer assigned to HB 77, Red Cross Disaster Relief Bill

Date: Monday, March 2, 2009

CC: Nancy Manly, House State Affairs Committee Aide

Jeff Turner is the staffer in my office assigned to work on HB 77. He can be reached at (907) 465-6588 or his cell (907) 529-4999 if you have any questions.

###

HB

80

Library
1-28-09

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: January 22, 2009

FURTHER REFERRALS:
Rules

Date of Committee Action: 1-27-09

The STATE AFFAIRS Committee considered:

HOUSE BILL NO. 80

"An Act relating to the Joint Armed Services Committee and its Homeland Security and Emergency Management Subcommittee; and providing for an effective date."

HB 80 JOINT ARMED SERVICES COMMITTEE

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB80 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Legislature	1	X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP (2)	DNP	NR	AM
	Gatto	✓			
Paul K Seaton	SEATON	✓			
	Greenberg	-			
Peggy Wilson	WILSON	✓			
Jim (Bill) Peterson	PETERSEN	✓			
Chair: Bob Lynn	LYNN	X			
Chair:					

CS FOR HOUSE BILL NO. 80(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DAHLSTROM

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Joint Armed Services Committee; and providing for an effective date."

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

*** Section 1.** Sections 3 and 4, ch. 6, SLA 1999, are repealed.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY AND REVIVAL. Under AS 01.10.090 and 01.10.100(c), the repeals made in this Act are retroactive to January 1, 2009, and revive AS 24.20.650, 24.20.655, 24.20.660, 24.20.665, 24.20.670, and 24.20.675, and sec. 1, ch. 6, SLA 1999.

*** Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

26-LS0394\R
Cook
1/26/09

CS FOR HOUSE BILL NO. 80( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DAHLSTROM

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Joint Armed Services Committee; and providing for an effective date."

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

*** Section 1.** Sections 3 and 4, ch. 6, SLA 1999, are repealed.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY AND REVIVAL. Under AS 01.10.090 and 01.10.100(c), the repeals made in this Act are retroactive to January 1, 2009, and revive AS 24.20.650, 24.20.655, 24.20.660, 24.20.665, 24.20.670, and 24.20.675, and sec. 1, ch. 6, SLA 1999.

*** Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

755

LAWS OF ALASKA

1999

Source
CSHB 77(FIN) am S

Chapter No.
6

AN ACT

Relating to the Joint Armed Services Committee, a permanent interim committee of the Alaska State Legislature; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: April 12, 1999
Actual Effective Date: July 1, 1999

AN ACT

Relating to the Joint Armed Services Committee, a permanent interim committee of the Alaska State Legislature; and providing for an effective date.

*** Section 1.** LEGISLATIVE FINDINGS. The legislature finds that

(1) the Secretary of Defense, in both the Quadrennial Defense Review and the Defense Reform Initiative, has called for the reestablishment of a Base Realignment and Closure Commission to conduct two new rounds of military base closures;

(2) all military bases in Alaska are scheduled for review and evaluation for potential placement on the closure list;

(3) the strategic location of the state's military bases, their unparalleled training and maneuver areas, and their modern facilities represent an asset of unmatched military value to the nation;

(4) the total economic value that the military adds to the state exceeds $1,700,000,000 annually;

Still accurate per McCuigh

(5) any new base closure or realignment actions in the state would create serious economic and socioeconomic effects for the communities where they are located;

(6) the closure of Adak Naval Air Facility and realignment of army activities at Fort Greely by the 1995 Base Realignment and Closure Commission continue to create challenges for communities committed to their productive reuse and integration into the state's economy;

(7) the unprecedented proliferation of weapons of mass destruction and ballistic missiles constitutes a growing threat to the United States, which has begun to develop a weapons system capable of defending the nation against ballistic missile attack;

(8) sites in Alaska are under consideration for the deployment of that system that offer the unmatched military value of strategic location from which all 50 states can be defended as required by the United States Constitution; and

(9) as our nation's armed forces continue to shift from a forward deployed force based overseas to a power projection force stationed within the United States, Alaska's modern bases, extensive training areas, and established tradition of joint operations between the individual services offer the United States Department of Defense an unequaled location to organize, train, and deploy the integrated forces the United States requires in the Twenty-First Century.

* **Sec. 2.** AS 24.20 is amended by adding new sections to read:

Article 5. Joint Armed Services Committee.

Sec. 24.20.650. Joint Armed Services Committee established. (a) The Joint Armed Services Committee is established as a permanent interim committee of the legislature.

(b) The committee is composed of

(1) five members of the senate, at least one of whom is a member of the minority, appointed by the president of the senate;

(2) five members of the house of representatives, at least one of whom is a member of the minority, appointed by the speaker of the house of representatives;

(3) a state resident, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives after considering the recommendations of the Alaska chapters of each

of the following organizations:

(A) the Association of the United States Army;

(B) the Air Force Association;

(C) the Navy League of the United States;

(D) the Marine Corps Association;

(4) a state resident, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives after considering the recommendation of the Seventeenth Coast Guard District Auxiliary;

(5) a state resident, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives after considering the recommendation of the mayor of the Municipality of Anchorage;

(6) a state resident, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives after considering the recommendation of the mayor of the Fairbanks North Star Borough;

(7) a state resident, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives after considering the recommendation of the adjutant general of the Department of Military and Veterans' Affairs; and

(8) a state resident, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives after considering the joint recommendations of the Alaska Federation of Natives and the Alaska Municipal League.

Sec. 24.20.655. Terms of office; vacancies. (a) Each legislative member serves for the duration of the legislature during which the member is appointed. Each public member serves for three years. An individual who has served on the committee may be reappointed.

(b) A legislator ceases to be a member of the Joint Armed Services Committee if the legislator ceases to be a member of the house from which the legislator was

appointed. When a seat on the committee becomes vacant, it shall be filled within 30 days in the manner of the original appointment. An individual appointed to fill a vacancy serves for the remainder of the term to which appointed.

Sec. 24.20.660. Travel and per diem allowances. Members of the Joint Armed Services Committee are entitled to reimbursement for travel expenses. Members of the committee shall receive per diem allowances in accordance with the policy adopted by the legislative council under AS 24.10.130(c).

Sec. 24.20.665. Meetings. (a) Eight members of the Joint Armed Services Committee constitute a quorum.

(b) The committee members shall select one member from the senate and one member from the house of representatives to serve as co-chairs of the committee.

(c) The committee may meet during sessions of the legislature and during intervals between sessions at the times and places the co-chairs may determine. Whenever possible, meetings shall be teleconferenced to reduce travel cost.

Sec. 24.20.670. Administration. The legislative council shall provide administrative and other services to the Joint Armed Services Committee. Within the limits of the amounts made available to the committee by the legislative council, the committee may make expenditures and enter into contracts to carry out the purposes of AS 24.20.650 - 24.20.675. Contracts must be approved by a majority of the members of the committee and are otherwise subject to procedures adopted by the legislative council under AS 36.30.020.

Sec. 24.20.675. Powers and duties. (a) The Joint Armed Services Committee shall

(1) monitor the military base realignment and closure activities of the federal government for bases in the state;

(2) work on specific realignments and closures proposed by the federal government for bases in the state;

(3) work with the state's congressional delegation regarding federal military base realignments and closings in the state;

(4) attend meetings and hearings related to federal realignments and closures of military bases in the state and provide testimony as necessary;

(5) review the effect on the state and its communities of federal realignments and closures of military bases in the state;

(6) monitor the development of the national ballistic missile defense system and work with the congressional delegation of the state, other state and local government organizations, and community groups to advocate and expedite the deployment of the system in this state;

(7) investigate opportunities to increase joint and combined military training in the state;

(8) advocate the stationing of reconfigured power projection forces at bases located in the state; and

(9) prepare and submit a report of its activities to the legislature on the first day of each second regular session.

(b) The committee may appoint a citizens' advisory board. Individuals appointed to an advisory board may not receive reimbursement for travel expenses or per diem allowances.

*** Sec. 3.** AS 24.20.650, 24.20.655, 24.20.660, 24.20.665, 24.20.670, and 24.20.675 are repealed January 1, 2009.

*** Sec. 4.** Section 1 of this Act is repealed January 1, 2009.

*** Sec. 5.** Chapter 31, SLA 1998, is repealed.

*** Sec. 6.** This Act takes effect July 1, 1999.

* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to read:

SEVERABILITY. Under AS 01.10.030, the provisions of this Act are severable.

LAWS OF ALASKA

2004

Source
HCS CSSB 385(RLS) am H

Chapter No.
179

AN ACT

Relating to homeland security, to civil defense, to emergencies and to disasters, including disasters in the event of attacks, outbreaks of disease, or threats of attack or outbreak of disease; establishing the Alaska division of homeland security and emergency management in the Department of Military and Veterans' Affairs and relating to the functions of that division and that department; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 26, 2004
Actual Effective Date: Section 19 takes effect March 1, 2005; remainder of Act takes effect July 27, 2004

760

Ch

1
2
3

AN ACT

Relating to homeland security, to civil defense, to emergencies and to disasters, including disasters in the event of attacks, outbreaks of disease, or threats of attack or outbreak of disease; establishing the Alaska division of homeland security and emergency management in the Department of Military and Veterans' Affairs and relating to the functions of that division and that department; and providing for an effective date.

---

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

PURPOSE. The purpose of the establishment of the Alaska division of homeland security and emergency management in sec. 6 of this Act and the repeal of AS 26.23.030 in sec. 22 of this Act is to further the consolidation of the Department of Military and Veterans' Affairs' emergency services and homeland security functions into a single division in order to

provide for more efficient administration of those functions and to transfer functions of the division of emergency services into the division of homeland security and emergency management.

* **Sec. 2.** AS 24.20 is amended by adding a new section to article 5 to read:

Sec. 24.20.680. Legislative review. (a) The Homeland Security and Emergency Management Subcommittee is established as a subcommittee of the Joint Armed Services Committee established under AS 24.20.650. The subcommittee shall be organized within 15 days after the organization of the committee each legislature. The subcommittee is established to review confidential activities, plans, reports, recommendations, and other materials of the Alaska division of homeland security and emergency management established in AS 26.20.025, or of other agencies or persons, relating to matters concerning homeland security and civil defense, emergencies, or disasters in the state or to the state's preparedness for or ability to mount a prompt response to matters concerning homeland security and civil defense, emergencies, or disasters.

(b) Subject to (c) of this section, the subcommittee is composed of six to eight members, as follows:

(1) the president of the senate and the speaker of the house of representatives;

(2) the respective chairs of the subcommittees of the House and Senate Finance Committees that consider the military and veterans' affairs budget;

(3) if the chair of the senate subcommittee described in (2) of this subsection is

(A) not a member of the Joint Armed Services Committee established in AS 24.20.650, two senate members of the Joint Armed Services Committee, selected by the president of the senate, one of whom is not a member of the political party to which a majority of members of the senate belong;

(B) a member of the Joint Armed Services Committee established in AS 24.20.650, one senate member of the Joint Armed Services Committee selected by the president of the senate;

(4) if the chair of the house subcommittee described in (2) of this subsection is

(A) not a member of the Joint Armed Services Committee established in AS 24.20.650, two house members of the Joint Armed Services Committee selected by the speaker of the house of representatives, one of whom is not a member of the political party to which a majority of members of the house of representatives belong;

(B) a member of the Joint Armed Services Committee established in AS 24.20.650, one house member of the Joint Armed Services Committee selected by the speaker of the house of representatives.

(c) To be eligible for service on the subcommittee, a member shall have a federal security clearance at the secret level at the time of entering service or shall have an interim security clearance at the secret level at the time of entering service and shall apply for and receive a federal security clearance at the secret level. Members holding a federal security clearance at the secret level at the time of entering service or receiving the clearance subsequent to entering service shall maintain the federal security clearance at the secret level to remain qualified to serve on the subcommittee.

(d) The president of the senate and the speaker of the house of representatives may condition service on the subcommittee by members upon the execution of appropriate confidentiality agreements by the members or by persons assisting those members. Information and documents received by members serving on the subcommittee or persons assisting members under a confidentiality agreement as described in this subsection are not public records and are not subject to public disclosure under AS 40.25.100 - 40.25.220.

(e) Members who remain qualified to serve on the subcommittee under this section serve for the duration of the legislature during which the members enter service. If a member is reelected or a member's term of office extends into the next succeeding legislature and the member remains qualified under this section, the member shall continue to serve until the member reenters service on the subcommittee through the operation of (b) of this section or until the member's successor enters service.

(f) When a member files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and the member has not resigned from service, the member's service terminates on the date that the member leaves legislative office.

* **Sec. 3.** AS 26.20.010 is amended to read:

Sec. 26.20.010. Policy and purpose. (a) Because of the [NATIONAL EMERGENCY AND THE] possibility of [DISASTERS OR EMERGENCIES RESULTING FROM] enemy **or terrorist** attack, sabotage, or other hostile action **against or in the state**, and in order to **ensure** [INSURE] adequate preparations for **attack** [DISASTERS] or emergencies, and generally to provide for **homeland security and** the common defense, it is found and declared to be necessary

(1) to provide for a state **homeland security and** civil defense agency [, AND TO AUTHORIZE THE CREATION OF LOCAL ORGANIZATIONS FOR CIVIL DEFENSE];

(2) to confer upon the governor [AND UPON THE EXECUTIVE HEADS OF THE DISTRICTS OF THE STATE] the emergency powers provided in this chapter;

(3) to provide for mutual aid **and cooperation** among the **state, local, and private agencies** [DISTRICTS] of the state, with the other states of the United States, [AND] with the federal government**, and with the provinces of another country,** for carrying out **homeland security and** civil defense functions;

(4) to authorize the [ESTABLISHMENT OF ORGANIZATIONS AND] taking of steps that are necessary and appropriate to carry out the provisions of this chapter.

(b) It is further declared that the purpose of this chapter and the policy of the state is that all **homeland security and** civil defense functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies, of the states of the United States and localities, and of private agencies of every type, so that the most effective preparation and use may be made of the state's manpower, resources, and facilities for dealing with any **attack** [DISASTER] that occurs.

* **Sec. 4.** AS 26.20.010 is amended by adding a new subsection to read:

(c) It is further declared that the purpose of this chapter and the policy of the state is that all homeland security and civil defense functions of this state be coordinated by and through the Department of Military and Veterans' Affairs, with the cooperation and assistance of all state agencies.

* **Sec. 5.** AS 26.20.020 is amended to read:

Sec. 26.20.020. Homeland security and civil [CIVIL] defense powers of the Department of Military and Veterans' Affairs. (a) The Department of Military and Veterans' Affairs is responsible for carrying out the provisions of this chapter [AND, IN THE EVENT OF DISASTER OR EMERGENCY BEYOND LOCAL CONTROL, MAY ASSUME DIRECT OPERATIONAL CONTROL OVER ALL OR ANY PART OF THE CIVIL DEFENSE FUNCTIONS WITHIN THIS STATE].

(b) In performing its duties under this chapter, the department may

(1) issue, adopt, amend, and rescind the necessary orders and regulations to carry out this chapter, with consideration of the plans **and programs** of the federal government;

(2) prepare **and implement** [A] comprehensive **plans** [PLAN] and **programs** [PROGRAM] for the **homeland security and** civil defense of this state, **and coordinate with state agencies in the preparation and implementation of those plans and programs,** which shall be integrated into and coordinated with the **homeland security and** civil defense plans **and programs** of the federal government and of each state of the United States to the fullest possible extent, and coordinate the preparation **and implementation** of plans and programs for **homeland security and** civil defense by **political subdivisions and private agencies of** the [DISTRICTS OF THIS] state, which shall be integrated into and coordinated with the **homeland security and** civil defense **plans** [PLAN] and **programs** [PROGRAM] of this state to the fullest possible extent;

(3) ascertain the requirements of the state [OR THE DISTRICTS OF THE STATE] for food or clothing or other necessities of life in the event of attack and plan for and procure supplies, medicines, materials, and equipment, and use and employ any of the property, services, and resources within the state, for the purposes

set **out** [FORTH] in this chapter; make surveys of the industries, resources, and facilities within the state that are necessary to carry out the purposes of this chapter; institute training programs and public information programs; [,] and take all other preparatory steps, including the partial or full mobilization of **homeland security,** civil defense**, and emergency** organizations **and personnel** in advance of actual **attack** [DISASTER], to ensure the furnishing of adequately trained and equipped [FORCES OF CIVIL DEFENSE] personnel **and adequate resources** in time of need;

(4) **coordinate** [COOPERATE] with the [PRESIDENT AND HEADS OF THE ARMED FORCES, AND THE CIVIL DEFENSE AGENCY OF THE UNITED STATES, AND WITH THE] officers and agencies of the **United States and the** states of the United States, in matters pertaining to the **homeland security and** civil defense of the state and nation [AND THE INCIDENTS THEREOF; AND IN THIS CONNECTION, TO TAKE ANY MEASURES THAT IT CONSIDERS PROPER TO CARRY INTO EFFECT A REQUEST OF THE PRESIDENT AND THE APPROPRIATE FEDERAL OFFICERS AND AGENCIES FOR ACTION LOOKING TO CIVIL DEFENSE, INCLUDING THE DIRECTION OR CONTROL OF

(A) BLACKOUTS AND PRACTICE BLACKOUTS, AIR RAID DRILLS, MOBILIZATION OF CIVIL DEFENSE FORCES, AND OTHER TESTS AND EXERCISES;

(B) WARNINGS AND SIGNALS FOR DRILLS OR ATTACKS AND THE MECHANICAL DEVICES TO BE USED IN CONNECTION WITH THEM;

(C) THE EFFECTIVE SCREENING OR EXTINGUISHING OF LIGHTS AND LIGHTING DEVICES AND APPLIANCES;

(D) SHUTTING OFF WATER MAINS, GAS MAINS, ELECTRIC POWER CONNECTIONS AND THE SUSPENSION OF OTHER UTILITY SERVICES;

(E) THE CONDUCT OF CIVILIANS AND THE MOVEMENT AND CESSATION OF MOVEMENT OF PEDESTRIANS AND VEHICULAR TRAFFIC DURING, BEFORE, AND AFTER DRILLS

OR ATTACK;

(F) PUBLIC MEETINGS OR GATHERINGS; AND

(G) THE EVACUATION AND RECEPTION OF THE CIVILIAN POPULATION],

(5) **exercise additional authority delegated by the governor to the department** [TAKE ACTION AND GIVE DIRECTIONS TO STATE AND LOCAL LAW ENFORCEMENT OFFICERS AND AGENCIES AS ARE REASONABLE AND NECESSARY] to secure compliance with this chapter and with the orders and regulations issued or adopted under this chapter;

(6) employ measures and give directions to the state or local [BOARDS OF] health **agencies** as are reasonably necessary for the purpose of securing compliance with this chapter or with the findings or recommendations of state or local [BOARDS OF] health **agencies** due to conditions arising from [ENEMY] attack or the threat of [ENEMY] attack [OR OTHERWISE];

(7) **obtain and** utilize the services, [AND] facilities**, and information** of existing officers [,] and agencies of the state and of the **political subdivisions** [DISTRICTS] of the state, whose duty it is to cooperate with and extend their services, [AND] facilities**, and information** to the department as requested by it;

(8) [ESTABLISH AGENCIES AND OFFICES AND APPOINT EXECUTIVE, TECHNICAL, CLERICAL, AND OTHER PERSONNEL NECESSARY TO CARRY OUT THIS CHAPTER, INCLUDING, WITH CONSIDERATION TO THE RECOMMENDATION OF THE LOCAL AUTHORITIES, FULL TIME STATE AND DISTRICT DIRECTORS;

(9)] delegate authority vested in the department under this chapter, and provide for the subdelegation of this authority;

(9) [(10)] sponsor and develop mutual aid **and cooperation** plans and agreements **among** [BETWEEN] the **agencies** [DISTRICTS] of the state**, the political subdivisions of the state, and private agencies and organizations**;

(10) [(11) ESTABLISH DISTRICTS IN THE STATE AS ARE NEEDED TO CARRY OUT THE PURPOSES AND INTENT OF THIS CHAPTER;

(12)] sell, lend, transfer, or deliver supplies or medicines to carry out

the policy and purposes set **out** [FORTH] in this chapter on terms and conditions that the department considers reasonable;

(11) participate in and conduct exercises to implement homeland security plans and to prepare for a potential attack;

(12) advise the governor and the legislature on appropriate policy of the state for matters of homeland security and civil defense; and

(13) coordinate with state agencies in providing a recommendation to the governor for state action in response to changes in threat levels [, BUT SUBJECT TO THE FOLLOWING:

(A) MONEY DERIVED FROM THE SALE OF SUPPLIES AND MEDICINES SHALL BE DEPOSITED IN A SPECIAL FUND, WHICH SHALL BE USED BY THE DEPARTMENT TO REPLENISH AND PURCHASE THE NECESSARY SUPPLIES AND MEDICINES;

(B) A SALE UNDER THIS PARAGRAPH MAY NOT BE FOR AN AMOUNT BELOW 10 PER CENT OF THE REQUISITION COST UNLESS FIRST APPROVED BY THE DEPARTMENT].

* **Sec. 6.** AS 26.20 is amended by adding a new section to read:

Sec. 26.20.025. Creation and duties of the Alaska division of homeland security and emergency management. (a) There is established in the department the Alaska division of homeland security and emergency management, possessing the powers and duties as set out in this section and as delegated by the adjutant general of the department.

(b) The Alaska division of homeland security and emergency management, with the concurrence and approval of the adjutant general of the department, shall prepare and maintain a state homeland security plan and keep it current. The plan may include provisions for

(1) investigation and assessment of attack threats to persons, facilities, systems, infrastructure, and other property in this state;

(2) identification of geographical areas, municipalities, facilities, systems, infrastructure, or other property or persons especially vulnerable to an attack;

(3) prioritization of measures to protect persons, facilities, systems,

infrastructure, and other property in the state from attack;

(4) organization of personnel, including chains of command, and other resources;

(5) coordination and deployment of personnel, including the organized militia, state and local agency personnel, and authorized volunteers, and other resources to protect persons, facilities, systems, infrastructure, and other property in the state from attack or to respond to an attack;

(6) assistance to local officials and private agencies in designing local and private security plans;

(7) coordination of federal, state, local, and private agencies' homeland security activities;

(8) coordination of the state homeland security plan with the state emergency plan and with the homeland security and disaster plans of the federal government;

(9) other planning, prevention, preparedness, response, and mitigation measures designed to eliminate or reduce the threat or effect of an attack; and

(10) other actions necessary to carry out the purposes of this chapter.

(c) With the concurrence and approval of the adjutant general of the department, the Alaska division of homeland security and emergency management shall

(1) develop, coordinate, and maintain a prioritized list of critical infrastructure in the state;

(2) determine requirements of the state and its political subdivisions for food, medicine, clothing, and other necessities in the event of an attack;

(3) procure and pre-position personnel, supplies, medicines, materials, and equipment;

(4) plan and make arrangements for the availability and use of private facilities, services, and property and, if necessary and used, provide for payment for use under terms and conditions agreed upon by the state and the other parties or as provided under AS 26.20.045;

(5) establish a register of persons with types of training and skills

important in homeland security and emergency response functions;

(6) prepare, for issuance or adoption by the governor, orders, proclamations, and regulations as necessary or appropriate in coping with attacks;

(7) cooperate with the federal government and public or private agencies or entities in achieving the purposes of this chapter and in implementing programs for homeland security, civil defense, and attack prevention, preparedness, response, recovery, and mitigation;

(8) do other things necessary or proper for the implementation of this chapter.

(d) The division has the additional powers and duties set out in AS 26.23.040.

* **Sec. 7.** AS 26.20.030 is amended to read:

Sec. 26.20.030. Reciprocal aid agreements with other governments. **In accordance with this chapter, the** [THE] governor may enter into reciprocal aid agreements with other states, [AND WITH] the federal government, **and provinces** [EITHER ON A STATEWIDE BASIS OR LOCAL DISTRICT BASIS OR WITH A NEIGHBORING STATE OF THE UNITED STATES OR A PROVINCE] of a foreign country. [THESE MUTUAL AID AGREEMENTS SHALL BE LIMITED TO THE FURNISHING OR EXCHANGE OF FOOD, CLOTHING, MEDICINE, AND OTHER SUPPLIES; ENGINEERING SERVICES; EMERGENCY HOUSING; POLICE SERVICES; NATIONAL OR STATE GUARDS WHILE UNDER THE CONTROL OF THE STATE; HEALTH, MEDICAL AND RELATED SERVICES; FIRE FIGHTING, RESCUE, TRANSPORTATION, AND CONSTRUCTION SERVICES AND EQUIPMENT; PERSONNEL NECESSARY TO PROVIDE OR CONDUCT THESE SERVICES; AND OTHER SUPPLIES, EQUIPMENT, FACILITIES, PERSONNEL, AND SERVICES THAT ARE NEEDED; THE REIMBURSEMENT OF COSTS AND EXPENSES FOR EQUIPMENT, SUPPLIES, PERSONNEL, AND SIMILAR ITEMS FOR MOBILE SUPPORT UNITS, FIRE-FIGHTING UNITS, POLICE UNITS, AND HEALTH UNITS. THE AGREEMENTS SHALL BE ON TERMS AND CONDITIONS THAT ARE CONSIDERED NECESSARY.]

* **Sec. 8.** AS 26.20.040 is amended to read:

Sec. 26.20.040. Emergency powers of the governor. In the event of actual enemy **or terrorist** attack **in or** against the state, **or a credible threat of imminent enemy or terrorist attack,** the governor may declare that a state of emergency exists, and, during the period of time that the state of emergency exists or continues, the governor has and may exercise the additional emergency power

(1) to enforce all laws and regulations relating to **homeland security and** civil defense and assume direct operational control of all **homeland security and** civil defense forces and helpers in the state;

(2) to seize, take, or condemn property **if, and only to the extent that, the governor determines that the property is needed** for the protection of the public [OR AT THE REQUEST OF THE PRESIDENT, THE ARMED FORCES OR THE CIVIL DEFENSE AGENCY OF THE UNITED STATES], including

(A) [ALL MEANS OF] transportation and communication **equipment**, except newspapers and news services;

(B) [ALL STOCKS OF] fuel [OF WHATEVER NATURE];

(C) food, clothing, equipment, materials, medicines, and supplies; and

(D) facilities including buildings and plants;

(3) to sell, lend, give, or distribute the fuel, food, clothing, medicines, and supplies among the inhabitants of the state and account to the commissioner of revenue for funds received for the property;

(4) to make compensation for the property seized, taken, or condemned on the basis described in AS 26.20.045;

(5) to suspend the provisions of a regulatory statute prescribing procedures for the conduct of state business or the order or regulation of a state agency if compliance with the provisions of the statute, order, or regulation would prevent, or substantially impede or delay, action necessary to cope with the emergency;

(6) to use all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency;

(7) to transfer personnel or alter the functions of state departments and agencies or units of them for the purpose of responding to or facilitating the response to the emergency;

(8) to perform and exercise other functions, powers, and duties that are considered necessary to promote and secure the safety and protection of the civilian population.

* Sec. 9. AS 26.20.040 is amended by adding new subsections to read:

(b) A state of emergency declared under (a) of this section may not remain in effect longer than 30 days unless extended by the legislature by law and may be terminated by law or withdrawal of the declaration.

(c) In this section, "credible threat of imminent enemy or terrorist attack" means a threat of attack against persons or property in the state that the adjutant general of the department or a designee of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety, certifies to the governor has a high probability of occurring in the near future; the certification must be based on specific information received from a local, state, federal, or international agency, or another source that the adjutant general or the designee of the adjutant general, in conjunction with the commissioner of public safety or a designee of the commissioner of public safety, determines is reliable.

* Sec. 10. AS 26.20.100 is amended to read:

Sec. 26.20.100. Traffic control. In coordination with the Department of Public Safety and the Department of Transportation and Public Facilities, the [THE] department may

(1) formulate and execute plans and regulations for the control of traffic for the rapid and safe movement of evacuation over public highways and streets of people, troops, or vehicles and materials for homeland security and civil defense; and

(2) establish and operate checkpoints along private or public roadways serving critical property or facilities in the state, at the direction of the governor when the governor determines that a sufficiently high threat of enemy or terrorist attack exists to warrant the action; the checkpoints established under

this paragraph may be in conjunction with closure of the roadway under AS 19.10.100; operation of a checkpoint shall include the posting of checkpoint signs in a manner that provides advance notice of the checkpoint so that persons are afforded a reasonable opportunity to turn around without passing through the checkpoint; operation of a checkpoint shall be limited to enforcement of the roadway closure or reasonable inspection of persons and vehicles passing through the checkpoint for weapons, explosives, chemicals, biological or biochemical agents, or other instruments capable of causing widespread severe injury to persons or property; however, at a checkpoint authorized under this paragraph, a person is entitled to retain possession of an amount of deadly weapons or defensive weapons that is reasonably justifiable for the person's lawful use, so long as those weapons are not prohibited weapons; in this paragraph, "deadly weapon" and "defensive weapon" have the meanings given in AS 11.81.900(b), and "prohibited weapon" has the meaning given in AS 11.61.200 [NATIONAL DEFENSE OR FOR USE IN A DEFENSE INDUSTRY, AND MAY COORDINATE THE ACTIVITIES OF THE DEPARTMENTS OR AGENCIES OF THE STATE AND OF THE DISTRICTS CONCERNED WITH PUBLIC HIGHWAYS AND STREETS, IN A MANNER THAT WILL BEST CARRY OUT THOSE PLANS].

* Sec. 11. AS 26.20.110 is amended to read:

Sec. 26.20.110. Lease or loan of state property and transfer of personnel. Notwithstanding any inconsistent provision of law,

[(1)] whenever the governor considers it is in the public interest [,] and the urgency of the situation demands, the governor may

(1) [(A)] authorize a department or agency of the state to lease or lend, on the terms and conditions that the governor considers necessary to promote the public welfare and protect the interests of the state, real or personal property of the state government to the president, the heads of the armed forces, or to the homeland security or civil defense agency of the United States;

(2) [(B)] enter into an agreement on behalf of the state for the use or loan to any political subdivision [DISTRICT] of the state, on terms and conditions

the governor considers necessary to promote the public welfare and protect the interests of the state, of real or personal property of the state government, or the temporary transfer or employment of personnel of the state government, to or by any **political subdivision** [DISTRICT] of the state],

(2) THE DIRECTOR OF EACH DISTRICT OF THE STATE MAY

(A) ENTER INTO A CONTRACT OR LEASE WITH THE STATE, OR ACCEPT A LOAN, OR EMPLOY PERSONNEL, AND THE DISTRICT MAY EQUIP, MAINTAIN, UTILIZE, AND OPERATE THE PROPERTY AND EMPLOY NECESSARY PERSONNEL FOR THAT PURPOSE IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE CONTRACT IS EXECUTED;

(B) DO ALL THINGS AND PERFORM ALL ACTS THAT THE GOVERNOR CONSIDERS NECESSARY TO CARRY OUT THE PURPOSE FOR WHICH THE CONTRACT IS MADE].

* **Sec. 12.** AS 26.20.145 is amended to read:

Sec. 26.20.145. Immunity of owners of public shelters. A person owning or controlling real estate who voluntarily and without compensation permits the designation or use of the whole or part of the real estate for the purpose of sheltering persons during an actual or practice attack **or homeland security or civil defense emergency or practice drill** shall, together with the person's successors in interest, be immune from suit for negligence arising out of the construction or maintenance of the property causing the death of, or injury to, any person using the shelter during an actual or practice attack **or homeland security or civil defense emergency or practice drill**.

* **Sec. 13.** AS 26.20.150 is amended to read:

Sec. 26.20.150. Authority to accept services, gifts, grants, and loans. (a) Whenever the federal government or an agency or officer of the federal government offers to the state [, OR THROUGH THE STATE TO A DISTRICT,] services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for **the purpose** [PURPOSES] of **homeland security or** civil defense, the **department** [STATE ACTING THROUGH THE GOVERNOR, OR THE DISTRICT, ACTING WITH

THE CONSENT OF THE GOVERNOR AND THROUGH ITS EXECUTIVE OFFICER OR GOVERNING BODY,] may accept the offer and [UPON ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF THE STATE OR THE DISTRICT, AS THE CASE MAY BE, TO] receive the services, equipment, supplies, materials, or funds on behalf of the state [OR THE DISTRICT], subject to the terms of the offer and the regulations, if any, of the agency making the offer.

(b) Whenever a person offers to the state [OR TO A DISTRICT] services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purpose of **homeland security or** civil defense, the **department** [STATE ACTING THROUGH THE GOVERNOR, OR THE DISTRICT ACTING THROUGH ITS EXECUTIVE OFFICER OR GOVERNING BODY,] may accept the offer and [UPON ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF THE STATE OR OF THE DISTRICT, AS THE CASE MAY BE, TO] receive the services, equipment, supplies, materials, or funds on behalf of the state, [OR DISTRICT, AND] subject to the terms of the offer.

* **Sec. 14.** AS 26.20 is amended by adding a new section to read:

Sec. 26.20.195. Federal regulation of homeland security. The requirements of this chapter do not apply to facilities, aircraft, vessels, and other means and modes of transportation that are subject to federal homeland security requirements, including aviation security requirements at 49 C.F.R. Chapter XII Subchapter B, Part 1520, and Subchapter C, Parts 1540 - 1550, and maritime and land security requirements at 33 C.F.R. Chapter I Subchapter H, Parts 101 - 106, and 49 C.F.R. Chapter XII Subchapter D, Parts 1570 - 1572.

* **Sec. 15.** AS 26.20.200 is amended by adding new paragraphs to read:

(4) "attack" means the use of weapons, explosives, chemicals, biological or biochemical agents, or other instruments with the potential for major force or impact, with apparent intent to inflict widespread or severe injury to persons or property;

(5) "homeland security" means the detection, prevention, preemption, and deterrence of, protection from, and response to attacks targeted at territory, population, or infrastructure in this state;

(6) "political subdivision" means

(A) a municipality; or

(B) another unit of local government;

(7) "private agency" means a for-profit or nonprofit corporation, unincorporated village, association, or other group or entity operating in the state.

* **Sec. 16.** AS 26.23.020(g) is amended to read:

(g) In addition to any other powers conferred upon the governor by law, the governor may, under AS 26.23.010 - 26.23.220,

(1) suspend the provisions of any regulatory statute prescribing procedures for the conduct of state business, or the orders or regulations of any state agency, if compliance with the provisions of the statute, order, or regulation would prevent, or substantially impede or delay, action necessary to cope with the disaster emergency;

(2) use all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) transfer personnel or alter the functions of state departments and agencies or units of them for the purpose of performing or facilitating the performance of disaster emergency services;

(4) subject to any applicable requirements for compensation under AS 26.23.160, commandeer or utilize any private property, except for all news media other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor considers this necessary to cope with the disaster emergency;

(5) direct and compel the relocation of all or part of the population from any stricken or threatened area in the state [,] if the governor considers relocation necessary for the preservation of life or for other disaster mitigation purpose;

(6) prescribe routes, modes of transportation, and destinations in connection with necessary relocation;

(7) control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in it;

(8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, [FIREARMS,] explosives, and combustibles;

(9) make provisions for the availability and use of temporary emergency housing;

(10) allocate or redistribute food, water, fuel, [OR] clothing**, medicine, or supplies**; and

(11) use money from the oil and hazardous substance release response account in the oil and hazardous substance release prevention and response fund, established by AS 46.08.010, to respond to a declared disaster emergency related to an oil or hazardous substance discharge.

* **Sec. 17.** AS 26.23.040 is amended by adding a new subsection to read:

(g) The Alaska division of homeland security and emergency management has the additional powers and duties set out in AS 26.20.025.

* **Sec. 18.** AS 26.23.170 is amended to read:

Sec. 26.23.170. Communications. The **Department of Military and Veterans' Affairs** [ALASKA DIVISION OF EMERGENCY SERVICES] shall ascertain what means exist for rapid and efficient communications in times of disaster emergency. The **department** [DIVISION] shall consider the desirability of supplementing these communications resources, or of integrating them into a comprehensive state or state-federal telecommunications network or other communication system or network. In studying the character and feasibility of any system or its several parts, the **department** [DIVISION] shall evaluate the possibility of multi-purpose use of it or its parts for general state and local governmental purposes. The **department** [DIVISION] shall make recommendations to the governor as appropriate.

* **Sec. 19.** AS 26.23.170 is amended by adding a new subsection to read:

(b) A statewide 911 coordinator is established within the Department of Military and Veterans' Affairs to coordinate and facilitate the implementation of 911 systems throughout the state. The 911 coordinator shall

(1) participate in efforts to set uniform statewide standards for automatic number identification and automatic location identification data transmission for telecommunications systems;

(2) make recommendations as necessary for implementation of basic and enhanced 911 service.

* **Sec. 20.** AS 26.23.210 is repealed and reenacted to read:

Sec. 26.23.210. Relationship to homeland security and civil defense laws. (a) In the event of a conflict between this chapter and AS 26.20, including in the event the governor declares a disaster under this chapter due to an attack or credible threat of imminent enemy or terrorist attack as described in AS 26.23.900(2), the provisions of this chapter shall govern.

(b) The provisions of AS 26.20.140, providing for immunity of government, employees, and other authorized persons in certain circumstances, apply when the entities or persons covered by AS 26.20.140 perform duties under AS 26.23.010 - 26.23.220, except as otherwise provided in AS 26.23.136 for entities or other persons providing assistance to the state under a compact in a form substantially as contained in AS 26.23.136.

* **Sec. 21.** AS 26.23.900(2) is amended to read:

(2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from

(A) an incident such as storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion, or riot;

(B) the release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage; [OR]

(C) equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;

(D) enemy or terrorist attack or a credible threat of imminent enemy or terrorist attack in or against the state that the adjutant general of the Department of Military and Veterans' Affairs or a designee of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety, certifies to the governor has a high probability of occurring in the near future; the certification must meet the standards of AS 26.20.040(c); in this subparagraph, "attack" has the meaning given under AS 26.20.200; or

(E) an outbreak of disease or a credible threat of an imminent outbreak of disease that the commissioner of health and social services or a designee of the commissioner of health and social services certifies to the governor has a high probability of occurring in the near future; the certification must be based on specific information received from a local, state, federal, or international agency, or another source that the commissioner or the designee determines is reliable;

* **Sec. 22.** AS 26.20.050, 26.20.060, 26.20.070, 26.20.080, 26.20.090, 26.20.120, 26.20.130, 26.20.160, 26.20.170, 26.20.180, 26.20.200(3); AS 26.23.030, and 26.23.900(4) are repealed.

* **Sec. 23.** AS 24.20.680 is repealed January 1, 2009.

* **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PREPARATION AND PRESENTATION OF PROPOSED LEGISLATION. If the adjutant general of the Department of Military and Veterans' Affairs determines that additional qualifications for service on the Homeland Security and Emergency Management Subcommittee under AS 24.20.680, added by sec. 2 of this Act, would significantly enhance the security of sensitive materials or information to be reviewed under AS 24.20.680, the adjutant general shall prepare a bill proposing amendments to AS 24.20.680, enacted by sec. 2 of this Act, for consideration by each house of the legislature, and shall deliver the bill to the Secretary of the Alaska State Senate and the Chief Clerk of the Alaska State House of Representatives not later than 30 days following the convening of the First Regular Session of the Twenty-Fourth Alaska State Legislature.

* Sec. 25. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. Notwithstanding AS 24.20.680(a), enacted by sec. 2 of this Act, the Homeland Security and Emergency Management Subcommittee established in AS 24.20.680, enacted by sec. 2 of this Act, shall be organized for the first time within 15 days after the effective date of this section.

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

REVISOR'S INSTRUCTIONS. (a) The revisor of statutes is instructed to change the heading of

(1) AS 26.20 from "Chapter 20. Civil Defense" to "Chapter 20. Homeland Security and Civil Defense";

(2) AS 26.23.040 from "Duties of the Alaska division of emergency services." to "Homeland security duties of the Alaska division of homeland security and emergency management."

(b) Wherever in the Alaska Statutes and the Alaska Administrative Code the term "division of emergency services," which is in the Department of Military and Veterans' Affairs, is used, it shall be read as the "division of homeland security and emergency management" when to do so would be consistent with the purpose of this Act.

(c) Under AS 01.05.031, the revisor of statutes shall implement this section in the statutes.

(d) Under AS 44.62.125(b)(6), the regulations attorney shall implement (b) of this section in the Alaska Administrative Code.

* Sec. 27. Section 19 of this Act takes effect March 1, 2005.

* Sec. 28. Except as provided in sec. 27 of this Act, this Act takes effect immediately under AS 01.10.070(c).

LAWS OF ALASKA

2004

Source
CSSB 254(FIN)(efd fld)

Chapter No.
180

AN ACT

Relating to tourism marketing contracts.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: August 12, 2004
Actual Effective Date: November 10, 2004

ALASKA STATE LEGISLATURE

Co-Chair:
Joint Armed Services Committee

Vice-Chair:
Legislative Budget and Audit
Judiciary Committee

Member:
Economic Development, Trade & Tourism
Energy

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-3783
Fax: (907) 465-2293
Toll Free (877) 460-3783

Interim:
10928 Eagle River Road
Eagle River, Alaska 99577
Phone: (907) 622-3783
Fax: (907) 622-3784

REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON
Representative_Nancy_Dahlstrom@legis.state.ak.us

Sponsor Statement
House Bill 80

"An act relating to the Joint Armed Services Committee and its Homeland Security and Emergency Management Subcommittee; and providing for an effective date."

In 1999, the Joint Armed Services Committee (JASC) was formed with a 10 year sunset. At the time Alaska was being considered as the site for deployment of a national missile defense system. During the same time the base realignments and closures commission (BRAC) were expected to consider closing vital military installations in Alaska.

Making the committee a permanent interim committee in 1999 allowed for legislative oversight on the military around the state year round. It also showed how serious Alaska is in supporting the defense of our country. With the strategic location of Alaska in the pacific theatre and the large military presence that continues to grow, military leaders and local elected officials across Alaska know that the Joint Armed Services Committee serves an important venue for education and oversight for the state.

When the committee was formed there was no way to know if we would continue to face BRAC complications or if the missile defense system site would be built in Alaska, which is why there was a 10 year sunset put in place. As we all know, we faced a challenging BRAC process in 2005 and we predict a future BRAC discussion under the Obama Administration in the near future. Since inception of JASC the Missile Defense site was built in Fort Greely and the committee continues to be apprised of the vital role it plays in our national defense.

Many communities in Alaska rely on the local military installations to support their economy and population of the community. With Alaska's strategic location we continue to provide safety and security to our Nation. Therefore, we feel making this committee permanent is in the best interest of our State and the security of our Nation.

The JASC has served the people of Alaska well by allowing the legislature to have an active role in the decisions and activities the military conducts in our state. I respectfully ask for the committees favorable support of HB 80.

Thank you.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: HB80
Bill Version:
() Publish Date:

Identifier (file name): HB80-LEG-COU-1-23-09
Title
Sponsor Representative Dahlstrom
Requester House State Affairs

Dept. Affected: Legislature
RDU Legislative Council
Component Council and Subcommittees
Component Number 783

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual	0.0	81.5	81.5	81.5	81.5	81.5	81.5
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**81.5**	**81.5**	**81.5**	**81.5**	**81.5**	**81.5**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	81.5	81.5	81.5	81.5	81.5	81.5
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**81.5**	**81.5**	**81.5**	**81.5**	**81.5**	**81.5**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
Funding for the Joint Armed Services Committee is included in the Legislative Affairs Agency FY10 Budget Request. If this bill passes, funding for this Committee will be included in future budget requests. This legislation has zero fiscal impact on the Legislative Affairs Agency Budget.

Prepared by: Karla Schofield, Deputy Director
Division Legislative Affairs Agency
Phone 465-6626
Date/Time 1/23/09 3:12 PM

Approved by: Pamela Varni, Executive Director
Legislative Affairs Agency
Date 1/23/2009

(Revised 9/10/2008 OMB)

VANGUARD

PROVIDING INFORMATION ON NATIONAL SECURITY FOR STATE & LOCAL POLICYMAKERS

21 January 2009

Missile Defense Program in Alaska Boosts State's Economy Directly, and the Nation's Economy Overall

By Mead Treadwell and Jeremy Thompson, editors

A recent study by Hans Geier at the University of Alaska Fairbanks measures the economic impact that the Ground-based Midcourse Defense (GMD) Program is having on the local Alaska economy. The study, entitled *Economic Impact of the Boeing Ground-based Midcourse Defense (GMD) Program: Alaska Operations 2007*, surveyed four regions of the state and estimated the impact of GMD on both on the local rural economies and the gross domestic product of Alaska. The results make a compelling case that while research and development of GMD occurs in other parts of the Unites States, construction and operations is providing a boost to Alaska's still-developing economy.

Economic impact was classified into two categories. The first kind of impact stems from expenditures by the GMD program itself: direct, indirect and induced. The direct effects are the changes in the industries associated with GMD expenditures. The indirect effects are changes in inter-industry purchases as they respond to the new demands of GMD-affected industries. Induced effects reflect the changes in spending from households as income increases or decreases due to the change in spending by Boeing, the prime contractor for the GMD program and sponsor of the study. All effects combined showed the defense program boosted the state's economy by $246 million.

The second kind of impact considers household earnings income, tax revenue generated for state and local government, property and sales. The GMD program directly employs 323 people. For each employee, the study finds that an additional 1.2 jobs are created, giving a total of 716 jobs directly and indirectly created. The cumulative total of household earnings based on the factors of payroll and benefits was $71.8 million, directly and indirectly, with many of the jobs located in areas where few employment opportunities exist. These jobs and income generated $9.6 million in state and local tax revenue and $19.4 million for the federal government.

In addition to the role it plays in national defense, the GMD Program is one of Alaska's largest construction projects with economic effects which trickle down to the local level in the some of the most isolated rural economies in the world. Ft. Greely, where interceptors are based, was set to be closed entirely before the GMD site decision was made in the Clinton Administration. The Aleutian port of Adak, home port of the GMD's X-Band radar, is one of the most remote places in America, and the local economy had taken a dive after a U.S. Navy base had closed there. Remote Kodiak, with a state-owned launch facility that serves as part of the test-bed for both GMD and other elements of

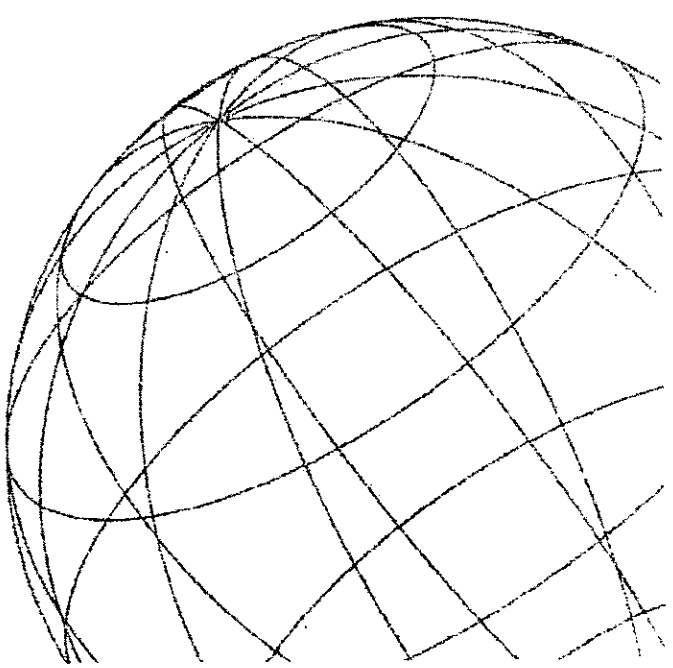
the layered national system – which envisions sea, air, and ultimately space-based defenses – is also benefitting from GMD construction in Alaska.

At the Institute of the North's Security and Defense Program, we seldom discuss the economic impact of missile defense construction. The right policy is to defend the homeland against any threat using the best means from the best location. The wrong policy is to support missile defense as a project for creating jobs. Alaskans simply called for a missile defense that would defend all 50 states through a legislative resolution in 1999. The resolution was first introduced in the state legislature in 1997, years before it was known that Alaska might host one layer of the nation's missile defense system. An effective missile defense is essential to deter missile attack on the Unites States, its forward forces, our friends and allies, especially from "asymmetric" or anonymous sources – states like North Korea, Iran, or from other rogue sources who might launch from ships at sea with no known "national" return address for a retaliatory response. Whatever the economic impact in Alaska, Alabama, California, Hawaii or Colorado, the ultimate impact is to provide an umbrella for the entire U.S. economy. *Link to study:* http://www.uaf.edu/snras/afes/pubs/misc/R_08_01.pdf

This article was taken from the Vanguard, a weekly publication of the Security and Defense program at the Institute of the North. It is edited by Senior Fellow Mead Treadwell and Research Associate Jeremy Thompson. For more information or to subscribe, send an email to jthompson@instituteonorth.org. The Security and Defense program at the Institute of the North conducts research and educates policymakers on strategic issues relating to the defense of the United States that particularly concern decision makers in Alaska and at the state and local level throughout the nation.

The Institute of the North, based in Anchorage, Alaska, is a non-profit educational and research organization founded in 1994 by former Secretary of the Interior and twice Governor of Alaska Walter J. Hickel, focusing on strategic and natural resource issues.

The Institute of the North · 509 West Third Avenue, Suite 107 · Anchorage, AK 99501
Phone: 907.771.2446 · Fax: 907.771.2466



775
P. 01
FAX NO.
JAN-22-2009 THU 10:57 AM

Missile Defense Program Overview For The Joint Armed Services Committee Alaska State Legislature



14 FEB 07

Lt Gen Trey Obering, USAF
Director
Missile Defense Agency

FOR OFFICIAL USE ONLY

ms-109141 / 021207

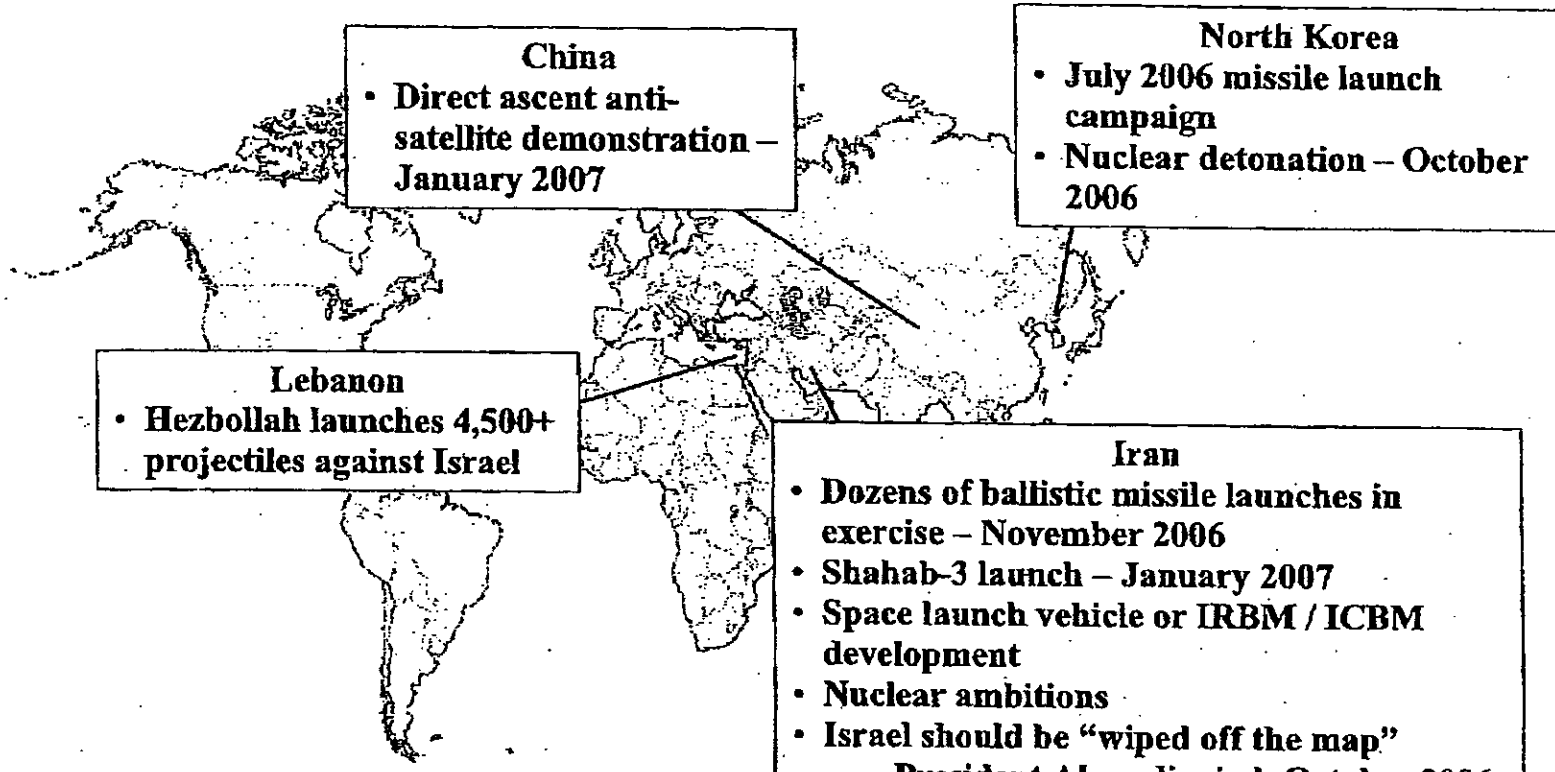
776
P. 02
FAX NO.
JAN-22-2009 THU 10:57 AM

Challenges And Uncertainties

- Rogue states view ballistic missiles as a means for gaining or maintaining their own freedom of action
  - North Korea uses missiles for coercion, intimidation and deterrence – proliferates to other nations
  - Iran views ballistic missiles as element of asymmetric strategy against U.S. and allies – proliferates to both state and non-state actors
- Emerging Threats
  - Several nations are pursuing ballistic missiles of all ranges, increasing missile numbers and sophistication – emphasis on countermeasures
  - Future threats difficult to predict but likely to arise – both technical and political surprises
- Evolving role for ballistic missiles and possibly cruise missiles
  - Lebanon crisis demonstrated
    - Rogue state support of non-state actors
    - Use of ballistic missiles and rockets as terror weapons

777 P. 03 FAX NO. JAN-22-2009 THU 10:58 AM

Real World Events – Causes For Concern



China
- Direct ascent anti-satellite demonstration – January 2007

North Korea
- July 2006 missile launch campaign
- Nuclear detonation – October 2006

Lebanon
- Hezbollah launches 4,500+ projectiles against Israel

Iran
- Dozens of ballistic missile launches in exercise – November 2006
- Shahab-3 launch – January 2007
- Space launch vehicle or IRBM / ICBM development
- Nuclear ambitions
- Israel should be "wiped off the map"
  - President Ahmadinejad, October 2006

Since 2002, There Has Been an Average of 90 Foreign Ballistic Missile Launched Per Year – Last Year, There Were About 100

778
P. 04
FAX NO.
JAN-22-2009 THU 10:58 AM

Ballistic Missile Defense Policy And Mission

Policy

"... The United States plans to begin deployment of a set of missile defense capabilities in 2004. These capabilities will serve as a starting point for fielding improved and expanded missile defense capabilities later."

National Security Presidential Directive / NSPD-23
16 DEC 02

Direction

- **Establish a single program to develop an integrated system under a newly titled Missile Defense Agency**
- **Apply a capability-based requirements process for missile defense**

SecDef Memorandum
Missile Defense Program Direction, 2 JAN 02

Mission

- **Develop an integrated layered Ballistic Missile Defense System**
  - **To defend the United States, its deployed forces, allies and friends**
  - **From ballistic missiles of all ranges**
  - **Capable of engaging them in all phases of flight**

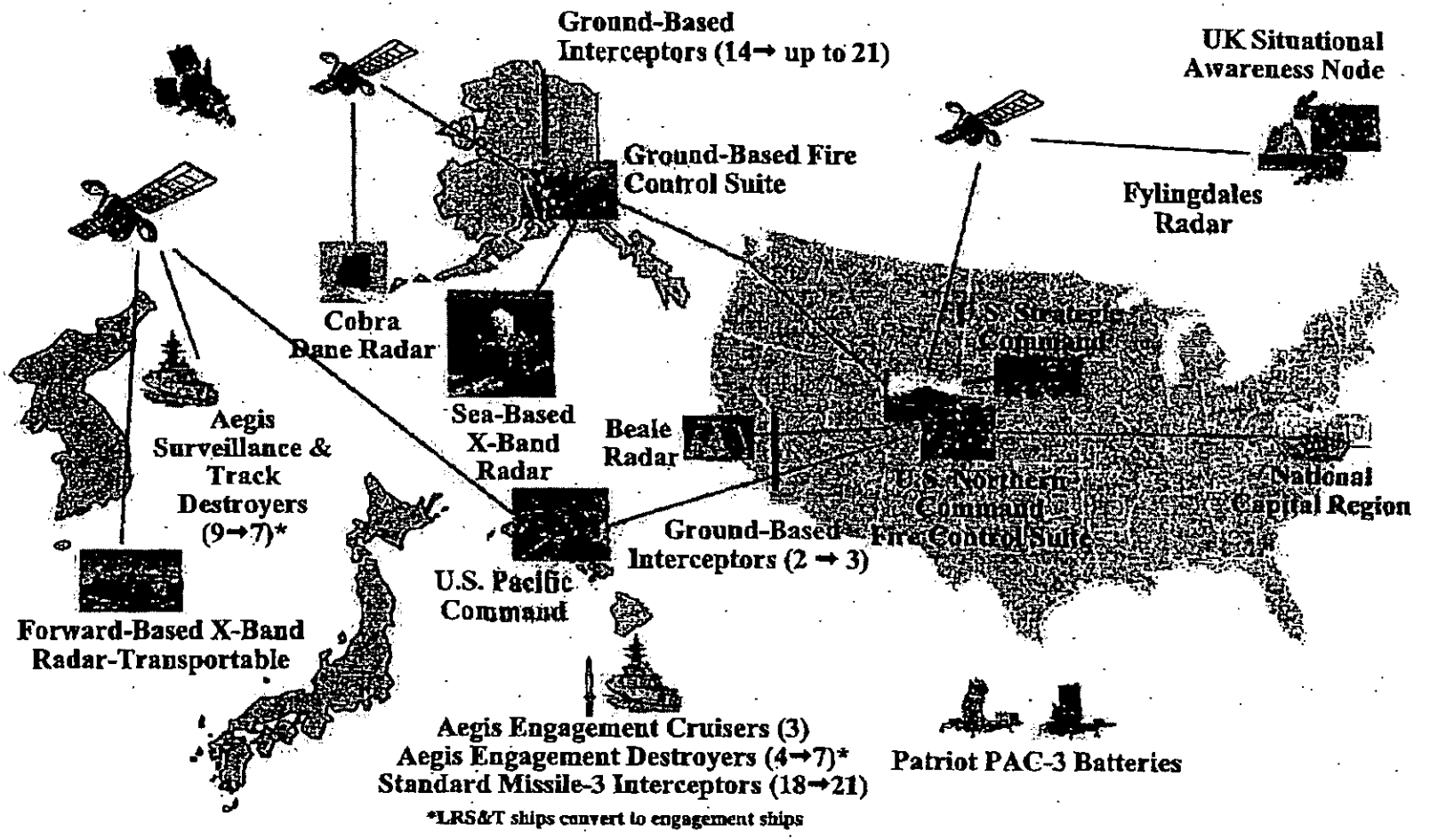
779
P. 05
FAX NO.
JAN-22-2009 THU 10:58 AM

Missile Defense Program Strategy

- Field an initial increment (2004-2005) of capability to provide
  - Initial protection of entire U.S. from North Korea, partial protection of the U.S. from Middle East threat
  - Protection of deployed forces, allies and friends with terminal defenses
- Field next increment (2006-2007) of capability to provide
  - Complete protection of U.S. from Middle East
  - Expand coverage to allies and friends
  - Increase countermeasure resistance, and increase capability against shorter-range threats
- Follow on increments (2008+) begin to increase robustness of interceptor inventory and sensors
  - Addresses unconventional attacks

780
P. 06
FAX NO.
JAN-22-2009 THU 10:59 AM

System Configuration
End February 2007 → End 2007



781
P. 07
FAX NO.
JAN-22-2009 THU 11:00 AM

Missile Defense Tests

- 14 test successes in last 15 flight tests (with one no test)
  - Aegis Standard Missile-3 intercepts separating warheads (November 2005 and June 2006)
  - Successful Terminal High Altitude Area Defense (THAAD) intercepts of unitary targets (July 2006, January 2007)
  - Successful intercept of target with long-range interceptor (September 2006)
- Upcoming tests in 2007
  - Two intercept flight tests (1 endo-atmospheric, 1 exo-atmospheric) of THAAD interceptor at Pacific Missile Range Facility against short-range unitary targets in middle and late 2007
  - Three Aegis Standard Missile-3 intercepts against short-and medium-range targets in middle and late 2007
  - Two intercept tests of long-range ground-based interceptors in late Spring and early Fall 2007

24 Hit-to-Kill Intercepts In Low And High Endo-atmosphere, Midcourse And Terminal Exo-atmosphere Since 2001

782
P. 08
FAX NO.
JAN-22-2009 THU 11:00 AM

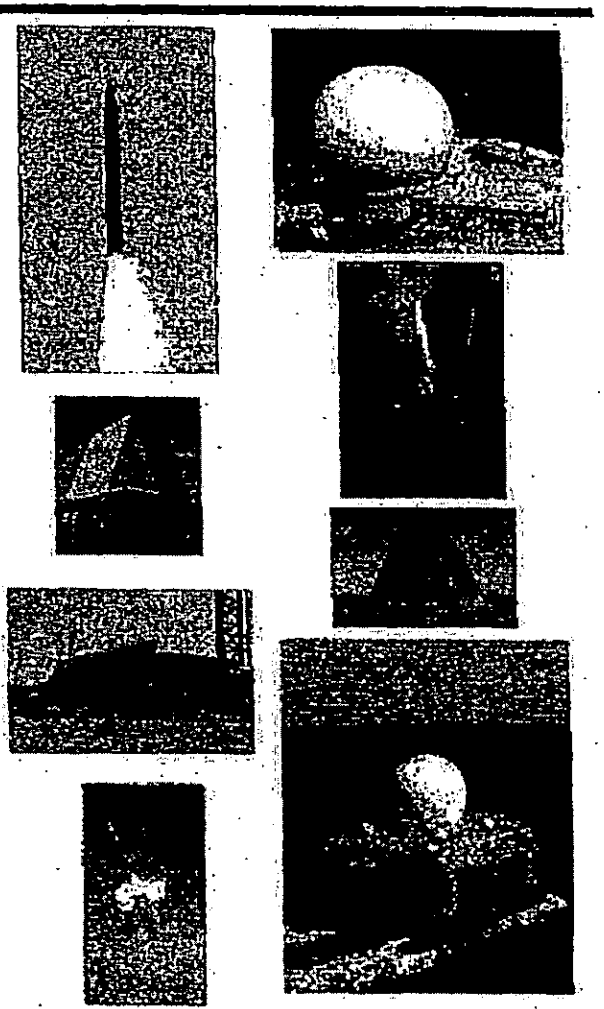
Strategic Objectives

- *Maintain and sustain* an initial capability to defend the U.S., allies and our deployed forces against rogue nation attacks
  - Homeland defense against long-range missiles from North Korea
  - Develop initial defense for deployed forces and allies in regional conflicts
- *Close gaps and improve* this capability against rogue states
  - Expand homeland defense against Iran
  - Defeat larger and more complicated attacks (e.g., decoys, multiple warheads)
  - Extend deterrence, enhance defenses for deployed forces and allies, and increase international cooperation
  - Extend U.S. decision time and complicate enemy planning
- *Develop options* to dissuade and stay ahead of current and emerging threats
  - Leverage technological advantage to increase defense effectiveness
  - Build a foundation for global access and response

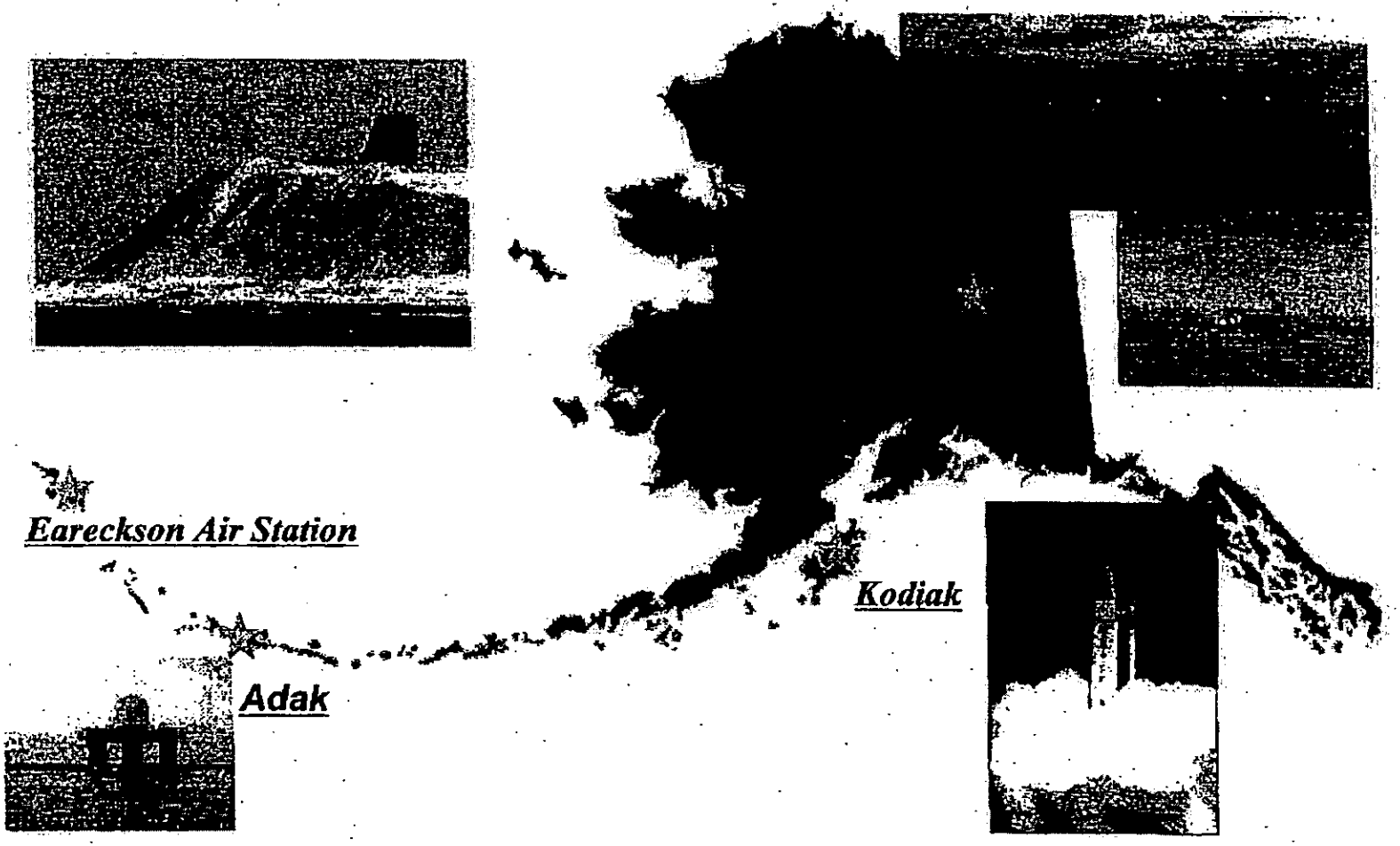
783
P. 09
FAX NO.
JAN-22-2009 THU 11:00 AM

Capabilities Through 2013

- Increased capability against long-range threats
  - Up to 54 Ground-Based Interceptors (44 in U.S., 10 in Europe)
  - Persistent surveillance and tracking capabilities across western hemisphere and Europe – Alaska, California, Greenland, United Kingdom, Central Europe
- Increased capability against regional and asymmetric threats
  - 18 Aegis engagement ships
  - 132 Standard Missile-3 interceptors
  - 4 Terminal High Altitude Area Defense fire units with 96 interceptors
  - Up to 100 sea-based Standard Missile-2 terminal interceptors
- Greater mobility to address current and surprise threats
  - Sea-based X-band radar (Pacific Ocean)
  - 4 forward-based X-band radars, plus adjunct radar



Alaska Sites



785 P. 11 FAX NO. JAN-22-2009 THU 11:02 AM

Economic Impact On Delta Junction

- Fort Greely workforce has contributed significantly to the local economy, improving business revenues by 35%
- Fort Greely federal workforce comprises 25% of working population in Upper Tanana Valley – contractors comprise 15%
  - 360 federal workers on Fort Greely
- Allen Army Airfield construction, upgrades and improvements in FY 2007 amount to about $20 million
- Fort Greely garrison operations annual operating budget is $43.6 million
  - Workforce consists of 114 Army civilians and 184 contract employees

From 2000-2005, The Missile Defense Agency Has Spent $625,901,000 In Alaska

986
P. 12
FAX NO.
JAN-22-2009 THU 11:02 AM

Alaska Business Data

- **Army Corps of Engineers**
  - $312M Contract (Projected Final Value)
  - 9 Native Alaska Companies
  - $213 in Subcontracts and Purchase Orders
    - $192M (90%) with Alaska Businesses
- **Boeing**
  - $160.2M Projected Final Value
    - $140.1M (87%) with Alaska Businesses
    - Excluding Cobra Dane and Long-Haul Comm at EAS
  - 4 Native Alaska Companies

Alaska Companies And Residents Performing Alaska Work

787
P. 13
FAX NO.
JAN-22-2009 THU 11:02 AM

Boeing Company
Alaska Business Data

- **Total dollars projected final value: $160.2M**
  - **$92.9M (58%) Large Business**
  - **$67.3M (42%) Small Business**
    - **$2.88M (1.8%) Small Disadvantaged Business**
    - **$11.2M (7%) Women Owned Business**
    - **$28.8M (18%) Hub Zone Business**
    - **$0.64M (0.4%) Veteran Business**
    - **$0M (0%) Disabled Veteran Business**

87% of Subcontracts Plus Purchase Orders Are With Alaskan Businesses

($140.1M of $160.2M)

Of $160.2M In Subcontracts: $118.8M Are Native Including Small And Large business, Partnerships, And Other Companies

788
P. 14
FAX NO.
JAN-22-2009 THU 11:03 AM

Summary

- Major progress towards meeting Presidential Direction
- Capabilities are in the warfighters' arsenal while concurrently supporting further development efforts
- We will build on the current system to close performance gaps and improve its capabilities over time
- Alaska plays a central role in the U.S. Ballistic Missile defense System

HB

92

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 28, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2-24-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 92**

"An Act relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments; and providing for an effective date."

HB 92 DIVEST INVESTMENTS IN SUDAN

Recommends it be replaced with [ ] HCS *or* **[X] CS** *for* HB 92 (STA)
*For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR*_____ [N] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW **FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS **FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
Rev/Perm fund	1			↘
Rev/Treasury	2			↘

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson				✓
Paul Seaton	SEATON	✓			
Max Gruenberg	Gruenberg	–			
Peggy Wilson	WILSON	↘			
Pete Peterson	PETERSEN	X			
Chair: Bohl	LYNN	X			
Chair:					

Nancy Manly

From: Rowland, Mindy B (GOV) [mindy.rowland@alaska.gov]
Sent: Monday, February 23, 2009 4:33 PM
To: Nancy Manly; Dirk Moffatt
Cc: Gallagher, Gerald L (GOV)
Subject: RE: House State Affairs Committee - Amendments to HB 92 plus report on Sudan Company Rankings

Hi Nancy and Dirk

Dirk had asked me the Governor's Office position on these amendments. As discussed several times, we oppose the first two A.1 and A.2. We do not see any issues with A.3 or A.4.

Let me know if you have any questions.

Thanks
Mindy

Mindy Rowland
Deputy Legislative Director
Office of Governor Sarah Palin
465-3994

From: Nancy Manly [mailto:Nancy_Manly@legis.state.ak.us]
Sent: Monday, February 23, 2009 3:12 PM
Subject: House State Affairs Committee - Amendments to HB 92 plus report on Sudan Company Rankings

Attached are four amendments to HB 92 Divest Investments in Sudan – up in House State Affairs Committee tomorrow morning. Please print off and bring to committee. Thanks.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 3

Re DRAFT House STA CS to HB 92

Please draft a House STA CS to HB 92 adding the following amendments (attached):

1) 26-GH1049\A.3

2) 26-GH1049\A.4

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: HB 92

Page 5, line 26:

Delete all material.

Insert "For actions taken, or inaction done in good faith, in compliance with AS 37.10.072, the"

Comment: This is a technical correction to ensure that exemptions, immunity and indemnification apply only for activities done in connection with AS 37.10.072 (the previous section of this bill). Current language could be read as providing exemption, immunity, or indemnification for any inaction done in good faith.

26-GH1049\A.4
Cook
2/20/09

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

TO: HB 92

Page 2, line 14, following "Sudan.":

Insert "Divestment of an ownership interest in a company shall occur within 90 days after it is placed on the list created and updated under (c) of this section if the investment is managed by the commissioner or fiduciary."

Page 2, line 16, following "divest":

Insert ", within 90 days after receiving the direction,"

HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/28/09
Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments; and providing for an effective date."

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

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

FINDINGS. The legislature finds that

(1) since 1997, the federal government has imposed fiscal sanctions against the Government of Sudan for acts of terrorism and atrocities directed against civilians in the Darfur region of Sudan;

(2) the fiscal sanctions described in (1) of this section are monitored through the United States Department of the Treasury's office of foreign assets control;

(3) the State of Alaska controls significant financial assets through

investments in the Alaska permanent fund and funding of the State of Alaska retirement systems, supplemental annuity plans, and deferred compensation, among other funds;

(4) it is a fundamental responsibility of the State of Alaska to decide where, how, and by whom financial resources in its control are invested, taking into account numerous pertinent factors; and

(5) the investment of financial resources in business firms and financial institutions with ties to the repressive regime in the Sudan is inconsistent with the moral and political values of the people of Alaska.

* **Sec. 2.** AS 37.10 is amended by adding new sections to read:

Sec. 37.10.072. Sudan divestment. (a) The commissioner or any fiduciary of a fund subject to this title may not invest in and if owned, shall cause the fund to divest ownership in the publicly traded securities of a company that is placed by the commissioner on a list of companies that conduct or have direct investments in business operations in Sudan. On or before January 31 of each year, if the fund has investments managed by an outside investment manager, the fiduciary shall direct the investment manager not to invest in and if owned, to divest ownership in the publicly traded securities of a company that is placed by the commissioner on a list of companies that conduct or have direct investments in business operations in Sudan.

(b) If an investment in a fund under (a) of this section is managed as a commingled investment or other business structure in which the fund is not the sole owner of the investment interest or the investment is an index fund, the provisions of (a) of this section do not apply. The commissioner shall require that, on or before January 31 of each year, the fiduciary submit letters to the managers of commingled investments requesting the manager to consider removing from the commingled investment any company on the list of companies that conduct or have direct investments in business operations in Sudan.

(c) The commissioner shall create and update on or before December 31 of each year a list of companies that conduct or have direct investments in business operations in Sudan.

(d) The commissioner shall make reasonable efforts to investigate all publicly traded companies to determine whether the company conducts or has direct

investments in business operations in Sudan. In conducting the investigation, the commissioner may use the following:

(1) credible publicly available information regarding companies with active business operations compiled by nonprofit organizations, research firms, international organizations, and government entities;

(2) information supplied by institutional investors that have divested from companies that conduct or have direct investments in business operations in Sudan.

(e) The commissioner shall provide written notice and an opportunity to comment in writing to each company identified as a company that conducts or has direct investments in business operations in Sudan under (d) of this section.

(f) The commissioner shall add a company identified under (d) of this section to the list of companies that conduct or have direct investments in business operations in Sudan not earlier than 90 days after providing written notice under (e) of this section, unless the company demonstrates to the commissioner that it does not conduct or have direct investments in business operations in Sudan.

(g) The commissioner shall make every effort to avoid erroneously adding a company to the list of companies that conduct or have direct investments in business operations in Sudan. The commissioner shall verify that the company conducts or has direct investments in business operations in Sudan before adding it to the list of companies that conduct or have direct investments in business operations in Sudan.

(h) On or before January 31 of each year, the commissioner shall advise the president of the senate, the speaker of the house, and the United States presidential special envoy for Sudan of the companies on the list of companies that conduct or have direct investments in business operations in Sudan.

(i) The commissioner of revenue may adopt regulations under AS 44.62 to carry out the purposes of the section.

(j) In this section

(1) "business operations"

(A) means power production activities, mineral extraction activities, oil-related activities, or the production of military equipment;

(B) does not include operations that the company can demonstrate

(i) are conducted under contract directly and exclusively with the regional government of southern Sudan;

(ii) are conducted under a license from the United States Department of the Treasury, office of foreign assets control, or are expressly exempted under federal law from the requirement to be conducted under such a license;

(iii) consist of providing goods or services to marginalized populations of Sudan;

(iv) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(v) consist of providing goods or services that are used only to promote health or education; or

(vi) have been voluntarily suspended;

(2) "commissioner" means the commissioner of revenue;

(3) "Government of Sudan"

(A) means the government in Khartoum, Sudan, which is led by the National Congress Party, formerly known as the National Islamic Front, or any successor government formed on or after October 13, 2006;

(B) includes the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan;

(C) does not include the regional government of southern Sudan;

(4) "marginalized populations of Sudan" means adversely affected groups in regions authorized to receive assistance under sec. 8(c), P.L. 109-344 (Darfur Peace and Accountability Act of 2006) and marginalized areas in northern Sudan described in sec. 4(9), P.L. 109-344;

(5) "military equipment"

(A) means weapons, arms, military supplies, and equipment

that readily may be used for military purposes;

(B) includes radar systems or military-grade transport vehicles, supplies, or services sold or provided directly to a force actively participating in armed conflict in Sudan;

(6) "mineral extraction activities"

(A) means exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys, oxides, or ore;

(B) includes activities involving gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc;

(7) "oil-related activities" means

(A) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; and

(B) constructing, maintaining, or operating a pipeline, refinery, or other oilfield infrastructure;

(8) "power production activities"

(A) means a business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar entity of the Government of Sudan whose purpose is to facilitate power generation and delivery;

(B) includes establishing power-generating plants or hydroelectric dams, selling or installing components for the project, or providing service contracts related to the installation or maintenance of the project.

Sec. 37.10.073. Divestment exemptions, immunity, and indemnification. For actions taken in compliance with AS 37.10.072 or inaction done in good faith, the commissioner of revenue, fiduciary, and the commissioner of revenue's or fiduciary's agents, attorneys, trustees, officers, employees, staff, custodians, research firms, and investment managers under contract, and board members complying with AS 37.10.220 or AS 37.13.120 are

(1) exempt from any conflicting state statutory or common law

obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios;

(2) immune from liability under state or local law;

(3) indemnified and held harmless by the State of Alaska from claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including costs and attorney fees, and against all liability, losses, and damages of any nature that the commissioner, fiduciary, and the commissioner's or fiduciary's agents, attorneys, trustees, officers, employees, staff, custodians, research firms, and investment managers under contract may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments made in compliance with AS 37.10.072; and

(4) immune from adverse licensing actions under AS 08.

* **Sec. 3.** AS 37.10.220 is amended by adding a new subsection to read:

(d) The board shall comply with AS 37.10.072.

* **Sec. 4.** AS 37.13.120 is amended by adding a new subsection to read:

(f) The board shall comply with AS 37.10.072.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPEAL. Sections 1, 3, and 4 of this Act and AS 37.10.072, enacted by sec. 2 of this Act, are repealed on the earliest of the day after

(1) the commissioner of revenue gives written notice to the revisor of statutes and the lieutenant governor that the President of the United States has certified to Congress that the Government of Sudan has honored its commitments to

(A) abide by the United Nations Security Council Resolution 1769 (2007);

(B) cease attacks on civilians;

(C) demobilize and demilitarize the Janjaweed and associated militias;

(D) grant free and unfettered access for delivery of humanitarian assistance; and

(E) allow for the safe and voluntary return of refugees and internally displaced persons;

(2) the United States Congress or the President of the United States, through

legislation or executive order, declares that the Sudan divestment authorized in AS 37.10.072 interferes with the conduct of United States foreign policy; or

(3) P.L. 110-174 (Sudan Accountability and Divestment Act of 2007) is repealed.

*** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

NOTICE. Not later than 30 days after the enactment of this Act, the Department of Law is directed to submit written notice to the attorney general of the United States describing this Act.

*** Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 92
(H) Publish Date: 1/28/09

Identifier (file name):
Title DIVEST INVESTMENTS IN SUDAN
Sponsor
Requester

Dept. Affected: Revenue
RDU AK Permanent Fund Corporation
Component AK Permanent Fund Corporation
Component Number 109

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill would require that APFC divest any securities of publicly traded companies that are held in actively managed separate (non-commingled) funds. This bill would also require that APFC send letters to managers of actively traded commingled funds requesting that they consider divesting the listed securities. Based on consultations with external managers and other public funds, APFC does not anticipate any additional costs from the divestment process. APFC investment and finance staff will be able to absorb the compliance and correspondence activities into their regular workload. APFC will not incur any administrative costs in developing the divestment list, as the Commissioner of Revenue is responsible for this task under the proposed legislation.

Prepared by: Michael J. Burns
Division Alaska Permanent Fund Corporation
Approved by:

Phone 907-796-1522
Date/Time January
Date

(Revised 9/10/2008 OMB)

802

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 92
(H) Publish Date: 1/28/09

Identifier (file name):0049-DOR-TRS-1-16-09
Title: Sudan Divestiture
Sponsor: Rules Committee
Requester: Governor Palin

Dept. Affected: Revenue
RDU: Treasury
Component: ARMB/ARMB Custody/Treasury
Component Number: 2813/2812/121

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: *(Attach a separate page if necessary)*

The bill requires the fiduciaries of state investment funds to divest of certain investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. No appropriation is required as implementation will be carried out through existing personal services and custodial resources. The effect this bill will have on investment performance is unknown.

Prepared by: Pamela Green, Comptroller
Division: Treasury Division
Phone 465-2300
Date/Time Thursday; 12 noon

Approved by: Jerry Burnett, Deputy Commissioner
Department of Revenue
Date 1/15/2009

(Revised 9/10/2008 OMB)

Compliance Procedures relating to Prospective Sudan Divestiture Legislation
January 28, 2009

The first column below contains procedures the compliance team would employ if the Governor's Sudan Legislation passes as written. The next two columns identify changes to the procedure if either House Bill passes.

Governor's Bill	House Bill 5	House Bill 45
The following procedures must be completed prior to each December 31 (steps 1-4 must start prior to September 30 to meet Dec 31 deadline):		
1. Annually, prepare an initial list of companies that conduct or have direct investments in business operations in Sudan as defined by the legislation.	Quarterly, prepare/update list.	Quarterly, prepare/update list.
2. Send a written notice to listed companies advising they have been identified as a company that conducts or has direct investments in business operations in Sudan. The notice will offer the company 90 days to respond in writing to clarify its activities in Sudan.	Send letters only to companies in which the fund has direct holdings: -Active Business operations will get a letter of divestiture offering 90 days to respond. -Inactive business operations will get a letter requesting to refrain from active operations and be removed from list.	Send letters only to companies in which the fund has direct holdings: -Active Business operations will get a letter of divestiture offering 90 days to respond. -Inactive business operations will get a letter requesting to refrain from active operations and be removed from list.
3. If within 90 days the company demonstrates that it does not conduct or have direct investments in business operations in Sudan*, the company will not be added to the "Prohibited Investments" list. Otherwise, it will be added to the "Prohibited Investments" list. *The company will have to provide evidence to support their claims.		
4. Compile the official "Prohibited Investments" list based on information obtained in steps 1-3.		

The following procedures must be completed prior to each January 31:		
5. Identify companies on the Prohibited Investments list in which the fund has direct investments. Funds excluded from this step are: 1) commingled investments or other business structure in which the fund is not the sole owner of the investment interest and 2) index funds.	Does not exclude Passive commingled and wholly owned Index funds from this step.	Does not exclude Passive commingled and wholly owned Index funds from this step.
6. Provide the updated Prohibited Investments list to all investment managers (internal and external) advising them not to invest in the publicly traded securities of a company that is placed on the list and notify all investment managers to immediately divest ownership in the publicly traded securities of the companies on the Prohibited Investments list.	For funds managed internally, the securities shall be immediately sold. For funds managed externally, at least 50% shall be divested within 9 months and the balance shall be divested during the next 6 months.	This bill's language is contradictory. The intention seems to have been the same as HB5 but instead implies that internal and external funds should be immediately sold but also that for all internal and external funds, 50% should be divested within 9 months and the balance over the following 6 months.
7. Send letters to all managers of commingled investments requesting they consider removing from the commingled investment any company on the Prohibited Investments list.		
8. Provide the President of the Senate, the Speaker of the House and the U.S. Presidential Special Envoy for Sudan the Prohibited Investments list.	By February 1, create and file a report with the legislature, attorney general, and the U.S. Presidential Special Envoy for Sudan summarizing activities under this section. The report must include the most recently updated list of scrutinized companies.	By February 1, create and file a report with the legislature, attorney general, and the U.S. Presidential Special Envoy for Sudan summarizing activities under this section. The report must include the most recently updated list of scrutinized companies.

State of Alaska

Department of Revenue

Commissioner's Office

SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
Fax: (907) 465-2394

January 28, 2009

The Honorable Bob Lynn
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801

Dear Representative Lynn:

I am requesting that the Senate World Trade Committee hear HB92. This bill relates to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments. This bill requires the fiduciaries of state investment funds to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan, as defined by the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

Section 1 of the bill enumerates a number of legislative findings and intent related to the genocide in the Darfur region of Sudan and the need for divestment to address this issue.

Sections 2 – 4 of the bill require the commissioner of revenue, the Alaska Retirement Management Board of Trustees, and the Alaska Permanent Fund Board of Trustees to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. These sections are drafted to comply with the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174. Section 2 of the bill also provides for immunity and indemnification for the state's investment fund fiduciaries in connection with the implementation of a Sudan divestment policy. There is authority for the notion that divestment policies are not consistent with the prudent investor standard (see, e.g., 1998 Inf. Op. Att'y Gen. at 198 (663-98-0297; Aug. 12); Alaska State Senate, Rural Research Agency, Alaska's Permanent Fund: Legislative History, Intent and Operations at 39-40 (Jan. 1986)). Accordingly, these provisions are important to protest the fiduciaries of the state's investment funds from any challenge or liability that may result from implementation of this bill.

Section 5 of the bill provides for sunset of the divestment provisions of this bill upon the earlier of three occurrences: (1) if the sunset provisions in sec. 12 of the Sudan Divestment and Accountability Act of 2007 are satisfied, (2) if Congress or the President declares that Sudan divestment policies interfere with United States foreign policy; or (3) if the Sudan Divestment and Accountability Act of 2007 is repealed.

Section 6 of the bill requires notice of the enactment of this measure to the United States Attorney General. This provision is required by sec. 3(c) of the Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

Section 7 provides for an immediate effective date for the bill

I urge your prompt and favorable action on this measure.

Sincerely,



Patrick Galvin
Commissioner

SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



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

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 23, 2009

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

Dear Speaker Chenault:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments. This bill requires the fiduciaries of state investment funds to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan, as defined by the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush stated, "[A]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide." On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan." The federal government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

The investment of funds in business firms and financial institutions with ties to the repressive regime in Sudan is inconsistent with the moral and political values of the people of Alaska. It is a fundamental responsibility of the state of Alaska to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors. The people of Alaska condemn the human rights abuses, enslavement and genocide in Sudan and declare these atrocities to be

contrary to the fundamental principles of human rights and standards of justice and individual freedoms.

The bill will require the commissioner of the Department of Revenue, the Alaska Retirement Management Board of Trustees, and the Alaska Permanent Fund Board of Trustees to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. These provisions are drafted to comply with the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174, which includes notice of the enactment of this measure to the United States Attorney General.

The bill also provides for immunity and indemnification for the state's investment fund fiduciaries in connection with the implementation of a Sudan divestment policy. There is authority for the notion that divestment policies are not consistent with the prudent investor standard (*see, e.g.*, 1998 Inf. Op. Att'y Gen. at 198 (663-98-0297; Aug. 12); Alaska State Senate, Rural Research Agency, *Alaska's Permanent Fund: Legislative History, Intent and Operations* at 39-40 (Jan. 1986)). Accordingly, these provisions are important to protect the fiduciaries of the state's investment funds from any challenge or liability that may result from implementation of this bill.

Further, the bill provides for sunset of the divestment provisions of this bill upon the earlier of three occurrences: 1.) if the sunset provisions in sec. 12 of the Sudan Divestment and Accountability Act of 2007 are satisfied, 2.) if Congress or the President declares that Sudan divestment policies interfere with United States foreign policy; or 3.) if the Sudan Divestment and Accountability Act of 2007 is repealed.

I urge your prompt and favorable action on this measure.

Sincerely,

Sarah Palin
Governor

GENOCIDE INTERVENTION
NETWORK
Have a hand in stopping genocide

1333 H Street NW, Washington, DC 20005

PHONE (202) 481-8220
FAX (800) 991-2024
E-MAIL info@GenocideIntervention.net
WEB SITE www.GenocideIntervention.net

Sudan Company Rankings

IMPORTANT: NOT VALID AFTER February 28, 2009

PLEASE DO NOT CIRCULATE OR POST. REFER INTERESTED PARTIES TO INFO@SUDANDIVESTMENT.ORG.

A Report by
The Sudan Divestment Task Force

UPDATED November 30, 2008

Contributors to this rankings report include the Sudan Divestment Task Force research team, various fiduciaries that have engaged companies on this list, and non-profit groups and think tanks with information on Sudan. All research has been confirmed by at least two individuals unless indicated. Analytical review of certain companies has been provided by Calvert.

BACKGROUND INFORMATION

The *Sudan Company Rankings* report is intended to serve as a listing of all companies that the Sudan Divestment Task Force (SDTF) has determined warrant scrutiny by investors because of their business operations in Sudan. SDTF has reviewed over 800 companies with connections to Sudan, and concludes that the subset of companies listed in this document warrant further investigation.

Please note that not all companies in this document warrant divestment. Rather, some currently are candidates only for shareholder engagement. Details regarding the distinction between companies warranting divestment, and those warranting engagement, appear below.

CRITERIA

In contrast to other models of divestment that advocate targeting all non-humanitarian business connections to Sudan, SDTF only places a company in this document if it generally:

1. Has a business relationship with the government, a government-created project, or companies affiliated with a government-created project; AND

2. Provides little benefit to the disadvantaged populations of Sudan; AND

3. Has not developed a substantial business-practice policy that acknowledges and deals with the fact that the company may be inadvertently contributing to the Sudanese government's genocidal capacity.

These general criteria are defined more specifically in SDTF's legislative model for targeted divestment:
www.sudandivestment.org/docs/task_force_targeted_divestment_model.pdf
and in SDTF's sample Investment Policy Statement:
www.sudandivestment.org/docs/SDTF_Investment_Policy_Statement.pdf

Nearly all of the companies SDTF targets are in the oil, mineral extraction, power, or defense industries. SDTF developed these criteria in recognition of the fact that, in general, economic investment in a country is critical for democratization and improved living standards, assuming that it is conducted in an environmentally and socially-responsible manner. We are interested only in targeting irresponsible investments that support a government committing genocide. Limiting the scope of divestment to worst offenders also serves to minimize potential impact on fiduciaries.

CRITICAL CAVEATS

1. Please note that our rankings report is updated quarterly and while our list of companies has remained generally consistent, we ask that our organization be consulted for updates before any action pursuant to our report is taken, as company rankings do shift over time.

2. As detailed below, we provide recommendations as to which companies mentioned in this document are best suited for divestment and/or continued shareholder engagement. If you do plan to divest or take action, please keep us informed.

3. As a companion to this document, SDTF produces a *Sudan Company Profiles* report that describes, in detail, the operations of each company in Sudan. Upon request, SDTF also can provide spreadsheets that contain additional investment information on the companies contained in our list, compiled from Bloomberg LP. We also have executive contacts and mailing addresses available for all companies contained in

our list. Please contact us if you would like any of these items: info@sudandivestment.org

4. SDTF stresses the importance of coordinated engagement to ensure that companies are sent a consistent and productive message. As such, we strongly encourage investors to consult the organization before embarking on or continuing with shareholder engagement with companies operating in Sudan. SDTF can also provide **template engagement letters** for all companies listed in this report. Letters are available for public funds under a legislative mandate for targeted divestment and for investors that are not under a legislative mandate. To receive template letters and to learn more about the possibility to join with other investors to collectively engage with targeted companies, please contact us at: info@sudandivestment.org

5. Please do not circulate or post this report; it soon will become outdated and we prefer that interested parties request the *Sudan Company Profiles* report directly from SDTF, so that we can adequately inform them as to the context and purpose of our document.

6. We have developed, in conjunction with InvestedInterests.com, an online screening tool (for educational purposes only) that allows individuals to screen U.S.-based mutual funds for exposure to companies that appear on our report. The tool is based on holdings of mutual funds from the previous financial quarter. Please see: http://www.sudandivestment.org/screener.asp

7. We have developed a partnership with Calvert regarding Sudan divestment that includes analytical support for this document. The details of the SDTF-Calvert partnership can be viewed at: www.calvert.com/sudan

8. In January 2008, the Sudan Divestment Task Force chose MSCI Barra (NYSE:MXB), a leading provider of investment decision support tools worldwide, including indices and risk and return portfolio analytics, to calculate a series of custom indices that exclude the Highest Offenders in Sudan from several standard MSCI Indices.

The custom indices are based on the MSCI EAFE, MSCI Emerging Markets, and MSCI All Country World ex US Indices. More information on the indices and related funds is available by contacting us at: info@sudandivestment.org

9. Not all companies that appear in this report are targets for divestment; some have demonstrated a willingness to change their corporate behavior in Sudan (indeed, some have already taken admirable action), and some companies have had very concerning past activity, but unknown current operations in Sudan. These companies are therefore strong candidates for continued shareholder engagement. Finally, there are several companies with highly problematic operations in Sudan but who presently have no known publicly-traded equity. These companies may nevertheless be "investible" through private placements, corporate bonds, or private equity funds. **Accordingly, SDTF has created three categories of companies below:**

- **Highest Offenders**
- **Ongoing Engagement**
- **No Publicly-Traded Equity**

The explanation for each category precedes the actual list. SDTF emphasizes that all companies, regardless of category, should be engaged before any divestment decision is made.

CHANGES SINCE LAST REPORT

Updates as of November 30, 2008

- Companies that came off our list entirely in this period:
    - **Concordia Maritime** (Sweden) - company has confirmed that it has no current operations in or relating to Sudan.
- Changes to corporate structure:
    - **Sinopec Group** (China) - added Kingdream PLC (majority-owned publicly traded company), Sinopec Yizheng Chemical Fibre Company Ltd. (majority-owned publicly traded subsidiary), Odmurtneft BRD (majority-owned publicly traded company), and Sinopec Finance (wholly-owned subsidiary, bonds issued).
    - **AviChina Industry & Technology Company Ltd.** (China) - removed Harbin Dongan Auto Engine Co.

Updates as of August 31, 2008

- Companies that came off our list entirely in this period:
    - **Rolls Royce PLC** (UK) - company has confirmed that it has no current operations in or relating to Sudan.
- New No Publicly Traded Equity companies:
    - **GIAD Industrial City** (Sudan)
    - **Mubadala Development Company** (UAE)

RANKED CATEGORIES OF COMPANIES WARRANTING SCRUTINY

NOTE: Before reading this ranked list, please see the "Critical Background Information" notice above.

CATEGORY ONE: HIGHEST OFFENDERS

Companies in this category have the most problematic operations in Sudan according to the SDTF model of targeted divestment:

www.sudandivestment.org/docs/task_force_targeted_divestment_model.pdf

and/or the SDTF sample Investment Policy Statement:

www.sudandivestment.org/docs/SDTF_Investment_Policy_Statement.pdf

In general, these companies have proven to be largely unresponsive to engagement by shareholders or unwilling to alter problematic practices in Sudan. While SDTF strongly recommends engagement with all companies before any divestment decision is made, SDTF considers companies in this category to be likely candidates for divestment at present time. This classification is based both on these companies' operations in Sudan, and on the companies' responses over the past 15 months to SDTF and to the fiduciaries with whom SDTF interacts.

The companies in this category are ranked, with the worst offenders listed at the top and the relatively less problematic offenders listed at the bottom. However, all companies in this category are likely candidates for divestment. Since the targeted divestment model targets both parent companies and majority-owned subsidiaries of problematic companies, these affiliates have been included in the list below.

CHINA NATIONAL PETROLEUM CORPORATION (CNPC)	
PETROCHINA (majority-owned publicly traded subsidiary, bonds issued) **CNPC HONG KONG (majority-owned publicly traded subsidiary)**	**Country:** China **Industry Sector:** Oil

PETROLIAM NASIONAL BERHAD (PETRONAS) *BONDS ISSUED*	
PETRONAS GAS (majority-owned publicly traded subsidiary) **PETRONAS DAGANGAN (majority-owned publicly traded subsidiary)** **MISC BERHAD (majority-owned publicly traded subsidiary)** **OPTIMAL OLEFINS (MALAYSIA) SDN BERHAD (majority-owned subsidiary, bonds issued)** **PETRONAS FERTILIZER (KEDAH) SDN BERHAD (wholly-owned subsidiary, bonds issued)** **PETRONAS ASSETS SDN BERHAD (wholly-owned subsidiary, bonds issued)** **PETRONAS CAPITAL LIMITED (wholly-owned subsidiary, bonds issued)** **MIDCITI RESOURCES SDN BHD (majority-owned subsidiary, bond sissued)**	**Country:** Malaysia **Industry Sector:** Oil

OIL AND NATURAL GAS CORP. LTD. (ONGC)	
MANGALORE REFINERY AND PETROCHEMICALS LTD (majority-owned publicly traded subsidiary)	**Country:** India **Industry Sector:** Oil

CHINA PETROCHEMICAL CORPORATION (SINOPEC GROUP)	
KINGDREAM PLC (majority-owned publicly traded company) **CHINA PETROLEUM AND CHEMICAL CORPORATION (SINOPEC CORP) (majority-owned publicly traded subsidiary, bonds issued)** **SINOPEC SHANGHAI PETROCHEMICAL CO. LTD. (majority-owned publicly traded subsidiary, bonds issued)** **SINOPEC KANTON HOLDINGS (majority-owned publicly traded subsidiary)** **SINOPEC YIZHENG CHEMICAL FIBRE COMPANY LTD. (majority-owned publicly traded subsidiary)** **ODMURTNEFT BRD (majority-owned publicly traded company)** **SINOPEC FINANCE (wholly-owned subsidiary, bonds issued)**	**Country:** China **Industry Sector:** Oil

LUNDIN PETROLEUM AB	
LUNDIN INTERNATIONAL SA (majority-owned publicly traded subsidiary)	**Country:** Sweden **Industry Sector:** Oil

AREF INVESTMENT GROUP	
	Country: Kuwait **Industry Sector:** Oil

MOHAMMED ABDULMOHSIN AL-KHARAFI & SONS COMPANY	
EGYPT KUWAIT HOLDING COMPANY (majority-owned publicly traded subsidiary) **KUWAIT FOOD COMPANY (majority-owned publicly traded subsidiary)**	**Country:** Kuwait **Industry Sector:** Oil

RANHILL BERHAD	
	Country: Malaysia **Industry Sector:** Oil

DIETSWELL ENGINEERING	
	Country: France **Industry Sector:** Oil

MUHIBBAH ENGINEERING BERHAD	
	Country: Malaysia **Industry Sector:** Oil

KENCANA PETROLEUM BERHAD	
	Country: Malaysia **Industry Sector:** Oil

KEJURUTERAAN SAMUDRA TIMUR BHD (KSTB)	
	Country: Malaysia **Industry Sector:** Oil

AVICHINA INDUSTRY & TECHNOLOGY COMPANY LTD (AVICHINA)	
JIANGXI HONGDU AVIATION (HONGDU AVIAITION) (majority-owned publicly traded subsidiary) **HAFEI AVIATION INDUSTRY (majority-owned publicly traded subsidiary)** **JIANGXI CHANGHE AUTOMOBILE CO (majority-owned publicly traded subsidiary)**	**Country:** China **Industry Sector:** Aircraft/Automotive

HARBIN POWER EQUIPMENT COMPANY LIMITED	
	Country: China **Industry Sector:** Power/Energy

ABB	
	Country: Switzerland **Industry Sector:** Power/Energy

WÄRTSILÄ OYJ	
	Country: Finland **Industry Sector:** Power/Energy

BHARAT HEAVY ELECTRICALS LTD *BONDS ISSUED*	
	Country: India **Industry Sector:** Power/Energy

DONGFENG AUTOMOBILE COMPANY LIMITED	
	Country: China **Industry Sector:** Automotive

INDIAN OIL CORPORATION LTD (IOCL) *BONDS ISSUED*	
LANKA IOC LIMITED (majority-owned publicly traded subsidiary) **BONGAIGAON REFINERY & PETROCHEMICALS LTD (BRPL) (majority-owned publicly traded subsidiary)** **CHENNAI PETROLEUM CORPORATION LIMITED (CPCL) (majority-owned publicly traded subsidiary)**	**Country:** India **Industry Sector:** Oil

SCOMI GROUP BERHAD *BONDS ISSUED*	
SCOMI ENGINEERING BERHAD (majority-owned publicly traded subsidiary) **KMCOB CAPITAL BERHAD (majority-owned subsidiary, bonds issued)**	**Country:** Malaysia **Industry Sector:** Oil

ALSTOM *BONDS ISSUED*	
WUHAN BOILER CO (majority-owned publicly traded subsidiary)	**Country:** France **Industry Sector:** Power/Energy

PECD BERHAD *BONDS ISSUED*	
	Country: Malaysia **Industry Sector:** Oil

ELECTRICITY GENERATING PUBLIC COMPANY LIMITED (EGCO)	
KHANOM ELECTRICITY GENERATING CO LTD (majority-owned subsidiary, bond issued)	**Country:** Thailand **Industry Sector:** Power/Energy

CATEGORY TWO: ONGOING ENGAGEMENT

The companies in this category are businesses that SDTF either finds concerning or has found concerning in the past, but that do not unambiguously, at present time, meet the criteria for divestment according to the SDTF model of targeted divestment:

www.sudandivestment.org/docs/task_force_targeted_divestment_model.pdf

and/or the SDTF sample Investment Policy Statement:

www.sudandivestment.org/docs/SDTF_Investment_Policy_Statement.pdf

In general, these companies do not meet fully the criteria for divestment according to the SDTF model or Investment Policy Statement due to one of the following reasons:

A. The company has engaged shareholders and is remedying past problematic actions, and SDTF is simply monitoring responsible follow-up actions pledged by the company.

B. Further clarification is needed regarding the exact nature of present operations in Sudan in order to help determine the extent to which those operations are confounding versus ameliorating the genocide in Darfur.

Additionally, this category contains companies whose current operations are unknown, but may have demonstrated problematic "highest offender" activity in the past.

SDTF therefore considers companies in this category to be targets for continued shareholder engagement, and emphasizes the importance of engaging companies in this category. The vast majority of companies that have improved their behavior in Sudan transited through this category; removal from Category Two is often a result of sustained shareholder engagement.

The companies in this category are ranked, with the worst offenders in the category listed at the top and those that are relatively less problematic, or only potentially problematic, listed at the bottom. However, all companies in this category are likely candidates for ongoing engagement at present time. Because these companies are presently candidates for engagement and because it is more efficient for fiduciaries to target only one affiliate of a problematic company for engagement, the parent companies and/or majority-owned subsidiaries of the companies below have not been listed for this category.

BHARAT ELECTRONICS LIMITED	
Company may have sold defense equipment to the government of Sudan.	**Country:** India **Industry Sector:** Defense

CHINA NORTH INDUSTRIES CORPORATION (NORINCO)	
In 2006, company's weapons were found in Darfur among Chadian rebels supported by the government of Sudan. Current operations of company in Sudan need to be clarified.	**Country:** China **Industry Sector:** Military

SUDAN TELECOMMUNICATIONS COMPANY (SUDATEL)	
Company previously was complicit in Darfur genocide.	**Country:** Sudan **Industry Sector:** Telecomm

SARAS S.P.A.	
Company recently refined a shipment of Sudanese crude oil.	**Country:** Italy **Industry Sector:** Oil

KAMAZ	
Company sells trucks, has dealership in Sudan. It is unclear as to whether the company sells military vehicles in Sudan.	**Country:** Russia **Industry Sector:** Automotive

TOTAL SA	
Company owns oil block, however, operations are currently inactive.	**Country:** France **Industry Sector:** Oil

GDF SUEZ	
Company is involved in power production in Sudan. Clarification is needed to determine whether project is substantially benefiting marginalized populations of Sudan.	**Country:** France **Industry Sector:** Power

SHANGHAI POWER TRANSMISSION AND DISTRIBUTION CO. LTD.	
Company is involved in power production in Sudan. Clarification is needed to determine whether project is substantially benefiting marginalized populations of Sudan.	**Country:** China **Industry Sector:** Power

BOUSTEAD HEAVY INDUSTRIES CORPORATION	
Current operations of company in Sudan need to be clarified.	**Country:** Malaysia **Industry Sector:** Oil

ATLAS COPCO AB	
Unclear whether company's mining equipment is used for problematic mining operations in Sudan.	**Country:** Sweden **Industry Sector:** Mining

NAM FATT CORPORATION BERHAD	
History of oil-related engineering contracts in Sudan. Status of legal settlement regarding dispute over previous Sudan contract is unclear.	**Country:** Malaysia **Industry Sector:** Oil

RELIANCE INDUSTRIES (RIL)	
Oil company has aggressively bid for oil concessions in Sudan. Currently bidding for open concession in Block 12B.	**Country:** India **Industry Sector:** Oil

MAN AG	
Company has been involved in the sale of large-scale diesel engines in Sudan. It is currently unclear how much of those sales have been to problematic entities.	**Country:** Germany **Industry Sector:** Oil and Power/Energy

NIPPON OIL CORPORATION	
Japan's largest oil refiner, the company recently made a large oil purchase in Sudan. It is unclear whether the purchase was made directly from the government of Sudan or a third-party.	**Country:** Japan **Industry Sector:** Oil

SCHLUMBERGER	
Company has pledged to take "Substantial Action." Shareholder follow-up and due diligence is needed.	**Country:** France **Industry Sector:** Oil

LA MANCHA RESOURCES	
Company has pledged to take "Substantial Action." Shareholder follow-up and due diligence is needed.	**Country:** Canada **Industry Sector:** Mining

PETROFAC	
Company has pledged to take "Substantial Action." Shareholder follow-up and due diligence is needed.	**Country:** UK **Industry Sector:** Oil

BRINKLEY MINING PLC	
Company has a provisional license to explore for uranium in southern Sudan; clarification needed to ensure the government of Sudan is not involved in and will not profit from the company's operations	**Country:** UK **Industry Sector:** Mining

MITSUI ENGINEERING & SHIPBUILDING COMPANY LIMITED (MES)	
Company's wholly-owned subsidiary has completed work for the oil industry in Sudan. Current operations need to be clarified.	**Country:** Japan **Industry Sector:** Oil

MERCATOR LINES	
Current operations of company in Sudan need to be clarified.	**Country:** India **Industry Sector:** Shipping

BOLLORÉ GROUP	
Current operations of company in Sudan need to be clarified.	**Country:** France **Industry Sector:** Oil

CATEGORY THREE: NO PUBLICLY-TRADED EQUITY

The companies in this category are either private firms or wholly - owned by a government. They are listed alphabetically, and have not been ranked. In general, they currently demonstrate "Highest Offender" behavior. There are exceptions, however, and readers should note that some companies in this category have pledged to take "Substantial Action" (see notations).

While companies in this category do not have any publicly - traded equity that SDTF is aware of at present time, fiduciaries may be exposed to these companies through private placements, corporate bonds, or private equity funds.

AFRICA ENERGY	
	Country: Nigeria **Industry Sector:** Oil

AL-QAHTANI & SONS GROUP OF COMPANIES	
	Country: Saudi Arabia **Industry Sector:** Oil

ANSAN WIKFS/SHAHER TRADING COMPANY	
	Country: Yemen **Industry Sector:** Oil

APS ENGINEERING COMPANY	
	Country: Italy **Industry Sector:** Oil

ARCADIA PETROLEUM	
	Country: UK **Industry Sector:** Oil

ASCOM GROUP SA	
	Country: Moldovia **Industry Sector:** Oil

CHINA HYDRAULIC AND HYDROELECTRIC CONSTRUCTION GROUP (SINOHYDRO) *BONDS ISSUED*	
	Country: China **Industry Sector:** Power

CHINA INTERNATIONAL WATER & ELECTRIC CORPORATION (CWE)	
	Country: China **Industry Sector:** Power

DELTA PETROL/TOWER HOLDINGS	
	Country: Turkey/Luxembourg **Industry Sector:** Oil

EDGO GROUP	
	Country: Jordan **Industry Sector:** Oil

EXPRESS PETROLEUM AND GAS COMPANY	
	Country: Nigeria **Industry Sector:** Oil

GIAD INDUSTRIAL CITY	
	Country: Sudan **Industry Sector:** Automotive

HI TECH PETROLEUM GROUP CO. LTD.	
	Country: Sudan **Industry Sector:** Oil

K&K CAPITAL GROUP (KKCG)	
	Country: Czech Republic **Industry Sector:** Oil

KUWAIT FOREIGN PETROLEUM EXPLORATION COMPANY (KUFPEC)	
	Country: Kuwait **Industry Sector:** Oil

LAHMEYER	
	Country: Germany **Industry Sector:** Power/Energy

MOHAN ENERGY CORP	
	Country: India **Industry Sector:** Power/Energy

MOTT MACDONALD	
Company has pledged to take "Substantial Action."	**Country:** UK **Industry Sector:** Oil and Power/Energy

MUBADALA DEVELOPMENT COMPANY	
	Country: UAE **Industry Sector:** Oil

PESCHAUD & CIE INTERNATIONAL	
	Country: France **Industry Sector:** Oil

PETROLIN	
	Country: Gabon **Industry Sector:** Oil

PETRONEEDS SERVICE INTERNATIONAL COMPANY	
	Country: Sudan **Industry Sector:** Oil

PETROSA	
	Country: South Africa **Industry Sector:** Oil

PT PERTAMINA PERSERO (PERTAMINA)	
	Country: Indonesia **Industry Sector:** Oil

SHANDONG ELECTRIC POWER CONSTRUCTION CORPORATION (SHANDONG ELECTRIC POWER GROUP)	
	Country: China **Industry Sector:** Power/Energy

SNOWY MOUNTAIN ENGINEERING CORPORATION	
	Country: Australia **Industry Sector:** Power

SUDAN PETROLEUM COMPANY (SUDAPET)	
	Country: Sudan **Industry Sector:** Oil

TAMOIL	
	Country: Libya **Industry Sector:** Oil

TRAFIGURA BEHEER	
	Country: Netherlands **Industry Sector:** Oil

VITOL GROUP	
	Country: Switzerland **Industry Sector:** Commodities

ZAVER PETROLEUM COMPANY	
	Country: Pakistan **Industry Sector:** Oil

HB

106

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: February 27, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 4-11-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 106**

"An Act relating to village public safety officers and regional public safety officers."

HB 106 VILLAGE & REGIONAL PUB.SAFETY OFFICERS

Recommends it be replaced with | | **HCS** *or* |X| **CS** *for* HB 106 (STA)
For Senate Bills with new title: [ ] *Technical Title* [ ] *New Title: HCR*_____ | | **Same Title** |X| **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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DPS				X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson	✓			
	Gatto	✓			
	SEATON	✓			
	Greenberg	✓			
	WILSON	✓			
	PETERSEN	X			
Chair:	LYNN	✓			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 2

Re CS for House Bill 106 (STA) 26-LS0402\W

The CS for House Bill 106 (STA) 26-LS0402\W was adopted and passed out of the House State Affairs Committee this morning including the following amendment:

Amendment#1 (Seaton)
26-LS0402\W.6

26-LS0402\W.6
Luckhaupt
4/10/09

AMENDMENT 1

OFFERED IN THE HOUSE

TO: CSHB 106(STA), Draft Version "W"

Page 1, line 12, through page 2, line 6:

Delete all material and insert:

"* **Sec. 2.** AS 18.65.670(b) is amended to read:

(b) With funds appropriated for that purpose, the commissioner of public safety shall provide grants to nonprofit regional corporations for village public safety officers. **If a nonprofit regional corporation for a rural area declines a grant under this subsection, the commissioner may provide the grant to a municipality with a population of less than 10,000 willing to administer the grant for the rural area. Before awarding a grant to a municipality, the commissioner shall consult with the nonprofit regional corporation that declined the grant.** The commissioner of public safety shall coordinate with the commissioner of corrections when providing grants under this section, and the commissioners shall jointly execute an agreement with the nonprofit regional corporations **or municipalities, as appropriate**."

Page 2, following line 13:

Insert a new bill section to read:

"* **Sec. 4.** AS 18.65.670 is amended by adding a new subsection to read:

(d) In this section, "rural area" means a community with a population of less than 1,000 within

(1) the unorganized borough; or

(2) a borough, if the community is not connected by road to Anchorage or Fairbanks."

Renumber the following bill section accordingly.

(5) not have a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 — 25.27.220 at the time of application.

(b) A local school board shall award teacher education loans giving a preference to applicants from rural schools who meet the qualifications for a loan and taking into account the applicants' academic records.

(c) A student may not be awarded a teacher education loan under AS 14.43.600 — 14.43.700 if the student receives a loan under AS 14.43.170 — 14.43.175 for the same period of attendance. (§ 1 ch 121 SLA 1984; am § 3 ch 116 SLA 1986; am § 16 ch 92 SLA 1987; am § 25 ch 43 SLA 1991; am § 20 ch 5 SLA 1996; am §§ 34, 35 ch 85 SLA 2001)

Revisor's notes. — In 2001, in accordance with § 45, ch. 85, SLA 2001, "education" was substituted for "scholarship" in subsections (a) and (b).

In 2004, "child support enforcement division" was changed to "child support services agency" in (a) of this section in accordance with § 12(a), ch. 107, SLA 2004, and to correct a manifest error.

Sec. 14.43.700. Definition. In AS 14.43.600 — 14.43.700, "rural" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 1,500 or less that is connected by road or rail to Anchorage or Fairbanks. (§ 1 ch 121 SLA 1984; am § 3 ch 105 SLA 1992)

Article 11. Alaska Family Education Loan Program.

ection
10. Program established
20. Family education loan account

Section
740. Loan terms, limits, and conditions
750. Eligibility

Sec. 14.43.710. Program established. The Alaska family education loan program is tablished to provide low interest loans to families to assist in paying the costs of stsecondary education for family members. (§ 17 ch 92 SLA 1987)

Sec. 14.43.720. Family education loan account. (a) The family education loan account is created within the education loan fund (AS 14.42.210). The account shall be used to make family education loans to families selected under AS 14.43.710 — 14.43.750, to pay the costs of collecting family education loans that are in default if those costs are not recovered from the family, and to pay the costs of administering the account. Unless the instrument evidencing the family education loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on family education loans shall be paid into the family education loan account. If estimated funds available from family education loan repayments are inadequate to fully fund estimated family education loans in a fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The commission may sell or assign notes and other instruments evidencing family education loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the education loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of notes and other instruments shall be deposited in the family education loan account. (§ 17 ch 92 SLA 1987; am § 26 ch 43 SLA 1991; am § 10 ch 54 SLA 1997; am § 36 ch 85 SLA 2001)

Revisor's notes. — In 2001, in accordance with § 45, ch. 85, SLA 2001, "education loan fund" was substituted for "student loan fund" in subsection (b).

Sec. 14.43.730. Administration. [Repealed, § 42 ch 85 SLA 2001.]

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE

TO: CSHB 106( ), Draft Version "T"

Page 1, line 6:

Delete "**and**"

Insert "**or**"

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4833
Fax (907) 465-4586
1-800-782-4833
Representative_Reggie_Joule@legis.state.ak.us



During Interim:
P.O. Box 673
Kotzebue, Alaska 99752
(907) 442-3880
Fax (907) 442-3022

Alaska State Legislature
REPRESENTATIVE REGGIE JOULE

Summary of Changes Between CS HB \S and \T

On February 27, 2009, the House Community & Regional Affairs Committee adopted CS HB 106 version \S with the understanding that Representative Joule would work with Commissioner Masters and other interested parties to resolve issues and revise the bill to more adequately represent stakeholders' interests. The version being furnished to you now, version \T, accomplishes this, and I respectfully request that you adopt this CS.

Page 1, line 14 - page 2, line 1 was amended to more clearly state that the Commissioner of Public Safety has the option of providing grants to municipalities with populations of less than 10,000 for VPSOs in rural areas.

Page 2, lines 4 - 6 wording was changed to reflect the wish of the Commissioner that he obtain the concurrence of the relevant nonprofit regional corporation prior to contracting with a municipality for VPSO services.

26-LS0402\T
Luckhaupt
4/2/09

CS FOR HOUSE BILL NO. 106( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOULE

A BILL

FOR AN ACT ENTITLED

"An Act relating to village public safety officers."

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

*** Section 1.** AS 18.65.670(a) is amended to read:

(a) There is created in the Department of Public Safety a village public safety officer program to assist local governments and villages through nonprofit regional corporations **and municipalities** to appoint, train, supervise, and retain persons to serve as village public safety officers to administer functions relative to

(1) the protection of life and property in rural areas of the state; and

(2) providing probation and parole supervision to persons under supervision by communicating with and monitoring the activities and progress of these persons at the direction of probation and parole officers.

*** Sec. 2.** AS 18.65.670(b) is amended to read:

(b) With funds appropriated for that purpose, the commissioner of public safety shall provide grants to nonprofit regional corporations **or municipalities with populations of less than 10,000** for village public safety officers **in rural areas of**

the state. The commissioner of public safety shall coordinate with the commissioner of corrections when providing grants under this section, and the commissioners shall jointly execute an agreement with the nonprofit regional corporations **or municipalities. Before providing a grant to a municipality under this section, the commissioner of public safety shall obtain the concurrence of the nonprofit regional corporation for the area**.

* **Sec. 3.** AS 18.65.670(c) is amended to read:

(c) The commissioner of public safety may adopt regulations related to village public safety officers, including minimum standards and training, criteria for community**, municipality,** or corporation participation, and the interaction between the Department of Public Safety and village public safety officers. The commissioner of corrections may adopt regulations related to the functions of village public safety officers providing probation and parole supervision.

* **Sec. 4.** AS 29.35.010 is amended to read:

Sec. 29.35.010. General powers. All municipalities have the following general powers, subject to other provisions of law:

(1) to establish and prescribe a salary for an elected or appointed municipal official or employee;

(2) to combine two or more appointive or administrative offices;

(3) to establish and prescribe the functions of a municipal department, office, or agency;

(4) to require periodic and special reports from a municipal department to be submitted through the mayor;

(5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;

(6) to levy a tax or special assessment, and impose a lien for its enforcement;

(7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries;

this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

(9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;

(10) to regulate the operation and use of a municipal right-of-way, facility, or service;

(11) to borrow money and issue evidences of indebtedness;

(12) to acquire membership in an organization that promotes legislation for the good of the municipality;

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

(14) to sue and be sued;

(15) to provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners**;**

(16) to receive grants from and contract with the Department of Public Safety under AS 18.65.670.

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4833
Fax (907) 465-4586
1-800-782-4833
Representative_Reggie_Joule@legis.state.ak.us



During Interim:
P.O. Box 673
Kotzebue, Alaska 99752
(907) 442-3880
Fax (907) 442-3022

Alaska State Legislature

REPRESENTATIVE REGGIE JOULE

Sponsor Statement

CS HB 106

"An act relating to village public safety officers and regional public safety officers."

The purpose of CS HB 106 is to provide flexibility in the implementation of the Village Public Safety Officer Program (VPSO). Under the current law, regional nonprofit corporations receive grants to administer the Program; however, not all regional nonprofit corporations wish to do so. CS HB 106 would amend the law to provide the option for municipalities with fewer than 10,000 residents to administer the Program. This would not interfere with existing nonprofit implementation of the Program where the sentiment from effected communities is that the Program should be housed in the nonprofit. All Alaskans deserve to be safe and secure in their hometowns. This bill aims to make that possible in yet more villages.

CS House Bill 106 – VPSO Program

Sectional Analysis

26-LS0402\T

April 8, 2009

Section 1: Adds municipalities as entities that may administer the VPSO Program.

Section 2: Adds that municipalities with populations of under 10,000 may receive Department of Public Safety grants and administer the Program. Adds that the Commissioner of Public Safety must obtain the concurrence of the relevant regional nonprofit corporation prior to contracting with a municipality.

Section 3: Adds that the Commissioner of Public Safety may adopt regulations pertaining to municipalities' participation in the VPSO Program.

Section 4: Adds to municipalities' general powers contracting with and receiving grants from the Department of Public Safety.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 106**
() Publish Date:

Identifier (file name): **HB106-DPS-DET-02-23-09**
Title "An act relating to village public safety officers."

Sponsor Representative Joule
Requester House Community and Regional Affairs

Public Safety
RDU Alaska State Troopers
Component AST Detachments
Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 18.65.670 to include boroughs as an authorized entity allowed to administer the village public safety program.

Passage of this legislation will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Phone 907-247-4480
Division Alaska State Troopers
Date/Time 2/23/09 12:09 PM
Approved by: Joseph Masters, Commissioner
Date
Department of Public Safety

(Revised 11/19/2007 OMB)

NORTHWEST ARCTIC BOROUGH
RESOLUTION 09-05

A RESOLUTION OF THE NORTHWEST ARCTIC BOROUGH ASSEMBLY SUPPORTING STATE LEGISLATION TO ENABLE THE BOROUGH TO PROVIDE PUBLIC SAFETY SERVICES WITHIN THE BORUGH THROUGH THE VILLAGE PUBLIC SAFETY OFFICER PROGRAM AND FOR RELATED PURPOSES

WHEREAS: the State of Alaska is constitutionally mandated to provide public safety services for all state residents, and

WHEREAS: the Northwest Arctic Borough, an Alaskan home rule municipality, has made it one of its highest priorities to enhance and promote the well being and public safety of all its residents by managing and implementing borough law enforcement powers, and

WHERAS: the Maniilaq Association, a regional non-profit for the Northwest area of Alaska, receives funding for and manages the state sponsored Village Public Safety Officer (VPSO) program, and

WHERAS: Representative Reggie Joule has introduced House Bill 106, which would allow boroughs to contract for, manage and implement the VPSO program.

NOW THEREFORE BE IT RESPOLVED that the Northwest Arctic Borough Assembly supports House Bill 106, which would allow the borough to contract for, manage and implement the VPSO program.

PASSED AND ADOPTED THIS 24th DAY OF FEBRUARY 2009.

Walter Sampson, Assembly Presdent

APPROVED THIS 24th DAY OF FEBRUARY 2009.

VPSO Position History

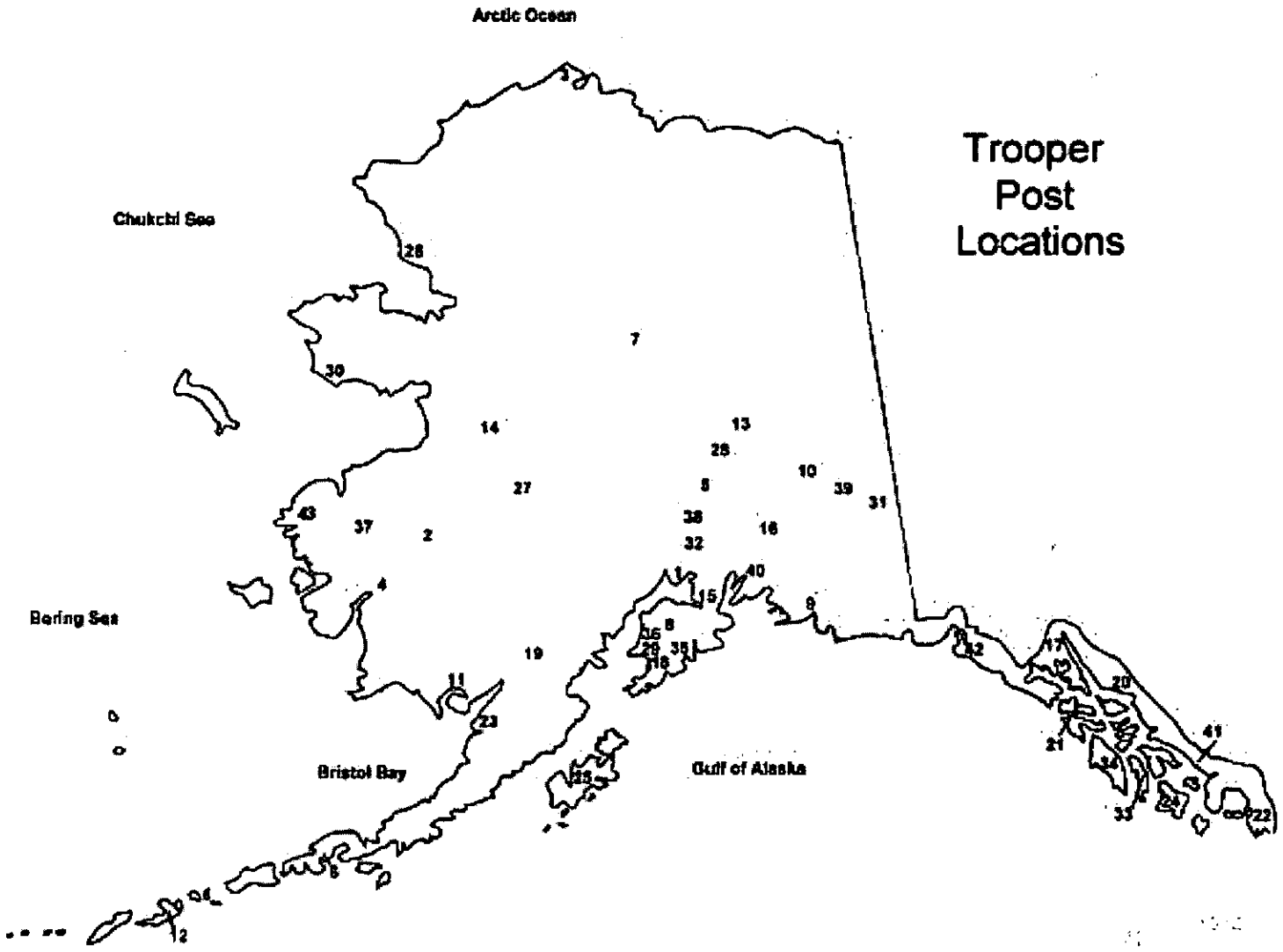
COMMUNITY	REGIONAL NONPROFIT	FY 2009 as of 1/13/2009	FY 2008 as of 12/27/2007	FY 2007 as of 7/24/2007	FY 2006 as of 12/15/2005	FY 2005 as of 10/1/2005	FY 2004 as of 10/22/2003
		Filled	Filled	Filled	Filled	Filled	Filled
Adak	APIA						
Akutan	APIA	1.0	1.0	1.0	1.0	1.0	1.0
Atka	APIA	1.0	1.0	1.0	1.0	1.0	1.0
Cold Bay	APIA						
False Pass	APIA	1.0			1.0	1.0	
King Cove	APIA						0.5
Nelson Lagoon	APIA	1.0	1.0	1.0	1.0		1.0
Nikolski	APIA						
Saint George	APIA	1.0	1.0	1.0	1.0	1.0	1.0
Saint Paul	APIA						
*Bethel (Roving VPSO base)	AVCP	1.0	1.0				
Akiachak	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Akiak	AVCP	1.0	1.0	1.0	1.0	1.0	
Alakanuk	AVCP						
Atmautluak	AVCP				1.0	1.0	1.0
Chefornak	AVCP	1.0	1.0	1.0			
Chevak	AVCP			1.0			1.0
Chuathbaluk	AVCP						
Crooked Creek	AVCP						
Eek	AVCP	1.0	1.0	1.0	1.0		1.0
Emmonak	AVCP						
Goodnews Bay	AVCP	1.0	1.0		1.0	1.0	1.0
Hooper Bay	AVCP					1.0	1.0
Kasigluk	AVCP						
Kipnuk	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Kongiganak	AVCP	1.0	1.0	1.0	1.0		1.0
Kotlik	AVCP						
Kwethluk	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Kwigillingok	AVCP			1.0	1.0	1.0	1.0
Lower Kalskag	AVCP						
Marshall	AVCP		1.0			1.0	1.0
Mekoryuk	AVCP	1.0				1.0	
Mountain Village	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Napakiak	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Napaskiak	AVCP	1.0	1.0	1.0	1.0		1.0
Newtok	AVCP						
Nightmute	AVCP						
Nunam Iqua (Sheldon Point)	AVCP						
Nunapitchuk	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Pilot Station	AVCP	1.0				1.0	1.0
Pitkas Point	AVCP					1.0	
Quinhagak	AVCP	1.0	1.0				
Red Devil	AVCP						
Russian Mission	AVCP					1.0	1.0
Scammon Bay	AVCP		1.0	1.0	1.0		
Sleetmute	AVCP				1.0	1.0	1.0
Stony River	AVCP						
Toksook Bay	AVCP	1.0				1.0	1.0
Tuluksak	AVCP			1.0			
Tuntutuliak	AVCP	1.0	1.0	1.0	1.0	1.0	1.0
Tununak	AVCP						1.0
Upper Kalskag	AVCP				1.0		
Aleknagik	BBNA	1.0	1.0	1.0	1.0	1.0	1.0
Chignik	BBNA	1.0	1.0	1.0	1.0	1.0	1.0
Chignik Lagoon	BBNA						
Chignik Lake	BBNA				1.0		
Clark's Point	BBNA					1.0	1.0
Egegik	BBNA		1.0				
Ekwok	BBNA	1.0	1.0	1.0	1.0		
Igiugig	BBNA						
Iliamna	BBNA	1.0		0.5			
Kokhanok	BBNA					1.0	
Koliganek	BBNA	1.0	1.0	1.0	1.0	1.0	1.0
Levelock	BBNA	1.0				1.0	1.0
Manokotak	BBNA	1.0		1.0	1.0	1.0	1.0
Naknek	BBNA						
New Stuyahok	BBNA	1.0	1.0	1.0	1.0	1.0	1.0
Newhalen	BBNA			0.5	1.0		
Nondalton	BBNA						

VPSO Position History

COMMUNITY	REGIONAL NONPROFIT	FY 2009 as of 1/13/2009	FY 2008 as of 12/27/2007	FY 2007 as of 1/24/2007	FY 2006 as of 12/15/2005	FY 2005 as of 10/1/2005	FY 2004 as of 10/22/2003
		Filled	Filled	Filled	Filled	Filled	Filled
Pedro Bay	BBNA						
Perryville	BBNA						
Pilot Point	BBNA	1.0	1.0	1.0	1.0		
Port Heiden	BBNA				1.0	1.0	1.0
Pope-Vannoy Landing	BBNA						
South Naknek	BBNA						
Portage Creek	BBNA						
South Naknek	BBNA						
Togiak	BBNA						
Togiak	BBNA						
Ugashik	BBNA						
Craig	CCTHITA						
Douglas	CCTHITA						
Haines	CCTHITA						
Hoonah	CCTHITA						
Juneau	CCTHITA						
Kasaan	CCTHITA						
Ketchikan	CCTHITA						
Klawock	CCTHITA						
Metlakatla	CCTHITA						
Petersburg	CCTHITA						
Sitka	CCTHITA						
Skagway	CCTHITA						
Wrangell	CCTHITA						
Twin Hills	BBNA			1.0	1.0	1.0	1.0
Cordova	Chugachmiut						
Eyak	Chugachmiut						
Angoon	CCTHITA	1.0	1.0	1.0		1.0	
Thorne Bay	CCTHITA	1.0	1.0	1.0	1.0	1.0	
Pelican	CCTHITA						
Kasaan	CCTHITA						
Hydaburg	CCTHITA						
Coffman Cove	CCTHITA						
Tenakee Springs	CCTHITA						
Saxman	CCTHITA						
Chenega Bay	Chugachmiut						
Nanwalek	Chugachmiut	1.0	1.0	1.0			
Port Graham	Chugachmiut	1.0					
Tatitlek	Chugachmiut						
Copper Center	CRNA	1.0					
Gakona	CRNA						
Gulkana	CRNA	1.0					
Tazlina	CRNA						
Akhiok	KANA					1.0	
Kake	KANA						
Karluk	KANA						
Klukwan	KANA						
Larsen Bay	KANA	1.0	1.0	1.0	1.0	1.0	
Naukati Bay	KANA						
Old Harbor	KANA	1.0		1.0		1.0	
Ouzinkie	KANA	1.0				1.0	
Port Lions	KANA	1.0	1.0	1.0	1.0	1.0	
Tyonek	KANA		1.0				
Yakutat	KANA						
Brevig Mission	KAWE	1.0					
Diomede	KAWE						
Elim	KAWE	1.0		1.0			1.0
Gambell	KAWE	1.0				1.0	
Golovin	KAWE						1.0
Koyuk	KAWE	1.0			1.0	1.0	1.0
Saint Michael	KAWE					1.0	1.0
Savoonga	KAWE	1.0	1.0	1.0	1.0		
Shaktoolik	KAWE			1.0	1.0	1.0	
Shishmaref	KAWE	1.0	1.0	1.0	1.0		1.0
Stebbins	KAWE		2.0	1.0	1.0	1.0	1.0
Teller	KAWE				1.0		
Unalakleet	KAWE					1.0	1.0
Wales	KAWE						
White Mountain	KAWE	1.0	1.0	1.0	1.0	1.0	1.0

VPSO Position History

COMMUNITY	REGIONAL NONPROFIT	FY 2009 as of 1/13/2009	FY 2008 as of 12/27/2007	FY 2007 as of 1/24/2007	FY 2006 as of 12/15/2005	FY 2005 as of 10/1/2005	FY 2004 as of 10/22/2003
		Filled	Filled	Filled	Filled	Filled	Filled
Ambler	Maniilaq			1.0	1.0	1.0	1.0
Buckland	Maniilaq						
Deering	Maniilaq						
Kiana	Maniilaq						
Kivalina	Maniilaq						
Kobuk	Maniilaq			1.0	1.0	1.0	1.0
Noatak	Maniilaq						
Noorvik	Maniilaq	1.0					1.0
Selawik	Maniilaq			1.0	1.0	1.0	1.0
Shungnak	Maniilaq	1.0	1.0				
Alatna	TCC						
Allakaket	TCC						1.0
Anvik	TCC				1.0	1.0	1.0
Arctic Village	TCC						
Beaver	TCC						
Central	TCC						
Chalkyitsik	TCC						
Circle	TCC						
Eagle	TCC	1.0	1.0	1.0		1.0	1.0
Fort Yukon	TCC						
Grayling	TCC						
Holy Cross	TCC						
Hughes	TCC						
Huslia	TCC	1.0	1.0	1.0	1.0	1.0	1.0
Kaltag	TCC						
Koyukuk	TCC						
McGrath	TCC	1.0	1.0	1.0	1.0		1.0
Minto	TCC						
Nikolai	TCC						
Nulato	TCC				1.0		1.0
Rampart	TCC						
Ruby	TCC		1.0	1.0	1.0	1.0	
Shageluk	TCC						
Tanana	TCC	1.0	1.0				
Tetlin	TCC				1.0		1.0
	TOTALS	55.0	45.0	48.0	52.0	54.0	53.5



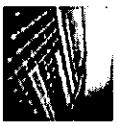
Headquarters and Posts for the Detachments and Bureaus

Detachment	Headquarters	Posts
A	Ketchikan	Haines, Juneau, Klawock, Ketchikan, Petersburg
B	Palmer	Glennallen, Palmer/Mat-Su West, Talkeetna
C	Anchorage	Anchorage, Aniak, Bethel, Dillingham, Emmonak, Iliamna, King Salmon, Kodiak, Kotzebue, McGrath, Nome, Saint Mary's, Unalakleet
D	Fairbanks	Barrow, Cantwell, Delta Junction, Fairbanks, Galena, Healy, Nenana, Northway, Tok
E	Soldotna	Anchor Point, Cooper Landing, Girdwood, Ninilchik, Seward, Soldotna
ABADE	Anchorage	Anchorage, Bethel, Fairbanks, Juneau, Kodiak, Kotzebue, Nome, Palmer, Soldotna, Wasilla
ABI	Anchorage	Anchorage, Fairbanks, Palmer, Soldotna, Mat-Su West

Source: http://www.dps.state.ak.us/AST/detachments.aspx

U.S. Census Bureau

American FactFinder



Alaska -- Borough or Census Area

GCT-T1-R. Population Estimates (geographies ranked by estimate)

Data Set: **2006 Population Estimates**

Note: For information on errors stemming from model error, sampling error, and nonsampling error, see: http://www.census.gov/popest/topics/methodology.

Rank	Geographic area	Population Estimates							Estimates Base	Census 2000
		July 1, 2006	July 1, 2005	July 1, 2004	July 1, 2003	July 1, 2002	July 1, 2001	July 1, 2000	April 1, 2000	April 1, 2000
	Alaska	670,053	663,253	656,834	647,747	640,544	632,241	627,533	626,931	626,932
	BOROUGH OR CENSUS AREA									
1	Anchorage Municipality	278,700	275,474	273,756	270,816	267,561	263,621	260,509	260,283	260,283
2	Fairbanks North Star Borough	86,754	87,555	86,769	85,172	84,722	83,795	82,727	82,840	82,840
3	Matanuska-Susitna Borough	80,480	76,112	72,187	68,292	65,079	62,204	59,907	59,322	59,322
4	Kenai Peninsula Borough	52,304	51,766	51,527	51,208	51,008	50,172	49,673	49,691	49,691
5	Juneau City and Borough	30,737	30,881	31,061	30,999	30,769	30,572	30,680	30,711	30,711
6	Bethel Census Area	17,147	17,118	16,979	16,844	16,627	16,291	16,092	16,046	16,006
7	Ketchikan Gateway Borough	13,384	13,263	13,199	13,343	13,573	13,810	13,985	14,059	14,070
8	Kodiak Island Borough	13,072	13,073	13,222	13,363	13,690	13,751	13,977	13,913	13,913
9	Valdez-Cordova Census Area	9,872	9,923	9,940	9,979	10,070	10,111	10,240	10,195	10,195
10	Nome Census Area	9,245	9,355	9,373	9,227	9,155	9,170	9,171	9,196	9,196
11	Sitka City and Borough	8,920	8,917	8,859	8,856	8,849	8,708	8,838	8,835	8,835
12	Wade Hampton Census Area	7,580	7,493	7,481	7,301	7,170	7,083	7,042	7,028	7,028
13	Northwest Arctic Borough	7,511	7,435	7,418	7,306	7,274	7,255	7,215	7,208	7,208
14	Southeast Fairbanks Census Area	6,773	6,488	6,034	5,738	5,625	5,696	6,167	6,174	6,174
15	North Slope Borough	6,608	6,790	6,951	7,145	7,152	7,240	7,373	7,385	7,385
16	Wrangell-Petersburg Census Area	6,096	6,230	6,294	6,286	6,447	6,622	6,689	6,684	6,684
17	Yukon-Koyukuk Census Area	5,844	6,104	6,293	6,306	6,325	6,326	6,489	6,510	6,551
18	Prince of Wales-Outer Ketchikan Census Area	5,688	5,657	5,758	5,766	5,745	5,910	6,138	6,157	6,146
19	Aleutians West Census Area	5,239	5,368	5,457	5,452	5,157	5,374	5,441	5,465	5,465
20	Dillingham Census Area	4,970	4,966	4,944	4,907	4,971	4,888	4,931	4,922	4,922
21	Skagway-Hoonah-Angoon Census Area	3,100	3,137	3,137	3,149	3,276	3,387	3,433	3,436	3,436
22	Aleutians East Borough	2,647	2,696	2,678	2,720	2,668	2,460	2,684	2,697	2,697
23	Haines Borough	2,257	2,243	2,241	2,298	2,299	2,310	2,399	2,392	2,392
24	Denali Borough	1,846	1,813	1,896	1,863	1,851	1,837	1,894	1,893	1,893
25	Lake and Peninsula Borough	1,548	1,578	1,593	1,591	1,595	1,686	1,809	1,823	1,823
26	Bristol Bay Borough	1,042	1,103	1,090	1,107	1,146	1,182	1,232	1,258	1,258
27	Yakutat City and Borough	689	715	697	713	740	780	798	808	808

Source: US Census Bureau, Population Estimates Program

Alaska State Troopers Post Locations
Active VPSO Locations
A
B
C
D
E

Request for Teleconferencing
House Bill 106 – VPSO Program
March 9, 2009

Please consider this a request for teleconferencing for statewide LIOs. We may need to provide some testifiers with an offnet number.

Referral File From CRA

FISCAL NOTE

SSION

Fiscal Note Number:
Bill Version: **HB 106**
() Publish Date:

HB106-DPS-DET-02-23-09
to village public safety officers."

Public Safety
RDU Alaska State Troopers
Component AST Detachments

Sponsor Representative Joule
Requester House Community and Regional Affairs

Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 18.65.670 to include boroughs as an authorized entity allowed to administer the village public safety program.

Passage of this legislation will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Phone 907-247-4480
Division Alaska State Troopers
Date/Time 2/23/09 12:09 PM
Approved by: Joseph Masters, Commissioner
Date
Department of Public Safety

(Revised 11/19/2007 OMB)

26-LS0402\E
Luckhaupt
2/25/09

CS FOR HOUSE BILL NO. 106( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOULE

A BILL

FOR AN ACT ENTITLED

"An Act relating to municipalities and to village public safety officers."

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

*** Section 1.** AS 18.65.670(a) is amended to read:

(a) There is created in the Department of Public Safety a village public safety officer program to assist local governments and villages through nonprofit regional corporations **and municipalities** to appoint, train, supervise, and retain persons to serve as village public safety officers to administer functions relative to

(1) the protection of life and property in rural areas of the state; and

(2) providing probation and parole supervision to persons under supervision by communicating with and monitoring the activities and progress of these persons at the direction of probation and parole officers.

*** Sec. 2.** AS 18.65.670(b) is amended to read:

(b) With funds appropriated for that purpose, the commissioner of public safety shall provide grants to nonprofit regional corporations **or municipalities** for village public safety officers **in rural areas of the state and municipalities with**

populations of less than 10,000. The commissioner of public safety shall coordinate with the commissioner of corrections when providing grants under this section, and the commissioners shall jointly execute an agreement with the nonprofit regional corporations **or municipalities. For areas within a borough that exercises areawide law enforcement powers, the commissioner may provide grants under this section only to the borough**.

*** Sec. 3.** AS 18.65.670(c) is amended to read:

(c) The commissioner of public safety may adopt regulations related to village public safety officers, including minimum standards and training, criteria for community**, municipality,** or corporation participation, and the interaction between the Department of Public Safety and village public safety officers. The commissioner of corrections may adopt regulations related to the functions of village public safety officers providing probation and parole supervision.

*** Sec. 4.** AS 18.65.670 is amended by adding a new subsection to read:

(e) In this section, a borough exercises areawide law enforcement powers even if a city within the borough exercises those powers under AS 29.35.250(b).

*** Sec. 5.** AS 29.35.010 is amended to read:

Sec. 29.35.010. General powers. All municipalities have the following general powers, subject to other provisions of law:

(1) to establish and prescribe a salary for an elected or appointed municipal official or employee;

(2) to combine two or more appointive or administrative offices;

(3) to establish and prescribe the functions of a municipal department, office, or agency;

(4) to require periodic and special reports from a municipal department to be submitted through the mayor;

(5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;

(6) to levy a tax or special assessment, and impose a lien for its enforcement;

(7) to enforce an ordinance and to prescribe a penalty for violation of

an ordinance;

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

(9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;

(10) to regulate the operation and use of a municipal right-of-way, facility, or service;

(11) to borrow money and issue evidences of indebtedness;

(12) to acquire membership in an organization that promotes legislation for the good of the municipality;

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

(14) to sue and be sued;

(15) to provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners;

(16) to receive grants from and contract with the Department of Public Safety under AS 18.65.670.

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4833
Fax (907) 465-4586
1-800-782-4833
Representative_Reggie_Joule@legis.state.ak.us



During Interim:
P.O. Box 673
Kotzebue, Alaska 99752
(907) 442-3880
Fax (907) 442-3022

Alaska State Legislature
REPRESENTATIVE REGGIE JOULE

To: Representative Herron, Co-Chair, Community & Regional Affairs
Representative Munoz, Co-Chair, Community & Regional Affairs

From: Representative Joule

Re: Request for hearing

Date: February 16, 2009

I would like to formally request a hearing on HB 106, "An act relating to village public safety officers and regional public safety officers." I have attached my sponsor statement, sectional analysis, bill, and other pertinent information. We would appreciate a hearing as soon as possible. If you have any questions or comments, please do not hesitate to contact Elizabeth Hensley in our office. I appreciate your consideration of this request.

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4833
Fax (907) 465-4586
1-800-782-4833
Representative_Reggie_Joule@legis.state.ak.us



During Interim:
P.O. Box 673
Kotzebue, Alaska 99752
(907) 442-3880
Fax (907) 442-3022

Alaska State Legislature
REPRESENTATIVE REGGIE JOULE

Sponsor Statement

HB 106

"An act relating to village public safety officers and regional public safety officers."

Village Public Safety Officers (VPSOs) serve as first responders in rural Alaska when disasters such as fires, lost persons, and medical emergencies strike. They also provide the only consistent law enforcement and crime prevention services in the majority of Alaskan villages, which are without police forces and resident State Troopers. Under current State law (AS 18.65.670-680), regional nonprofit corporations receive grants to administer the VPSO Program. HB 106 would amend the law to enable boroughs with fewer than 10,000 residents to receive VPSO funds and administer the Program in place of regional nonprofit corporations.

Not all regional nonprofit corporations wish to or have the capacity to administer the VPSO Program, the consequence being that far too many villages are without a VPSO. For example, in the northwestern part of the State, one VPSO delivers public safety services to 11 villages. When an emergency arises in a village, it can take days or weeks for the VPSO to respond. This results in everyday citizens being compelled to take public safety into their own hands by detaining criminals, for example – or worse – villages in which no reaction to an emergency occurs. When and if State Troopers or the single VPSO in the region makes it to the scene of the crime or accident, evidence is often destroyed and the situation is far more critical than it would have been had a VPSO been immediately available.

HB 106 aims to make emergency response and law enforcement available to more residents of the State, not just those who reside in urban areas and the 43 towns in which State Troopers are based.

House Bill 106 – VPSO Program

Sectional Analysis

February 16, 2009

Section 1: Adds boroughs as entities that may administer the VPSO Program.

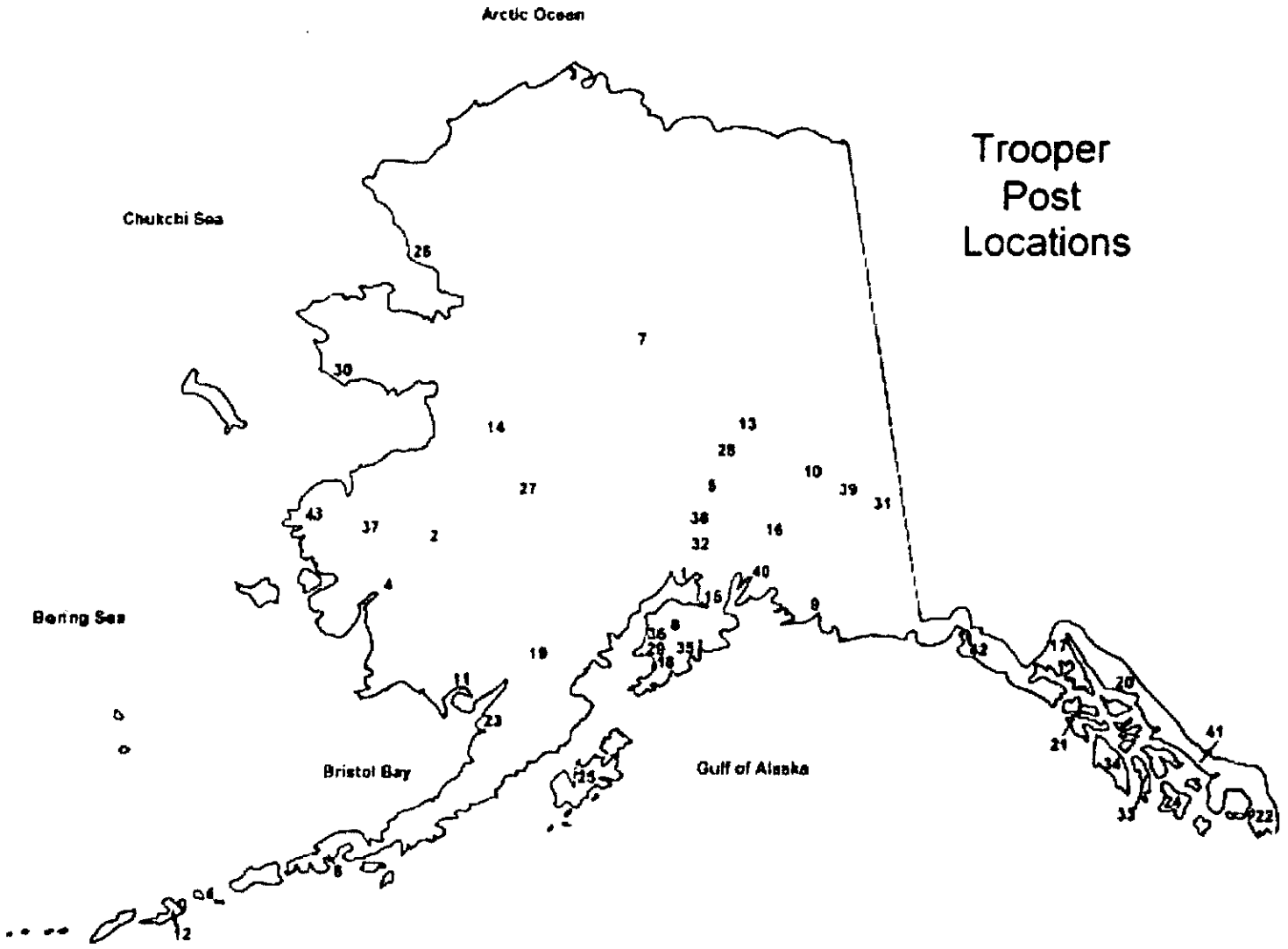
Section 2: Adds that boroughs with populations of under 10,000 may receive Department of Public Safety grants and administer the Program. Adds boroughs as entities that the Commissioners of Public Safety and Corrections shall jointly execute an agreement with when providing grants to the borough. Adds that for areas within a borough that exercises areawide law enforcement power, only the borough may receive grants.

Section 3: Adds that the Commissioner of Public Safety may adopt regulations pertaining to boroughs' participation in the VPSO Program.

Section 4: Adds that in addition to having the option to appoint Regional Public Safety Officers in rural areas of the state, the Commissioner of Public Safety may appoint them to boroughs that do not exercise areawide law enforcement powers and that have populations of under 10,000.

Request for Teleconferencing
House Bill 106 – VPSO Program
February 16, 2009

Please consider this a request for teleconferencing for statewide LIOs. We may need to provide some testifiers with an offnet number.



Headquarters and Posts for the Detachments and Bureaus

Detachment	Headquarters	Posts
A	Ketchikan	Haines, Juneau, Klawock, Ketchikan, Petersburg
B	Palmer	Glennallen, Palmer/Mat-Su West, Talkeetna
C	Anchorage	Anchorage, Aniak, Bethel, Dillingham, Emmonak, Iliamna, King Salmon, Kodiak, Kotzebue, McGrath, Nome, Saint Mary's, Unalakleet
D	Fairbanks	Barrow, Cantwell, Delta Junction, Fairbanks, Galena, Healy, Nenana, Northway, Tok
E	Soldotna	Anchor Point, Cooper Landing, Girdwood, Ninilchik, Seward, Soldotna
ABADE	Anchorage	Anchorage, Bethel, Fairbanks, Juneau, Kodiak, Kotzebue, Nome, Palmer, Soldotna, Wasilla
ABI	Anchorage	Anchorage, Fairbanks, Palmer, Soldotna, Mat-Su West

Source: http://www.dps.state.ak.us/AST/detachments.aspx

U.S. Census Bureau
American FactFinder



Alaska -- Borough or Census Area
GCT-T1-R. Population Estimates (geographies ranked by estimate)
Data Set: **2006 Population Estimates**

Note: For information on errors stemming from model error, sampling error, and nonsampling error, see: http://www.census.gov/popest/topics/methodology.

Rank	Geographic area	Population Estimates							Estimates Base	Census 2000
		July 1, 2006	July 1, 2005	July 1, 2004	July 1, 2003	July 1, 2002	July 1, 2001	July 1, 2000	April 1, 2000	April 1, 2000
	Alaska	670,053	663,253	656,834	647,747	640,544	632,241	627,533	626,931	626,932
	BOROUGH OR CENSUS AREA									
1	Anchorage Municipality	278,700	275,474	273,756	270,818	267,561	263,621	260,509	260,283	260,283
2	Fairbanks North Star Borough	86,754	87,555	86,769	85,172	84,722	83,795	82,727	82,840	82,840
3	Matanuska-Susitna Borough	80,460	76,112	72,187	68,292	65,079	62,204	59,907	59,322	59,322
4	Kenai Peninsula Borough	52,304	51,786	51,527	51,208	51,008	50,172	49,673	49,691	49,691
5	Juneau City and Borough	30,737	30,881	31,061	30,999	30,769	30,572	30,680	30,711	30,711
6	Bethel Census Area	17,147	17,118	16,979	16,844	16,827	16,291	16,092	16,046	16,006
7	Ketchikan Gateway Borough	13,384	13,263	13,199	13,343	13,573	13,810	13,985	14,059	14,070
8	Kodiak Island Borough	13,072	13,073	13,222	13,363	13,690	13,751	13,977	13,913	13,913
9	Valdez-Cordova Census Area	9,872	9,923	9,940	9,979	10,070	10,111	10,240	10,195	10,195
10	Nome Census Area	9,245	9,355	9,373	9,227	9,155	9,170	9,171	9,196	9,196
11	Sitka City and Borough	8,920	8,917	8,859	8,856	8,849	8,708	8,838	8,835	8,835
12	Wade Hampton Census Area	7,580	7,493	7,481	7,301	7,170	7,083	7,042	7,028	7,028
13	Northwest Arctic Borough	7,611	7,435	7,416	7,306	7,274	7,255	7,215	7,208	7,208
14	Southeast Fairbanks Census Area	6,773	6,488	6,034	5,738	5,625	5,696	6,167	6,174	6,174
15	North Slope Borough	6,608	6,790	6,951	7,145	7,152	7,240	7,373	7,385	7,385
16	Wrangell-Petersburg Census Area	6,096	6,230	6,294	6,286	6,447	6,622	6,689	6,684	6,684
17	Yukon-Koyukuk Census Area	5,844	6,104	6,293	6,306	6,325	6,328	6,489	6,510	6,551
18	Prince of Wales-Outer Ketchikan Census Area	5,688	5,657	5,758	5,766	5,745	5,910	6,138	6,157	6,146
19	Aleutians West Census Area	5,239	5,368	5,457	5,452	5,157	5,374	5,441	5,465	5,465
20	Dillingham Census Area	4,970	4,968	4,944	4,907	4,971	4,868	4,931	4,922	4,922
21	Skagway-Hoonah-Angoon Census Area	3,100	3,137	3,137	3,149	3,278	3,357	3,433	3,436	3,436
22	Aleutians East Borough	2,647	2,696	2,676	2,720	2,666	2,460	2,684	2,697	2,697
23	Haines Borough	2,257	2,243	2,241	2,268	2,299	2,310	2,399	2,392	2,392
24	Denali Borough	1,846	1,813	1,896	1,863	1,851	1,837	1,894	1,893	1,893
25	Lake and Peninsula Borough	1,548	1,578	1,593	1,591	1,595	1,666	1,809	1,823	1,823
26	Bristol Bay Borough	1,042	1,103	1,090	1,107	1,146	1,182	1,232	1,258	1,258
27	Yakutat City and Borough	689	715	697	713	740	780	798	808	808

Source: US Census Bureau, Population Estimates Program

State of Alaska
FY2010 Governor's Operating Budget

Department of Public Safety
Village Public Safety Officer Program
Results Delivery Unit Budget Summary

Village Public Safety Officer Program Results Delivery Unit

Contribution to Department's Mission

Preserve public peace and protect life and property in rural villages.

Core Services

- Contract with non-profit organizations to provide Village Public Safety Officer (VPSO) services throughout rural Alaska.

Major Activities to Advance Strategies

- VPSO training academy.
- VPSO regional update training.
- Driving Under the Influence (DUI) patrols.
- Domestic violence and DUI training.
- Report writing and investigation in-service.
- Coordination with outside domestic violence-related agencies and support groups.
- Domestic violence supervisory case review with district attorney coordination.
- Provide search and rescue management training.
- Water safety education.
- Increased inspections.
- Crime Stoppers.
- Alcoholic Beverage Control Board (ABC) training.
- Coordination of ABC investigations.
- Provide boater safety public education.
- Provide boater safety training to VPSOs and AST.
- D.A.R.E. programs.
- Alcohol Rewards Program.
- Patrol high crime areas.
- Investigator training.
- Enhanced communications between jurisdictions.
- Community Oriented Policing (COP) training.
- Participation in village council meetings.

FY2010 Resources Allocated to Achieve Results

FY2010 Results Delivery Unit Budget: $7,100,700

Personnel:	
Full time	2
Part time	0
Total	2

Key RDU Challenges

VPSO are the first responders to incidents, and/or the only individuals immediately available to provide a broad range of public safety services in their village. These functions range from basic law enforcement, to probationer and parolee supervision, to provision of first aid to the injured, to assisting with search and rescue missions, to fire prevention activities.

VPSO retention continues to be a challenge. Many factors are responsible for high VPSO turnover. In fact, many of the same factors that affect Alaska State Trooper recruitment also influence VPSO recruitment, including the public's general lack of interest in law enforcement jobs. For VPSOs, one unique factor has been a historically low rate of pay. Funding in the form of supervision of parolees and probationers has continued to account for a considerable portion of the monthly VPSO salary. Furthermore, toward this end, an Alaska State Senate VPSO Task Force solicited input by holding a number of public meetings throughout the state in early 2008 and, in part, determined that additional funding was necessary for the program. As a result, effective July 1, 2008, the base rate of pay for VPSOs increased from $17.00 to $21.00 per hour.

The VPSO program has suffered from high turnover since inception. The expectations of a VPSO have changed over time and become more demanding. Consequently, fewer village residents are willing to serve as a VPSO, which then requires hiring entities to seek applicants from elsewhere. It has proven difficult at best to recruit qualified applicants from urban areas to serve in villages.

Grant management and oversight responsibility are requiring significant and increasing staff time. Upper level AST managers further are expending an increased amount of diplomatic effort in order to ensure that the program remains successful.

With the increase in pay, AST anticipates more successful recruitment, which is beginning to bear fruit. There will be a strong presence of Village Public Safety Officers at DPS recruitment booths during both the Alaska State Fair in Palmer and the Alaska Federation of Natives (AFN) conference held in Anchorage. The VPSO website continues to be regularly updated with information regarding VPSO employment opportunities and qualifications so that interested individuals may have easy access in applying for the VPSO program.

Significant Changes in Results to be Delivered in FY2010

The legislature appropriated $1,529,900 for the VPSO program to improve both the recruitment and retention of VPSOs in FY2009. $929,900 was designated as partial funding for fifteen new VPSO positions and $600,000 was designated for pay raises. Increasing the number of VPSOs will provide improved levels of service and a greater degree of assurance that Alaska's Native population is being served adequately and on par with all other citizens.

Major RDU Accomplishments in 2008

VPSO probation and parole services continue throughout the VPSO communities. Probation and parole training is being provided to new VPSOs attending the ten week session of basic VPSO training at the DPS Academy in Sitka. VPSOs are developing and maintaining good working relationships with probation and parole oversights, as well as continuing to monitor offenders within their communities on a regular basis.

DPS sponsored 970 hours training per available VPSO in FY2008. This training included Basic Village Police Officer Academy #16 and #17, VPSO Academy #34, regional training for all participating Native non-profit organizations, Street Survival, Reid Interview and Interrogation, and Learn to Return.

All participating Native non-profit organizations coordinated construction and / or renovation of public safety projects within their respective regions.

- AST conducted 2,340 VPSO village visits
- Troopers conducted 5,578 oversight hours
- Ten new VPSOs attended VPSO academy #34 in Sitka
- VPSOs investigated 3,607 cases, to include 57 driving under the influence (DUI), 95 assaults, and 143 domestic violence assaults. Total cases represent a 47.7 percent increase over FY2007, DUI represents a 63 percent increase over FY2007, assault represents a 50.5 percent increase over FY2007, and domestic violence assault represents a 51.7 percent increase over FY2007.

Contact Information

Contact: Dan Spencer, Director, Administrative Services
Phone: (907) 465-5488
Fax: (907) 465-5500
E-mail: danial.spencer@alaska.gov

Village Public Safety Officer Program
RDU Financial Summary by Component

All dollars shown in thousands

	FY2008 Actuals				FY2009 Management Plan				FY2010 Governor			
	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds
Formula Expenditures												
None.												
Non-Formula Expenditures												
VPSO	5,082.7	0.0	0.0	5,082.7	6,666.3	0.0	0.0	6,666.3	6,666.3	0.0	0.0	6,666.3
Contracts Support	246.5	0.0	106.1	352.6	267.2	0.0	162.2	429.4	269.1	0.0	165.3	434.4
Totals	**5,329.2**	**0.0**	**106.1**	**5,435.3**	**6,933.5**	**0.0**	**162.2**	**7,095.7**	**6,935.4**	**0.0**	**165.3**	**7,100.7**

Village Public Safety Officer Program
Summary of RDU Budget Changes by Component
From FY2009 Management Plan to FY2010 Governor

All dollars shown in thousands

	General Funds	Federal Funds	Other Funds	Total Funds
FY2009 Management Plan	**6,933.5**	**0.0**	**162.2**	**7,095.7**
Adjustments which will continue current level of service:				
-Support	1.9	0.0	3.1	5.0
FY2010 Governor	**6,935.4**	**0.0**	**165.3**	**7,100.7**

STATE OF ALASKA

Department of Public Safety

Active VPSO List by Village

November, 2007

PermID	Corp	VCode	Village	LstName	FstName	Work	Address	Zip	Oversight
DAC0	AVCP	RDKB	AKIACHAK	CHARLES	DAVID	825-4313	PO BOX 34	99551	TRP DUFFIELD
BZB2	AVCP	RDKF	AKIAK	BEAVER	BENJAMIN	765-7000	General Delivery		TRP DUFFIELD
JLL1	APIA	RBLB	AKUTAN	LEVAN	JAY	698-2315	po box 111	99553	DILLINGHAM
JSC1	BBNA	RDAB	ALEKNAGIK	CREASEY	JASON	842-2189	PO BOX 62	99555	TRP BUMP
CRH1	KANA	RARD	ANGOON	HARTZELL	CHARLES	788-3631	po box 286	99820	TPRP UMBS
HZA3	APIA	RBDA	ATKA	ANELON JR	HENRY	839-2214	PO BOX 47015	99547	DILLINGHAM
JMT2	AVCP	RDJC	CHEFORNAK	TOBELUK	JOHN	867-8733	GENERAL DELIVERY	99561	TRP ROBERTS
GWA0	BBNA	RBWA	CHIGNIK	ASHBY	GUY	749-2273	GENERAL DELIVERY	99564	TRP SHEPHERD
tdb0	TCC	RJKA	EAGLE	BEAUCAGE	TIMOTHY	547-2356	po box 957	ak	DAVID SHERBAHN
jjf0	AVCP	RDJD	EEK	FRIENDLY	JOHN	536-5328	PO BOX 52	99578	TRP DUFFILED
mvl0	BBNA	RCKD	EGEGIK	LEFERVERE	MARK	233-2217	PO BOX 10	99579	TRP HENDRICKSON
DED0	BBNA	RDAD	EKWOK	DECKER	DANIEL	464-3326	PO BOX 37	99580	TRP BUMP
GJB0	AVCP	RDBA	GOODNEWS BAY	BRIGHT	GEORGE	967-8050	PO BOX 145	99589	TRP ALTEPETER
TZP0	TCC	RJTA	HUSLIA	PAVLICK	TIMOTHY	829-2286	PO BOX 30	99746	JEANNINE SANTORA
JRL9	BBNA	RCZC	ILIAMNA/NEWHALEN	LAMONT	JAMES	571-1692	PO BOX 52	99606	TRP HENDRICKSON
CFA0	AVCP	RDCD	KIPNUK	ALEXIE	CHRISTOPHER	896-5515	PO BOX 002	99614	TRP ROBERTS
LOR0	KANA	RKCB	KOBUK	ROLLS	LESLIE	948-3222	PO BOX 44	99751	
GZT0	BBNA	RDAE	KOLIGANEK	TUNGUING	GUSTY	596-3418	PO BOX 5040	99576	TRP SADLOSKE
JEO0	AVCP	RDCB	KONGIGANAK	OTTO	JONATHAN	557-5607	PO BOX 5097	99559	TRP ALTEPETER
MDO0	AVCP	RDKC	KWETHLUK	OLICK	MAX	757-6629	PO BOX 56	99621	TRP KEMPER
RLJ0	KANA	RCAJ	LARSEN BAY	JONES JR	ROY	847-2262	PO BOX 144	99624	TRP ZITO
KWP0	TCC	REZA	MCGRATH	PARKER	KENNETH	524-3075	PO BOX 168	99627	TRP SPENCER
AJB0	AVCP	REWD	MT VILLAGE	BROWN	ALVIN	591-2921	PO BOX 32015	99632	TRP ADKINS
MDM2	KANA	RCYI	NANWALEK	MCCOMACK	MICHAEL	281-2277	PO Box 5515	99603	TRP BROWNING
WDO0	AVCP	RDKG	NAPAKIAK	OLICK	WILLIAM	589-2920	PO BOX 112	99634	TRP ROBERTS
GCL0	AVCP	RDKE	NAPASKIAK	LARSON	GREGORY	737-7639	PO BOX 6055	99559	TRP ALTEPETER
MEN0	APIA	RBSB	NELSON LAGOON	NEMETH	MICHAEL	989-2232	PO BOX 36	99571	DILLINGHAM
EJW0	BBNA	RDAG	NEW STUYAHOK	WONHOLA	EVAN	693-3170	PO BOX 51	99636	TRP BUMP
JMT1	AVCP	RDJA	NUNAPITCHUK	TOBELUK JR	JACOB	527-5718	PO BOX 102	99641	TRP BALLESTEROS/DUNFORD
BNW0	BBNA	RCCB	PILOT POINT	WISE	BYRON	797-2275	PO BOX 429		TRP HENDRICKSON
BGA0	KANA	RCAE	PORT LIONS	AMES	BRADLEY	454-2330	PO BOX 110	99550	TRP ZITO
wzp0	AVCP	RDBD	QUINHAGAK	PLEASANT	WASSILLIE	556-8314	GENERAL DELIVERY	99655	TRP ROBERTS
MFH0	TCC	RHZA	RUBY	HAGLIN	MARK	468-4603	PO BOX 81	99768	JEANNINE SANTORA
JGP0	KAWE	RHSB	SAVOONGA	PERATROVICH	JOHN	984-6011	PO BOX 206	99769	TRP KOSTO
PKY0	AVCP	RESB	SCAMMON BAY	YUNAK	PAULA	558-5529	BOX 86	99662	SGT MERRILL
DRW1	KAWE	RJZA	SHISHMAREF	WEBB	DONALD	649-3411	PO BOX 72174	99772	TRP WITROSKY
mzl0	APIA	RCEB	ST GEORGE	LEJARZAR	MICHAEL	859-2415	PO BOX 957	99591	DILLINGHAM
llr1	KAWE	RHRB	STEBBINS	RAYMOND	LEONARD	934-2340	PO BOX 71084	99671	TRP ERICKSON
GWR0	TCC	RJRA	TANANA	ROBINSON	GEORGE		PO BOX 189	99777	SGT WASSMANN
cmo0	KANA	RAER	THORNE BAY	OMALLEY	CLINTON	828-3905	PO BOX 19310	99919	BOB CLAUS
WPG0	AVCP	RDJB	TUNTUTULIAK	GILILA SR	WASSILLIE	256-2634	GENERAL DELIVERY	99680	TRP KEMPER
jkb1	KANA	HEKA	TYONEK	BYSTEDT	JAMES	583-2203	PO BOX 119	99922	TRP BLIZZARD
DZH0	KAWE	RHWD	WHITE MOUNTAIN	HARRELSON	DAN	638-3411	PO BOX 138	99784	

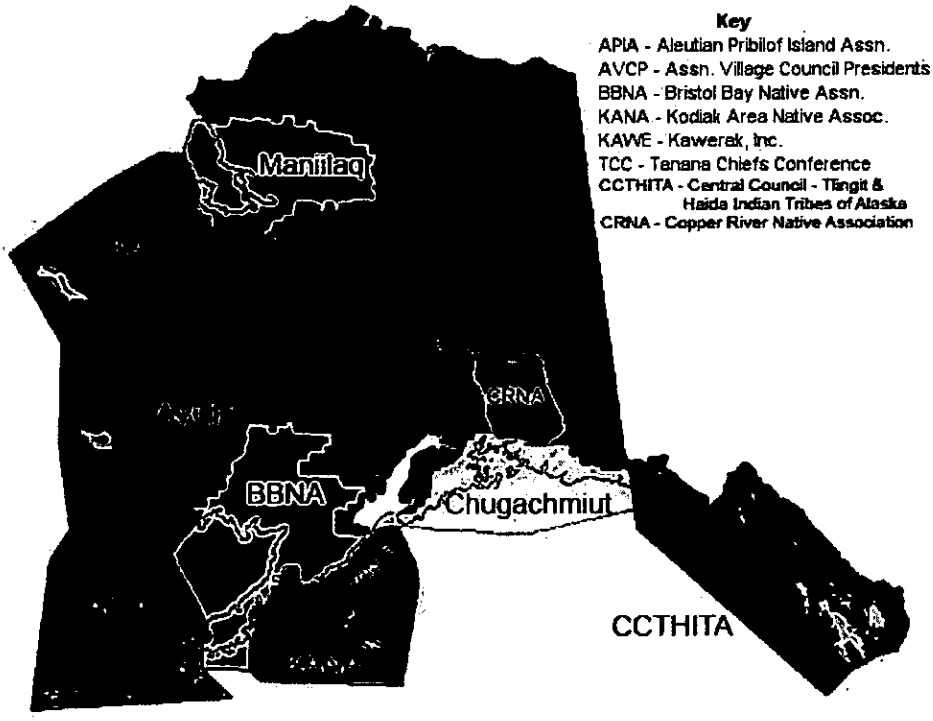
Alaska State Troopers
Village Public Safety Officer Program

Employment Opportunities

For employment opportunities, contact the individual Native Nonprofit Corporations. Please refer to the map below for the Corporation location.

- Aleutian/Pribilof Islands Association (APIA)
- Association of Village Council Presidents (AVCP)
- Bristol Bay Native Association (BBNA)
- Central Council - Tlingit & Haida Indian Tribes of Alaska (CCTHITA)
- Chugachmiut Inc.
- Copper River Native Association (CRNA)
- Kawerak, Inc. (KAWE)
- Kodiak Area Native Association (KANA)
- Maniilaq Inc
- Tanana Chiefs Conference (TCC)

HB 106



For more detailed contacts on the VPSO Program please visit the "Contact Us" page.

26-LS0402\E
Luckhaupt
2/25/09

CS FOR HOUSE BILL NO. 106( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOULE

A BILL

FOR AN ACT ENTITLED

"An Act relating to municipalities and to village public safety officers."

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

*** Section 1.** AS 18.65.670(a) is amended to read:

(a) There is created in the Department of Public Safety a village public safety officer program to assist local governments and villages through nonprofit regional corporations **and municipalities** to appoint, train, supervise, and retain persons to serve as village public safety officers to administer functions relative to

(1) the protection of life and property in rural areas of the state; and

(2) providing probation and parole supervision to persons under supervision by communicating with and monitoring the activities and progress of these persons at the direction of probation and parole officers.

*** Sec. 2.** AS 18.65.670(b) is amended to read:

(b) With funds appropriated for that purpose, the commissioner of public safety shall provide grants to nonprofit regional corporations **or municipalities** for village public safety officers **in rural areas of the state and municipalities with**

populations of less than 10,000. The commissioner of public safety shall coordinate with the commissioner of corrections when providing grants under this section, and the commissioners shall jointly execute an agreement with the nonprofit regional corporations **or municipalities. For areas within a borough that exercises areawide law enforcement powers, the commissioner may provide grants under this section only to the borough**.

*** Sec. 3.** AS 18.65.670(c) is amended to read:

(c) The commissioner of public safety may adopt regulations related to village public safety officers, including minimum standards and training, criteria for community**, municipality,** or corporation participation, and the interaction between the Department of Public Safety and village public safety officers. The commissioner of corrections may adopt regulations related to the functions of village public safety officers providing probation and parole supervision.

*** Sec. 4.** AS 18.65.670 is amended by adding a new subsection to read:

(e) In this section, a borough exercises areawide law enforcement powers even if a city within the borough exercises those powers under AS 29.35.250(b).

*** Sec. 5.** AS 29.35.010 is amended to read:

Sec. 29.35.010. General powers. All municipalities have the following general powers, subject to other provisions of law:

(1) to establish and prescribe a salary for an elected or appointed municipal official or employee;

(2) to combine two or more appointive or administrative offices;

(3) to establish and prescribe the functions of a municipal department, office, or agency;

(4) to require periodic and special reports from a municipal department to be submitted through the mayor;

(5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;

(6) to levy a tax or special assessment, and impose a lien for its enforcement;

(7) to enforce an ordinance and to prescribe a penalty for violation of

an ordinance;

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

(9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;

(10) to regulate the operation and use of a municipal right-of-way, facility, or service;

(11) to borrow money and issue evidences of indebtedness;

(12) to acquire membership in an organization that promotes legislation for the good of the municipality;

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

(14) to sue and be sued;

(15) to provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners**;**

(16) to receive grants from and contract with the Department of Public Safety under AS 18.65.670.

HB 115

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 4, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2-18-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 115**

"An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

HB 115 PERMANENT ABSENTEE VOTING

Recommends it be replaced with [ ] HCS *or* **[X] CS** *for* HB 115 (STA)
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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DOG		X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Paul R. Seaton	Seaton	X			
Max F. Gruenberg	Gruenberg	~			
Peggy Wilson	WILSON			~	
Bill Peterson	PETERSEN	X			
Chair: Bob Lynn	LYNN			X	
Chair:					

Alaska State Legislature
House Judiciary Committee

Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701

Committee Members
Representative Nancy Dahlstrom
Vice Chairman
Representative Bob Lynn
Representative Carl Gatto
Representative Bob Herron
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

House Judiciary Committee Memo

To: Tom Wright, Aide
Representative Mike Chenault
Speaker of the House

From: Jane W. Pierson JWP
House Judiciary Committee Aide

Date: February 18, 2010

Re: Judiciary Referral for HB115

Today, Representative Gatto came to speak to me about a Judiciary referral for HB115 "An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date." Upon review of this bill there appears to be issues that should be addressed by the Judiciary Committee. They are as follows:

- Constitutional right to vote
- The potential for voter fraud
- Potential for election tampering
- Enforcement issues

Thank you.

CS FOR HOUSE BILL NO. 115(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUCH, Gruenberg

A BILL

FOR AN ACT ENTITLED

"An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

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

*** Section 1.** AS 15.07.127 is amended by adding a new subsection to read:

(b) The director shall maintain the list under (a) of this section so that the names of persons who have the status of permanent absentee voters under AS 15.20.085 may be readily identified.

*** Sec. 2.** AS 15.07.130(e) is amended to read:

(e) For purposes of (b) and (d) of this section, a voter "appears to vote" if

(1) the voter is present at a polling place or at an absentee voting station at a time when the polling place or absentee voting station is operating, for the purpose of casting a vote;

(2) the voter applies to the division

(A) to obtain an absentee ballot**; or**

(B) for permanent absentee voter status under AS 15.20.085; or

(3) in an election conducted by mail under AS 15.20.800, a voter who has not received a ballot by mail makes a timely request to the division for a ballot.

*** Sec. 3.** AS 15.20 is amended by adding a new section to read:

Sec. 15.20.085. Permanent absentee voting. (a) A qualified voter may apply to the director in person, by mail, or by facsimile, scanning, or other electronic transmission, as provided in AS 15.07.070, for permanent absentee voting status. The application must include the address to which absentee ballots are to be returned, the applicant's full Alaska residence address, and the applicant's signature.

(b) A person may supply to a voter a permanent absentee voting application form with a political party or group affiliation indicated only if the voter is already registered as affiliated with the political party or group indicated. Only the voter may mark the voter's choice of primary ballot on the permanent absentee voting application. A person supplying a permanent absentee voting application form may not design or mark the application in a manner that suggests choice of one ballot over another, except that ballot choices may be listed on an application as authorized by the division. The application must be made on a form prescribed or approved by the director. The voter or registration official shall submit the application directly to the division of elections. In this subsection, "directly to the division of elections" has the meaning given in AS 15.20.081(a). However, nothing in this subsection is intended to prohibit a voter from giving a completed permanent absentee voting application to a friend, relative, or associate for transfer to the United States Postal Service or a private commercial delivery service for delivery to the division.

(c) For each state primary, general, and special election, and each other election for which the state has responsibility for the conduct of the election, the director or an election supervisor shall send an absentee ballot to each voter designated as a permanent absentee voter for that election and who is otherwise qualified to vote in that election. The director or election supervisor shall send the ballot to the permanent mailing address set out on the official registration list unless the voter has notified the director or an election supervisor of a different address to which the ballot

should be sent. The director or an election supervisor shall send the absentee ballots

(1) by first class, nonforwardable mail;

(2) not later than the 15th day before the election; and

(3) with an accompanying explanation of the absentee voting procedure under AS 15.20.020 and notice that the voter's permanent absentee voting status will be removed if the voter does not vote or appear to vote in a primary, special, or general election for a period of four calendar years.

(d) The director shall make available a change of address form for permanent absentee voters.

(e) Nothing in this section requires the director or an election supervisor to send an absentee ballot under (c) of this section to a permanent absentee voter after the director or election supervisor receives actual notice that mail sent to the voter's permanent mailing address or a different address provided by a voter under this section is undeliverable to the voter at the address.

(f) A permanent absentee voter to whom a ballot is provided under this section may cast the ballot under AS 15.20.081(d) and (e).

(g) Ballots voted under this section shall be reviewed under procedures established for the review of absentee ballots under AS 15.20.201 and 15.20.203.

(h) Nothing in this section limits a voter's eligibility to vote

(1) in person at a precinct under AS 15.15.195 or 15.15.198;

(2) in person before an absentee voting official under AS 15.20.061;

(3) early under AS 15.20.064; or

(4) by electronic transmission under AS 15.20.066.

(i) If a voter designated as a permanent absentee voter under this section does not vote or appear to vote in a primary, special, or general election for a period of four calendar years, the director shall remove the voter's permanent absentee voter status.

(j) In this section, "appear to vote" has the meaning given in AS 15.07.130(e).

*** Sec. 4.** AS 15.56.030(a) is amended to read:

(a) A person commits the crime of unlawful interference with voting in the first degree if the person

(1) uses, threatens to use, or causes to be used force, coercion,

violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage, harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting in an election;

(2) knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person to vote or refrain from voting in an election;

(3) solicits, accepts, or agrees to accept money or other valuable thing with the intent to vote for or refrain from voting for a candidate at an election or for an election proposition or question;

(4) violates AS 15.20.081(a) **or 15.20.085(b)** by knowingly supplying or encouraging or assisting another person to supply to a voter **a permanent absentee voting or** [AN] absentee ballot application form with a political party or group affiliation indicated if the voter is not already registered as affiliated with that political party or group, and the person has been previously convicted of unlawful interference with voting in the second degree under AS 15.56.035(a)(5);

(5) knowingly designs, marks, or encourages or assists another person to design or mark **a permanent absentee voting or** [AN] absentee ballot application in a manner that suggests choice of one ballot over another as prohibited by AS 15.20.081(a) **or 15.20.085(b)**, and the person has been previously convicted of unlawful interference with voting in the second degree under AS 15.56.035(a)(6); or

(6) knowingly submits or encourages or assists another person to submit **a permanent absentee voting or** [AN] absentee ballot application to an intermediary who could control or delay the submission of the application to the division of elections or who could gather data from the application form as prohibited by AS 15.20.081(a) **or 15.20.085(b)**, and the person has been previously convicted of unlawful interference with voting in the second degree under AS 15.56.035(a)(7).

*** Sec. 5.** AS 15.56.035(a) is amended to read:

(a) A person commits the crime of unlawful interference with voting in the second degree if the person

(1) has an official ballot in possession outside of the voting room unless the person is an election official or other person authorized by law or local ordinance, or by the director or chief municipal elections official in a local election;

(2) makes, or knowingly has in possession, a counterfeit of an official election ballot;

(3) knowingly solicits or encourages, directly or indirectly, a registered voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

(4) as a registration official

(A) knowingly refuses to register a person who is entitled to register under AS 15.07.030; or

(B) accepts a fee from an applicant applying for registration;

(5) violates AS 15.20.081(a) **or 15.20.085(b)** by knowingly supplying or encouraging or assisting another person to supply to a voter **a permanent absentee voting or** [AN] absentee ballot application form with a political party or group affiliation indicated if the voter is not already registered as affiliated with that political party or group;

(6) knowingly designs, marks, or encourages or assists another person to design or mark **a permanent absentee voting or** [AN] absentee ballot application in a manner that suggests choice of one ballot over another as prohibited by AS 15.20.081(a) **or 15.20.085(b)**; or

(7) knowingly submits or encourages or assists another person to submit **a permanent absentee voting or** [AN] absentee ballot application to an intermediary who could control or delay the submission of the application to the division of elections or who could gather data from the application form as prohibited by AS 15.20.081(a) **or 15.20.085(b)**.

*** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISIONS: REGULATIONS. The director of elections may proceed to adopt or amend regulations as necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulations.

*** Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

*** Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2011.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re DRAFT CS for HB 115 (26-LS0404\A)

February 18, 2010

HB 115 Version A moved out of the House State Affairs Committee this morning amended. Please draft a CS with the following amendments:

Amendment #1 (Gruenberg)
Page 5 Line 24 *delete* "2010" and *insert* **2011**

Conceptual Amendment #2 (Seaton)
Remove a name from Permanent Absentee Voter Status if the voter fails to return a voter ballot in a full election cycle. Amendment would not remove the name from the voter rolls, only permanent absentee voter status.

Nancy Manly

From: Fenumiai, Gail M (GOV) [gail.fenumiai@alaska.gov]
Sent: Friday, February 19, 2010 3:32 PM
To: Nancy Manly; Madeline Lefton; Katie Koester; Rep. Bob Buch; Rep. Paul Seaton
Cc: Thompson, Carol A (GOV); Felix, Sarah J (LAW)
Subject: RE: CSHB 115 (STA) Version R

I have a couple of comments regarding the LAA proposed CS.

1. Page 3, line 23 – remove "a local, regional, school board, primary, special or general election" and replace with "state conducted election."
2. I was under the impression that the committee was interested in removing voters from the permanent absentee voter (PAV) status if they failed to vote their by-mail ballot. My interpretation of the proposed amendment is that if a PAV votes in person it would not trigger removal.

Thank you for the opportunity to comment.
Gail

HB 115

SW Seaton
he requested the CS
be changed to reflect
his amendment.

From: Nancy Manly [mailto:Nancy_Manly@legis.state
Sent: Friday, February 19, 2010 10:52 AM
To: Lefton, Madeline K (LAA); Koester, Katie (LAA); F
b (LAA); Seaton, Paul (LAA)
Subject: CSHB 115 (STA) Version R

Madeline, Katie and Gail:

I am sending each of you the CS for HB 115 STA Version R plus the fax I sent to legal to craft this particular version. The committee members wanted Gail Fenumiai (Elections) to look at the bill. I also want the bill sponsor (Buch) and conceptual bill amender (Seaton) to review the CS and be satisfied with the wording. Once everybody has reviewed and approved, I will take the bill to the Chief Clerks office to be read across.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB115
() Publish Date:

Identifier (file name): HB115-OOG-DOE-2-12-10
Dept. Affected: OOG
Title: An Act establishing a permanent absentee voting option for qualified voters
RDU: Elections
Component: Elections
Sponsor: Representative Buch
Requester: House State Affairs Committee
Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual		41.0		20.0		20.0	
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**41.0**	**0.0**	**20.0**	**0.0**	**20.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF		41.0		20.0		20.0	
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**41.0**	**0.0**	**20.0**	**0.0**	**20.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation would require programming modifications to the division's existing statewide voter registration system. The division estimates this cost to be $21.0.

In order to ensure the integrity of the process, the division would send confirmation notices at the beginning of each election year to all voters designated as permanent absentee voters to ensure the address on file is still accurate. The division estimates postage and printing costs of $20.0. This amount would be a recurring cost during even numbered election years.

Prepared by: Gail Fenumiai, Director
Division: Division of Elections
Phone: 465-4611
Date/Time: 2/12/2010, 12:17pm
Approved by: Linda Perez, Director
Division of Administrative Services
Date: 2/12/2010

(Revised 10/13/2009 OMB)

HB 115
An Act establishing a permanent absentee voting option for qualified voters

HB 115 will streamline the absentee voting process for Alaskans by giving voters the option to register for permanent absentee voting status for state elections. Once a voter is on the permanent absentee voter roll, they won't have to fill out an absentee request form for each election cycle. Instead, an absentee ballot will be automatically sent to them by the Division of Elections.

HB 115 does not change anyone's voting rights. Voters can still request a one-time absentee ballot, just as they can now. Voters can still vote at their regular voting places if they so choose. HB 115 makes voting more convenient for voters. It also streamlines the administrative process for the Division of Elections.

HB 115 does not change any of the security or evaluation procedures that are already in place in Alaska statutes for handling absentee ballots; all of the provisions currently in place for absentee ballots would apply to permanent absentee ballots. HB 115 includes a provision for removal from the permanent absentee roll if the Division of Elections receives notice that mail sent to the voter's address is undeliverable.

HB 115 does not apply to local elections. It only applies only to primary, general and special elections, and any election for which the state has the responsibility for the conduct of the election.

HB 115 has an effective date of January 1, 2010 due to the implementation of a new voter registration system in May of 2010. The new system will be able to handle permanent absentee voting, according to the director of the Division of Elections.

Thank you for your consideration.

Sectional Analysis of
HB 115

Section 1
Amends AS 15.07.127 by adding a new subsection (b) that requires the Director of the Division of Elections to make readily identifiable on the Master Register those people who have the status of permanent absentee voter.

Section 2
Amends AS 15.07.130 (e) by adding (B) which states that a voter who applies to the Division of Elections for a permanent absentee voter status qualifies as a voter who "appears to vote" under (b) and (d) of this section.

Section 3
Amends AS 15.20 by adding a new section (15.20.085) that:

(a) enables Alaskan voters to apply to the Division of Elections for permanent absentee voting status;

(b) allows a person to provide a voter with a permanent absentee voting application form with a political party or group affiliation only if that voter is already registered with the political party or group indicated. This paragraph also sets forth requirements that only the voter may mark the application form, indicate their choice of primary ballot and submit the application to the Division of Elections on a form prescribed by the Director of the Division of Elections;

(c) requires the Division of Elections to send an absentee ballot to each voter designated as a permanent absentee voter for each state primary, general and special election and any other election for which the state has the responsibility for conducting the election;

(d) requires the Director of the Division of Elections to make change of address forms available for permanent absentee voters;

(e) allows the Director of the Division of Elections to not send an absentee ballot if the Division has received notice that mail sent to an address is undeliverable;

(f) allows a permanent absent voter to cast the ballot under AS 15.20.081(d), which lists persons who are authorized to witness the casting of a ballot, and AS 15.20.081(e), which lists the dates by which the ballot must be cast and the means by which it must be returned to the Division of Elections;

(g) requires that ballots voted under this section be reviewed under the procedures that are established for the review of absentee ballots in AS 15.20.201 and AS 15.20.203;

(h) establishes that nothing in this section prohibits a person from voting early, or in person at a precinct, or in person before an absentee voting official, or by electronic submission as provided by AS 15.15.195, AS 15.15.198, AS 15.20.061, AS 15.20.064 and AS 15.20.066..

Section 4
Amends AS 15.56.030(a) by making the provisions that govern the unlawful interference with voting in the first degree apply to permanent absentee voting.

Section 5
Amends AS 15.56.035(a) by making the provisions that govern the unlawful interference with voting in the second degree apply to permanent absentee voting.

Section 6
Authorizes the Director of the Division of Elections to adopt regulations to implement the changes made in this act.

Section 7
Provides for an immediate effective date for section 6, which will allow the Division of Elections to adopt regulations to implement the changes made in this act.

Section 8
Provides for a January 1, 2010 effective date for all other provisions of this act.

American Postal Workers Union, AFL-CIO

Midnight Sun Area Local 2756, PO Box 190485. Anchorage, Alaska 99519-0485

February 10, 2009

Representative Bob Buch
Alaska State Legislature
State Capitol, Room 430
Juneau, Alaska 99801-1182

Dear Bob,

The American Postal Workers Union supports HB 115; we see this bill as a way to simplify the voter process and we believe that a greater return in votes cast would result.

Currently Alaskans can apply for an absentee ballot which is valid for one year. HB 115 would allow voters to receive an absentee ballot in perpetuity or until the voter fails to vote in one election cycle, at which point the voter would revert back to the original voter roll.

Permanent absentee vote by mail increases voter turn out and results in more citizens having a stake in their government, provides greater procedural integrity, favors neither of the major political parties, saves taxpayer money, and enhances the democratic process.

Receiving a ballot in the mail two weeks before an election reminds voters an election is imminent. Vote by mail allows voters to study and research candidates and issues and vote at their convenience instead of within the voting booth.

In Alaska weather conditions may cause voters to miss an election, with vote by mail voters will still be able to cast their votes.

With the transient nature of the state, permanent absentee vote by mail would be beneficial. Alaska has fishermen, miners, slope workers, shift workers and construction workers that would have a better opportunity to cast votes as a result of HB 115. HB 115 would also be of benefit to the disabled, seniors and working families who face challenges in casting their vote at the polls.

A University of Oregon study shows that demographically young people aged 26-38 voted 44% more often, homemakers vote 51% more often, disabled and unable to work vote 48% more often, and across all demographics voters vote 29% more often.

In 2004, 40% of New Mexico voters used vote by mail, in 2006, nearly 90% of Washington State voters used vote by mail. Oregon passed vote by mail in 1998 with 69% for the initiative and by 2003 had an approval rate of 81%.

Voting by mail provides a paper trail for each vote cast unlike electronic voting machines which are susceptible to computer hackers and have no such safeguards. Vote by mail provides for accurate cleansing of registration rolls. When the ballot is returned because the voter has moved, their registration can be updated and a new ballot can be mailed to the new address.

County clerks in Oregon report that vote by mail elections cost about 30% less than traditional polling place elections

The sanctity of the ballot is paramount to the process. The United States Postal Service has been delivering vital documents for over two hundred years. The US Postal Service workforce is background checked; drug screened, and held to the US government code of conduct and ethics laws. Additionally the US Postal Service has internal enforcement agencies that work closely with the Federal Bureau of Investigations to protect the public from mail fraud. The US Postal Service is currently the only delivery service to handle absentee ballots and would like to continue as such.

For the above reasons the American Postal Workers Union supports HB 115.

Sincerely,

Larry Benson
President

HB 116

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 6, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-3-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 116**

"An Act relating to Iditarod finisher special request license plates."

HB 116 IDITAROD REGISTRATION PLATES

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Legis				X

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Gatto	✓			
Paul K Seaton	SEATON	✓			
Mattheuendeyff	Gruendeyff	–			
Chair:	LYNN	X			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 116
() Publish Date:

Identifier (file name): HB116-DOA-DMV-03-03-09
Dept. Affected: Administration
Title "An Act relating to Iditarod finisher special request license plates."
RDU Motor Vehicles
Component Division of Motor Vehicles
Sponsor Rep. Neuman
Requester H(STA)
Component Number 2348

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill does not fiscally impact the Division of Motor Vehicles (DMV). Revenue derived from the sale of the Iditarod Finisher Plate is expected to be minimal.

Prepared by: Whitney Brewster
Phone 907-269-5559
Division Motor Vehicles
Date/Time 3/3/09 8:55 AM
Approved by: Kevin Brooks
Date 3/3/2009
Deputy Commissioner

(Revised 9/10/2008 OMB)

Nancy Manly

From: Nancy Manly
Sent: Monday, March 09, 2009 10:27 AM
Subject: FW: HB 116 - Iditarod Finisher Plates

Some follow-up information for HB 116 that was heard in the House State Affairs Committee on 3/3/09.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

From: Brewster, Whitney H (DOA) [mailto:whitney.brewster@alaska.gov]
Sent: Thursday, March 05, 2009 5:01 PM
To: Nancy Manly; Jim Ellis; Sharon Long
Cc: Brooks, Kevin A (DOA); Oates, Stacy V (DOA); Hennings, Kerry S (DOA)
Subject: HB 116 - Iditarod Finisher Plates

Dear Nancy:

In the House State Affairs committee hearing regarding HB 116 – Iditarod Finisher Plates – there were a couple of comments that I indicated that I would follow up on.

Representative Gruenberg asked about the meaning of lines 8 & 9 on page 1, which state "The department may disapprove the issuance of registration plates under this subsection when the requested plates are a duplication of an existing registration." What the DMV interprets this to mean is that if there is an individual who has an existing plate of "UBTCHA" the DMV cannot issue that same plate to someone else. I think this section would be more easily understood if the phrase read "The department *shall* disapprove the issuance of registration plates under this subsection when the requested plates are a duplication of an existing registration *plate*" (emphasis added).

Representative Seaton asked about lines 3-6 on page 2, which deal with "other special request plates." "Other special request plates" are considered personalized plates. Personalized plates are those plates that the DMV does not have in stock ready to hand over to the individual, but must order with the customers preferred license plate number. In some states, there is an annual fee for keeping the personalized plate, however, in Alaska, payment is only required at first issuance. Additionally, the $30 fee is required if an individual loses or destroys their personalized plate as it must be ordered and custom made again for the customer. Typically, there is a $5 replacement fee for the standard issue plates, but because of the additional steps required to produce a personalized plate, the fee is $30 to replace it.

If you will please pass this information along to the committee members, I would greatly appreciate it. If they have further questions, please do not hesitate to contact me.

Sincerely,
Whitney

Whitney Brewster, Director
Division of Motor Vehicles
State of Alaska
(907) 269-5559

ALASKA STATE LEGISLATURE

Co-Chair:
House Committee on Natural Resources

Vice Chair
House Committee on Labor and Commerce

Member:
House Committee on Rules, House Special Committee on Economic Development, Trade, and Tourism, and Legislative Budget & Audit Committee

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-2679
Fax: (907) 465-4822
Toll Free (800) 505-2678

Interim:
600 E. Railroad Ave
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

REPRESENTATIVE MARK NEUMAN
Rep.Mark.Neuman@legis.state.ak.us

Sponsor Statement

HB 116
IDITAROD REGISTRATION PLATES

This legislation seeks to honor the admirable accomplishment of those who have shown both great strength and fortitude through finishing the Iditarod Sled Dog Race by authorizing the issue of special license plates.

Finishers will be able to purchase these exclusive plates of a design approved by the Department of Administration after providing specific proof of participation in, and completion of, an Iditarod Sled Dog Race to be verified by the Iditarod Trail Committee. In addition, finishers must have an automobile registered in the state of Alaska on which the plates would be displayed to be eligible to purchase the plates.

I ask for your support in this effort honoring the dedication and work of mushers who ably faced the hardships and challenges of running the "last great race", Alaska's Iditarod Trail Sled Dog Race.

ALASKA STATE LEGISLATURE

Co-Chair:
House Committee on Natural Resources

Vice Chair
House Committee on Labor and Commerce

Member:
House Committee on Rules, House Special Committee on Economic Development, Trade, and Tourism, and Legislative Budget & Audit Committee

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-2679
Fax: (907) 465-4822
Toll Free (800) 505-2678

Interim:
600 E. Railroad Ave
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

REPRESENTATIVE MARK NEUMAN
Rep.Mark.Neuman@legis.state.ak.us

Sectional Analysis of House Bill 116:

Section 1. Amends AS 28.10.181 by adding a new subsection allowing the Department of Administration to design and issue special request Iditarod race finisher plates to persons who have finished the Iditarod race.

Section 2. Amends AS 28.10.421(d)(2) by establishing a one-time fee of $50 for issuance of the plates authorized under section 1.

Invited Participants:

Calling in as off nets:

Stan Hooley. Exec. Dir. Iditarod Trail Committee
For questions:
Whitney Brewster, Director of DMV (269-5774)
Kerry Hennings, Drivers License Manager

In the room: (subject to his work schedule)

Andy Moderow, Iditarod race finisher.

ALASKA STATE LEGISLATURE

Co-Chair:
House Committee on Natural Resources

Vice Chair
House Committee on Labor and Commerce

Member:
House Committee on Rules, House Special Committee on Economic Development, Trade, and Tourism, and Legislative Budget & Audit Committee

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-2679
Fax: (907) 465-4822
Toll Free (800) 505-2678

Interim:
600 E. Railroad Ave
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

REPRESENTATIVE MARK NEUMAN
Rep.Mark.Neuman@legis.state.ak.us

February 24, 2009

Representative Bob Lynn, Chair
House State Affairs Committee
State Capitol, Room 104
Juneau, Alaska 99801

Dear Representative Lynn,

Subject: HB 116 IDITAROD REGISTRATION PLATES

Attached is a committee package for House Bill 116, "An Act relating to Iditarod finisher special request license plates." I would appreciate it if you could schedule this legislation to be heard at your earliest convenience.

Included are the following:

- Current version of the bill.
- Sponsor Statement.
- Sectional Analysis.
- Request for teleconferencing with list of witnesses and sites.

Please feel free to contact me, or my aide Jim Ellis (465-3820), with any questions.

Thank you for your consideration.

Sincerely,

Representative Mark Neuman

ALASKA STATE LEGISLATURE

Co-Chair:
House Committee on Natural Resources

Vice Chair
House Committee on Labor and Commerce

Member:
House Committee on Rules, House Special Committee on Economic Development, Trade, and Tourism, and Legislative Budget & Audit Committee

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-2679
Fax: (907) 465-4822
Toll Free (800) 505-2678

Interim:
600 E. Railroad Ave
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

REPRESENTATIVE MARK NEUMAN
Rep.Mark.Neuman@legis.state.ak.us

February 24, 2009

Representative Bob Lynn, Chair
House State Affairs Committee
State Capitol, Room 104
Juneau, Alaska 99801

Dear Representative Lynn,

Subject: HB 116 IDITAROD REGISTRATION PLATES

Attached is a committee package for House Bill 116, "An Act relating to Iditarod finisher special request license plates." I would appreciate it if you could schedule this legislation to be heard at your earliest convenience.

Included are the following:

- Current version of the bill.
- Sponsor Statement.
- Sectional Analysis.
- Request for teleconferencing with list of witnesses and sites.

Please feel free to contact me, or my aide Jim Ellis (465-3820), with any questions.

Thank you for your consideration.

Sincerely,

Representative Mark Neuman

HB 123

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 11, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-26-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 123**

"An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date."
HB 123 EXTEND SUICIDE PREVENTION COUNCIL

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 123 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
HES		X		
HES		X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			X	
Paul Seaton	Seaton	X			
Mark Gruenberg	Gruenberg	–			
Peggy Wilson	Wilson	V			
Chair: Beth Lynn	LYNN	X			
Chair:					

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit

P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@legis.state.ak.us

November 4, 2008

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
STATEWIDE SUICIDE PREVENTION COUNCIL
SUNSET REVIEW
November 4, 2008

Audit Control Number
06-20055-08

The review was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Currently, under AS 44.66.010(a)(8), the Statewide Suicide Prevention Council (council) is scheduled to terminate on June 30, 2009. We recommend the legislature extend the termination date of the council until June 30, 2013.

Four of the fifteen voting members of the council are legislators. Since the Legislative Audit Division is part of the legislative branch, our agency does not meet the independence standard required by generally accepted government auditing standards. Therefore, we are disclosing our lack of adherence to the independence auditing standard.

Except for the independence standard discussed above, the audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	Page
Objectives, Scope, and Methodology	1
Organization and Function	3
Report Conclusions	5
Findings and Recommendations	7
Analysis of Public Need	11
Agency Response	
Department of Health and Social Services	19
Statewide Suicide Prevention Council	23

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Statewide Suicide Prevention Council (SSPC or council) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if the termination date of the council should be extended. State law currently specifies SSPC will terminate on June 30, 2009. If no action is taken by the legislature, the council will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the council should be extended.

2. To determine if the council is operating in the public interest.

3. To provide a current status on the recommendations made in the prior report.

Our assessment of the operations and performance of the council was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the council.

Scope and Methodology

Auditors and audit organizations are required to be independent in both fact and appearance to the entities being audited. Audit organizations are presumed to be organizationally independent per generally accepted government auditing standards under various situations. One of those situations, which is applicable to the Division of Legislative Audit, is when the,

> *. . .audit organization is in a different branch of government within the same level of government as the audited entity; for example, legislative auditors auditing an executive branch program.*

The Division of Legislative Audit does not meet the organizational independence requirements because four of the fifteen voting members of SSPC are members of the Alaska State Legislature. Readers of this report may not view the conclusions, findings, and

recommendations as impartial because of the lack of organizational independence. Nevertheless, we conducted the audit of SSPC as required by AS 24.20.271 and AS 44.66.050.

Our audit reviewed the operations and activities of the council from FY 05 through FY 08.

During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Budget documents, session laws, and other legislative information related to the council's operations.
- Council meeting minutes, bi-laws, and website.
- Annual reports to the legislature and governor.
- Financial reports from the State Accounting System.
- The *Statewide Suicide Prevention Plan.*
- Alaska Injury Prevention Center's follow-back studies to the council.
- Other documents related to the council's operations and mission, as necessary.

In addition, we interviewed:

- Various SSPC members, SSPC coordinators, and staff under the Department of Health and Social Services.
- Board members, executive directors and other staff of the Alaska Mental Health Trust Authority (AMHTA), Alaska Mental Health Board (AMHB) and Advisory Board on Alcoholism and Drug Abuse (ABADA).

We also attended the following meetings:

- May 5-6, 2008 meeting of SSPC.
- June 13, 2008 meeting of representatives from SSPC, Division of Behavioral Health, Division of Senior and Disability Services, the Alaska Commission on Aging, AMHTA, ABADA, AMHB, and the Governor's Council on Disability and Special Education.
- June 17, 2008 SSPC teleconference for a working session on the revision of the Suicide Prevention Plan.

ORGANIZATION AND FUNCTION

Under AS 44.29.350, the Statewide Suicide Prevention Council (SSPC or council) is charged with advising the legislature and the governor on,

> *...actions that can and should be taken to improve health and wellness throughout the state by reducing suicide and its effect on individuals, families, and communities.*

In addition to this advisory role, the council's activities include planning, coordinating, educating, training, and providing technical support on the prevention of suicide.

The council consists of 15 members. There are two senators, two representatives, two executive branch employees, and nine public members. The senate seats and the representative seats are appointed by the president of the senate and the speaker of the house, respectively. The executive branch and public seats are appointed by the governor.

Exhibit 1

Council Members
As of September 30, 2008

Officers:
- Brenda Moore, Public, Chair
- Pat Donelson, Public, Chair-Elect
- Renee Gayhart, DHSS, Treasurer

Other Members:
- Charles Jones, Public
- Celena Powder, Public
- William Martin, Public
- Bernard Gatewood, Public
- Vacant, Public
- Vacant, Public
- Vacant, Public
- Bill Hogan, DHSS
- Johnny Ellis, Senate
- Kim Elton, Senate
- Woodie Salmon, House
- Reggie Joule, House

Alaska Statute 44.29.300 specifies the public seats be filled by,

> *...one member of the Advisory Board on Alcoholism and Drug Abuse; one member of the Alaska Mental Health Board; one person recommended by the Alaska Federation of Natives, Inc.; one person who is a counselor in a secondary school; one adult who is active in a statewide youth organization; one person who has experienced the death by suicide of a member of the person's family; one person who resides in a rural community in the state that is not connected by road or the Alaska marine highway to the main road system of the state; one person who is a member of the clergy; and one person who is under the age of 18.*

Except for the members of the House of Representatives who serve two years, council members serve staggered four-year terms.

The council is staffed by a coordinator, who, by statute, is employed by the council and directly responsible to the council. As of July 1, 2008, the coordinator is the project manager for the Prevention and Early Intervention section. The coordinator is employed for the council on a part-time basis and is assisted by a project coordinator from the same division.

The council receives administrative assistance from the Department of Health and Social Services.

REPORT CONCLUSIONS

Under AS 44.66.010(a)(8), the Statewide Suicide Prevention Council (SSPC or council) will terminate on June 30, 2009. If the legislature does not take action to extend the termination date, the council will have one year to administratively conclude its affairs.

Alaska Statute 44.29.350 defines the purpose of the council.

> *The council shall serve in an advisory capacity to the legislature and the governor with respect to what actions can and should be taken to...*

The statute continues, listing the six areas where the council should advise the legislature and the governor. In addition to advising the legislature through testimony to the House and Senate Committees, the council has taken on a direct role in various areas. These areas include broadening the public awareness of suicide and the related risk factors, the development of a statewide suicide prevention plan, and other examples which are discussed in more detail in the Analysis of Public Need section of this report.

Suicide remains a major public health problem in Alaska. Over the last seven years, the crude rate[1] for suicide has ranged from over 16 to 23, while the national average crude rate for suicide was 11 in 2005[2].

Exhibit 2

Suicides of Alaska Residents By Year*

	Year of Death						
	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**
Deaths	103	131	123	154	127	132	146
Crude Rate	16.3	20.5	19	23.4	19.1	19.7	21.6

*2006 and 2007 data is still provisional and subject to change.

Source: Alaska Bureau of Vital Statistics

In addition to the rate of suicide being significantly higher than the national average, the profile of those committing suicide is also substantially different. In national statistics, elderly individuals are more likely to commit suicide; in Alaska, suicide is most commonly committed by individuals in their 20s. Suicide rates in Alaska are also disproportionately high in the native population.

[1] Crude rate is the number of suicides per 100,000 population.
[2] USA Suicide: 2005 Official Final Data, from American Association of Suicidology on its website, http://www.suicidology.org.

In developing our conclusion on whether SSPC's termination date should be extended, we evaluated SSPC's operations using the 11 factors set out in AS 44.66.050(c) to determine if the council has demonstrated a public need for its continued operation.

We found no direct correlation between the activities of the council and the change in the suicide rate for any particular year. However, given that the council's role is primarily advisory and suicide is a public health concern that is often linked with mental illness and substance abuse, both which are long term health issues, it is unlikely that a direct identifiable correlation will ever be clearly visible.

However, through the efforts of the council we have seen a broader and more public acknowledgement of the problem of suicide in Alaska. We saw the council responding to communities by working to revise the statewide suicide prevention plan, making it less clinical and more user-friendly. The council and the Department of Health and Social Services, Division of Behavioral Health (DHSS, DBH) have proposed an initiative to develop a cross-disciplinary, community-driven, and research-based approach to reducing the number of deaths by suicide in Alaska. A Suicide Prevention Strategy and Implementation Plan will be available to the legislature by December 15, 2008.

Overall, we found that the council is operating in the public interest and spearheading efforts that are necessary to address the public health concern of suicide. Therefore, we recommend the legislature extend the termination date of the council to June 30, 2013.

The four year extension is recommended because of the following issues:

- At the end of FY 08, the council was organizationally aligned with the Prevention and Early Intervention section, Division of Behavioral Health. A key to enhancing the effectiveness of the council is a good working relationship between the council and DBH, each focused on its own mission – coordinating but not duplicating. A limited extension will allow for a reevaluation of whether the closer alignment with DBH has impeded the independent voice of the council.

- Secondly, the membership requirements for appointment to the council make it difficult to fill all the seats and to ensure sufficient participation to meet quorum requirements. Again, a limited extension will allow a timely reexamination of this problem.

These issues are more fully discussed in the Findings and Recommendations section of this report.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Statewide Suicide Prevention Council (SSPC or council) should, in accordance with statutes, appoint its own coordinator and perform annual performance reviews.

Effective July 1, 2008, the Department of Health and Social Services (DHSS) assigned SSPC coordinator responsibilities to the Prevention and Early Intervention section[3] manager in the Division of Behavioral Health (DBH). This SSPC coordinator appointment was not made in accordance with the statutes and appears to diminish SSPC's autonomy and independent voice with the governor and legislature. Also, the coordinator may be placed in a position with potentially conflicting responsibilities between the council and DBH.

DHSS' decision was based on department personnel resource needs and a desire to align the activities of the council and the section.

The hiring, supervision, and evaluation of the SSPC coordinator are part of the council's rights and responsibilities per the statutes.[4] DHSS has traditionally assisted the council with the coordinator's selection. However, SSPC was not involved in the latest selection. Also, the council has not annually evaluated the coordinator's performance for at least the past four years. Neglecting these statutory requirements may have diminished the council's ability to maintain an independence voice.

We recommend the council either accept the current coordinator through a formal vote or initiate actions to hire a new coordinator. In addition, it is critical that the council conduct annual performance evaluations as required by statute, particularly if the coordinator is a DBH employee. Only through the council's interest in remaining autonomous can its independent voice be assured.

Recommendation No. 2

The legislature should consider modifying the composition of council membership.

During FY 05 – FY 08, there were excessive vacancies on the council and significant absences by council members at its meetings. Additionally, those being appointed to the

[3] Prevention and Early Intervention is the section responsible for DHSS programs that address suicide prevention.
[4] Alaska Statute 44.29.330(b) states,

> *The council may employ a coordinator to assist the council. The coordinator is in the partially exempt service. The coordinator shall be directly responsible to the council in the performance of the coordinator's duties. The council shall annually review the performance of the coordinator.*

council did not always meet the statutory qualifications for the position. Exhibit 3 illustrates the extent of vacancies and absences over the last four years.

Exhibit 3

Statutory Qualifications	Do incumbents meet the qualifications	Rate of attendance at SSPC meeting FY 05 – FY 08
Four legislator seats: Senate majority member Senate minority member House majority member House minority member	 Yes No No Yes	Overall 15%
Two persons employed by the executive branch of state government	Yes	Overall 73%
A member of the Advisory Board on Alcoholism and Drug Abuse	Yes	60%
A member of the Alaska Mental Health Board	Yes	100%
A person recommended by the Alaska Federation of Natives, Inc.	Yes	100%
A person who is a secondary school counselor	No[5]	80%
A person who is an adult and active in statewide youth organizations	Yes	73%
A person whose family has experienced death by suicide	Vacant[6]	33%
A person who lives in a rural community – not connected by either the road system or the marine highway	Vacant[7]	0%
A member of the clergy	Yes	93%
A person under the age of 18	Yes	33%
Overall Average[8]		**54%**

The composition of the council's membership is established in AS 44.29.300 and includes very specific qualifications which have created difficulties in filling the positions. Vacancies combined with low attendance rates make it difficult for the council to establish a quorum at its meetings.

The legislature should consider changes to AS 44.29.300 to broaden the qualifications of council members to ensure that appointees are interested in the work of the council and can

[5] The current incumbent is a secondary school principal.
[6] This position has been vacant since November 2005.
[7] This position has been vacant for more than 3 of the 4 years between FY 05 and FY 08.
[8] This average includes one member appointed to the council that does not meet any of the statutory criteria. This member's attendance over the last 4 years has been at 87%.

make the time commitment necessary to serve. Additionally, consideration should be given to making legislative members non-voting to prevent potential quorum issues.

Current Status of Prior Audit Recommendations

Prior Recommendation No. 1

The Division of Behavioral Health Community-based Suicide Prevention Program coordinator should ensure prevention programs conform to the statewide suicide prevention plan.

Current Status

This recommendation is no longer an issue. Starting in FY 06, the State has followed a national trend to provide grants on a more comprehensive programmatic basis. Grant funds are awarded in a way that allows communities to focus the funds according to local priorities, rather than awarding separate grants for mental health, substance abuse, or suicide programs.

Additionally, the council has undertaken a rewrite of the statewide suicide prevention plan to make it more user-friendly, so Alaskan communities can better use the plan in developing their grant activities and community plans.

Prior Recommendation No. 2

The administrative manager for Department of Health and Social Services Boards and Commission and the Statewide Suicide Prevention Council coordinator should develop a more formalized information system of reporting financial information to the council.

Current Status

This recommendation has been resolved. Council members are receiving budget and financial reports as part of their meeting packets.

Prior Recommendation No. 3

The council should ensure it provides public notice of all council meetings as required by Alaska Statute 44.62.310.

Current Status

This recommendation has been resolved.

Prior Recommendation No. 4

The Office of the Governor should make appointments to the council in a timely manner.

Current Status

Appointments to the council continue to be a problem. See current Recommendation No. 2.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analysis of commission activities relates to the public need factors defined in the sunset law, AS 44.66.050. This analysis was not intended to be comprehensive, but to address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or program has operated in the public interest.

To assess whether the Statewide Suicide Prevention Council (SSPC or council) has operated in the public interest, we measured the council's activities against objectives set out by the legislature for SSPC in state law, at AS 44.29.350.[9] From our review of council activities, we conclude SSPC has reasonably addressed its statutory objectives.

The council, as an advisory body, has made presentations to the House and Senate Committees on Health, Education and Social Services. Additionally, they provide the legislature and the governor with the council's annual report.

The council also actively participates in the six areas in which they are intended to advise the legislature and the governor. The following discussion describes the council's areas of active participation:

1. Actions to be taken to improve health and wellness by reducing suicide.

   During FY 08, the council, in partnership with Department of Health and Social Services, Division of Behavioral Health (DHSS, DBH), proposed the Alaska Suicide Prevention Initiative to the governor and the legislature. The initiative proposed developing a cross-disciplinary, community-driven and research-based approach to reduce the number of deaths by suicide in Alaska. The initiative addressed potential activities from FY 09 through FY 13. The FY 09 budget included an increment dedicated to the development of the Suicide Prevention Strategy and Implementation Plan, which is to be completed by December 15, 2008.

[9] Alaska Statute 44.29.350 states,

> *The council shall serve in an advisory capacity to the legislature and the governor with respect to what actions can and should be taken to (1) improve health and wellness throughout the state by reducing suicide and its effects on individuals, families, and communities; (2) broaden the public's awareness of suicide and the risk factors related to suicide; (3) enhance suicide prevention services and programs throughout the state; (4) develop healthy communities through comprehensive, collaborative, community-based and faith-based approaches; (5) develop and implement a statewide suicide prevention plan; and (6) strengthen existing and build new partnerships between public and private entities that will advance suicide prevention efforts in the state.*

2. Increasing public awareness of suicide and the related risk factors.

   The council has become increasingly diligent in this area. The council continues to maintain a website[10] that provides suicide statistics, risk factors, and prevention. Additionally, the website provides links to resources such as the council's annual reports and statewide suicide prevention plan.

   The council participated in many conferences and workshops during FY 05 through FY 08, making presentations or providing information displays. The council also purchased and distributed items such as pens, pencils, magnets, and posters to those needing support for suicide prevention related functions.

   In 2006 the council initiated the "Live Your Dream" bracelet campaign which targets the State's youth population. This has been viewed as particularly popular and successful in spreading suicide awareness.

   The council has contributed to the "YOU KNOW ME" media campaign which focuses on suicide prevention awareness. The Alaska Mental Health Trust Authority (AMHTA) has sponsored the council in this endeavor since 2005.

3. Enhance suicide prevention services and programs throughout the State.

   Overall, the council enhances suicide prevention services and programs by directly providing information or providing direction to other knowledgeable sources. Throughout the year, the council receives two to three requests per week for information or technical assistance. Their web site generates questions from the public and other organizations who then request informational materials from the council. As appropriate, they also provide studies, DVDs, books, and other materials on suicide and suicide prevention.

   Other examples of SSPC's enhancement of suicide prevention services include:

   - Involvement in the certification of Careline[11] and DBH's targeted gatekeeper training.[12]

   - Having the Careline phone number placed in phone books across the State.

[10] http://health.hss.state.ak.us/suicideprevention/default.htm
[11] Careline is Alaska's statewide toll-free crisis intervention and assistance hotline.
[12] DBH has contracted for the development of a training curriculum specific to Alaska. Gatekeepers are individuals who have face-to-face contact with large numbers of people in their community. The council's role in the initiative is to review the developed curriculum and provide feedback.

- Sponsoring travel for communities that needed assistance to attend gatekeeper training.

- Providing funds which allowed the Careline project manager, the Boys & Girls Club representative, and the Survivor Group representative to attend the American Association of Suicidology Conference in 2006.

4. Develop healthy communities though comprehensive, collaborative, community-based and faith-based approaches.

   The council has maintained faith-based partnerships through some SSPC members' participation in faith-based organizations. Other community approaches have included:

   - Sponsoring an Alaska State Council on the Arts workshop in Bethel to orient artists and arts organizations to programs, resources, and grant opportunities.

   - Providing a liaison to assist grassroots community members as they researched and established a nonprofit organization whose mission is suicide prevention, awareness, and support of the survivors.

   - Providing technical support to community programs providing suicide prevention services via research, best practices updates, referral resources, training, and conference opportunities.

   - Recommending the Boys & Girls Clubs' staff development director receive training and certification as a gatekeeper[13] trainer.

5. Develop and implement a statewide suicide prevention plan.

   SSPC completed its first statewide plan in 2004, and it followed the format of the National Strategy for Suicide Prevention and existing plans from other states. However, communities did not find the plan user-friendly in providing guidance in aligning their grant activities and community plans with the statewide plan. The council is now revising the statewide plan to make it more relevant to the granting process for the Comprehensive Behavioral Health Prevention and Early Intervention Services grants.

6. Collaborating on planning activities with other related agencies.

   In 2005 SSPC established a memorandum of agreement (MOA) with the Advisory Board on Alcoholism and Drug Abuse (ABADA), the Alaska Mental Health Board (AMHB), and DHSS. In 2006 an MOA was established with AMHTA. The purpose of the MOAs is coordination and collaboration to achieve the best outcomes for their targeted

[13] See footnote 12 for more information about gatekeepers.

911

beneficiaries. Their websites are interlinked and these entities participate in reciprocal reporting.

Other boards that SSPC collaborates with include Alaska Commission on Aging, Alaska Brain Injury Network, Governor's Council on Disabilities and Special Education, Faith-Based and Community Initiatives, and Division of Behavioral Health. While there is reciprocal reporting between these boards, MOAs have not yet been established.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

SSPC has not operated in strict compliance with the statutes in regards to the composition of the council and some personnel matters. Specifically:

1. SSPC was not involved in hiring its latest coordinator, a position directly responsible to the council; nor has the council reviewed the coordinator's performance for any of the past four years. These are requirements stated in AS 44.29.330. At least in appearance, these moves could impede the council's independence and autonomy when advising the legislature and the governor. (See Recommendation No. 1)

2. Some council members either do not meet the positions' requirements as presented in the statutes or have excessive absences from the board meetings and other SSPC activities. (See Recommendation No. 2)

Exhibit 4

Schedule of Operating Expenditure and Funding Sources
(Unaudited)

	FY 05	FY 06	FY 07	FY 08
Expenditures				
Personal Services	$ 18,300	$ 26,028	$ 22,307	$ 35,915
Travel	23,847	32,636	41,155	51,072
Services	33,335	37,515	19,821	18,205
Commodities	14,383	6,336	8,461	2,142
Total Operating Expenditures	$ 89,865	$ 102,515	$ 91,744	$ 107,334
Funding Sources				
General Fund Appropriations	$ 89,865	$ 102,515	$ 91,744	$ 107,334
Total Funding	$ 89,865	$ 102,515	$ 91,744	$ 107,334

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The council has not pursued any statutory changes.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The council provided public notices to all but one of their meetings. However, public comment periods occurred during all of the meetings. The council has conscientiously made efforts to conduct at least one of their four meetings in a remote location such as Bethel, Kotzebue, and Sitka. They have held three town hall meetings, usually following one of their regularly scheduled meetings. Additionally, the public has the opportunity to contact the council, through its website, to offer feedback and request information.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Under AS 44.29.350, the council has developed and implemented a statewide suicide prevention plan. The existing plan is currently under major revision to increase its usability. The council has requested input from participants outside the council such as the grantees, gatekeepers,[14] and members of other boards. Once the plan has been approved by the council, it will be sent out for public testimony. Further revisions, as a result of public testimony, may be made before its release.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

Neither the Office of the Ombudsman nor the Office of Victim's Rights reported any complaints filed with them regarding SSPC.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

This criterion is not applicable since SSPC does not regulate any occupations or professions.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

Nothing in our review of the council indicated that there were any complaints involving SSPC personnel practices.

[14] See footnote 12 for more information about gatekeepers.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

As discussed in Report Conclusions, we recommend the council be continued. However, in Recommendation No. 1, we also suggest that the appointment of the council's coordinator be approved by the council and annual performance reviews of the coordinator's performance should be conducted as set out in statute. This is important for SSPC to maintain its autonomy in the future for advising the legislature and governor. Due to personnel resource concerns and the desire for closer alignment between the council and DBH, DHSS has organizationally moved the administration of the council to DBH, specifically the Prevention and Early Intervention section. It is essential that DHSS and the council develop means to assure the council maintains an independent voice.

As discussed in Recommendation No. 2, the council should ensure that appointed members meet the qualifications of AS 44.29.300. We suggest the legislature consider broadening the qualifications for membership to ensure sufficient qualified and interested individuals are available and willing to serve on the council.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

The council established performance measures which are detailed in the annual reports to the legislature. For the FY 08 annual report, the measures were:

- Reduction of the three-year average rate of Alaska suicides.

  SSPC has been unable to achieve this objective at this time. During FY 08, the council has partnered with DHSS, DBH in an initiative, attempting to accomplish this by FY 13.

- Review and update the statewide suicide prevention plan.

  SSPC members are currently reviewing the plan with the objective of making it more relevant to the granting process for the Comprehensive Behavioral Health Prevention and Early Intervention Services grants.

- Consistently review data to identify trends, make analyses, and provide recommendations regarding suicide prevention, education and services needed in the State.

  The Follow-Back Study, which presented Alaska suicide data and analysis for the period from September 1, 2003 through August 31, 2006, was received by SSPC in February 2007. The council has and continues to use this study to make recommendations to the legislature, executive branch agencies, and the public.

- Support and assist Alaskans in starting a state Suicide Prevention Awareness Network (Network).

  The council supported the Alaska Suicide Prevention Action Coalition (ASPAC) in its research into becoming a Network affiliate. Although the Coalition decided to incorporate and maintain its autonomy, its goals are similar to the Network and further the goals of the council.

- Increase the number of communities that can recognize the warning signs of suicide through increasing the number of community-based suicide prevention grantees who align their community funding with the statewide suicide prevention plan.

  The Prevention and Early Intervention section gave comprehensive prevention grants to communities for the FY 06 - FY 08 three-year grant cycle. A comprehensive prevention grant can be used to address any alcohol, drug, mental health, or suicide related issue. Since none of the grants during this grant cycle were specifically for suicide prevention, no tracking was done to determine whether grantees aligned their funding with the statewide plan. As comprehensive prevention grants continue to be made by DBH, the council should revise this performance measure.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

The Statewide Suicide Prevention Council mission overlaps with other state entities such as the Alaska Mental Health Board, the Advisory Board on Alcoholism and Drug Abuse, and the Alaska Mental Health Trust Authority. However, the council was established to bring attention and focus, specifically, to the suicide issue in Alaska, so overlapping missions are to be expected.

While the council actively collaborates with various other boards and commissions with related missions, there does not appear to be any duplication of activities between the council and these other governmental agencies or in the private sector.

(Intentionally left blank)

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

December 1, 2008

RECEIVED
DEC 0 1 2008
LEGISLATIVE AUDIT

Pat Davidson
Legislative Auditor
Alaska State Legislature, Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Dear Ms. Davidson:

Thank you for this opportunity to provide a written response to the *Preliminary Audit Report on the Statewide Suicide Prevention Council, Sunset Review, November 4, 2008.* I have reviewed the report and offer the following comments.

First, we appreciate your staff's careful attention to detail and the thorough nature of the audit process, including the many interviews and opportunities for individuals to be heard and to voice their opinions. Suicide is a critical social issue for the State of Alaska and the Statewide Suicide prevention Council (SSPC) has a significant responsibility to find strategies and solutions to begin reducing the rate of suicide throughout our state.

As stated in the audit report, the SSPC has recently undergone a significant change in location within the department and in their staff coordination. Beginning July 1, 2008, the SSPC is now under the direction of the Division of Behavioral Health, section of Prevention & Early Intervention Services. The reason for this change of location was to allow for better coordination of statewide suicide prevention efforts between the SSPC and Behavioral Health and to promote a more seamless and coordinated approach to suicide prevention in Alaska. While this transition is complete, the SSPC members and Behavioral Health staff are continuing to define and develop their relationship and structure. We are confident this change will accomplish its intended purpose and provide for better statewide alignment in issues related to suicide prevention.

The Department of Health and Social Services (DHSS) supports and agrees with the audit findings and recommendations. We are pleased with the recommendation to extend the SSPC for four more years, with a new sunset date of June 30, 2013. We believe the DHSS and the SSPC are at a critical juncture to make significant progress in reducing and preventing suicide in Alaska. DHSS, in partnership with the council and others, recently received a 3-year federal Garrett Lee Smith Youth Suicide Prevention grant to focus on developing regional strategies to 'turn the corner' on suicide data. In addition, with one-time funding from the FY08 Legislature, we are offering regional suicide prevention planning grants focusing on those regions of Alaska with the highest rates of suicide. It is our intent that these planning grants will become the foundation of the Statewide Suicide Prevention Initiative, a joint effort of the DHSS and the Council. The four (4) year extension will allow these projects to become embedded in our statewide strategy and to develop sustainability of community/regional efforts.

In response to the other two recommendations, again we are in agreement with the findings and recommendation, with the following comments and suggestions.

Recommendation No. 1:

The Statewide Suicide Prevention Council should, in accordance with statues, appoint its own coordinator and perform annual performance reviews.
With the change in location of the SSPC to the Division of Behavioral Health, and the departure of Kathryn Craft as Coordinator, interim decisions were made with minimal input from the council. One decision was to have two current Behavioral Health staff share the role of providing support to the council. L. Diane Casto, Section Manager and James Gallanos, Project Coordinator, are currently sharing the task of providing staff support to the council. It was never the intent that these two staff would be the Council Coordinator, but would be available to provide support and guidance as requested from Council Chairperson Brenda Moore.

Due to limited funding, there are not enough funds for a full-time coordinator, and in fact, Ms. Craft provided approximately .25 FTE services to the council. At the most recent SSPC meeting in September, and again during a November telephonic executive work session of the council , it was decided that the personnel money available in the SSPC budget will be used to hire a . 50 FTE Project Assistant, hired by the council, to provide day-to-day support. We are beginning the process to reclass the current Position Control Number (PCN) previously assigned to Ms. Craft. Once completed, we will begin the solicitation and hiring process, with input and direction from the council. The position will be located in the Juneau offices of the Division of Behavioral Health.

We also support the audit recommendation for the council to conduct annual evaluations of the council staff person and will provide assistance as requested.

Recommendation No. 2:

The legislature should consider modifying the composition of council membership.

As stated in the audit, there have been "excessive vacancies on the council and significant absences by council members at its meetings. "In addition, it is noted that "those being appointed to the council did not always meet the statutory qualifications for the position." We agree with both of these conclusions and support the recommendation to consider modifying the composition of the council membership.

In July, when the SSPC came into the Division of Behavioral Health, section of Prevention & Early Intervention Services, Ms. Casto began a dialogue with the Director of Boards and Commissions about the current vacancies and how best to recruit and/or encourage applications to fill these positions. Through this process, it became evident that the current membership did not directly meet the statutory qualifications for council membership. Discussions with the office of Boards and Commissions continue with DBH staff to make sure vacant positions are

filled in a timely manner and that applicants meet the statutory requirements. The office of Boards and Commissions is currently reviewing a number of applications for SSPC membership.

In addition, at the September meeting of the SSPC, there was a discussion about these current qualifications or categories of representation, and the council agrees that some modifying of the council composition would be beneficial. Providing more flexibility and broader definitions (i.e. expanding a secondary school counselor to a school counselor or K-12 school personnel) would allow for a larger pool of potential candidates.

Another area that has concerned the council is the large number of legislators required as council members. While the council is not concerned with having legislative representation and in fact supports their membership, it is difficult for legislators to be available for meetings, creating difficulty having a quorum for conducting council business. As reported in the audit, legislative members have attended meeting 15% of the time over the last 4 years.

With the challenges the current statutory qualifications have created, the DHSS supports the recommendation to modify the membership and, upon request, will work with the council to develop broader and more flexible categories of representation for possible legislative action.

I want to thank you for the opportunity to review and respond to the preliminary audit report. We support the work of the Legislative Audit team, and believe your recommendations will strengthen the Statewide Suicide Prevention Council, the collaboration with Behavioral Health, and the council outcomes.

Please do not hesitate to contact me if you have questions or would like additional information.

Sincerely,

William H. Hogan
Commissioner

cc: Melissa Stone, Director, Division of Behavioral Health

(Intentionally left blank)

To: Legislative Budget and Audit Committee
Division of Legislative Audit

RECEIVED
NOV 3 0 2008
LEGISLATIVE AUDIT

From: Statewide Suicide Prevention Council
Brenda Moore, Chair

Re: Department of Health and Social Services
Statewide Suicide Prevention Council, Sunset Review, November 4, 2008

November 28, 2008

Recommendation No. 1

The Statewide Suicide Prevention Council (SSPC or council) should, in accordance with statutes appoint its own coordinator and perform annual performance reviews.

During an executive session, Nov. 24, 2008, the council discussed hiring a part-time coordinator to work in conjunction with the Division of Behavioral Health, Office of Prevention and Early Intervention manager and prevention specialist that currently provides administrative support to the council. There was consensus among council members that it could develop its own goals and implementation plans with input and assistance from its current administrative support staff. A coordinator is needed to organize and carry out operational activities necessary to support the council in achieving its goals. The council determined to form a committee to review the budget and job classification in order to hire a coordinator. A performance review schedule and procedure will also be established.

Recommendation No. 2

The legislature should consider modifying the composition of council membership.

The council is in agreement with the recommendation to broaden the qualifications of council members to ensure that appointees are interested in the work of the council and can make the time commitment necessary to serve. In addition the council agrees to the recommendation that consideration should be made to making legislative members non-voting to prevent potential quorum issues.

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Bill 123

"An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date."

House Bill 123 extends the termination date of the Statewide Suicide Prevention Council to June 30, 2013. Suicide is a very serious public health concern in Alaska, particularly among young males and the Alaska native population. Extension of the Statewide Suicide Prevention Council is important in curtailing this avoidable loss of life. The mission of the Statewide Suicide Prevention Council is to advise the governor and the legislature on issues relating to suicide. In collaboration with communities, faith-based organizations, and public-private entities, the Council works to improve the health and wellness of Alaskans by reducing suicide and its effect on individuals and communities.

By statute the Statewide Suicide Prevention Council consists of 15 members, 11 appointed by the governor and four by the Legislature. The governor appoints two executive branch state employees; one member of the Advisory Board on Alcoholism and Drug Abuse; one member of the Alaska Mental Health Board; a designee from the Alaska Federation of Natives, Inc.; a counselor in a secondary school; an adult active in a statewide youth organization; a person who has experienced a family member's death by suicide; one person who resides in a rural community not connected by a road or Alaska marine highway to the state's main road system; a member of the clergy; and a youth under 18. The senate president appoints one majority member of the Senate; the speaker of the House appoints one majority member and one minority member of the House.

The council serves in an advisory capacity to the Legislature and governor with respect to what actions can and should be taken to improve health and wellness throughout the state by reducing suicide and its effect on individuals, families and communities; broaden the public's awareness of suicide and the risk factors related to suicide; enhance suicide prevention services and programs throughout the state; develop healthy communities through comprehensive, collaborative, community-based approaches; develop and implement a statewide suicide prevention plan; and strengthen existing and build new partnerships between public and private entities that will advance suicide prevention efforts in the state.

I urge your support on this important piece of legislation.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB123
() Publish Date:

Identifier (file name): HB123-DHSS-BHA-03-23-09
Dept. Affected: Health & Social Services
Title: Extend Suicide Prevention Council
RDU: Behavioral Health
Component: Behavioral Health Administration
Sponsor: Fairclough, Lynn, Wilson, Kerttula
Requester: House State Affairs
Component Number: 2665

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services		46.3	46.3	46.3	46.3	46.3	46.3
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**46.3**	**46.3**	**46.3**	**46.3**	**46.3**	**46.3**
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		46.3	46.3	46.3	46.3	46.3	46.3
Other Interagency Receipts							
TOTAL	**0.0**	**46.3**	**46.3**	**46.3**	**46.3**	**46.3**	**46.3**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time		0.5	0.5	0.5	0.5	0.5	0.5
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The proposed bill extends the termination date of the Statewide Suicide Prevention Council (SSPC or council) to June 30, 2013. The 0.5 FTE administrative support position, hired by the council, will continue to be assigned to the Division of Behavioral Health.

Prepared by: Melissa Stone, Director
Phone 269-3410
Division: Behavioral Health
Date/Time 3/19/09 12:00 AM

Approved by: Alison Elgee, Assistant Commissioner
DHSS Finance & Management Services
Date 3/23/2009

(Revised 9/10/2008 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB123
() Publish Date:

Identifier (file name): HB123-DHSS-SPC-03-23-09
Dept. Affected: Health & Social Services
Title: Extend Suicide Prevention Council
RDU: Behavioral Health
Component: Suicide Prevention Council
Sponsor: Fairclough, Lynn, Wilson, Kerttula
Requester: House State Affairs
Component Number: 2651

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel		35.0	35.0	35.0	35.0	35.0	35.0
Contractual		30.6	30.6	30.6	30.6	30.6	30.6
Supplies		17.2	17.2	17.2	17.2	17.2	17.2
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**82.8**	**82.8**	**82.8**	**82.8**	**82.8**	**82.8**
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		82.8	82.8	82.8	82.8	82.8	82.8
Other Interagency Receipts							
TOTAL	**0.0**	**82.8**	**82.8**	**82.8**	**82.8**	**82.8**	**82.8**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The proposed bill extends the termination date of the Statewide Suicide Prevention Council (SSPC or council) to June 30, 2013. The SSPC will continue to be assigned to the Division of Behavioral Health (DBH). The costs to DBH would include travel, contractual, and supply expenses related to the council meetings, teleconferences, presentations and suicide prevention public awareness campaigns.

Prepared by: Melissa Stone, Director
Phone 269-3410
Division: Behavioral Health
Date/Time 3/19/09 12:00 AM

Approved by: Alison Elgee, Assistant Commissioner
Date 3/23/2009
DHSS Finance & Management Services

(Revised 9/10/2008 OMB)

Fiscal Year 2007 ANNUAL REPORT TO THE LEGISLATURE

Statewide Suicide Prevention Council



Sarah Palin GOVERNOR

Karleen K. Jackson COMMISSIONER

www.hss.state.ak.us/suicideprevention

Alaska needs:

- A committed person to take initiative, a core leadership group and active volunteers
- A partnership involving multiple levels of the community
- Support from school district administrations
- A foundation of mental health, substance abuse and emergency/crisis services
- Training, knowledge of best practices and materials
- A plan with realistic goals and strategies
- Appropriate funding
- Media focus on the issue

(adapted from June 2004 Group Health Community Foundation Evaluation)

"Suicide prevention work must come from (and out of) the community."

[illegible]

RISK FACTORS THAT A PERSON MIGHT BE SUICIDAL

Talks about suicide — seriously or "just kidding."

Has attempted suicide before.

Has trouble eating or sleeping.

Prepares for death — makes out a will and final arrangements.

Gives away prized possessions.

Has had recent severe losses; lost someone to suicide

Drastic changes in behavior.

Withdraws from friends, social activities.

Loses interest in hobbies, work, school.

Takes unnecessary risks.

Loses interest or dramatic change in personal appearance.

Increases use of alcohol or drugs.

Council — Historical Overview

By statute the Statewide Suicide Prevention Council consists of 15 members, 11 appointed by the governor and four by the Legislature. The governor appoints two executive branch state employees, one member of the Advisory Board on Alcoholism and Drug Abuse, one member of the Alaska Mental Health Board, a designee from the Alaska Federation of Natives, Inc., a counselor in a secondary school, an adult active in a statewide youth organization, a person who has experienced a family member's death by suicide, one person who resides in a rural community not connected by a road or Alaska marine highway to the state's main road system, a member of the clergy, and a youth under 18. The senate president appoints one majority member of the Senate; the speaker of the House appoints one majority member and one minority member of the House.

The council serves in an advisory capacity to the Legislature and governor with respect to what actions can and should be taken to:

- improve health and wellness throughout the state by reducing suicide and its effect on individuals, families and communities;
- broaden the public's awareness of suicide and the risk factors related to suicide;
- enhance suicide prevention services and programs throughout the state;
- develop healthy communities through comprehensive, collaborative, community-based approaches;
- develop and implement a statewide suicide prevention plan; and
- strengthen existing and build new partnerships between public and private entities that will advance suicide prevention efforts in the state.

WAYS YOU CAN HELP

Be willing to listen.
Allow expression of feelings.
Accept the feelings.

Be nonjudgmental.
Don't lecture the value of life.

Don't dare someone to do it.

Don't be sworn to secrecy.
Connect with services specializing in crisis intervention.
Offer to accompany the person in need.

Pay attention when a person "just kids" about ending it all.

Offer hope that alternatives are available, but don't offer glib reassurances.

Take action. Remove means, such as guns or stockpiled pills.

Performance Measures	3
Alaska Suicides per Region	6-7
Alaska Suicide Follow Back Study	14
Alaska Suicide Information and Data	15
Council Members	back cover

Fiscal Year 2007 ANNUAL REPORT TO THE LEGISLATURE

www.hss.state.ak.us/suicideprevention

Prevention works!

Strong communities are an essential part of a successful prevention program.

Statewide Suicide Prevention Council Performance Measures — Fiscal Year 2007 Report on Activities

In response to the 2005 legislative Suicide Prevention Council sunset extension hearings, Council members drafted the following performance measures to guide their work over the next several years. These measures were chosen to respond directly to the legislative audit findings and, more important, to reflect the Council's concern with Alaska's high suicide rate.

1. In an effort to get Alaska off the national list of the "top ten" states with the highest suicide rates for the first time since 1991, the Statewide Suicide Prevention Council will partner with the Division of Behavioral Health to reduce the three-year average rate of Alaska suicides from 21 deaths per 100,000 population to 15 per 100,000, representing a 29 percent decrease from the current rate, over a seven-year period.

The three-year average rate for 2002–2004 = 21.1/100,000

21.1	x	5%	=	1.05	=	20.1 /100,000
20.1	x	5%	=	1.01	=	19.1 /100,000
19.1	x	5%	=	0.95	=	18.14 /100,000
18.14	x	5%	=	.91	=	17.23 /100,000
17.23	x	5%	=	.86	=	16.37 /100,000
16.37	x	5%	=	.82	=	15.55 /100,000
15.55	x	5%	=	.78	=	14.78 /100,000

The current three-year average Alaska suicide rate for 2003–2005 is 20.86/100,000. This is a decrease from the previous three-year average of 21.1/100,000. There were 131 suicides in 2005, giving Alaska a fatality rate of 19.7/100,000. This rate is well ahead of our scheduled decreases, but it is more accurate to rely on the three-year averages due to the annual fluctuation in rates.

2. On a yearly basis, review and update the Statewide Suicide Prevention Plan as indicated by community feedback and Council members' recommendations.

Council members are currently reviewing the Statewide Suicide Prevention Plan for revisions to be made during FY07. The FY07 version will include an introductory letter from William Martin, Council chair.

3. Through the Follow-Back Study and other data sources, consistently review data and information in an effort to identify trends, make analysis and forward recommendations to the department regarding prevention, education and services needed statewide. This information may assist in:

- understanding the suicidal mind more clearly;
- understanding who decedents thought of as gatekeepers, (i.e., who they confided in or who may have been able to recognize the ideation);
- designing new intervention and prevention programs to help suicidal individuals and suicide survivors;
- bringing new money into the state to combat suicide;
- providing a better understanding of the age groups and racial groups involved;
- discovering and providing information on risk and protective factors that can be prevented or enhanced;
- access and use of behavioral health services;
- ideation communicated to others;
- prescription medication being used; and
- recent encounters with law enforcement or medical staff.

The Alaska Injury Prevention Center (AIPC) and our research partners (American Association of Suicidology and the Critical Illness and Trauma Foundation) have collected data on suicides in Alaska from Sept. 1, 2003, through Dec. 31, 2006. A preliminary analysis of data from this three-year period has been completed and submitted to the Alaska Suicide Prevention Council. The final analysis and report of the Follow-Back Study (personal interviews) should be completed in February 2007.

The Alaska Injury Prevention Center presented the suicide data at an international suicide prevention conference in Durban, South Africa (September 2005); at the Alaska Health Summit (December 2005); for the Alaska Native Medical Center, Southcentral Foundation, and to several other small groups. The Follow-Back Study and data were instrumental in the formation of the Mat-Su Valley survivors group. Limited data from the study have been made available to Native health corporations for grant requests, to police chaplains, and to other groups to assist in suicide prevention or coping program design.

4. Support and assist Alaskans in starting a SPAN-Alaska (Suicide Prevention Awareness Network) affiliate. This grassroots community effort enlists the support of individuals to:

- establish a group that will oversee the SPAN-Alaska affiliate by becoming a 501 (c) 3 nonprofit; draft Articles of Incorporation and bylaws;
- sign up a minimum of 150 new members; and
- develop a Survivor Support Group list,
- gather baseline data on the number of Survivor Support Groups, and
- track the increase of Survivor Support Groups.

While the grassroots community members researching the feasibility of becoming a SPAN affiliate decided not to proceed, they have continued to be active in their work toward suicide prevention and awareness and, more important, as support to other survivors of suicide. Statewide Suicide Prevention Council member Stan Tucker volunteered as liaison between the Council and these community members.

5 Support the Division of Behavioral Health in its efforts to increase the number of communities that can recognize the warning signs of suicide by tracking the number of community-based Suicide Prevention grantees that align their community suicide prevention funding with the Statewide Suicide Prevention Plan by:

- conducting eight community trainings on the use of the Statewide Suicide Prevention Plan; and
- tracking the number of trainings provided from July 1, 2005–June 30, 2006.

Progress: The Division of Behavioral Health Request for Proposals required all grantees to align their suicide prevention efforts with the Statewide Suicide Prevention Plan. At the statewide meeting for prevention grantees (September 2006), the division created a presentation on community-based planning for implementing effective strategies aligned with the statewide plan. The Council with the division has provided two trainings on use of the statewide plan and assessing community readiness for decreasing suicide and non-lethal suicidal behaviors. These trainings took place at the Full Lives Conference (April 2006) and the Rural Behavioral Health Providers Conference (June 2006).

6 Assist the Division of Behavioral Health in its SAMHSA Garrett Lee Smith Memorial Act youth suicide prevention application, and if awarded, in its implementation.

Progress: The Council supported the state's Garrett Lee Smith Memorial Act youth suicide prevention application. Alaska's application was not awarded funding; however, some of the activities that were included in the response, such as Gatekeeper training and extending the Follow-Back Study, will continue to be funded through other avenues. It is planned to apply again at the next opportunity.

7 Provide technical assistance to Boys & Girls Clubs of Alaska statewide youth suicide prevention initiative, Project LEAD (Leadership, Education, Acceptance and Determination). Project LEAD builds protective factors in youth through academic and leadership programming, along with alcohol and substance abuse prevention programming.

Progress: Project LEAD empowers Boys & Girls Clubs Instructors to network with mental health and medical providers, school counselors, cultural leaders, churches and parents to identify and serve at-risk and in-crisis youth. In 2005, due to a lapse in essential grant funding, Project LEAD sites fell from 22 communities to 16. Prevention specialists in these communities intervened with 43 youth in crisis and tracked another 301 youth who exhibited one or more risk factors. Staff continue to seek partnership and grant support for suicide prevention efforts and continue to train front-line professionals in first-response intervention skills. Ninety-five current front-line employees are trained in suicide intervention and prevention.

The Suicide Prevention Council provides technical support to the program via research and best practice updates and referral resources, and training and conference opportunities. In April 2005, the Council sponsored the Project LEAD Coordinator's travel and registration to the National Suicide Prevention and Awareness Conference in Seattle, Wash.; and at the Council's recommendation, Boys & Girls Clubs Director of Staff Development received training and certification as a Gatekeeper Trainer.

8 Gather data from the Division of Behavioral Health on the Substance Abuse and Mental Health Services-funded Gatekeeper Training:

- number of trainings held; and
- number of attendees.

(continued on page 8)

Alaska

Suicides per 100,000 per Region for the last ten years

RATE	REGION
More than 70	Northwest Arctic Nome Census area
50–70	Wade Hampton Bethel Census area
30–50	North Slope Borough Dillingham Bristol Bay Lake Borough Peninsula Borough
Less than 30	Kodiak Island Aleutians Mat-Su Borough Anchorage Kenai Peninsula Valdez-Cordova Census area Fairbanks Southeast Fairbanks Denali Yukon-Koyokuk Census area Southeast

KEY TO NUMBERS ON THE MAP

00.0 RATE PER 100,000

(0) REGIONAL COUNT

71.7
(65)

55.3
(126)

10.9
(10)

Suicides (and numbers) per Region

1996-2005

STATEWIDE TOTALS

20.5

(1256) TOTAL COUNT

44.8
(33)

71.5
(50)

21.5
(202)

17.3
(616)

16.4
(19)

13.7
(98)

31.3
(21)

12.3
(16)

www.hss.state.ak.us/suicideprevention

SSPC Performance Measures *(continued from page 5)*

Progress. From Oct. 1, 2005, to Sept. 30, 2006, implementation of Targeted Gatekeeper Training of Trainers (TOT) was completed. Phase II was completed in July 2006. Following the regional TOT's there was a follow-up meeting for all gatekeeper trainers in August to allow them to meet each other, share what is working, and discuss ideas for further expansion of the gatekeeper training program. The trainers have a listserve that enhances their ability to share and support one another.

TABLE ONE Targeted Gatekeeper Testing of Trainers Sessions

SCHEDULED FOR 2007	LOCATION	TARGET AUDIENCE	NUMBER OF PARTICIPANTS
April 21	Anchorage	Northern	7
April 21	Anchorage	Southcentral	8
April 21	Anchorage	Southeastern	8
April 21	Anchorage	Statewide	18

The Statewide Suicide Prevention Council Board members set performance measures for themselves to help them stay involved in spreading the word about the work of the Council. Some of the effort is represented above. The Statewide Suicide Prevention Plan was presented at numerous conferences, health fairs, and health entity gatherings. Board members also participated in talking to their legislators, chairing committee meetings, submitting letters to the editor and participating in suicide awareness efforts in a variety of settings. See Table Two.

TABLE TWO Council Members' Performance Measures

SCHEDULED TASKS	ACCOMPLISHED TASKS
1. Present statewide suicide prevention plan in two public venues.	★★★★★★★ ★★★★★★ ★★★★
2. Submit two digital photographs and one written article of member or constituent activity relevant to suicide prevention awareness of activities for the legislative report.	★★★★
3. Arrange and attend at least two meetings with legislators, other than council members who are legislators, to discuss the Council's mission, activities and performance measures.	★★★★★★★
4. Submit one Letter to the Editor to a newspaper of member choice addressing suicide prevention awareness and Council activities.	★★★
5. Demonstrate meaningful participation in a statewide or worldwide suicide prevention effort (i.e., Worldwide Suicide Prevention Awareness Day, Sept. 10).	★★★★
6. The above items may be substituted for leadership on a significant Council priority/project that impacts the visibility, longevity and/or financial sustainability of the Council.	★★

The Council has various suicide prevention material available free of charge. Please contact Kathy Craft at

Kathryn_Craft@health.state.ak.us

if you would like to receive items that are available.

- Posters
- Pens
- Magnets
- Statewide Suicide Prevention Plans
- Annual Reports
- You KNOW Me Posters
- Ramy Brooks trading cards
- Statewide Resource Guides
- Radio Public Service Announcements on CD
- Ramy Brooks DVD with Study Guide
- McDowell Report on the Economic Costs of Alcohol and Other Drug Abuse in Alaska, 2005 Update.

"You KNOW Me," The Alaska Mental Health Trust Authority's coordinated communication campaign, has used print, radio, and television announcements to reduce stigma and increase awareness that treatment works. The Trust also provided the Statewide Suicide Prevention Council with funds to continue statewide suicide prevention and awareness focus through their coordinated communications and advocacy work.

- The Trust's daily Web site activity has significantly increased from the year prior to the campaign. Average daily visits are up 50 percent, and page views up 31 percent.
- Calls to the Statewide Suicide Prevention toll-free Careline (877-266-HELP) increase when the number appears in print ads. In some months, calls have gone up from 300 to 400, coming from all over the state.
- We suspect that there is similar activity on local 24-hour hotlines. (Because the lines are run by volunteers, reports are sporadic.)

Fiscal 2007 Statewide Suicide Prevention Council Highlights and Accomplishments

"Live Your Dream" — Youth Prevention Focus

As part of the Live Your Dream campaign, silicone bracelets with the message "Live Your Dream" have been distributed free of charge to Alaska middle and high school youth. The positive outer message links to a resource on the inside — "To talk, call 1-877-266-HELP." The bracelets are given to schools accompanied by a letter giving ideas of prevention activities such as:

Government/Tribal

- Declare a Suicide Prevention Awareness Day or Week; the national Yellow Ribbon Week is in September each year.
- Host a communitywide scavenger hunt for protective factors (i.e., Youth embark with a "Prevention Passport" and receive stamps from elders, health professionals, coaches, school officials, clergy and businesses).
- Encourage local businesses, schools and community agencies to give discounts or free items to youth wearing their bracelets during that week/day.

Schools/Youth Agencies

- Ask the high school students to arrange activities or an assembly to discuss suicide prevention.
- Hold a "Life" cereal-eating contest for the younger students.
- Organize a "Life" board game tournament.
- Create a banner "Celebrating Life" with pictures of friends/families involved in healthy activities/hobbies.

Parents/Clergy

- Coordinate a "Celebration of Life" event with musicians/bands, dance, art, poetry readings/slams, or photography exhibits that support prevention.
- Hold a community/family night with activities and information about prevention and have bracelets available.

Signs of Suicide Curriculum
Evidenced-Based Model Program

The Signs of Suicide (SOS) curriculum is rated by the Substance Abuse and Mental Health Services Administration as an evidence-based Model Program. The goal of the SOS program is to teach students the action steps — ACT (Acknowledge, Care and Tell). ACT helps students develop instinctual and familiar skills to respond to signs of suicide. SOS is a school-based program that offers a curriculum to raise awareness of suicide and its related issues combined with a brief screening for depression and other risk factors. This enables students to recognize depression and suicidal thoughts and behaviors in themselves and others, and prompts them to seek assistance.

The Council has 10 copies of the SOS curriculum, five for middle-school and five for high-school ages, available for distribution to selected communities that can demonstrate they are open to the issue of suicide prevention. This is assessed by a community readiness survey, through a planning team supporting this strategy, and through letters of support from key community members who will be able to continue to offer their support through the first two years of implementation.

Because ACT enables students to better recognize depression and suicidal thoughts, each applicant must also document the availability of an on-site referral system for students who need and ask for assistance.

Where Do We Go From Here?

We believe that every Alaskan should understand that while suicide is a problem, there is something that can be done about it.

To enhance public awareness...children as young as sixth grade should be taught to recognize the warning signs for depression and suicide. They need to know how to help a friend who is exhibiting signs, and the resources for help.

Parents need to know about community resources and should be encouraged to push through obstacles to asking for help.

Clergy, community leaders, first responders, teachers and school personnel need to develop crisis plans that encourage staff to respond to suicidal behavior.

To enhance skills and knowledge of gatekeepers...all educators, physicians and health care providers need to be trained to ask directly about suicidal thoughts.

To enhance community-based safety nets... community members need to address the stigma associated with mental illness, substance use disorders and increase the accessibility of crisis resources. Communities should also support funding for community day and evening programs that provide meaningful activities.

Division of Behavioral Health Corner

The Statewide Suicide Prevention Council (SSPC), in partnership with the DBH Section of Prevention & Early Intervention Services, has targeted the reduction of suicide and non-lethal suicidal behaviors in Alaska's communities as one of its long-term outcomes. In FY06, DBH offered a three-year funding opportunity, which combined the Community-Based Suicide Prevention Program with Substance Abuse Prevention funds, FASD funding, and Youth Resiliency funds to reflect an integrated approach to these services. In all, 25 communities received funding under the umbrella of suicide prevention programming. The overall goal for all grantees is "To Promote a Healthy Community Utilizing Effective Practices and Partnerships." Grantee communities receive ongoing technical assistance in implementing effective practices and outcomes measurements to achieve one of three long-term community impacts by:

reducing the harmful effects of substance abuse in one or more communities;

reducing incidents of suicide and nonlethal suicidal behaviors in one or more communities; and/or

increasing community members' connectedness, resiliency and life skills in one or more communities.

Together, the Statewide Suicide Prevention Council and DBH trained grantees on the Statewide Suicide Prevention Plan, which they incorporated in their programmatic goals, and provided an update of the Gatekeeper Suicide Prevention Training (to be completed by September 2006).

During fiscal year 2006, a total of 65,268 contacts were made through our community-based suicide prevention grantees. Nineteen of the programs delivered activities at the universal level of prevention (focusing on the entire population) and six programs focused activities at a selective level (focusing on populations indicated at high risk).

Using the federal Center for Substance Abuse Prevention's six prevention strategies, DBH suicide prevention grantees employed the following strategies:

five used dissemination of information;
14 used prevention education;
19 used alternative activities;
12 used community-based practices;
two used environmental approaches; and
five used identification and referral.

We celebrate our program's success with our grantees in their community:

"Alternative activities with the coordinator/ mentor have taken place, resulting in increased sobriety and outdoor cultural skills acquisition (men and boys are learning trapping and other related skills). Participants are in a positive, alcohol- and drug-free setting and are mutually supporting each other at the same time."

"The verbal feedback from Council members, community members, participants of the activities and the elders have all been positive and they are happy that there is a place to go to do these important cultural and community enhancing activities."

Partners in Prevention

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE

AND

THE ALASKA MENTAL HEALTH BOARD

In helping Alaskans stay healthy and free from self-harm, the State Suicide Prevention Council has a partnership with other behavioral health agencies — including the Alaska Mental Health Board (AMHB) and the Advisory Board on Alcoholism and Substance Abuse (ABADA).

Why are AMHB and ABADA partners in suicide prevention?

According to an October 2006 report by the World Health Organization (WHO), more than 90 percent of all individuals with completed suicides also had depression, schizophrenia, or alcoholism — or some combination of mental health and substance abuse problems. The WHO looked at completed suicide in 14 countries and found that, in the most rural countries (or, as in Alaska, the most rural regions of a state or country), around 80 percent of individuals with serious behavioral health challenges had not received treatment in the year before the suicide. The WHO Acting Director, Anders Nordstroem, said, "All too often, suicide represents a tragic consequence of failing to diagnose and treat serious mental illness."

The mission of both the AMHB and ABADA is to plan, educate, coordinate, evaluate, and advocate for adequate mental health and substance abuse services for all Alaskans. These services should include early intervention and effective treatments for individuals with depression and alcohol abuse, particularly with the most vulnerable Alaskans, who are often our youth in rural areas.

The WHO report on suicide worldwide points to the same challenges the SSPC, AMHB, and ABADA face — although a great deal is known about how to effectively help individuals with depression and substance abuse, there are gaps in treatment availability and resources. But through partnerships, such as the SSPC has with AMHB and ABADA, Alaskans can strive to reduce rates of suicide, a preventable form of death, by improving mental health and substance abuse services to vulnerable Alaskans.

Alaska Suicide Follow-Back Study — Alaska Injury Prevention Center

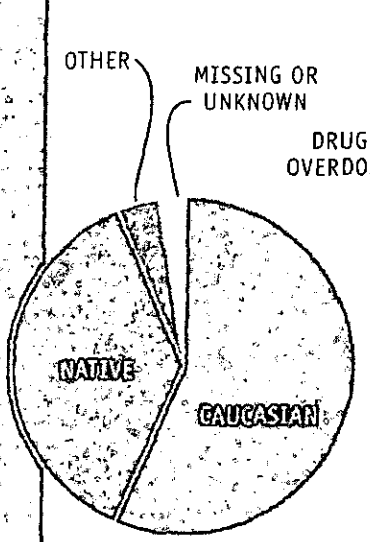
September 1, 2003 through August 31, 2006

In three years of collected data, there were 426 suicide deaths in Alaska as reported by the state Medical Examiners Office for an annual average of 142 deaths. Of those 426 suicides:

88 were female, 338 were male;
58 were younger than 20;
120 were in their 20s;
77 were in their 30s;
86 were in their 40s;
50 in their 50s; and
35 were 60 or older.

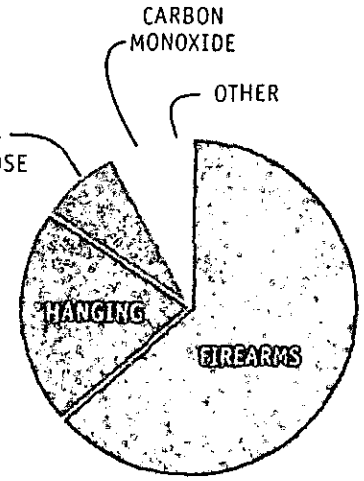
To date, 70 follow-back interviews have been completed with some still in process. Analysis of all the interview data will be completed in Spring of 2007, and the richer research information from the interviews will be analyzed and available.

The three years of suicide data that we have compiled for deaths taking place between Sept. 2003–Aug. 2006 in Alaska include (not all data are finalized):



ETHNIC DEMOGRAPHICS

241 Caucasian
158 Native
17 Other
10 Missing or Unknown

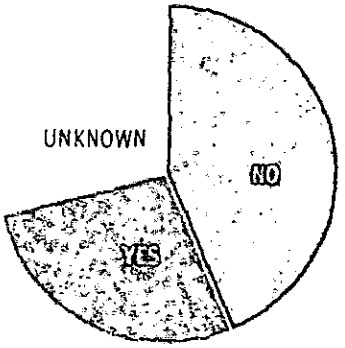


METHOD OF SUICIDE

270 Firearms
90 Hanging
34 Drug Overdose
12 Carbon Monoxide
20 Other methods

ALCOHOL OR DRUGS INVOLVED

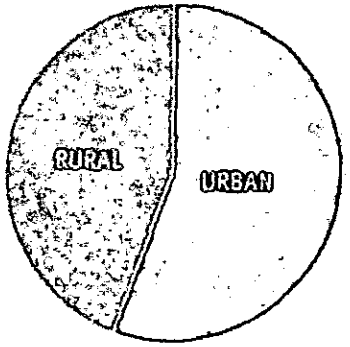
122 No
186 Yes
118 Unknown



LOCATION OF DEATH

237 Urban
55% of cases and 54% of population

189 Rural
45% of cases and 46% of population

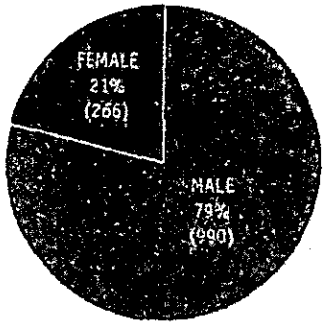


Alaska Suicide Information and Data

From the Department of Health and Human Service's Bureau of Vital Statistics

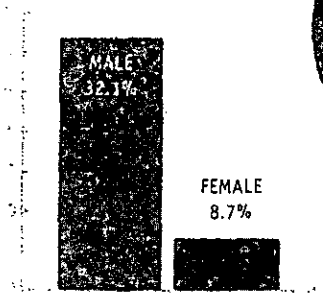
ALASKA SUICIDE BY SEX

1996-2005



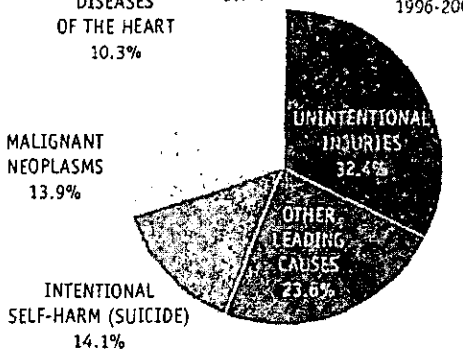
ALASKA AGE-AJUSTED SUICIDE RATES BY SEX

1996-2005



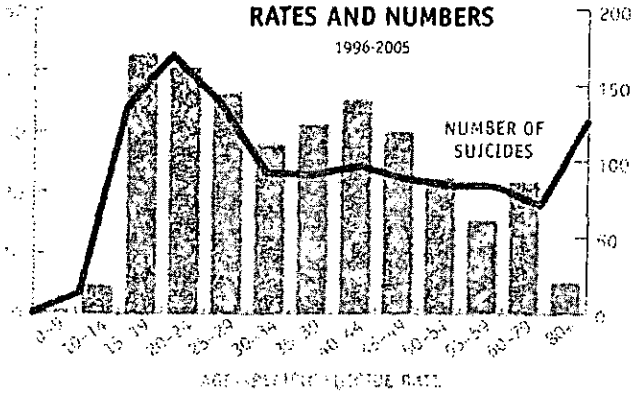
ALASKAN YEARS OF POTENTIAL LIFE LOST BY LEADING CAUSE OF DEATH

1996-2005

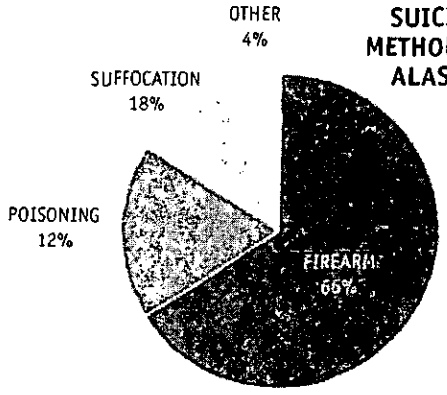


ALASKA AGE-SPECIFIC SUICIDE RATES AND NUMBERS

1996-2005

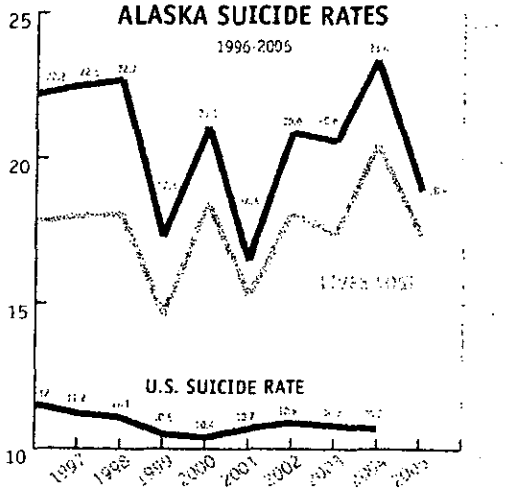


SUICIDE METHODS IN ALASKA



ALASKA SUICIDE RATES

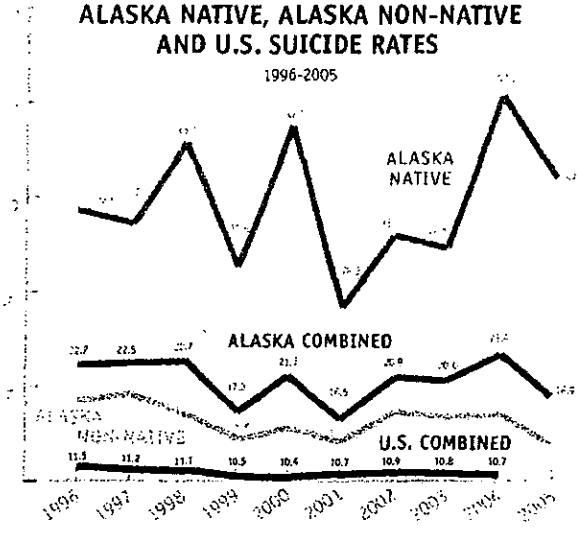
1996-2005



Rates are age-adjusted per 100,000 population
* The Alaska rate and lives lost rate for 2005 are preliminary.
** US rate for 2004 is preliminary and the US rate for 2005 is unavailable at the time of publication.

ALASKA NATIVE, ALASKA NON-NATIVE AND U.S. SUICIDE RATES

1996-2005



Rates are age-adjusted per 100,000 population
* The Alaska rate for 2005 is preliminary.
** US rate for 2004 is preliminary and the US rate for 2005 is unavailable at the time of publication.

www.hss.state.ak.us/suicideprevention

Suicide Prevention Council

William Martin
Mario Gatto
Noelle Hardt
Stan Tucker
Charles Jones
Brenda Moore
Arthur Hansen, DDS
Bill Hogan
Renee Gayhart
Sen. Ben Stevens
Sen. Kim Elton
Rep. Nancy Dahlstrom
Rep. Woodie Salmon
Mandee Collins
Hilma Kameroff

Kathy Craft

Scheduled Meetings

September 20, 2006 Statewide Teleconference
November 6-7, 2006 Anchorage
February 12-13, 2007 Juneau
April 30-May 1, 2007 Kotzebue

Alaska (Statewide) Suicide Prevention **Careline** 1-877-266-HELP (4357)
Fairbanks Suicide Prevention **Careline** 452-4357
National **Lifeline** 1-800-273-TALK (8255)

www.hss.state.ak.us/suicideprevention

Alaska State Legislature

Representative Anna Fairclough – House District 17

MEMORANDUM

Date: March 19, 2009

To: Representative Lynn
Chair

From: Representative Anna Fairclough

Re: HB 123 "An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date."

I am requesting a hearing for HB 123 "An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date." I have attached relevant materials and back-up for your committee.

Thank you in advance for your consideration.

Attachments:
I. Sponsor Statement
II. HB 123
III. Backup Documentation

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

HB 128

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

SPONSOR STATEMENT
HB 128: INTRODUCTION OF MEASURES/FISCAL NOTES

"An Act relating to introduction of measures and to fiscal notes for measures."

HB 128 amends AS 24.08.035 relating to fiscal notes on bills by permitting the prime sponsor, or all joint prime sponsors working together, to prepare and submit fiscal notes to the committee of first referral or the finance committee. HB 128 also adds the requirements that the names of all joint prime sponsors appear on a fiscal note, and that each joint prime sponsor receive a copy of fiscal notes.

HB 128 amends AS 24.08.050 relating to prefiling of bills and resolutions by permitting a group of the members of a house or members-elect to request a measure to prefile as joint prime sponsors; this is consistent with the Manual of Legislative Drafting.

HB 128 amends AS 24.08.060 relating to introduction of bills by permitting a group of members to introduce a measure, and changing all reference of "bills" to "measures" to include both bills and resolutions.

Please contact Ted Madsen at 465-2840 with any questions.

LEGAL SERVICES

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

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

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

MEMORANDUM April 4, 2009

SUBJECT: Introduction of measures and fiscal notes; sectional summary (HB 128; Work Order No. 26-LS0401\R)

TO: Representative Max Gruenberg
Attn: Allison Laffen

FROM: Tamara Brandt Cook
Director TBC

Sec. 1. Permits prime sponsors and joint prime sponsors acting together to submit fiscal notes. An alternative would be to permit each joint prime sponsor to submit a fiscal note.

Sec. 2. Adds to the requirement that the prime sponsors name appear on a fiscal note, the requirement that the names of the joint prime sponsors appear.

Sec. 4. Permits a group of the members of a house or members-elect to request a measure to prefile as joint prime sponsors. Joint prime sponsors are permitted now for prefiled bills under the Manual of Legislative Drafting.

Sec. 5. Permits a group of members to introduce a measure. References to "bills" are changed to "measures" to include both bills and resolutions. This will clearly allow the governor to introduce resolutions as well as bills.

TBC:lmb
09-026.lmb

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.

House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

EXPLANATION OF AMENDMENT

- Amendment 26-LS0401\R.1 permits each joint prime sponsor to prepare and submit a fiscal note. This is a change from the current bill language, which permits a prime sponsor or all joint prime sponsors acting together to prepare and submit a fiscal note.

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 128

Page 1, line 4, following "**prime**":

Insert "**sponsor or a joint prime**"

Page 1, line 5:

Delete "**, or all joint prime sponsors acting together,**"

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

TO: Representative Bob Lynn

FROM: Representative Max F. Gruenberg, Jr.

DATE: March 2, 2009

RE: HB 128: Introduction of Measures/Fiscal Notes

****

Please consider this memorandum as a request for the House Judiciary Committee to schedule a hearing on HB128. Accompanying this memo are the following documents:

- HB128 – 26-LS0401\R
- Sponsor Statement
- Sectional Analysis

Thank you for considering my request for a hearing on HB128.

HB 136

HOUSE COMMITTEE REPC T

(7)

Date Referred to Committee: February 16, 2009 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-10-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 136**

"An Act limiting the release of certain information concerning certain public employees or officials."

HB 136 PUBLIC RECORDS EXCEPTIONS

Recommends it be replaced with [ ] HCS *or* [X] CS for HB136 (STA)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Public Safety				X
Nat. Resources				X

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson				X
Paul Seaton	Seaton				X
Mary Greenberg	Greenberg				–
Pete Petersen	Petersen				X
Chair: Lynn	LYNN	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re HB 136 - PUBLIC RECORDS EXCEPTIONS

3/10/09

HB 136 (26-LS0574\E) passed out of the House State Affairs Committee this morning amended. Please draft a final CS with the following changes:

Amendment #1 (Seaton)
Delete Section 1

Revisor's notes. — In 1981, in subsection (b), the words "a political subdivision" were substituted for "any local government".

Sec. 18.65.285. Municipal correctional employees. A municipality that employs persons in a municipal correctional facility may, by ordinance, require that those persons meet the requirements of AS 18.65.130 — 18.65.290 that are applicable to municipal correctional officers. (§ 7 ch 112 SLA 1988; am § 8 ch 126 SLA 1998)

Revisor's notes. — Enacted as AS 18.65.280(c). Renumbered in 1988.

Effect of amendments. — The 1998 amendment, effective September 21, 1998, inserted "municipal" near the end.

Sec. 18.65.290. Definitions. In AS 18.65.130 — 18.65.290,

(1) "chief administrative officer" means a chief of police or other official who is head of a police department in a political subdivision;

(2) "correctional facility" means a prison or jail owned, leased, or operated by the state that is designated by the commissioner of corrections for the custody, care, security, control, and discipline of prisoners;

(3) "correctional officer" means a person

(A) appointed by the commissioner of corrections whose primary duty under AS 33.30 is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; or

(B) employed in a correctional facility in this state whose primary duty is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses or held under authority of law;

(4) "council" means the Alaska Police Standards Council;

(5) "municipal correctional officer" means a person who is employed full-time in a municipal correctional facility whose primary duty is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses or held under authority of law; and the municipality has adopted an ordinance under AS 18.65.285 making AS 18.65.130 — 18.65.290 applicable;

(6) "parole officer" means a person appointed by the commissioner of corrections or employed by a correctional facility in this state to perform the duties of supervising the parole of prisoners under AS 33.16;

(7) "police officer" means

(A) a full-time employee of the state or a municipal police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations, and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace;

(B) an officer or employee of the Department of Transportation and Public Facilities who is stationed at an international airport and has been designated to have the general police powers authorized under AS 02.15.230(a);

(C) a University of Alaska public safety officer with general police powers authorized under AS 14.40.043;

(8) "probation officer" means a person appointed by the commissioner of corrections or employed by a correctional facility in this state to perform the duties of a probation officer under AS 33.05. (§ 1 ch 178 SLA 1972; am §§ 10, 11 ch 19 SLA 1981; am § 8 ch 112 SLA 1988; am § 1 ch 71 SLA 1989; am § 2 ch 107 SLA 1992; am § 2 ch 10 SLA 1998; am § 9 ch 126 SLA 1998; am §§ 1 — 4 ch 160 SLA 2004)

Revisor's notes. — Reorganized in 1986, 1988, and 1998 to alphabetize the defined terms. Paragraph (2) was enacted in 2004 as paragraph (8) and renumbered in 2004, at which time paragraphs (2)-(7) were renumbered as (3)-(8).

Effect of amendments. — The first 1998 amendment, effective April 14, 1998, in subparagraph (7)(A) [formerly (6)(A)], substituted "municipal" for "local" near the beginning and deleted "carry a concealed weapon" following "evidence of a crime" near the end.

The second 1998 amendment, effective September 21, 1998, added paragraph (5) [formerly (4)].

The 2004 amendment, effective July 23, 2004, added paragraph (8) [now (2)], added paragraph (2)(B) [now (3)(B)] and made related changes, and inserted "or employed by a correctional facility in this state" in paragraphs (5) and (7) [now paragraphs (6) and (8)].

Legislative history reports. — For Senate letter of intent in connection with the amendment to (5) (now (6)) of this section by § 1, ch. 71, SLA 1989 (SSSB 110), see 1989 Senate Journal 602.

Opinions of attorney general. — To be a police officer within the meaning of this statute, an officer must be currently working full time for a police department, that is an organized civil force whose basic purpose and function is to maintain peace and order and to prevent and investigate criminal offenses. September 18, 1977 Op. Att'y Gen.

As applied to the coverage of AS 18.65.130 — 18.65.290, the term "police officer" is more restrictively defined than the definition in AS 01.10.060 to include all those full-time employees of police departments administered by the state or one of its political subdivisions, who have full police duties and the authority to enforce all of the laws of the State of Alaska which carry a penalty for their violation. September 18, 1977 Op. Att'y Gen.

Comparing the classification of "peace officer" in AS 01.10.060 with that of "police officer," it is apparent that police officers, as defined in paragraph (3) [now paragraph (7)], are always peace officers since they have full police duties that are exercised on a full-time basis. However, the converse of this proposition can never be the case; that is, peace officer status does not automatically vest one with the status of a police officer since peace officers are not necessarily employees of a police department and do not necessarily have the power to enforce all the penal, traffic or highway laws of the state. September 18, 1977 Op. Att'y Gen.

Most Village Public Safety Officers and Village Police Officers are not "police officers" under the definition in paragraph (3) [now paragraph (7)]. Whether an individual officer is subject to regulation by the Alaska Police Standards Council depends upon the circumstances of his or her employment and has to be determined on a case-by-case basis. July 1, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

Youth counselors at McLaughlin Youth Center are not "correctional officers" within the meaning of paragraph (3) [formerly (2)], but the term "correctional officer" formerly used in AS 12.55.125(c)(2) encompassed the youth counselors at McLaughlin. Wilson v. State, 967 P.2d 98 (Alaska Ct. App. 1998).

Applied in Clark v. State, 738 P.2d 772 (Alaska Ct. App. 1987).

Quoted in Alaska Inter-Tribal Council v. State, 110 P.3d 947 (Alaska 2005).

Article 3. Identification Cards.

Section	
310.	Identification cards
311.	Anatomical gift
320.	Cancellation of identification card
330.	Definition

Sec. 18.65.310. Identification cards. (a) Upon payment of a $15 fee, the department shall issue a card identical to the motor vehicle operator's license provided for in AS 28.15.111, except that the card shall be of a different color and shall state in bold type letters across the face of it that it is for identification purposes only.

(b) A person may obtain an identification card provided for in (a) of this section by applying to the department on forms and in the manner prescribed by the department.

(c) Any person who knowingly makes a fraudulent written statement or application for an identification card concerning age, race, sex, or other identifying characteristics as required by the department is guilty of a misdemeanor.

(d) It is a misdemeanor for any person to possess, use, produce, or manufacture a fraudulent identification card.

(e) It is a misdemeanor for a person to allow an identification card issued to that person to be used by any other person.

(f) A person who violates (c), (d), or (e) of this section is guilty of a misdemeanor punishable by a fine of $500 or 60 days in jail, or both.

(g) If the person applying for the identification card provided for in (a) of this section is 60 years of age or older, charge may not be made for issuance of the card.

(h) The department shall cancel the identification card of a person on whom a restriction has been imposed under AS 04.16.160 unless the person's identification card

contains the information
subsection remains in effec
from purchasing alcoholic b

(i) The department shall
applicant who is restricted
the same manner required
received a marked identific
card when the period of res

(j) The department shall
card under (i) of this section
59 SLA 1982; am § 1 ch 50
2002; am § 26 ch 24 SLA 2

Cross references. — For legisl
intent regarding the 2002 amendr
section, see § 1, ch. 63, SLA 2002,
porary and Special Acts.

Effect of amendments. — The

Sec. 18.65.311. Anatom
time that an identification
anatomical gift under AS 1
holder may cancel the gift.

(b) An employee of the de
other than an application re
applicant wishes to execute
posters and brochures in the
requested, make known to th
an anatomical gift under AS
identification card in writing
the gift is made with the reg
the identification card to a d
shall also direct the applican
under AS 13.50.140 if the ic
revoked under AS 13.52.183.
13.50.100 — 13.50.190. (§ 7 c
1997; am § 4 ch 68 SLA 200

Revisor's notes. — In 2004, in su
13.52" was substituted for "AS 13.5
anatomical gift in a living will unde
"AS 13.52.170" was substituted for "
order to reconcile chs. 68 and 83, SL

Effect of amendments. — The fi
ment, effective September 14, 2004, r
tion, which had provided for an anat
ment.

Sec. 18.65.320. Cancellat
cancel an identification card if
correct information in the pers
cation by the person or reissu

(b) A person whose identific
department. Failure to return a
cancellation is a violation puni

(2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory, or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

NOTES TO DECISIONS

Jurisdiction over divorce action. — This section does not affect the common-law rule that Alaska courts have jurisdiction over a divorce action when one of the parties is domiciled in Alaska, where "domicile" is defined as physical presence plus an intent to remain permanently. Perito v. Perito, 756 P.2d 895 (Alaska 1988).

Quoted in E.H. v. State, 23 P.3d 1186 (Alaska 2001).

Stated in State v. Andrade, 23 P.3d 58 (Alaska 2001).

Sec. 01.10.060. Definitions. (a) In the laws of the state, unless the context otherwise requires,

(1) "action" includes any matter or proceeding in a court, civil or criminal;

(2) "daytime" means the period between sunrise and sunset;

(3) "month" means a calendar month unless otherwise expressed;

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(5) "nighttime" means the period between sunset and sunrise;

(6) "oath" includes affirmation or declaration;

(7) "peace officer" means

(A) an officer of the state troopers;

(B) a member of the police force of a municipality;

(C) a village public safety officer;

(D) a regional public safety officer;

(E) a United States marshal or deputy marshal; and

(F) an officer whose duty it is to enforce and preserve the public peace;

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

(9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing.

(b) In the laws of the state, "lewd conduct," "lewd touching," "immoral conduct," "indecent conduct," and similar terms do not include the act of a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. Nothing in this subsection may be construed to authorize an act that is

an offense under AS 1
ch 117 SLA 1968; am §
1998; am § 2 ch 97 SL

Revisor's notes. — Reorg
betize the defined terms.

Cross references. — For
"peace officer", see AS 11.81.9(
officers for purposes of the Fi
AS 16.05.150; for a definition o
18.65.290; for legislative findi
enactment of subsection (b), se
in the 1998 Temporary and Sp
For legislative findings relat
ment of subsection (b), see § 1,
1998 Temporary and Special A

Effect of amendments. —
effective September 6, 1998, ad
The 2001 amendment, effec
added present subparagraph (
nated subsequent subparagrapl

Opinions of attorney gene
framework of the Alaska Statut
contemplates that for any publi
forcement officer to be consid
within the meaning of present
she must be empowered with a
duties and authority and must b
ing on essentially a full-time ba
tember 18, 1977 Op. Att'y Gen.
Law enforcement officers withi
officers" as used in present paragr
are not limited to, state trooper
protection officers and police of
police departments of incorpora
September 18, 1977 Op. Att'y Ge
Law enforcement officers with
thority with respect to specific sta
are not police officers and are not
officers either, at least within the
paragraph (7). September 18, 1977

Retirement plan interest. —
did not err in holding that a fede
attach to debtor's interest in a retire
pension plan, as such interest const
property" within the meaning of this
United States, 152 Bankr. 615 (Bank

State as "person". — Subsecti
necessarily exclude political entities
tion of "person". Accordingly, the Sta
properly considered a "person" for
struing the rule of judicial disqualifi
for in AS 22.20.020. Mustafoski v. Sta
(Alaska Ct. App. 1994).

Applied in Halligan v. State, 624 P

Sec. 01.10.065. Registere
authorized or required by th
requested, may be used. (§ 1 c

Article 3. Effe

Section
70. Time statutes become law and tak
80. Computation of time

an offense under AS 11.61.123. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985; am § 1 ch 60 SLA 1990; am § 2 ch 78 SLA 1998; am § 2 ch 97 SLA 2001)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms.

Cross references. — For additional definition of "peace officer", see AS 11.81.900(b); for listing of peace officers for purposes of the Fish and Game Code, see AS 16.05.150; for a definition of "police officer", see AS 18.65.290; for legislative findings relating to the 1998 enactment of subsection (b), see § 1, ch. 78, SLA 1998 in the 1998 Temporary and Special Acts.

For legislative findings relating to the 1998 enactment of subsection (b), see § 1, ch. 78, SLA 1998 in the 1998 Temporary and Special Acts.

Effect of amendments. — The 1998 amendment, effective September 6, 1998, added subsection (b).

The 2001 amendment, effective October 8, 2001, added present subparagraph (a)(7)(D) and redesignated subsequent subparagraphs accordingly.

Opinions of attorney general. — The statutory framework of the Alaska Statutes viewed as a whole contemplates that for any publicly employed law enforcement officer to be considered a peace officer within the meaning of present paragraph (7), he or she must be empowered with a full range of police duties and authority and must be currently functioning on essentially a full-time basis in that role. September 18, 1977 Op. Att'y Gen.

Law enforcement officers within the category "peace officers" as used in present paragraph (7) include, but are not limited to, state troopers, fish and wildlife protection officers and police officers employed by police departments of incorporated municipalities. September 18, 1977 Op. Att'y Gen.

Law enforcement officers with limited police authority with respect to specific statutes or ordinances are not police officers and are not necessarily peace officers either, at least within the meaning of present paragraph (7). September 18, 1977 Op. Att'y Gen.

Comparing the classification of "peace officer" in present paragraph (7) with that of "police officer," it is apparent that police officers, as defined in AS 18.65.290(6) [now AS 18.65.290(7)], are always peace officers since they have full police duties that are exercised on a full-time basis. However, the converse of this proposition can never be the case; that is, peace officer status does not automatically vest one with the status of a police officer since peace officers are not necessarily employees of a police department and do not necessarily have the power to enforce all the penal, traffic or highway laws of the state. September 18, 1977 Op. Att'y Gen.

Because AS 11.55.020 (now AS 11.61.220) excepts only "peace officers" from the general prohibition against carrying concealed weapons, other persons, including state employees charged with limited law enforcement duties, unless a peace officer within the meaning of present paragraph (7), may not carry concealed weapons. December 22, 1977 Op. Att'y Gen.

A comparison of the language of AS 18.65.010(b), which describes the general powers and duties of a specially commissioned officer, with that of AS 18.65.080, which describes the powers and duties of commissioned officers of the Department of Public Safety with particular reference to "member" of the state troopers, supports the conclusion that a specially commissioned officer is a "peace officer" for purposes of both subsection (7) of this section and AS 11.55.020 (now AS 11.61.220) when performing law enforcement duties within the limitations set forth on the face of a special commission and furthermore, may carry concealed weapons without violating AS 11.55.010 (now AS 11.61.220) while performing these duties to the extent permitted by the commission itself. December 22, 1977 Op. Att'y Gen.

NOTES TO DECISIONS

Retirement plan interest. — Bankruptcy court did not err in holding that a federal tax lien could attach to debtor's interest in a retirement savings and pension plan, as such interest constituted a "right of property" within the meaning of this section. Raihl v. United States, 152 Bankr. 615 (Bankr. 9th Cir. 1993).

State as "person". — Subsection (8) does not necessarily exclude political entities from the definition of "person". Accordingly, the State of Alaska was properly considered a "person" for purposes of construing the rule of judicial disqualification provided for in AS 22.20.020. Mustafoski v. State, 867 P.2d 824 (Alaska Ct. App. 1994).

Applied in Halligan v. State, 624 P.2d 281 (Alaska 1981); Clark v. State, 738 P.2d 772 (Alaska Ct. App. 1987).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, 439 P.2d 441 (Alaska 1968); Stroh v. Alaska State Hous. Auth., 459 P.2d 480 (Alaska 1968); Hull v. Alaska Fed. Sav. & Loan Ass'n, 658 P.2d 122 (Alaska 1983); Von Gemmingen v. First Nat'l Bank, 789 P.2d 353 (Alaska 1990); State, Dep't of Revenue ex rel. Gerke v. Gerke, 942 P.2d 423 (Alaska 1997).

Cited in Foltz-Nelson Architects v. Kobylk, 749 P.2d 1347 (Alaska 1988); D.H. Blattner & Sons v. N.M. Rothschild & Sons, 55 P.3d 37 (Alaska 2002).

Sec. 01.10.065. Registered mail, certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect and Effective Date of Statutes.

Section
70. Time statutes become law and take effect
80. Computation of time
90. Retrospective statutes
100. Effect of repeals or amendments

Rep. Max Gruenberg Do you know this guy?

From: Weddleton, Sharon B. [WeddletonSB@ci.anchorage.ak.us]

Sent: Saturday, March 07, 2009 6:43 PM

To: Rep. Carl Gatto; Rep. Jay Ramras; Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Bob Lynn; Rep. Max Gruenberg; Rep. Lindsey Holmes

Cc: Dana Strommen; McGee, Marty; Moore, Daniel A.; Reeves, James N.

Subject: HB 136 - An Act limiting the release of certain information concerning public employees or officials

Your Honors:

Thank you for the opportunity to supply written comments to supplant my verbal testimony in opposition of HB 136 (Bill) provided last week. Due to time constraints, I was unable to finish my verbal testimony during the committee hearing.

To reiterate and conclude my testimony, the Municipality of Anchorage (MOA) believes:

A. While the intent of the Bill is good, amendments will be needed to narrow the Bill's footprint and not inadvertently overly-burden Alaskan Cities, Boroughs and Municipalities. The MOA believes that by narrowing the Bill, most of the desired objective can still be achieved, but at substantially lower administrative cost.
   a. Only **property appraisal/tax websites** should be covered by this Bill. By restricting the Bill to property appraisal/tax websites, the "easiest" way to locate a person's home address is eliminated.
   b. If this narrowing measure is not added to the Bill, the broad wording of the bill could administratively affect many items that do not pose unreasonable risk to employees:
      i. Dispensing a pay stub to a payroll clerk for subsequent distribution
      ii. Transferring PERS information to the State
      iii. Transferring W-2 information to the IRS
      iv. Distributing levy-upon-connection rolls
      v. Publishing tax delinquency and foreclosure notices
      vi. Administering the Alaska Department of Public Safety Sex Offender/Child Kidnapper Registry
      vii. Administering COBRA benefits
      viii. Administering health insurance benefits through an employer's third party administrator
      ix. Administering an employer's 401k Plan
      x. Administering an employer's 457 Plan
      xi. Distributing professional resumes of individuals appointed to public commissions
      xii. Responding to requests for information from mortgage lenders
      xiii. Etc.

B. As discussed during the hearing, in today's internet age the idea of privacy is an illusion. This bill cannot ensure the protection of any individual. Employers should be encouraged to provide training to their employees who may be at risk so those individuals can learn how to protect their identities.

C. As currently written, the Bill would forbid Alaskan Cities, Boroughs and

Municipalities from releasing the home address of a person who is eligible and applies for confidentiality **even if the person's name was not also displayed.** (See February 23, 2009 e-mail from Erick Johnson.) In other words, the **property** would have to disappear from any public website such as an assessor's website. The MOA strongly requests that the Bill be amended to prohibit the release of the home address or telephone number of a person who is eligible and applies for confidentiality **along with** the person's **name**.

This is an extremely important point. If the Bill is amended as described, Alaskan Cities, Boroughs and Municipalities could still publish the tax records, property assessment, location, etc., but do so under a pseudo name. This is substantially superior to removing the records entirely, yet doesn't impose additional risk to the employee.

D. A **legal review** must be performed to ensure the Bill does not inadvertently violate the law. The review must, at a minimum, evaluate the following:

c. AS 40.25.110-120
d. *City of Kenai v. Kenai Peninsula Newspapers, Inc.* 642 P.2d 1316, 1323
e. *Jones v. Jennings,* 788 P.2d 732, 738
f. *Gwich'in Steering Committee v. State, Office of the Governor* 10 P.3d 572, 578
g. *Hilbers v. Municipality Of Anchorage,* 611 P.2d 31
h. *Falcon v. Public Offices Commission,* 570 P.2d 469, 479
i. AS 40.17.010-110
j. AS 40.17.030(a)(8)
k. *State v. Chryst,* 793 P.2d 538
l. *Alaska Wildlife Alliance v. Rue,* 948 P.2d 976, 980
m. *McKenzie v. Wales Township,* 635 N.W.2d 335, 337-339 (Mich. App. 2001)
n. *Patterson v. State 985 P.2d 1007*
o. *King County v. Sheehan,* 57 P.3d 307 (Wash. Ct. App. 2002)

E. To ensure applicants who desire anonymity are truly in need of anonymity, we encourage the following:

p. The Bill should require applicants provide **proof** of their status (pay stub, etc.).
q. The Bill should require applicants to **currently be employed** in a position that might place themselves or their families at risk. This would preclude an individual who briefly worked in a qualifying job out-of-state decades ago from applying not because of any true risk but rather simply because he or she desired privacy.
r. The Bill should require applicants to resubmit new forms **annually** to ensure only those who truly require anonymity are included. This is different than the Texan form supplied during the hearing, which restricted information until the applicant rescinded his or her request in writing.

F. Cities, Boroughs and Municipalities should have the opportunity to weigh in on the form that will be used by applicants.

G. To minimize the administrative burden on Cities, Boroughs and Municipalities, the State should be required to distribute an electronic list annually. Cities, Boroughs and Municipalities should only be required to **update their records annually**. As currently written, the Bill requires Cities, Boroughs and Municipalities to always maintain their databases against a live list that constantly changes. This is administratively impossible.

H. The Bill should hold Cities, Boroughs and Municipalities harmless if they make reasonable efforts to comply but inadvertently release the name or phone number of an individual who has applied for and is eligible for confidentiality.

Thank you for the opportunity to testify.

Sincerely,

Sharon Weddleton, CFO
Municipality of Anchorage
weddletonsb@muni.org

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Jay_Ramras@legis.state.ak.us
1292 Sadler Way, Suite 324
Fairbanks, AK 99701

Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Carl Gatto
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

Sponsor Statement HB 136
"An Act limiting the release of certain information concerning certain public employees or officials"

House Bill 136 will provide a mechanism for public employees and public officials to maintain the confidentiality of their personal information, which is contained in public records. The need for this bill was brought to our attention after the personal information of police officers was discovered in a methamphetamine lab raid in Fairbanks.

House Bill 136 would allow judges, police officers, employees of the Department of Corrections, elected public officials, prosecuting attorneys, and the spouses and minor children of those officials to fill out a form that would prevent their home addresses and telephone numbers from being disseminated to the public. Furthermore, the names of those officers, officials, and their family members would be removed from an assessor's database.

Alaska deserves to have the finest public safety officers and government officials. HB136 will allow those who serve their fellow citizens the peace of mind to do so knowing their families at home will not become targets of intimidation or attack.

library

26-LS0574\E
Luckhaupt
3/5/09

CS FOR HOUSE BILL NO. 136( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act limiting the release of certain information concerning certain public employees or officials."

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

* **Section 1.** AS 39.50.050(c) is amended to read:

(c) Reports filed under this chapter shall be kept on file for at least six years and are public records **except that a report received from a member of a state board or commission whose only compensation as a member of that board or commission is per diem and travel expenses under AS 39.20.180 is not a public record**.

* **Sec. 2.** AS 40.25 is amended by adding a new section to read:

Sec. 40.25.160. Limitation on disclosure of information in certain public records. (a) A public agency may not release the portions of a public record that include the home address or telephone number of a person who is eligible for confidentiality under (b) of this section and has applied for confidentiality as provided

in (c) of this section. If a public record, such as an assessor's database, is compiled or annotated by physical address or other identifying characteristic, then the name of a person who is eligible for confidentiality under (b) of this section and has applied for confidentiality as provided in (c) of this section, may not be disclosed.

(b) The following persons may request that personal information contained in the records of a public agency be kept confidential:

(1) a police officer;

(2) a correctional officer or a municipal correctional officer;

(3) a parole officer.

(c) The Department of Administration, in consultation with other departments and after notice to municipalities, shall develop a form that a person may use to apply for confidentiality under this section.

(d) In this section,

(1) "correctional officer" has the meaning given in AS 18.65.290;

(2) "municipal correctional officer" has the meaning given in AS 18.65.290;

(3) "parole officer" has the meaning given in AS 18.65.290;

(4) "police officer" has the meaning given in AS 18.65.290;

(5) "public agency" does not include the state recorder's office in the Department of Natural Resources;

(6) "public record" does not include records maintained by the state recorder's office in the Department of Natural Resources.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **CS HB136 (STA)**
() Publish Date:

Identifier (file name): HB136CS(STA)-DNR-SSD-02-27-09
Dept. Affected: Natural Resources
Title: Public Records Exceptions
RDU: Resource Development
Component: Recorders/UCC Section
Sponsor: House Judiciary Committee
Requester: H STA
Component Number: 802

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
There is no anticipated fiscal impact to the Department.

Prepared by: Vicky Backus, State Recorder
Phone 907-269-8882
Division: Support Services, Recorders/UCC Section
Date/Time February 27, 2009
Approved by: Tom Irwin, Commissioner
Date February 27, 2009
Natural Resources

(Revised 9/10/2008 OMB)

L

HB 136 Testimony

On behalf of PSEA I wish to thank Representative Ramras for introducing HB 136 and working for its passage. HB 136 provides a substantial layer of safety and peace of mind for those making it possible for Alaskans to be and feel safe in their homes and society. Across the nation police officers and their families have fallen victim to retaliatory strikes from criminals previously arrested and prosecuted.

To date, there are no known instances of such violence acted against police officers and/or their families in Alaska; but, this should never be used to justify inaction. In time we will become all too familiar with this trend if we fail to act to pre-empt these attacks. While I could review details of past lower 48 incidents, I wish to focus on personal experience and knowledge while working as an Alaska State Trooper undercover drug investigator in the Mat-Su Valley.

I have served as an Alaska State Trooper for over 18 years and spent 2.5 years investigating drug crimes on the Mat-Su Drug Task Force. While working as a patrol Trooper I took numerous offenders into custody. It was not uncommon to be subjected to repeated and graphic threats of violence against me and my family – particularly my wife. While such threats can be unnerving they pale in comparison to my experience while working on the Mat-Su Drug Task Force.

An investigation of a marijuana grower uncovered an entire ring of illegal drug producers and distributors. What started as a small investigation soon ballooned into a project involving every investigator on the Task Force. Many properties were identified and seized as the investigation culminated. During the searches numerous notes, photos, lists, and information were uncovered revealing sophistication and access to personal information available to these criminals. Found, were lists of investigator's private information including: license plate numbers of privately owned vehicles, office and home telephone numbers, names of spouses and family members, work places of spouses, home addresses and directions, notes describing spouse and family daily activities; and, photographs of private vehicles, residences, and spouses in the community. Naturally, this was very unsettling to every investigator since such information had been gathered without their knowledge. Thoughts of what could have happened had this group of criminals not been stopped were extremely upsetting. It is sure that motivations for gathering and archiving this information were not for purposes beneficial to the investigators, their families, or society.

Those who risk their lives protecting our citizens and insuring relaxed freedom of movement should be able to count on laws that provide some reciprocation. While HB 136 cannot guarantee absolute anonymity and security, it helps remove the ease of its gathering. Please display your support for those who risk all for the safety of you and your families by supporting HB 136. Thank you.

Rob Cox
PSEA President

26-LS0574\R
Luckhaupt
2/25/09

CS FOR HOUSE BILL NO. 136( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act limiting the release of certain information concerning certain public employees or officials."

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

*** Section 1.** AS 40.25 is amended by adding a new section to read:

Sec. 40.25.160. Limitation on disclosure of information in certain public records. (a) A public agency may not release the portions of a public record that include the home address or telephone number of a person who is eligible for confidentiality under (b) of this section and has applied for confidentiality as provided in (c) of this section. If a public record, such as an assessor's database, is compiled or annotated by physical address or other identifying characteristic, then the name of a person who is eligible for confidentiality under (b) of this section and has applied for confidentiality as provided in (c) of this section, may not be disclosed.

(b) The following persons may request that personal information contained in the records of a public agency be kept confidential:

(1) a justice or judge;

(2) a peace officer;

(3) an employee of the Department of Corrections or a municipal jail employee;

(4) an elected public official;

(5) a municipal or state prosecuting attorney;

(6) the spouse or minor child of a person described (1) - (5) of this subsection.

(c) The Department of Administration, in consultation with other departments and after notice to municipalities, shall develop a form that a person may use to apply for confidentiality under this section.

(d) In this section, "public agency" does not include the state recorder's office in the Department of Natural Resources, and "public record" does not include records maintained by that office.

50-284
(Rev. 08-07 3)

REQUEST FOR CONFIDENTIALITY

Appraisal district name	Date Phone *(area code and number)*
Address	

Confidentiality of home addresses of a peace officer, a county jailer, a security officer, an employee of Texas Department of Criminal Justice and a victim of family violence. Under Section 25.025, Tax Code, if you are a peace officer, county jailer, commissioned security officer, employee of the Texas Department of Criminal Justice, or a victim of family violence, you may request that information in the appraisal records identifying your home address be restricted from public access. By completing and submitting this form to the appraisal district, you are requesting the confidentiality of information identifying your home address. If you want to rescind this confidentiality request, you must do so in writing to the appraisal district.

Step 1: Name and Address To be Held Confidential

Name

Home address *(number and street)*

City, town or post office, state, ZIP code

Step 2: Qualification

- ☐ Commissioned Security Officer *(as defined by § 1702.002, Occupations Code)*
- ☐ Peace Officer (current or former), *(as defined by Article 2.12, Code of Criminal Procedure)*
- ☐ Employee of District Attorney (current or former)
- ☐ Employee of Criminal District Attorney (current or former)
- ☐ County or Municipal Attorney (current or former, whose jurisdiction includes any criminal law or child protective services matter)
- ☐ County Jailer *(as defined by § 1701.001, Occupations Code)*
- ☐ Employee, Texas Dept. of Criminal Justice
- ☐ Victim of Family Violence *(as defined by § 71.004, Family Code)*

Step 3: Property Description

Property Parcel Identification No.	Legal Description of Property

Step 4: Property Location Address

Name of Owner *(to be held confidential if property location is home address of owner making an election under Step 2)*

Property Location *(number and street)*

City, town or post office, state, ZIP code

For Appraisal District Use Only

I certify the information in this document and any information attached is true and correct to the best of my knowledge and belief.

Signature of Person Requesting Confidentiality

sign here ▶ _____

If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

By filing this document with the appraisal district, information in the appraisal records that identifies your home address will be restricted from public access until you rescind the request in writing. However, pursuant to Section 25.025, Tax Code, the information will be available for the official use of the appraisal district, the state, the comptroller, taxing units and political subdivisions of this state.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 136**
() Publish Date:

Identifier (file name): **HB136-DPS-DET-02-23-09**
Title "An act limiting the release of information concerning ... certain public employees or officals."
Sponsor Judicary
Requester House State Affairs

Public Safety
RDU Alaska State Troopers
Component AST Detachments
Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 40.25.160 by adding a new section which states that a public agency may not release certain information of qualifying public employees.

Passage of this legislation will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Division Alaska State Troopers
Approved by: Joseph Masters, Commissioner
Department of Public Safety

Phone 907-247-4480
Date/Time 2/23/09 12:12 PM
Date

(Revised 11/19/2007 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB136**
() Publish Date:

Identifier (file name): **HB136-DNR-SSD-02-23-09**
Title: Public records exceptions
Sponsor: House Judiciary Committee
Requester: H STA

Dept. Affected: Natural Resources
RDU: Resource Development
Component: Recorders/UCC Section
Component Number: 802

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	***		***	***	***	***	***
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	***		***	***	***	***	***

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

*** Indeterminate.

The Recorders Office is presently unable to predict implementation cost with any certainty. HB 136 does not wholly define the types of information to be blocked from the public record (physical address or "other identifying characteristic") and appears to contradict AS 40.17 which directs the Recorders Office to accept, preserve, and make available to the public, the permanent public record of the state of Alaska.

Prepared by: Vicky Backus, State Recorder
Division: Support Services, Recorders/UCC Section
Phone: 907-269-8882
Date/Time: February 23, 2009

Approved by: Tom Irwin, Commissioner
Natural Resources
Date: February 23, 2009

(Revised 9/10/2008 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. HB136

ANALYSIS CONTINUATION

AS 40.17.035 states the recorder may not consider the contents of a document when determining recordability. Recording is a free and voluntary act by the public to place real estate and other miscellaneous instruments in to the public record.

If the Recorders Office were required to implement this legislation, a list of qualifying individuals who have applied for and received approval for confidentiality would have to be established, monitored on a statewide basis, and computerized to ensure appropriate documents were located. We would require ALL possible name variations of the qualified individuals and the specific information required to be withheld; a computer program would have to be written that would flag any name entered into the Recorder's data base of qualifying exempt individuals. The Recorder would then have to review the documents' content to ensure no prohibited information was included (in documents prepared by someone else). Finally, if prohibited information was found on the document it would have to be redacted in order to withhold it from public viewing. (When redaction software purchasing was considered for HB 65 - Breach of Security Involving Personal Information - which passed during the 25th Legislature, the initial estimate to implement was over $1.6 million)

Additional disc storage space, perhaps up to 1 - 2 terabytes, would be required for dual systems in order to preserve the public record intact.

Public Safety Employees Association, Inc.
"Representing Alaska's Finest"

Public Safety Employees Association
Position Paper – Supporting HB 136

The Public Safety Employees Association supports passage of HB 136 to protect peace officers and their families from possible retribution for performing the tasks associated with protecting the public. HB 136 will exempt from disclosure personal information such as physical address and telephone numbers of five classifications of employees and elected officials. PSEA limits our comments to peace officers. PSEA supports including a peace officer and the spouse or minor child of a peace officer to the list eligible for confidentiality provisions contained in the bill.

A public agency may not release the portions of a public record that include the home address or telephone number of a peace officer who applies for confidentiality under HB 136. The bill requires that anyone who requests to remove personally identifiable information must submit a form requesting to be removed.

Given the nature of the work performed by peace officers and the temperament of some offenders, protecting the personal life and family of peace officers as much as possible is sensible. Peace officers are charged with the responsibility of protecting our homes, so exposing officers to unfair liability when a wrongdoer finds an officer's address in a public record is imprudent.

Access to this personal information will empower some people to use the information as a way to possibly intimidate or harass an officer or a member of the officer's family. Inhibiting an officer's ability to enforce the law could hurt law enforcement in general. Harassing comments by a lawbreaker suggesting knowledge of the officer's home, the officer's wife or the officer's children would be a disturbing revelation to the officer.

HB 136 provides some degree of confidentiality for personal information existing in some public records. PSEA appreciates the Judiciary Committee for introducing the bill and recommends it passage.

John Cyr
Executive Director
2/23/09

4300 Boniface Parkway, Suite 116, Anchorage, Alaska 99504
Phone (907) 337-1979 FAX (907) 337-1753 E-Mail psea@psea.net

HB 136 Testimony

I wish to thank PSEA and Representative Jay Ramras, House Judiciary Committee Chairman, for working together to introduce HB 136. This bill is not only important to Police Officers but anyone in public service who has arrested someone or secured them in jail for committing a crime against society. Correctional Officers, Judges, District Attorney's and Probation Officers are all at risk of retaliation against them and/or their families.

This concern is not isolated to Fairbanks, or even Alaska Law Enforcement – it is a national issue. In the lower 48 states, horrible acts of violence have been committed against Police Officers who were ambushed for retaliatory reasons while leaving their residence or returning home. Fortunately, there are no known instances of such violence being acted against police officers in Alaska; but, like all trends, it is only a matter of time unless we act to pre-empt these attacks by providing laws and methods to enhance the safety and security of our police officers and their families.

I have been in Law Enforcement in the state of Alaska for approximately 18 years. While working patrol as a State Trooper, I have received several death threats, one of which came directly into my home via the telephone. Consequently, I felt the need to change my phone number. But, this measure alone cannot provide any real degree of security. I am currently working an undercover assignment and my unit has investigated, arrested, charged, and prosecuted many serious offenders. Most cases have concluded with the offender receiving significant penalties and jail sentences. Recently, I learned that the criminals we investigate and arrest have discovered simple and easy means of obtaining police officers' personal information (i.e. the types of vehicles we drive, family vehicle license plate numbers, home addresses, home telephone numbers, spouses' workplaces, etc.) with the intent of causing harm to us and/or our families.

As undercover officers, we go to great lengths to conceal information about our identities, our office location, the vehicles we drive, and, most importantly, where we live. It is an easy task to learn our names due to court testimony and records in which we are required to state or list our names publically in the presence of defendants, witnesses, and jurors. Armed with a name only, any person with computer access and an internet connection can connect to a borough web site property data base and search the property records. By simply entering a name the searcher will find a host of information revealing a property description, location, address, structure information, and sometimes photos taken by borough appraisers. Searchers are also able to print maps with driving directions to a property. This is extremely disconcerting when I consider the vulnerability it creates for my wife and children.

Such information can also be accessed through DMV where for a few dollars one can request and receive a vehicle license plate search that will reveal a home address as well.

HB 136 is good for all Alaskans because it enhances police officers' ability to effectively perform their duties without undue concern for the safety of their families and self. Please show your support for those who risk all for the safety of you and your families by passing HB 136. Thank you.

Scott Johnson

ALASKA CORRECTIONAL OFFICERS ASSOCIATION

"Walking Alaska's Toughest Beat"

February 20, 2009

Representative Jay Ramras
State of Alaska
State Capitol, Room 412
Juneau, Alaska 99801-1182

RE: House Bill 136: PUBLIC RECORDS EXCEPTIONS

Dear Representative Ramras,

We would like to pass on our sincere appreciation for House Bill 136, an act limiting the release of certain information concerning certain public employees, specifically Correctional Officers. The Alaska Correctional Officers Association strongly supports this Bill. Inmates can use public access to obtain information on Correctional Officers. It not only jeopardizes the safety and security of the men and women who work behind bars, but their families as well.

This Legislation will correct a serious concern for, not only Correctional Officers, but all public safety employees, including fire and police. We owe our Officers our full and unconditional support. There is no reason why any public safety Officer's personal information should be available to anyone, especially an inmate. Your bill corrects this. If there is any way we can assist, please contact me at (907) 646-2262 or brad@acoa.us . We will help in any way we can.

Again, thank you.

On behalf of the members of Alaska Correctional Officers Association,

Brad Wilson
Business Manager

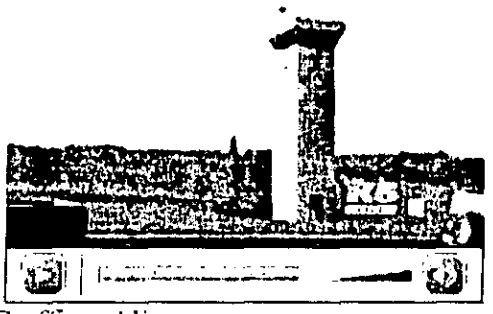
P.O. Box 210290 • Anchorage, Alaska 99521
Phone: 1 (907) 646-2262 • Fax: 1 (907) 646-2286
Website: www.acoa.us

Comments | Recommended

Prisoners prying into DOC officers' lives

06:34 PM PST on Wednesday, February 18, 2009

By ROB PIERCY / KING 5 News



Video: Prisoners prying into DOC officers' lives

Larger screen -- E-mail this clip

MONROE, Wash. - Prisoners are prying into the lives of corrections officers and using taxpayer money to do it.

It's terrifying for families and a huge burden on the Department of Corrections. Now there's a push in the Legislature to make it stop.

Janet, the wife of a corrections officer, is scared. She doesn't want KING 5 News to use her last name. Last weekend, a notice from the DOC arrived in the mail.

Joseph Simmons, a prisoner at the Monroe Correctional Complex, wants information about her husband and every other guard who works there.

"Date of birth, gender, race, date of hire, current employment job title, annual pay, pay rate, height and weight," she said.

Janet was frightened to learn that since they are government employees, a lot of that information is a matter of public record, available to convicted pedophiles, rapists and even murderers.

"What I don't understand is why an inmate is allowed to jeopardize the safety and security of hundreds of families and use the taxpayers dollars to do it," Janet said.

By no means is this a unique case. In 2007, the DOC printed out 350,000 pages of documents for prisoners. Total cost to taxpayers? More than a quarter million dollars.

"So clearly there's a group of folks who are involved in the recreational use of the public disclosure statute for the purposes of harassing and annoying the department and staff members," said John Scott Blonien, assistant secretary at the DOC.

One inmate has filed 800 requests. It's become a full-time job for a clerk who does nothing else but process that one prisoner's paperwork. It's why the Legislature is now considering a law that would limit inmate access to public records.

Janet says it would save others the fear that has gripped her family.

"I'm looking into getting a security system," Janet said. "I'm looking into several different options, because I have two small children."

Janet could join others in paying an attorney to fight the release of the records.

But there's no guarantee the records would be withheld.

HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Carl Gatto
Room 108
(907) 465-3743

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: February 17, 2009

To: Representative Bob Lynn
Chairman House State Affairs Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Hearing Request for HB 136 "An Act limiting the release of certain information concerning certain public employees or officials."

Please consider this memo as a request for the House State Affairs Committee to hear HB 136. Attached please find the following documents:

- Sponsor Statement
- HB136 (26-LS0574\A)
- Sample confidentiality form from Texas

HB 139

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: February 18, 2009 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-10-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 139**

"An Act providing for an exception to allow drivers of public utility motor vehicles to operate those vehicles with certain screen devices operating and visible to the drivers."

HB 139 ALLOW SCREEN DEVICES IN UTILITY VEHICLES

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Public Safety				X

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
	SEATON	X			
	Greenberg	-			
	Peterson	X			
Chair:	LYNN	X			
Chair:					

Alaska State Legislature

Interim:
600 E. Railroad Ave
[illegible]silla, AK 99654

Phone: (907) 376-3725
Fax: (907) 376-4768

Session:
Alaska State Capitol, Rm 108
Juneau, AK 99801-1182

Phone: (907) 465-3743
Fax: (907) 465-2381
Toll Free: (800) 565-3743
Rep_Carl_Gatto@legis.state.ak.us

Representative Carl Gatto

Chair, House Military and Veteran Affairs Committee
District 13 - Palmer

SPONSOR STATEMENT
HB 139: ALLOW SCREEN DEVICES IN UTILITY VEHICLES

"An Act providing for an exception to allow drivers of public utility motor vehicles to operate those vehicles with certain screen devices operating and visible to the drivers."

HB 139 is a fix-it bill to correct an oversight in HB 88 that passed in the 25th Legislature. HB 88 prohibits the driver of an automobile from having a screen device, such as a television, video monitor, portable computer, or similar device, operating within their view while the automobile is in motion. Exceptions were made in HB 88 for cell phone usage for verbal communication, navigation or global positioning, maps, etc. HB 88 also recognized that the Department of Transportation and Public Facilities may need to access a screen device in their automobiles while performing highway construction, maintenance or repair, and included an exception for those activities; however, HB 88 failed to include an additional exception for public utilities.

This legislation would provide public utilities with similar access for maintenance, repair, or data acquisition in order to perform their duties. As an example, meter readers for a gas company no longer physically exit their car to collect usage information; instead the information is collected by interrogating the meter as the meter reader drives past the location. The drivers need to verify as they drive by a home, for example, that the data is being collected. More importantly, if there is a gas leak, the driver will see on his screen device that there is a problem with the line as he drives by the point of leak. Finally, the drivers also receive messages from police and fire departments in the case of an emergency where a gas line would need to be shut off. Other public utilities, as defined in AS 42.05.990, have similar reasons for needing access to a screen device in performance of their duties.

HB 139 is intended to correct this oversight and provide public utilities an exception in order to allow them to fully perform their job functions.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB139
() Publish Date:

Identifier (file name): HB139-DPS-DET-03-02-09
Title "An Act providing for an exception to allow drivers of public... utility vehicles to operate the vehicle with screen devices".
Sponsor Representative Gatto
Requester House State Affairs

Public Safety
RDU Alaska State Troopers
Component AST Detachments
Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 28.35.161(c) by adding an exemption for those operating public utility vehicles to operate those vehicles with screen devices.

This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Division Alaska State Troopers
Approved by: Joseph Masters, Commissioner
Department of Public Safety

Phone 907-247-4480
Date/Time 3/5/09 12:44 PM
Date 3/5/2009

(Revised 11/19/2007 OMB)

LAWS OF ALASKA

2008

Source
SCS CSHB 88(JUD)

Chapter No.
_____

AN ACT

Relating to televisions, monitors, portable computers, and similar devices in motor vehicles; relating to the definition of physical injury for the Alaska Uniform Vehicle Code; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

Relating to televisions, monitors, portable computers, and similar devices in motor vehicles; relating to the definition of physical injury for the Alaska Uniform Vehicle Code; and providing for an effective date.

---

* **Section 1.** AS 28.35 is amended by adding a new section to read:

Sec. 28.35.161. Driving a motor vehicle with a screen device operating; unlawful installation of television, monitor, or similar device. (a) A person commits the crime of driving with a screen device operating if

(1) the person is driving a motor vehicle;

(2) the vehicle has a television, video monitor, portable computer, or any other similar means capable of providing a visual display that is in full view of a driver in a normal driving position while the vehicle is in motion; and

(3) the monitor or visual display is operating while the person is driving.

(b) A person may not install or alter equipment described in (a)(2) of this section that allows the images to be viewed by the driver in a normal driving position while the vehicle is in motion.

(c) Subsections (a) and (b) of this section do not apply to

(1) portable cellular telephones or personal data assistants being used for verbal communication or displaying caller identification information;

(2) equipment that is displaying only

(A) audio equipment information, functions, and controls;

(B) vehicle information or controls related to speed, fuel level, battery charge, and other vehicle safety or equipment information;

(C) navigation or global positioning;

(D) maps;

(E) visual information to

(i) enhance or supplement the driver's view forward, behind, or to the sides of the motor vehicle for the purpose of maneuvering the vehicle; or

(ii) allow the driver to monitor vehicle occupants seated behind the driver;

(F) vehicle dispatching and response information for motor vehicles providing emergency road service or roadside assistance;

(G) vehicle dispatching information for passenger transport or freight or package delivery; or

(H) information for use in performing highway construction, maintenance, or repair or data acquisition by the Department of Transportation and Public Facilities or a municipality.

(d) Subsections (a) and (b) of this section do not apply to devices and equipment installed in an emergency vehicle. In this subsection, "emergency vehicle" means a police, fire, or emergency medical service vehicle.

(e) It is an affirmative defense to a prosecution under (b) of this section that the equipment installed or altered includes a device that, when the motor vehicle is being driven, disables the equipment for all uses except those described in (c) of this

section.

(f) A person who violates (a) of this section is guilty of

(1) a class A misdemeanor, unless any of the circumstances described in (2) - (4) of this subsection apply;

(2) a class C felony if the person's driving causes physical injury to another person;

(3) a class B felony if the person's driving causes serious physical injury to another person;

(4) a class A felony if the person's driving causes the death of another person.

(g) A person who violates (b) of this section is guilty of a class A misdemeanor.

*** Sec. 2.** AS 28.90.990(a) is amended by adding a new paragraph to read:

(30) "physical injury" has the meaning given in AS 11.81.900.

*** Sec. 3.** This Act takes effect September 1, 2008.

C
West's Alaska Statutes Annotated Currentness
Title 42. Public Utilities and Carriers
Chapter 05. Alaska Public Utilities Regulatory Act
Article 10. General Provisions
§ 42.05.990. Definitions

In this chapter

(1) "affiliated interest" includes:

(A) a person owning or holding directly or indirectly five percent or more of the voting securities of a public utility engaged in intrastate business in this state;

(B) a person, other than those specified in (A) of this paragraph, in a chain of successive ownership of five percent or more of voting securities, the chain beginning with the holder of the voting securities of such public utility;

(C) a corporation five percent or more of whose voting securities are owned by a person owning five percent or more of the voting securities of the public utility or by a person in such a chain of successive ownership of five percent or more of the voting securities;

(D) a corporation five percent or more of whose voting securities are owned or held by a public utility;

(E) a person with whom the public utility has a management or service contract;

(F) a person who is an officer or director of such a public utility or of a corporation in a chain of successive ownership of five percent or more of voting securities;

(G) a corporation which has one or more officers or directors in common with a public utility;

(H) a person or corporation who or which the commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of a utility in conjunction with one or more other corporations or persons with whom they are related by ownership or blood, or by action in concert, that together they are affiliated with the utility within the meaning of this section even though none of them alone is so affiliated; or

(I) a person or corporation who or which the commission determines as a matter of fact after investigation and hearing actually is exercising substantial influence over the policies and actions of a utility even though such influence is not based upon stockholdings, stockholders, officers or directors to the extent specified in this section;

(2) "commission" means the Regulatory Commission of Alaska;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(3) "public" or "general public" means

(A) a group of 10 or more customers that purchase the service or commodity furnished by a public utility;

(B) one or more customers that purchase electrical service for use within an area that is certificated to and presently or formerly served by an electric utility if the total annual compensation that the electrical utility receives for sales of electricity exceeds $50,000; and

(C) a utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products that are re-sold to a person or group included in (A) or (B) of this paragraph or that are used to produce the service or commodity sold to the public by the utility;

(4) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

(5) "rate" includes each rate, toll, fare, rental, charge, or other form of compensation demanded, observed, charged, or collected by a public utility for its services;

(6) "service" means, unless the context indicates otherwise, every commodity, product, use, facility, convenience, or other form of service that is offered for and provided by a public utility for the convenience and necessity of the public;

(7) "tariff" means a rate, charge, toll, rule, or regulation of a utility relating to services furnished by the utility to the general public for compensation and every map, page, adoption notice, instrument, or other document filed with the commission setting out the terms and conditions under which utility services are offered to the public and instruments of concurrence and all other documents and data setting out the terms of a utility's business relations with another utility insofar as they affect the general public either directly or indirectly;

(8) "telecommunications" means the transmission and reception of messages, impressions, pictures, and signals by means of electricity, electromagnetic waves, and any other kind of energy, force variations, or impulses whether conveyed by cable, wire, radiated through space, or transmitted through other media within a specified area or between designated points.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

CREDIT(S)

SLA 1970, ch. 113, § 6; SLA 1971, ch. 36, § 2; SLA 1973, ch. 76, § 2; SLA 1990, ch. 140, § 4; SLA 1990, ch. 168, § 19; SLA 1999, ch. 25, § 12.

NOTES OF DECISIONS

Franchises 2
Service 1

1. Service

Electric utility was not exempt from requirement that it had to obtain an additional certificate of public convenience and necessity from the Regulatory Commission prior to selling power outside its assigned geographical area, even though it argued it was selling a "commodity" rather than providing a "service," as the statutory definition of service included commodities. AS 42.05.221(a), 42.05.990(6). Chugach Electric Ass'n, Inc. v. Regulatory Com'n of Alaska (2002) Alaska, 49 P.3d 246. Electricity 8.1(2.1)

In determining whether to issue certificate of public convenience and necessity for coal-fired electric generation plant, Alaska Public Utilities Commission (APUC) was not required to consider costs associated with environmental externalities or public subsidies not paid by consumers as part of rate charged for service; language of statute governing issuance of certificate was limited specifically to "services," rather than construction of particular facility, and statutory requirement that APUC find applicant "fit, willing and able to provide the utility services applied for" only required APUC to focus on applicant. AS 42.05.221(a), 42.05.241. Alaska Federation for Community Self-Reliance v. Alaska Public Utilities Com'n, 1994, 879 P.2d 1015. Electricity 8.1(1)

Borough engaged in "collection" and "disposal" within meaning of AS 29.48.033(b) requiring certificate of public convenience and necessity when it opened large public dumping floor and transported garbage from there to final disposal site. Drake v. Fairbanks North Star Borough, 1986, 715 P.2d 1167. Environmental Law 369

Contracts which were awarded by city and which covered all hauling of refuse to sanitary landfills and maintenance and operation of transfer sites pertained to "collection and disposal," within statute precluding political subdivision from providing for waste collection and disposal service in any area, to extent it lies within area granted to waste carrier by certificate issued by Public Utilities Commission, until subdivision has purchased certificate, equipment and facilities of carrier or that portion which would be affected at fair market value; thus city was liable for fair market value of certificate of public convenience and necessity issued by Commission or that portion of certificate that would be affected. AS 29.48.033(b), 42.05.221(f). McClellan v. Kenai Peninsula Borough, 1977, 565 P.2d 175. Environmental Law 368

2. Franchises

Franchise agreements which originated in the form of municipal ordinances were in fact contracts, in that a "franchise" is a contract binding upon both parties regardless of method by which it comes into being, and thus, franchises were not "enactments" within meaning of statute superseding certain municipal "enactments." AS 29.13.100. B-C Cable Co., Inc. v. City and Borough of Juneau, 1980, 613 P.2d 616. Franchises 1

AS § 42.05.990, AK ST § 42.05.990

Current through the 2008 Second Regular and Fourth Special Session of the 25th Legislature

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(c) 2009 Thomson Reuters

END OF DOCUMENT

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

Alaska State Legislature

Interim:
600 E. Railroad Ave
Wasilla, AK 99654

Phone: (907) 376-3725
Fax: (907) 376-4768

Session:
Alaska State Capitol, Rm 108
Juneau, AK 99801-1182

Phone: (907) 465-3743
Fax: (907) 465-2381
Toll Free: (800) 565-3743
Rep_Carl_Gatto@legis.state.ak.us

Representative Carl Gatto

Chair, House Military and Veteran Affairs Committee
District 13 - Palmer

TO: Representative Bob Lynn

FROM: Representative Carl Gatto

DATE: February 27, 2009

RE: HB139: ALLOW SCREEN DEVICES IN UTILITY VEHICLES

****

Please consider this memorandum as a request for the House State Affairs Committee to schedule a hearing on HB139. Accompanying this memo are the following documents:

- HB139 – 26-LS0573\A
- Sponsor Statement

Thank you for considering my request for a hearing on HB139.

LEGAL SERVICES

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

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

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

MEMORANDUM March 4, 2009

SUBJECT: HB 139 - Public Utility Exception
(Work Order No. 26-LS0573\A)

TO: Representative Max Gruenberg
Attn: Allison Laffen

FROM: Gerald P. Luckhaupt
Legislative Counsel

You have asked if the exception provided by this bill for public "utility construction, maintenance, [or] repair" would include dispatching and response information for those purposes. In my opinion it would include dispatching and response information as well as other activities related to "utility construction, maintenance, [or] repair." Of course if the utility companies are more concerned with providing an exception for public utility motor vehicle dispatching and response, then I would recommend removing the reference to "construction, maintenance, and repair" and just refer to dispatching and response for public utility purposes. Something like the following would suffice:

> vehicle dispatching and response information for public utility motor vehicles or information for use in performing data acquisition by a public utility.

GPL:plm
09-138.plm

ENSTAR
Natural Gas Company

3000 Spenard Road
PO Box 190288
Anchorage, AK 99519-0288
www.enstarnaturalgas.com

February 27, 2009

Honorable Max Gruenberg
Alaska House of Represenatives
State Capitol
Juneau, Alaska 99801-1182

Dear Represenative Gruenberg,

I would like to thank you for sponsoring House Bill 139 "An Act providing for an exception to allow drivers of public utility motor vehicles to operate those vehicles with certain screen devices operating and visible to the drivers". ENSTAR Natural Gas Company is a leader in using new technology to provide better customer service in an attempt to hold down operating costs, thereby saving the consumer money. We currently provide automated meter reading and will soon be introducing a "Field Order System" (FOS) to provide real time information on work orders between field personnel, dispatch and customer service, thereby providing an improved customer experience.

ENSTAR would like to include a reference to "vehicle dispatching and response information" under the new subsection (l). There currently are references in existing statues to vehicle dispatching information for passenger transport, freight or package delivery. ENSTAR currently dispatches our service technician and distribution crews as a normal course of business, which includes gas leaks, fires and other emergency situations. ENSTAR is proud that our dispatch and response rate is ranked one of the highest in the nation.

However, without a reference in the bill to utility dispatching, it could be interpreted we are not in compliance with state law. Anything you could do to clarify the language would be greatly appreciated.

We appreciate your time and efforts in this matter.

Sincerely,

Curtis W. Thayer
Director, Corporate and External Affairs

HB

157

Committee Action on Legislation

HOUSE RECORDS COMMITTEE SECRETARY: LORI ROLAND

MARCH 31, 2009

HOUSE STATE AFFAIRS STANDING COMMITTEE

PAGE 1 OF 1

# SHORT TITLE	ACTION TAKEN ON LEGISLATION
HB 157-REEMPLOYMENT OF RETIREES; EXEMPT SERVICE	____ Moved Out of Cmte ✓ Moved CS (STA) Out of Cmte ____ Moved HCS (____) Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee
# SHORT TITLE	ACTION TAKEN ON LEGISLATION
	____ Moved Out of Cmte ____ Moved CS (____) Out of Cmte ____ Moved HCS (____) Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee
# SHORT TITLE	ACTION TAKEN ON LEGISLATION
	____ Moved Out of Cmte ____ Moved CS (____) Out of Cmte ____ Moved HCS (____) Out of Cmte ____ Heard and Held ____ Heard and Held; Assigned to Subcmte ____ Scheduled but not Heard ____ Failed to Move Out of Committee ____ Waived Out of Committee

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re HB 157 26-GH1035\A

3/31/09

HB 157 26-GH1035\A passed out of the House State Affairs Committee amended. Please draft a final CS with the following changes.

Conceptual Amendment #1 (Seaton) 26-GH1035**A.1** was changed as follows:
Delete on Page 1 **Lines 1-4**
Delete on Page 1 **Lines 21-23**
Delete on Page 1 Lines 8 & 9 the phrase "**in the executive branch of State government**"
Page 1 Line 11 delete "15" and insert **20**
Page 1 Line 18 delete "30" and insert **40**

Delete on Page 2 **Lines 1-5**

Conceptual Amendment #2 (Seaton) 26-GH1035**A.2** was changed as follows:
It was the intent of the Committee for this amendment to **mirror** Conceptual Amendment #1 (which was for the PERS) except that it be for the TRS.

HOUSE STATE AFFAIRS
COMMITTEE
Amendment # 1

To Bill Number HB 157

Sponsor: SEATON

Date: 3/30/09 Logged By: NM

26-GH1035\A.1
Wayne
3/28/09

AMENDMENT 1

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 157

Page 1, line 5:

Delete "**by providing for an effective date by**"

Insert ";"

Page 2, following line 10:

Insert a new bill section to read:

"* **Sec. 3.** AS 39.35.150(h) is amended to read:

(h) Notwithstanding (b) of this section, an employer in the executive branch of state government may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) of this section unless

(1) the employer conducted an initial recruitment for at least ~~15~~ 20 days for the position to be filled by the member making an election under (b) of this section that resulted in fewer than **three** [FIVE] qualified, eligible, and available applicants, including the retired member; and

(2) the employer then conducted an additional recruitment and the additional recruitment resulted in fewer than **three** [FIVE] qualified, eligible, and available applicants, including the retired member; this additional recruitment period added to the initial recruitment period must be at least ~~30~~ 40 days total."

Renumber the following bill sections accordingly.

Page 2, line 25:

Delete "secs. 3, 4, 7, and 8"

995

Insert "secs. 4, 5, 8, and 9"

Page 2, line 26:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 4, 5, 8, and 9"

26-GH1035\A.2
Wayne
3/30/09

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 157

Page 1, line 5:

Delete the first occurrence of "**by**"

Insert ";"

Page 1, following line 8:

Insert new bill sections to read:

"*** Section 1.** AS 14.20.135(a) is amended to read:

(a) A school district or regional educational attendance area that has or anticipates having a shortage of teachers qualified to teach in a particular discipline or specialty may, **subject to AS 14.25.043(f)** [BY RESOLUTION], adopt**, by resolution,** a policy that permits the employment of retired teachers who are qualified to teach in the discipline or specialty in accordance with this section. The policy must describe the circumstances that constitute the shortage. If a shortage of teachers exists as described in the policy, the district or attendance area shall notify the administrator of the teachers' retirement system (AS 14.25) that it is hiring retired teachers under this section.

*** Sec. 2.** AS 14.25.043 is amended by adding a new subsection to read:

(f) Notwithstanding (b) and (e) of this section and AS 14.25.135, an employer that is a school district or regional educational attendance area may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) or (e) of this section unless

(1) the employer conducted an initial recruitment for the position for at least 15 days that resulted in fewer than three qualified, eligible, and available

997

applicants, including the retired member; and

(2) the employer then conducted an additional recruitment for the position and the additional recruitment resulted in fewer than three qualified, eligible, and available applicants, including the retired member; the additional recruitment period required by this paragraph added to the initial recruitment period in (1) must total not fewer than 30 days."

Renumber the following bill sections accordingly.

Page 2, line 25:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 5, 6, 9, and 10"

Page 2, line 26:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 5, 6, 9, and 10"

26-GH1035\A.3
Wayne
3/30/09

AMENDMENT 3 NO

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: HB 157

Page 1, lines 1 - 2:

Delete "**chief economist and**"

Page 1, lines 2 - 3:

Delete "**and certain professional positions concerning oil and gas within the Department of Natural Resources**"

Page 1, line 9, through page 2, line 7:

Delete all material.

Renumber the following bill sections accordingly.

Page 2, line 9:

Delete "the chief economist and"

Page 2, line 25:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 2, 3, 6, and 7"

Page 2, line 26:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 2, 3, 6, and 7"

999

26-GH1035\A.4
Wayne
3/30/09

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: HB 157

Page 2, line 18:

Delete "**2013**"

Insert "**2010**"

Page 2, line 21:

Delete "**2013**"

Insert "**2010**"

Page 2, line 29:

Delete "**2013**"

Insert "**2010**"

Page 2, line 31:

Delete "**2013**"

Insert "**2010**"

1000

26-GH1035\A.5
Wayne
3/30/09

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: HB 157

Page 1, line 5:

Delete the first occurrence of "**by**"

Insert ";"

Page 1, following line 8:

Insert new bill sections to read:

"*** Section 1.** AS 14.20.135(a) is amended to read:

(a) A school district or regional educational attendance area that has or anticipates having a shortage of teachers qualified to teach in a particular discipline or specialty may, **subject to AS 14.25.043(f)** [BY RESOLUTION], adopt**, by resolution,** a policy that permits the employment of retired teachers who are qualified to teach in the discipline or specialty in accordance with this section. The policy must describe the circumstances that constitute the shortage. If a shortage of teachers exists as described in the policy, the district or attendance area shall notify the administrator of the teachers' retirement system (AS 14.25) that it is hiring retired teachers under this section.

*** Sec. 2.** AS 14.25.043 is amended by adding a new subsection to read:

(f) Notwithstanding (b) and (e) of this section and AS 14.25.135, an employer that is a school district or regional educational attendance area may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) or (e) of this section unless

(1) the employer conducted an initial recruitment for the position for at least 15 days that resulted in fewer than three qualified, eligible, and available

applicants, including the retired member; and

(2) the employer then conducted an additional recruitment for the position and the additional recruitment resulted in fewer than three qualified, eligible, and available applicants, including the retired member; the additional recruitment period required by this paragraph added to the initial recruitment period in (1) must total not fewer than 30 days."

Renumber the following bill sections accordingly.

Page 2, following line 10:

Insert new bill sections to read:

"* **Sec. 5.** AS 39.35.150(g) is amended to read:

(g) In accordance with this section, a political subdivision or a public organization that has or anticipates having a shortage of employees qualified for particular job classes may, by resolution, adopt a policy that permits the employment of employees who retired under AS 39.35.370(a), who have been separated from employment for at least 30 days, and who are qualified for particular job classes. The policy adopted by resolution must describe the circumstances that constitute the shortage. The policy must require recruitment procedures [SIMILAR TO THE PROCEDURE] described in (h) of this section for any position filled by a retired employee under (f) of this section. If a shortage of qualified employees exists as described in the policy, the political subdivision or the public organization shall notify the administrator that it is hiring retired members under (f) of this section and shall provide a copy of the resolution and policy adopted by the resolution to the administrator of the public employees' retirement system (AS 39.35).

* **Sec. 6.** AS 39.35.150(h) is amended to read:

(h) Notwithstanding (b) of this section, an employer [IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT] may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) of this section unless

(1) the employer conducted an initial recruitment for at least 15 days

for the position to be filled by the member making an election under (b) of this section that resulted in fewer than **three** [FIVE] qualified, eligible, and available applicants, including the retired member; and

(2) the employer then conducted an additional recruitment and the additional recruitment resulted in fewer than **three** [FIVE] qualified, eligible, and available applicants, including the retired member; this additional recruitment period added to the initial recruitment period must be at least 30 days total."

Renumber the following bill sections accordingly.

Page 2, line 25:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 7, 8, 11, and 12"

Page 2, line 26:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 7, 8, 11, and 12"

STATE OF ALASKA

DEPARTMENT OF LAW
CRIMINAL DIVISION

SARAH PALIN, GOVERNOR

Address: 310 K. St., Suite 403
Anchorage, AK 9950

Phone: (907) 269-6379
Fax: (907) 269-6305

March 27, 2009

Honorable Bob Lynn
Chair, House State Affairs Committee
Alaska State Legislature, Room
Juneau, AK 99801

Re: HB 157 – Extending repeal of Retire/Rehire Provisions

Dear Representative Lynn:

The purpose of this letter is to support the passage of HB157, which would extend the repeal of AS 39.35.120(b)(2) and AS 39.35.150(b) (the "retire/rehire" provision) until July 1, 2013. The three most experienced attorneys in the Department of Law – William (Mick) Hawley, Patrick Gullufsen and Richard Svobodny – are retired, rehired employees. Without the extension, their reemployment will end on July 1, 2009. At the present time, there are no other lawyers within the department capable of performing the service that each of these attorneys performs. Should the law sunset as planned, these attorneys may decide to stop working. The Department of Law cannot presently afford the risk of losing them.

Mick Hawley has been employed with the criminal division since 1968 and is the most experienced prosecutor working for the Department of Law. He is presently assigned to the Appellate Division and handles multiple complex appeals. For example, Mr. Hawley prevailed in the both Alaska appellate courts and Federal District Court in affirming the convictions of Jon Woodard, who was convicted in 1993 of a robbery/ homicide of a security guard at an Anchorage grocery store. The transcripts of the numerous trials and post conviction proceedings in this matter total over 10,000 pages. If Mr. Woodard seeks review in the Ninth Circuit Court of Appeals, it would take months for a newly assigned prosecutor to become familiar with the history of this case. Mr. Hawley is one of the very few people employed in the Department of Law who possesses historical knowledge of the evolution of Alaska's current criminal code and rules of evidence. It is that type of experience which enabled him to convince the Alaska Supreme Court to rule that the state has criminal jurisdiction over an offender who commits a sexual assault on the state ferry while it is in Canadian waters. More recently, he successfully defended the legislature's amendment of Evidence Rule 412. This breadth of knowledge enables Mr. Hawley to serve as an unmatched resource for trial attorneys as issues arise in mid-trial and to ensure that an appropriate record is made for appeal.

Patrick Gullufsen began his career as an assistant district attorney nearly 35 years ago. As early as the mid-1970's, it was clear that Mr. Gullufsen is an outstanding trial attorney. He has continued to develop those skills in the intervening 30 years, growing to become a trial attorney of legendary ability. He has twice served as the Juneau District Attorney, and has also served as the Deputy Attorney General for the criminal division. These experiences have provided him with full knowledge of the administrative processes of this department. However, it is in his current placement as the sole prosecutor for the Cold Case unit that Mr. Gullufsen is irreplaceable. He works closely with a specialized group of police officers in meticulously reviewing cold homicide cases to determine whether new evidence, scientific advances or further investigation are sufficient to support charging and prosecuting these crimes. He has had remarkable success in this endeavor. His position requires nor only mastery of contemporary law, but also thorough knowledge of former law as it applied at the time of the crime and applies to sentencing. Mr. Gullufsen currently has several matters pending, including two massive cases which are set for the summer of 2009. The first is the trial of James Eacker, who is charged with murdering Ms. Toni Lister in Seward in 1982. The other is the trial of Kenneth Dion, who is charged with the 1994 murder of Ms. Bonnie Craig in Anchorage. The investigation and preparation for these trials has taken years, and while there may be one or two other attorneys who are experienced enough to handle cases of this magnitude, it is simply not realistic for another attorney to assume responsibility for these trials at this late date.

One attorney who possesses sufficient skill and historic knowledge to successfully prosecute cold cases is Richard Svobodny. However, Mr. Svobodny is also employed as a retired, rehired attorney, and is presently serving as the Acting Attorney General. Mr. Svobodny, who began working for the state in 1975, served 20 years as the Juneau district attorney. When Mr. Svobodny was appointed to the position of Deputy Attorney General, he immediately saw the need to provide training to the department's young lawyers, so that they will be prepared to move up in the ranks as they gain the experience to do so. He is an excellent administrator and is keenly aware of the need to motivate the best and the brightest attorneys to remain in public service. It is hoped that, when an Attorney General is appointed, Mr. Svobodny will return to his position as Deputy Attorney General. If he does not do so, there are few other candidates qualified for that position.

Like many government agencies, the Department of Law suffers from the generational hiatus of the 1990's, in which few young people chose careers in public service. This has resulted in an imbalance in our ranks. There are several older attorneys who fully intend to retire from the department when they have finished their service and many young attorneys who lack the experience to move into positions of leadership, but there are relatively few qualified attorneys in the mid-range. Furthermore, it is no secret that the salaries of public service lawyers have not kept pace with those of private practitioners, and therefore the turnover in younger attorneys seems to occur more frequently than in years past.

At the present time there is a hiring freeze in effect. However, even in the absence of that limitation, it is not likely that there are many attorneys in the state who are qualified to perform the duties that these lawyers are performing. It is therefore an understatement to say that if the Department loses these three very experienced attorneys, our ability to effectively provide quality services will be greatly compromised.

I urge you to pass HB 157 so that the Department may have four more years in which to prepare others to take the places of these outstanding public servants.

Sincerely,

Susan S McLean

Susan McLean
Chief Assistant Attorney General

cc: Members of House State Affairs Committee:
Representative Paul Seaton, Vice-Chair
Representative Carl Gatto
Representative Craig Johnson
Representative Peggy Wilson
Representative Max Gruenberg
Representative Pete Petersen

1007

2007-2008 Adequate Yearly Progress

Meets AYP

****PRELIMINARY DATA****

FINAL DESIGNATIONS ASSIGNED BY 08/15/2008

AMOs: Reading/Writing/Language: 77.18%

Mathematics: 66.09%

School District Ketchikan Gateway Borough Schools **School:** Ketchikan Charter School

Group	Participation Rate			"Full Academic Year"	Performance on the Language Arts Composite Score (LA=R+W)			Performance on the Mathematics Score			Other Indicator
If a subgroup (not "the Whole School") has 20 or fewer students enrolled (A), then fill in "NA" for the row. 25 or fewer in (D) then fill in "N/A" for cells D-J.	(A) Number Enrolled (On 1st day of week of testing in grades 3-10)	(B) Number Tested (grades 3-10) (with one or more valid scores in R, W, or M)	(C) Participation Rate (95% if # enrolled is > 40 or all but 2 if # enrolled is 40 or fewer)	(D) Number Tested (B) enrolled for "Full Academic Year" (FAY) (Gr. 3-10)	(E) Number of FAY Students Proficient on Language Arts Composite Score (R+W=LA)	(F) Percent Proficient in Language Arts (E / D) X 100 = F	(G) Meet AMO for Language Arts Comp. Score? (+ 99% Conf. int.) (Yes/No)	(H) Number of FAY Students Proficient on the Math Score	(I) Percent Proficient in Math (H / D) X 100 = I	(J) Meet AMO for Math Comp. Score? (+ 99% Conf. int.) (Yes/No)	(K) Meet the Required % for Other Indicator (Yes/No)
School as a Whole	110	109	Yes	102	88	86%	Yes	83	81%	Yes	Yes
African American	1	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Alaska Native and American Indian	31	31	Yes	29	25	86%	Yes	25	86%	Yes	
Asian	14	14	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Caucasian	55	54	Yes	50	44	88%	Yes	40	80%	Yes	
Hispanic	7	7	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Multi-Ethnic	2	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Economically Disadvantaged	50	49	Yes	47	39	83%	Yes	38	81%	Yes	
Students with Disabilities*	12	12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
LEP Students*	5	5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	

OTHER INDICATOR STATUS

Other Indicator - Graduation Rate: N/A

Other Indicator - Attendance Rate: 94%

TITLE 1 STATUS

Schoolwide Title 1 School ☐

Targeted Assistance ☑

Confidence Interval Formula: $AMO - 2.33 \times \sqrt{\frac{(p)(q)}{N}}$

Printed 07/18/08

"School as a Whole" and Safe Harbor Thresholds: Attendance Rate 85%, Graduation Rate 55.58%

** LEP and Students with Disabilities Subgroups include former LEP and former SWD students that are being monitored for up to two years.*

2007-2008 Adequate Yearly Progress

Does Not Meet AYP

AYP Level 2 (Meets Grade Span: 6-8)**

School District **Ketchikan Gateway Borough Schools**

Language Arts AMO: 77.18%

Mathematics AMO: 66.09%

"District as a Whole" and Safe Harbor Thresholds: Attendance Rate 85%, Graduation Rate 55.58%

Group	Participation Rate			"Full Academic Year"	Performance on the Language Arts Composite Score (LA=R+W)			Performance on the Mathematics Score			Other Indicator
If a subgroup (not "the Whole District") has 20 or fewer students enrolled (A), then fill in "NA" for the row, 25 or fewer in (D) then fill in "N/A" for cells D-J.	(A) Number Enrolled (On 1st day of week of testing in grades 3-10)	(B) Number Tested (grades 3-10) (with one or more valid scores in R, W, or M)	(C) Participation Rate (95% if # enrolled is > 40 or all but 2 if # enrolled is 40 or fewer)	(D) Number Tested (B) enrolled for "Full Academic Year" (FAY) (Gr. 3-10)	(E) Number of FAY Students Proficient on Language Arts Composite Score (R+W=LA)	(F) Percent Proficient in Language Arts (E / D) X 100 = F	(G) Meet AMO for Language Arts Comp. Score? (+ 99% Conf. int.) (Yes/No)	(H) Number of FAY Students Proficient on the Math Score	(I) Percent Proficient in Math (H / D) X 100 = I	(J) Meet AMO for Maths Comp. Score? (+ 99% Conf. int.) (Yes/No)	(K) Meet the Required % for Other Indicator (Yes/No)
District as a Whole	1348	1337	Yes	1276	1029	81%	Yes	932	73%	Yes	No
African American	13	11	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Alaska Native and American Indian	401	398	Yes	373	264	71%	No	235	63%	Yes	
Asian	115	114	Yes	108	91	84%	Yes	91	84%	Yes	
Caucasian	761	756	Yes	729	618	85%	Yes	555	76%	Yes	
Hispanic	47	47	Yes	47	42	89%	Yes	37	79%	Yes	
Multi-Ethnic	11^	11	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Economically Disadvantaged	445	442	Yes	414	285	69%	No	243	59%	No	
Students with Disabilities*	167	166	Yes	155	73	47%	Yes - SH	72	46%	Yes - SH	
LEP Students*	53	53	Yes	47	31	66%	Yes	31	66%	Yes	

OTHER INDICATOR STATUS

Other Indicator - Graduation Rate: 50%

Other Indicator - Attendance Rate: N/A

TITLE 1 STATUS

☑ Title 1 District

Confidence Interval Formula: $AMO - 2.33 \times \sqrt{\frac{(pq)}{N}}$

Printed 10/06/08

^Results cannot be published without releasing personally identifiable information.

** LEP and Students with Disabilities Subgroups include former LEP and former SWD students that are being monitored for up to two years.*

*** District is considered to have missed for consecutive years only when missing overall AND in all three grade spans for one or more of: participation; language arts; mathematics; other indicator.*

Amy Webb
3457 Arnold Ave.
Ketchikan, AK 99901
March 20, 2009

Dear Representative Lynn,

I am writing to encourage you to help the Ketchikan Charter School by allowing our principal, and our reading specialist, to continue working under the retiree's re-hire provision. I know that you are considering HB157 and will weigh the advantages to the state on each area of the bill.

We have a vigorous academic school which uses the Core Knowledge curriculum. Our principal has been a teacher, principal, reading specialist, curriculum director, assistant Superintendent, Superintendent (and Alaska's Superintendent of the Year). Because he has retired (due to a shift in the local School Board), we were able to hire him at the entry level principal's salary. He has 100% approval rating from the Charter School Board, the building staff, the students, and parents. We have no complaints about his performance, and the performance of our students continues to climb. (On the state SBA assessment, all our sub groups are 80% proficient or higher). There is no one in Ketchikan, nor any applicant we have seen who can compare to his abilities and accomplishments.

Retaining good educators is often a problem for the rural and smaller communities in Alaska. If the lack of amenities in the bush doesn't do it, the rain in Ketchikan will. Our two employees are not only the best at what they do, they and their families are a part of our community and wish to remain here. Their salaries are a savings for our budget and they are not accruing larger retirement. For us this is a winning combination.

We appreciate your attention to this bill and the ramifications to our school if the educator part is not extended. I know that there is much to consider and we thank you in advance for any help we may receive.

Sincerely,

Amy Webb

President, Academic Policy committee
Ketchikan Charter School
Ketchikan, Alaska

February 24, 2009

Ketchikan Gateway Borough School Board
Karen Eakes, President

Dear President Eakes and members of the board,

Last week the board of the Ketchikan Charter School (Academic Policy Committee) voted unanimously to recommend the return of Harry Martin as principal of the Ketchikan Charter School for the 2009-2010 school year.

In response to a school-wide survey given to parents, staff, and students, Mr. Martin has received exceptional praise. Harry is considered hard working, patient, fair, and quick to respond to any questions, concerns or problems which arise. As one parent responded, "Both of my children love Mr. Martin. He exceeds our expectations of a principal..."

Our school is thriving with the Core Knowledge curriculum, a content staff, and a principal with the experience and awareness of what it takes to make a school run effectively. Many of the staff and parents (students) have come back to the Ketchikan Charter School strictly because Mr. Martin is the principal.

Therefore, the board at the Ketchikan Charter School recommends and chooses Harry Martin to continue as our principal (we understand that there may be pending legislation that will possibly affect this action).

We appreciate the support you have shown the Ketchikan Charter School and would like this to continue.

Thank you for your time,

Amy Webb
President Academic Policy Committee

Nolan, Lacretia YN1

From: kolundl@kgbsd.org on behalf of Lyn Kolund [kolundl@kgbsd.org]
Sent: Tuesday, February 17, 2009 7:54 AM
To: kcsapc; Choc Schafer
Subject: re: recommendation

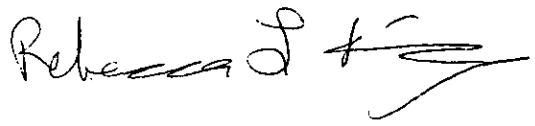
I would like to recommend that Harry Martin be retained as the principal of Ketchikan Charter School. He has created an atmosphere of learning and cooperation at our school, an he has excelled at working with students, parents, teachers, and other staff. In my 4 years of working at KCS, the years of working with Harry have been the best, and I can see them getting better as he implements his vision of successful teaching and learning as well as cooperation and forward momentum.
Thank You,
Lyn Kolund

9-10-09

To Whom It May Concern:

This letter is in support of Harry Martin's return as our principal. I cannot express my support enough. During Harry's time here at Ketchikan Charter School the atmosphere of the building has been warm, caring, supportive, and professional. Harry has made reading, writing, and math the top priority in our school and with our families. He not only promotes it in his weekly address to parents in the newsletters but supports teachers in the classroom. We have specialists to work with struggling students, an after school tutoring program, homework house, and regular conversations and conferences on how we can accommodate struggling students. Harry is fair and consistent in his dealings with students, parents, staff and the public. People can trust him because they always know what he expects of them. Harry is very resourceful and not afraid to look hard for answers. His experience in administration and in the field of education is indispensable. I have never worked under a better administrator.

Sincerely,



Rebecca L. King
Second Grade Teacher
Ketchikan Charter School

To Whom It May Concern:

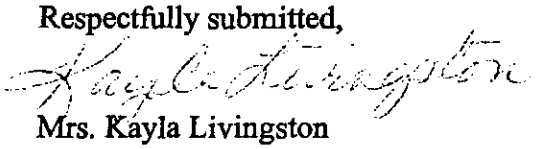
I am writing this letter to give my opinion of my Principal, Mr. Harry Martin. I came to Ketchikan Charter School (KCS) as a new teacher three years ago. Initially, there was a lot of controversy surrounding another Principal my first year here at KCS so much so that I was apprehensive at reapplying for another year. The work atmosphere and having to deal with difficult co-workers made the job very difficult. After meeting Mr. Martin, though, and taking the time to talk with him, I reconsidered my position and decided to stay these last two years.

I have the utmost respect for Mr. Martin and for his knowledge, abilities, and expertise in education. He has created a very pleasant working atmosphere in the building not only with the staff, but also with the students. He is wonderful in handling behavioral issues and motivates students to do their best to succeed. He is also professional in his interaction with parents and strives to keep his staff and parents on the same page.

I have personally grown as a teacher under his leadership. He is in my classroom frequently and provides both critique and advice to help motivate me to be the best educator I can be for my students.

I believe for our students, parents, and staff it would be beneficial to not cause any more trauma with yet another Principal change. The one we have, Mr. Martin, is a great asset to this school and community. Stability in the school staffing is an important key to helping our students succeed.

Respectfully submitted,



Mrs. Kayla Livingston

Thomas V. Neufeldt
3807 Chatham Avenue
Ketchikan, Alaska 99901

February 16, 2009

To:
Mr. Robert Boyle, Superintendent
Ketchikan Gateway Borough School District – School Board
Ketchikan Charter School Academic Policy Committee

Re: Mr. Harry Martin, Principal

I am writing to express my appreciation for the work that Mr. Harry Martin is doing in our school. I strongly support him as our principal at Ketchikan Charter School.

Since Mr. Martin began working in our school, he has stimulated improvement in our site as a workplace for the staff and as a place of learning for our students. At the beginning of the last school year, as we were preparing to work together for the first time, I went to Mr. Martin to talk about my math curriculum. I told him what I had been using, and got his input on how I should proceed for the coming year. He showed me a page on the state website that offered sample items to demonstrate each of the Performance Standard Grade Level Expectations. He wanted me to figure out how I could address those PSGLE's, so I that I could be sure I am addressing all of the stated learning needs. I found that I could supplement my textbook by writing daily problems and quizzes that I would teach as units in addition to the adopted text.

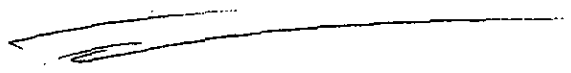
Mr. Martin has given me a sense of empowerment and ownership. It has been a great deal of extra work to build this supplementary curriculum. It takes a lot of extra time, thought, and energy to look at what is expected and build a program to fill each need, but I know that what I am doing every day is important and effective. He showed me something that needed to be done, and then he guided and supported me as I worked to meet the needs before me.

Mr. Martin has shown me ways that I can develop myself as a teacher, and I am happy to take his direction. I find myself working harder because I have a stronger sense of the mission. He has shown me that I can improve my instruction. With his guidance, I know that what I am doing will help my students. Knowing how and why I should do something provides the motivation to do so even if it means extra time and effort.

Mr. Martin is also a warm and positive role model for our students. He knows every child by name, and they all know and enjoy him too. He stands outside at the steps to greet children as they get off the busses every morning. Primary children bring the books that they have learned to read into his office so they can show off what they've accomplished to a person that they know will appreciate the effort they've made. Our students know Mr. Martin. They respect him, and they trust him. If they are succeeding, he celebrates with them. If they get into trouble, they will tell you that he is fair

I write this letter both as a teacher and as a parent. Mr. Martin is a very positive and uplifting influence in our school. I really want him to stay here. As a teacher, I want him to be my instructional leader. As a parent, I want him to be my son's principal. He is making this school the positive, effective place of learning that we all want it to be. Please let us keep him as our principal.

Sincerely,



Thomas V. Neufeldt

Maria Neufeldt
3807 Chatham Avenue
Ketchikan, AK 99901

February 10, 2009

To: Robert Boyle, Superintendent
KGBSD School Board
Ketchikan Charter School APC

RE: Harry Martin

I am writing this letter in support of Harry Martin as our principal here at Ketchikan Charter School.

I have been teaching first grade at KCS for the last 3 years. I have been a classroom teacher in Alaska since 2003, and an educator of young children since 1997. In all of my years of experience, Mr. Martin is the best principal that I have worked for. He is professional, friendly, and clear in his expectations.

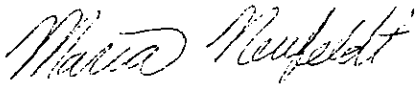
Perhaps one of the clearest examples of this is shown in Mr. Martin's support of my reading program. At the beginning of this year, I was directed to make teaching reading my primary focus. To help me accomplish this, I was given unqualified support. Mr. Martin provided classified staff so that I had 3 additional adults help me with my reading groups. Every KCS first grade child is in a leveled, 1-hour reading group, every day. He provided me curriculum funds to purchase more leveled reading books. He supported the approval of my 1st and 2nd grade after school tutoring program. He supported me in getting our reading specialist to work with 4 struggling readers for an additional 45 minutes a day. And he is wonderful at stopping to listen to any of my students read, whenever I ask him to. Most of my students have read at least 1 book this year to Mr. Martin. (Each time, the student feels so happy and proud - to read a whole book to the PRINCIPAL.)

With all of this support, I have the highest reading first grade class that I have ever had. Of my 19 first graders, 15 are currently reading chapter books. 5 students are doing 2nd grade level writing as well. All of my students are passing math, science and history - and all are still receiving their technology, art, and P.E. specials. But all of my young students will also tell you what their most important job is in school: to READ.

Mr. Martin is the type of principal that gives a direction, and then lets his teachers and students "fly" - as high as they wish to. My class this year is soaring higher than I ever expected such a young group could. For our 100th day of school last week, my first graders read 105 books in 2 hours - each student read 5-10 books - and did mini book-reports on each of the books.

I fully support Mr. Martin's continuing to be our principal. He encourages and *enables* his students and staff to do their best. Mr. Martin is a tremendous asset to Ketchikan Charter School.

Sincerely,



Maria Neufeldt
First Grade Teacher
Ketchikan Charter School

Email: neufeldtm@kgbsd.org
Home: 225-1866
Work: 228-4705

LEGAL SERVICES

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

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

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

MEMORANDUM March 31, 2009

SUBJECT: Definition of "special inquiry" in the state's exempt service (Work Order No. 26-LS0825)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Dan Wayne
Legislative Counsel

You have asked if the term "special inquiry," as it is used in AS 39.25.110(9), is defined by state statute or regulation, or if it is interpreted uniformly throughout the executive branch. You have also asked if a written opinion prepared by the Department of Law may be withheld on the grounds that it is confidential.

"Special inquiry." The term "special inquiry" is not defined by state statute or regulation, and in the time available to respond to your request I am unable to determine whether it applied uniformly, in the context of the exempt service or any other context, throughout the agencies of the state's executive branch.

Opinions prepared the Department of Law. Under AS 40.25.120(a), "every person has the right to inspect a public record in the state. . . ." However, that section lists several exceptions, among them records required to be kept confidential by a federal law or regulation or by state law.[1] One state law that might be relevant to the confidentiality of the opinion you have asked about is AS 39.25.080, which requires that personnel records be confidential -- it is possible that the definition of "special inquiry" noted by Mr. Brooks appears in an opinion that contains confidential personnel information.

It is possible for an opinion by the Department of Law to be withheld on the basis that it is protected by the deliberative process privilege. Because it is a privilege, one might expect that it allows, rather than requires, a person to withhold information. However, the Alaska Supreme Court has said it is a state law *requiring* the withholding of information, under AS 40.25.120(a)(4). The court said:

> On two prior occasions, we have recognized that at common law courts recognized a deliberative process privilege. And because Alaska's statutory definition of 'state law' encompasses common law as well as

[1] AS 40.25.120(a)(4).

> positive law, we have held that the deliberative process privilege is 'one of the judicially recognized 'state law' exceptions' to public access under the public records act. In so holding, we have explained that the deliberative process privilege is intended to 'protect[] the mental processes of government decisionmakers from interference.' And we have noted generally, that '[p]ublic officials may assert this privilege and withhold documents when public disclosure would deter the open exchange of opinions and recommendations between governmental officials.[2]

In *Fuller*, the court did not explain the difference between a law that requires a document to be withheld because of confidentiality and a law that allows information to be withheld on that basis, but nevertheless it concluded that the deliberative process privilege is in the former category. This is a considerable shift in the direction -- toward narrowing the privilege -- that the court seemed to be heading in previous opinions, when it still viewed the deliberative process privilege as a privilege allowing the withholding of certain information and discussed circumstances in which the privilege might be held not to apply. In a case preceding *Fuller*, in response to the argument that the deliberative process privilege only protects communications relating to constitutionally prescribed executive powers because it stems from the executive privilege which, in turn, is based on the separation of powers doctrine, the court responded:

> We stated in Capital Information Group v. State, Office of the Governor that we considered the terms 'executive privilege' and 'deliberative process privilege' to be synonymous for purposes of that discussion. But the two terms are not identical. Instead, the deliberative process privilege is a 'branch' of a broader group of governmental privileges. *The roots of the deliberative process privilege lie in the common law*; it protects the mental processes of government decisionmakers from interference, not constitutional notions of separation of powers. Therefore, the question is not whether the communication relates to a duty mandated in article III of the Alaska Constitution, but whether disclosure of the communication sought would affect the quality of governmental decisionmaking.
>
> . . . . . .
>
> The privilege may protect any governmental decisionmaking function, including the governor's policymaking and lobbying of either state or federal government. . . . Generally, it is difficult for a requestor to override a presumption privilege. Relevant factors include: the degree of confidentiality and sensitivity of the communication; the time elapsed after deliberation concluded and after communications were made; and whether deliberation is ongoing.[3]

---

[2] *Fuller v. City of Homer*, 75 P.3d 1059, 1063 (Alaska 2003).

[3] *Gwich'in Steering Committee v. Office of the Governor*, 10 P.3d 572, 578 and 579 (Alaska 2000) (emphasis added).

In a case that preceded both *Gwich'in Steering Committee* and *Fuller,* the court said:

> The deliberative process privilege has never been held to be absolute. The strongest indication of its constitutional roots has come from the Nixon case, in which the United States Supreme Court recognized a qualified presumptive privilege 'inextricably rooted in the separation of powers under the Constitution.' 418 U.S. at 708, 94 S.Ct. at 3107. But the very holding of that case was that the executive privilege, even though constitutionally rooted, was not absolute and may be outweighed by the legitimate needs of a coordinate branch. . . . Thus we believe it is not sufficient to say that because the deliberative process privilege has constitutional underpinnings the legislature may never enact a statute which has the effect of overriding the executive's request for secrecy.
>
> . . . . . .
>
> The legislature has not only mandated that the [budget] reports be made and submitted to OMB, it has, in declaring the reports to be public, implicitly determined that the need for public disclosure outweighs any risk of lack of candor on the agencies' part. This determination is entitled to significant weight, given the legislature's constitutional power to allocate executive department functions and duties among the officers, departments, and agencies of state government.[4]

In conclusion, the court in *Capital Information Group* decided that the deliberative process privilege, while constitutionally based, may be limited by statute at least to the extent that the privilege is "outweighed by the legitimate needs of a coordinate branch" of state government. As a practical matter, this seems to give the legislature a fairly narrow area within which it may act to limit the privilege.

DCW:ljw
09-197.ljw

[4] *Capital Information Group v. Office of the Governor*, 923 P.2d 29, 39 and 40 (Alaska 1996).

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 157

Page 1, line 5:

Delete the first occurrence of "**by**"

Insert ";"

Page 1, following line 8:

Insert new bill sections to read:

"*** Section 1.** AS 14.20.135(a) is amended to read:

(a) A school district or regional educational attendance area that has or anticipates having a shortage of teachers qualified to teach in a particular discipline or specialty may, **subject to AS 14.25.043(f)** [BY RESOLUTION], adopt, **by resolution,** a policy that permits the employment of retired teachers who are qualified to teach in the discipline or specialty in accordance with this section. The policy must describe the circumstances that constitute the shortage. If a shortage of teachers exists as described in the policy, the district or attendance area shall notify the administrator of the teachers' retirement system (AS 14.25) that it is hiring retired teachers under this section.

*** Sec. 2.** AS 14.25.043 is amended by adding a new subsection to read:

(f) Notwithstanding (b) and (e) of this section and AS 14.25.135, an employer that is a school district or regional educational attendance area may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) or (e) of this section unless

(1) the employer conducted an initial recruitment for the position for at least 15 days that resulted in fewer than three qualified, eligible, and available

applicants, including the retired member; and

(2) the employer then conducted an additional recruitment for the position and the additional recruitment resulted in fewer than three qualified, eligible, and available applicants, including the retired member; the additional recruitment period required by this paragraph added to the initial recruitment period in (1) must total not fewer than 30 days."

Renumber the following bill sections accordingly.

Page 2, line 25:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 5, 6, 9, and 10"

Page 2, line 26:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 5, 6, 9, and 10"

State of Alaska

Department of Revenue

Administrative Services Division

SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
Fax: (907) 465-2394

March 23, 2009

The Honorable Bob Lynn
Chair, House State Affairs Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

Thank you for hearing HB 157 on Tuesday, March 17th. The conversation and questions were well thought out by the committee and I'm happy to provide this response from each of the three agencies that are specifically impacted by this legislation.

Department of Natural Resources, Division of Oil and Gas

Representative Gruenberg asked for a copy of the legal opinion that defines "special inquiry" in AS39.25.110(9).

- The legal opinion was issued as confidential guidance and cannot be released.

- *Is there uniformity of the use of this phrase between departments?*
  The DNR has several staff hired under AS 39.25.110(9) and who were employed to provide the division with the expertise to match the skills and abilities of their counterparts in industry. The workload of the division has grown commensurately with the number of new companies, oil and gas fields, and new development initiatives such as the gas line. This growth has generated new challenges and new situations that require specially equipped staff with the necessary education, skills, and work experience to deal with them. The positions that are listed in Section 1 of HB 157 are not found in any other department.

- *Sounds like it's a loophole – how is it used – used for commensurate pay?*
  HB 157 closes a potential loophole had the provisions of AS 39.25.110(9) been applied indiscriminately and unreasonably. HB 157 will provide that only certain positions within the division can be identified as exempt and that are filled with employees hired from the very specialized, and highly paid, pool of industry workers.

Representative Seaton asked for confirmation that this bill moves positions from section 9 to section 14?
Section 1 of HB 157 will move only those positions in the division created now under AS 39.25.110(9) to (14). There are no other exempt staff under (9) that will remain left in that category upon implementation of HB 157.

Attachment A includes three position descriptions for a commercial analyst, a petroleum land manager, and a petroleum geophysicist to provide the committee with a sampling of the kinds of skills that the Department of Natural Resources requires. Please note that personal information has been redacted from these position descriptions.

Department of Revenue
Chief Economist Position:
Representative Gatto inquired as to why the chief economist position would need to be paid more since predictions are based on past performance.

- *Why pay more?*
  The Department has been unable to fill this position due to unqualified applicants or due to better market pay in the private sector. Open recruitments were conducted in early 2008 with one qualified applicant who turned down an interview because of non-competitive pay, and in 2009 prior to the hiring freeze having only one applicant who was deemed unqualified.

- *What other tasks would this person do or be responsible for?*
  In summary, an acceptable candidate would have global experience and/or knowledge to lead Alaska in the State's economic plan. While a widely visible part of this person's job is to prepare the oil/gas revenue forecast, this person would also provide an economic vision in renewable resources, alternative energy, and the state's tax structures. This person would also be responsible for developing economic models, preparing cost/benefit analyses on tax related issues, understanding state and federal tax law as it applies to Alaska. Alaska is widely dependant on global economies and this person would need experience and/or knowledge of the State's interactions world-wide.

Representative Johnson reiterated that this person would review professional contracts and would need that skill set to adequately negotiate contracts on behalf of the state.

Yes, this person must be able to negotiate professional services contracts with private service providers where short term professional needs are required. This person must know the terminology, have area-specific knowledge, anticipate the impact to the State, and know how to negotiate to receive an acceptable product to be provided at the end of the contract.

Representative Gruenberg asked if the two exempt positions for the Department of Revenue could be provided for under AS 39.25.110 (26) rather than creating a new sub-section (42).

Yes the positions could be included in sub-section (26) but the bill was drafted with a new sub-section due to drafter's choice because it establishes a clear distinction as to the time in which the positions were exempted.

Attachment B includes the position description that has been used for the past two years' recruitment efforts for the Department of Revenue's chief economist.

Department of Administration:
Retire/Rehire Issues:
Representative Seaton asked if there was a problem or deterrent for upward mobility due to retire/rehire.

- *How is upward mobility solved?*
  AS 39.35.150 (f),(g),(h) requires the executive branch of the State of Alaska and political subdivisions to hold a competitive recruitment of not less than 30 days for which there are fewer than five qualified candidates, including the retiree, before a shortage of applicants can be declared. This recruitment would allow any employees looking for advancement an opportunity to apply for the position. Should the employees not have the required knowledge, skills and abilities required, the knowledge transfer plan should include succession planning and cross training to build those skills. The Division of Retirement

and Benefits (DRB) reviews each political subdivision certification and resolution as it is submitted. If there is any indication that the recruitment resulted in greater than 5 applicants who met the qualifications of the recruitment, the hiring of a retiree under the program is denied unless further documentation substantiates there was a true shortage. The knowledge transfer plan is also requested from the employer. The Division of Personnel monitors the State of Alaska Executive Branch requests for hire and has solved the situation of blocking upward mobility by succession and training programs and the Knowledge Transfer Plan

- *Is the Knowledge Transfer Plan being implemented and is it audited/monitored?*
  Knowledge Transfer plans are being requested from each political subdivision employer who participates in the retiree rehire program. Approximately 80% of employers have responded. The DRB monitors the program overall rather than on an individual employer basis. Statistics show that, of the 227 total waivers granted under this program, 103 have been terminated. Of the 63 employers participating in the program, 15 have eliminated their dependence on retirees and 12 have reduced their dependence on retirees.

- *The committee would like to see a copy of the Department's procedures for following up on the Knowledge Transfer Plan.*
  The Executive Branch requires a knowledge transfer plan for all classified positions within 60 days of the appointment of a retiree rehire. Although there is no written procedure that addresses the process for following up, the plans are reviewed and approved by the Division of Personnel and Labor Relations. If the plan is not received timely, the director follows up with the applicable department. In February, 2008 the division provided a reminder to the director of each division that employed a retiree of the need to monitor the progress of the plan and to update as necessary. If the retire/rehire program is extended the division will continue this monitoring process and will request a status report of the knowledge transfer progress.

  The DRB requires a knowledge transfer plan for all political subdivision employers. If a plan is not received timely, a follow-up in the form of a telephone call or email is sent to the employer representative. If a plan is still not received, a letter requesting the plan is sent to the employer periodically until the plan is received.

Representative Seaton commented on the "Alaska Legislative Report" prepared by the Division of Retirement and Benefits.

- *Some positions on the report didn't look like they should have been hard to fill (Admin Asst I)*
  The Administrative Assistant I position that was highlighted in the question, is employed by the Court System. The title may not be representative of the job duties and skill requirements. The Court System has been asked to provide the criteria they used to make the appointment of a retiree. A letter from the Court System is added as **Attachment C**.

- *Do you review the current labor pools on a timely basis?*
  The labor pool is reviewed for each vacancy prior to authorizing the appointment of a retiree rehire.

  Once a classified position is filled with a retiree, that employee maintains his/her right to the job. If that person remains in the job until the end date of the authorized retire rehire program he/she would receive a letter alerting them to their options. The employee would have the option to remain employed in that

position but surrender retirement payments until he/she retires again, or the employee could leave the position and continue to receive his/her retirement as usual.

Partially Exempt or Exempt positions that are filled with retirees are slightly different because exempt employees work at the pleasure of the Governor or her designee. All employees in these positions do not enjoy the same right to the job as classified positions.

Representative Seaton would like the administration to consider a provision that requires the employer to reevaluate the labor market during the 4 year sunset so that a person does not automatically keep the rehire position without further reconsideration

This could prove contrary to collective bargaining agreements.

Representative Wilson referred to some specifics outlined in Commissioner Scott Nordstrand's Sept 11, 2006 memo.

- *Are the requirements described in the memo also included in regulation or statute?*
  This memorandum established the policy for the State of Alaska in 2006. HB 161 placed the requirement for two 15-day recruitments that results in fewer than five qualified, eligible, and available applicants in AS 39.35.510(h) before a shortage can be declared. A similar provision for political subdivisions is contained in AS 39.35.510(f).

- *Is it fair to other employees to have only a 30 day vacancy?*
  The policy set through this memorandum places "side boards" on this program for positions in the classified service. If the criteria set by this policy is met, it is reasonable to assume that there were no other qualified applicants. Therefore, the 30 day separation is sufficient.

The committee in general would like detailed statistics on the number of people impacted by retire/rehire and would like better details regarding accountability of the retire/rehire program overall.

Attachment D is a copy of a sample Knowledge Transfer Plan. Please note that each position would need to be customized to the skills required of the retiree and the affected employees who were seeking to learn those necessary skills.

Attachment E is a two page statistical summary of PERS and TRS employer and active retirees by employer.

Please let me know if the committee needs any further information regarding HB 157.

Sincerely,

Ginger Blaisdell
Administrative Services Director, Department of Revenue

CC: Kevin Banks, Director, Division of Oil and Gas, Department of Natural Resources
Kevin Brooks, Deputy Commissioner, Department of Administration

Attachment A – Department of Natural Resources, three position descriptions

STATE OF ALASKA
POSITION DESCRIPTION
(form completion instructions removed)

1. Name (last, first, middle)	2. Current Class Title / Code / Range / Bargaining **Petroleum Land Manager** (exempt)
3. Department Natural Resources	4. Division Oil and Gas
5. Region/Section/Unit Unit Administration	6. Work Phone: Fax: E-mail Address:
7. Work Address (Street/City) 550 W. 7th Avenue, Suite 800 Anchorage, Ak. 99501	8. Name/Title of Supervisor PCN: Work Phone:

12. **In one or two sentences, state the main purpose of the position.**

This position participates in gas line related negotiations concerning the state's participation in gas balancing agreements, field gas offtake scheduling, royalty in kind taking points, gas processing fees and gas exchange/storage agreements. This position also leads a team of professionals to ensure that the formation of new and gas units and participating areas, expansions or contractions of existing oil and gas units and participating areas, and oil and gas plans of exploration or development will promote the conservation of all natural resources, promote the prevention of economic and physical waste and provide for the protection of all parities of interest, including the state.

13. **List all duties of the position**. Begin with the most important duty. List duties in a decreasing order of importance with the least important duty last. Describe each task in detail (see previous page). List the **percentage of time** spent at each duty and rate the **importance** of each duty (see previous page).
***The supervisor must define each duty/function as essential (E) or marginal (M).**

Essential = E Marginal = M Importance = IMP Percent of Time = %/T

*E/M	IMP	%/T	DUTIES/FUNCTIONS/TASKS
E	1	20 %	Negotiate, draft and administer oil and gas unit agreements between the state, the oil industry, native corporations, the federal government, and private individuals. Lead diverse teams of geoscientists and engineers; and legal, accounting, permitting and environmental professionals to evaluate the formation of new units, expansions and contractions as well as termination of existing units, amendments to unit agreements, and the formation of participating areas. Review and evaluate tract participating and cost allocation schedules to ensure the protection of the state's royalty interests and the correlative rights of all parties. Interpret existing agreements and enforce industry compliance including operating agreements and facility sharing agreements.

E	1	10 %	Negotiate plans for exploration and development of the state's oil and gas resources. Evaluate plans to bring known but presently uneconomic hydrocarbon accumulations into production. Work closely with the oil industry and other state and federal agencies to develop well-documented plans and exploration/development incentives. Interpret existing agreements and enforce industry compliance with plans of exploration and/or development. Review oil and gas lease operation permit applications and approvals to ensure compliance with the lease and unit agreements including environmental stipulations and mitigation measures.
E	1	5%	Develop positions on various oil and gas issues through discussions with the director, the commissioner, the division's commercial analysts and technical staff. Interact with senior administration officials, and brief the DNR commissioner on various oil and gas issues and pending decisions. Develop decisions and communicate with senior industry executives. Consult with the Attorney General's Office to ensure decisions are legally sound, assist in the preparation of court documents and provide support and expert testimony for litigation or legal negotiations.

23. List the most important purpose, service, or product expected of this position.
Negotiates complex agreements with the oil and gas industry, the federal government, native corporations, and private individuals for the exploration, evaluation and development of the state's oil and gas resources, commits those agreements to writing, and enforces industry compliance with the agreements. Participate in North Slope gas sale related negotiations
24. List specific or specialized training, education, experience and/or skills needed to perform the duties of this position.
College degree from a four-year accredited institution, plus 5 years experience in land/title related work, preferably oil and gas work; or 5 years experience in or working with the upstream oil and gas industry preferably in land/title, exploration

STATE OF ALASKA
POSITION DESCRIPTION
(form completion instructions removed)

1. Name (last, first, middle)	2. Current Class Title / Code / Range / Bargaining **Commercial Analyst**
3. Department Natural Resources	4. Division Oil & Gas
5. Region/Section/Unit Commercial Section	6. Work Phone: Fax: E-mail Address:
7. Work Address (Street/City) 550 West 7th Avenue, Suite 800 Anchorage, AK 99501	8. Name/Title of Supervisor PCN: 10-XXXX Work Phone:

12. In one or two sentences, state the main purpose of the position.

This position identifies revenue opportunities in State oil and gas assets and negotiates commercial terms with private industry. The Director has delegated significant responsibility to this position to work with a minimum of supervisory oversight.

13. **List all duties of the position.** Begin with the most important duty. List duties in a decreasing order of importance with the least important duty last. Describe each task in detail (see previous page). List the **percentage of time** spent at each duty and rate the **importance** of each duty (see previous page).

***The supervisor must define each duty/function as essential (E) or marginal (M).**

Essential = E Marginal = M Importance = IMP Percent of Time = %/T

*E/M	IMP	%/T	DUTIES/FUNCTIONS/TASKS

Overview:

The Division of Oil and Gas represents the state in its commercial dealings with oil and gas companies who explore for, develop, and produce hydrocarbons from state land. The Division's organizational model resembles the exploration and production arm of an oil company and it employs (and competes for) staff with the same commercial and scientific experience. The administration and the legislature recognize that the Division is the chief repository of oil and gas expertise in Alaska, and they require that the Division adapt its expertise to the rapidly changing structure of the industry.

E	1	75	**Royalty Deductions: Pipeline Transportation Systems** Oil and gas leases issued by the State obligate the lessees to pay royalties to the State. Since each lessee's royalty obligation to the State is based on the Value of oil and gas in their destination markets, minus the costs of transporting the oil and gas to market, any increase in or overstatement of transportation costs decreases royalties paid to the State. This position is responsible for analyzing pipeline transportation systems, as well as lessees' claimed transportation deductions, to determine the actual, reasonable, and allowable costs of transportation. Where claimed transportation deductions are found to be excessive, this position works with other members of the Division and the Department of Law to assure full payment of each lessee's historical royalty obligation, and in negotiating methodologies intended to govern the calculation of future transportation deductions. The position will evaluate the lessees' commercial incentives in pipeline transportation of Alaska North Slope (ANS) and Cook Inlet oil and gas and formulate options to enhance royalty netback-value. The position's responsibilities include working in technical teams consisting of engineers and managers with the State/Federal Joint Pipeline Office, the Gas Pipeline Office, and attorneys with the Department of Law to influence and implement policy initiatives. With minimum supervision, this senior commercial analyst will construct value netback models, decision analysis models, and other relevant management science tools to: Monitor and evaluate the cost and tariff structure for the Trans-Alaska Pipeline System (TAPS), as well as the system of existing, planned, and proposed oil and gas pipelines and their impact on royalty netback value. Monitor and evaluate proposed and/or actual changes to the pipeline statues and regulations of the Federal Energy Regulatory Commission (FERC) and the Regulatory Commission of Alaska (RCA) and their impacts on tariff making and royalty netback value. Advise the Commissioner on the State's royalty interests with respect to pipeline tariff proposals and advocate the Department's position on tariff issues to the Department of Law. Develop the appropriate royalty deduction for pipeline transportation of ANS Gas. The position will lead the Department's evaluation of producer and/or pipeline owner's cost of transportation service and negotiate with the lessees to determine their actual and reasonable transportation cost. Provide technical support to the Commissioners of Natural Resources and Revenue as provided for under AS 43.82 (Stranded Gas Development Act), or any similar act. Develop monitoring systems to evaluate ANS gas pipeline tariffs and ANS gas market data to manage royalty settlement agreements (RSAs) that may result from these negotiations. Participate with the Department's negotiating team to implement the royalty terms fro the ANS gas pipeline project. These negotiations will require that the position interact and coordinate the departments' initiatives the Department of Law, the Legislature, and with staff and commissioners in FERC and RCA. Identify economic barriers (such as monopolistic pricing practices) that may impede commercial access to pipeline transportation systems and recommend actions, legislation, and regulations to mitigate these economic barriers.

E	1	15	**Royalty Valuation** The position has considerable autonomy to examine the performance of existing and proposed RSAs and develop negotiation strategies for state-initiated settlement reopeners. Also, the position will formulate options and provide analysis to respond to lessee-initiated royalty settlement reopeners. The position will initiate, coordinate and analyze options with the Department of Law and recommend policy to the Commissioner to assure maximum value for state royalty oil and gas. The position will carry out analysis and advocate negotiation strategies pertaining to the following area of increasing importance in oil and gas industry structure and conduct: Analyze commercial arrangements related to ANS and Cook Inlet oil and gas dispositions, including third-party, arm's-length contracts, internal company transfers, and exchange agreements between oil and gas producers to assure maximum value for state royalty oil and gas. Monitor international and domestic oil and gas trading and pricing behavior, markets where Alaskan royalty oil and gas is traded. Evaluate structure, conduct, and performance of ANS and Cook inlet oil and gas markets and determine impact of changes in market structures on ANS and cook Inlet producer commercial arrangements and royalty settlement reopeners. Conduct market identification analysis to assure compliance with "higher of" provisions of oil and gas lease forms for leases not covered by RSAs.
E	1	10	**Special Projects** Prepare written expert reports and provide oral testimony supporting the state's commercial/revenue interests before legislative committees, conferences and public hearings. Provide litigation support to the Department of Law. Testify as an expert witness in royalty litigation when necessary. Design and carryout research and prepare written research papers on oil and gas commercial issues for presentation at conferences and for submission to professional journals and trade publications.

23. List the most important purpose, service, or product expected of this position.

This position must identify and secure State revenue potential in State oil and gas assets and commercial contracts.

24. List specific or specialized training, education, experience and/or skills needed to perform the duties of this position.

Position requires a graduate degree in economics or business, the ability to communicate complex information in a clear and concise manner, and a mature, professional deportment to represent the State in commercial negotiations.

STATE OF ALASKA
POSITION DESCRIPTION
(form completion instructions removed)

1. Name (last, first, middle)	2. Current Class Title / Code / Range / Bargaining **Petroleum Geophysicist**
3. Department Natural Resources	4. Division Oil & Gas
5. Region/Section/Unit Leasing / Evaluations	6. Work Phone: Fax: E-mail Address: jfm@dnr.state.ak.us
7. Work Address (Street/City) 550 West 7th Avenue, Suite 800 Anchorage, AK 99501	8. Name/Title of Supervisor PCN: Work Phone:

12. **In one or two sentences, state the main purpose of the position.**

The geophysical evaluation of State lands for oil and gas potential which is used to determine the bidding methods for State lease sales, decisions concerning expansion and contraction of units and to provide technical expertise related to any oil and gas activity.

13. **List all duties of the position.** Begin with the most important duty. List duties in a decreasing order of importance with the least important duty last. Describe each task in detail (see previous page). List the **percentage of time** spent at each duty and rate the **importance** of each duty (see previous page).

***The supervisor must define each duty/function as essential (E) or marginal (M).**

Essential = E Marginal = M Importance = IMP Percent of Time = %/T

*E/M	IMP	%/T	DUTIES/FUNCTIONS/TASKS
		50%	Seismic data interpretation involving the following procedures: review the seismic data for acquisition or processing problems, map selected seismic horizons and determine the fault patterns, apply datum and residual time corrections, contour posted time and depth maps and delineate prospects, planimeter fill levels and assign risk factors to the prospects for the purpose of calculating their value and present the results and recommendations to the Commissioner of Natural Resources so that lease sale conditions may be determined.
		19%	Gravity and magnetic interpretation involving the following procedures: organize the conduct field programs for collecting gravity and magnetic data, calculate the density values and reduce the gravity readings to Complete Bouguer anomalies, draw a hypothetical geologic model, calculate gravity values for the model and compare with the observed gravity field, change the model to fit and produce maps, charts and reports of interpretation.
		10%	Request and develop computer programs and program modifications and supply technical expertise for program development related to geophysical interpretation procedures.

5%	Velocity data interpretation involving the following procedures: pick time-velocity pairs from velocity spectra, generate and analyze iso-velocity contour and composite plots, position the velocity composites and determine the interpolation grid, review the contoured depth map for velocity problems and revise the velocity interpretation if necessary.
5%	Seismic modeling and synthetic generation involving the following procedures: revise and edit the sonic and density logs in preparation for digitizing, input checkshot and deviation data, select a wavelet that matches the seismic date and generate the synthetic seismogram display, transfer the geologic picks from well logs to the synthetic and correlate the synthetic with the seismic data; draw a hypothetical geologic cross-section, generate the seismic response display and compare to the seismic section.
5%	Supervise geological assistants in the digitizing of well logs and seismic data, posting of intersections, plotting of synthetic seismograms and in map production.
2%	Obtain seismic, gravity, magnetic, geographic, lease tract, and well log data from state, federal and industry sources.
1%	Give depositions to the Attorney General's Office concerning geophysical matters.
1%	Respond to requests for geophysical information from organizations, companies and individuals.
1%	Inspect geophysical data for possible acquisition..
1%	Write requests for new equipment.

17. List **actions** you take or **decisions** you make on a regular basis without higher level approval:

I am responsible for deciding what data reduction and interpretation techniques to use in the geophysical evaluation of oil and gas lease sales. These techniques may vary due to structural complexity, velocity problems or the presence of stratigraphic traps. The results of the geophysical and geological analysis are used to recommend bidding methods for oil and gas lease sales to the Commissioner of DNR. These bidding methods, if in error, could adversely affect the state's revenue in the millions of dollars. I decide how to organize and implement field parties in a manner that maximizes the amount and quality of the data collected. These data are used in the pre-sale evaluation which would be seriously affected by any inadequacies in the data. I decide what computer software procedures should be followed in order to maintain a consistency in our interpretation of the geophysical data in order to efficiently evaluate it for lease sales and provide information on unit expansion and contraction decisions. I recommend bidding methods for oil and gas lease sales based on pre-sale evaluation. I assess oil and gas potential for land trades and recommend approval or disapproval. I recommend additions and changes to the five-year leasing program. I make recommendations concerning oil company request (e.g. lease extensions, drilling incentive credits, or unit boundaries). I make recommendations concerning what computer hardware and software to purchase for us in evaluation of state lands. I map seismic horizons and apply corrections to produce time, depth and prospect maps; determine oil and gas fill levels; assign risk factors and present interpretation results to the Commissioner for determination of lease sale conditions. I organize and conduct gravity and magnetic field programs; reduce and model the field data to produce maps, charts and reports of interpretations. I generate and interpret velocity spectra; generate and analyze velocity composite data; determine three dimensional velocity structures and apply the reduced data to produce seismic depth maps. I use logs, check shot and well deviation data to produce synthetic seismograms and create hypothetical geologic cross-sections to generate synthetic seismic models. I supervise geological assistants in the digitizing of geophysical data and production of geophysical displays. I request and help develop computer programs and systems for use in seismic, velocity, well log, gravity and geomagnetic data reductions and interpretations.

Attachment B – Department of Revenue, chief economist

Position Description for Chief Economist
for the Department of Revenue

Definition:

Under general administrative direction, the Chief, Revenue Economic Research supervises the economic research, revenue forecasting, and financial analysis staff and functions of the Department of Revenue's Tax Division.

Distinguishing Characteristics:

The Chief, Revenue Economic Research is a single position job class having primary responsibility for the development, coordination, and production of the economic and financial analysis of state revenues from all tax sources. It is distinguished from the Economist and Petroleum Economist series by the broader scope of responsibility encompassing the planning, supervision, and coordination of the Economic Research Section. It is distinguished from the Assistant Chief, Revenue Economic Research by its responsibility for overseeing all the staff and activities of the Economic Research Group.

This is a supervisory class with substantial responsibility for the exercise of independent judgment in employing, disciplining, or adjudicating grievances of subordinates.

Examples of Duties:

Supervise and mentor the staff of the Economic Research Section.

Assign tasks, evaluate progress, monitor outcomes and evaluate strategies for achieving those outcomes. Hire, evaluate, and coordinate the work of professional economists and research staff.

Develop economic models to forecast tax revenue from various sources and coordinate the refinement and improvement of these models in accordance with acceptable statistical techniques and advances in technology and communication.

Conduct or supervise the preparation of a wide variety of analyses including cost/benefit analyses; research relating to various taxation alternatives; studies relating to fiscal system; studies on such topics as Enhanced Oil Recovery [EOR]; and heavy oil or market research.

Coordinate information, economic models, and forecasts with the Treasury Division, the Alaska Permanent Fund Corporation, the Office of Management and Budget, and other state agencies.

Coordinate and edit, under the supervision of the division director, the publication and dissemination of revenue analyses - with agencies within the state, the legislature, the media, and with the public through meetings, seminars, and public addresses.

Supervise the preparation of the State's Revenue Sources Book (RSB).

Develop strategies and assist other state agencies with the development of a long-range fiscal plan.

Develop and build the research capacity within the Tax Division for research and economic modeling. Participate in research, analysis and the presentation of tax and revenue options; negotiations on new and existing energy projects and tariff agreements.

Make recommendations for formulation of proposed tax legislation to agency executives and legislators; prepare, or supervise the preparation of, fiscal notes to proposed tax and revenue legislation.

Conduct or supervise research on issues that require wide-ranging economic expertise including analyzing the impact of national and international events, federal and state statutes, and court decisions on state tax policy and revenue.

Make presentations concerning state revenue outlook and/or administrative policy with respect to tax issues to a wide variety of audiences, expressing complex economic ideas and concepts through clear and often non-technical language. Provide briefings to the Governor, Legislature, professional societies and business organizations, bond rating agencies, and the general public.

Draft Requests for Proposals to provide the Tax Division with economic and financial information and analyses from nationally and/or regionally respected consultants.

Testify as an expert witness in judicial proceedings and legislative hearings.

Direct the preparation and interpretation of cost/benefit analyses and research relating to various taxation alternatives. Coordinate information, economic models, and forecasts with the Treasury Division, the Alaska Permanent Fund Corporation, the Office of Management and Budget, and other state agencies.

Participate in research, analysis and presentation of tax and revenue options. Participate in negotiations on new and existing energy projects and tariff agreements. Make recommendations for formulation of proposed tax legislation to agency executives and legislators Prepare, or supervise the preparation of, fiscal notes to proposed tax and revenue legislation.

Conduct or supervise research on other issues that require wide-ranging economic expertise. Analyze the impact of national and international events, federal and state statutes, and court decisions on state tax policy and revenue. Directly or through staff, support other sections of the Tax Division and other divisions within the Department of Revenue.

Write and edit the narrative explanation of study findings in technical and non-technical terms. Analyze the impact of existing or proposed tax laws on state revenues.

Provide technical assistance and supervise the development, planning, assessment and implementation of tax proposals and systems. Direct cost/benefit analyses and studies of existing and proposed tax programs

Represent the department before boards, commissions, and the legislature in areas pertaining to state revenues, economic research, statistical analyses, and other related studies. Coordinate and act as liaison with state, federal and legislative agencies to develop projects to measure economic and/or revenue impact. Work with other state agencies to propose, evaluate and assess economic, tax or revenue programs.

Knowledge, Skills and Abilities:

Extensive knowledge of the principles of economic theory and models; statistical theory and methods; techniques of research and reporting, data collection and evaluation; basic statistical measures and terminology; principles of effective composition; utilization of resource and reference materials; petroleum fiscal systems and the ability to analyze and evaluate petroleum projects within the parameters of those systems. Considerable knowledge of tax law and economics. Considerable knowledge of economic analysis techniques and sources of economic and financial data. Knowledge of the principles of organization, administration management, and supervision.

Ability to plan, direct, and review the work of professional staff in the analysis of economic data and preparation of comprehensive reports; apply expert judgment, prepares valid conclusions and accurate evaluations related to forecasting petroleum revenue and resources; speak, write and communicate effectively with government officials, representatives of the petroleum industry and others. Ability to manage multiple projects and prepare economic analyses.

Minimum Qualifications:

A bachelor's degree or the equivalent with major course emphasis in economics, accounting, public or business administration, petroleum engineering, industrial engineering, or a closely related field.
AND
Five years of advanced professional level experience in the analysis and interpretation of economic data relating to the determination of the economic value of known and potential petroleum resources, financial status of oil companies, oil revenue projections and oil tariffs. This experience is met by service as a Petroleum Economist II with the State of Alaska or the equivalent elsewhere. This experience may be in industry, in educational or nonprofit institutions, or government.

Substitution:
Appropriate graduate study may be substituted for the required experience on a year-for-year basis not exceeding two years.

Appropriate doctoral study may be substituted for the required experience on a year-for-year basis not exceeding three years.

Required Job Qualifications:

(The special note is to be used to explain any additional information an applicant might need in order to understand or answer questions about the minimum qualifications.)

Special Note:
"Advanced professional experience" includes substantial responsibility for complex economic analysis, forecasting, and econometric modeling requiring non-routine data analysis and consistent application of creative problem solving techniques. Projects are broad in scope
and require comprehensive research and analysis involving the application of advanced economic principles to difficult problems.

Attachment C – Courts System letter regarding retiree filled position

Alaska Court System

Human Resources Department
820 W. 4th Avenue, Anchorage, AK 99501
Phone: 264-8242 Fax: 264-8262

TO: Nicki Neil, Director
Division of Personnel
Department of Administration

DATE: March 23, 2009

FROM: Lee Powelson
Alaska Court System

SUBJ: Retiree Rehire
Human Resources Director Information Request

The following is in response to the request from Representative Seaton for information regarding the court's recruitment process when retired applicants were appointed to court positions. Representative Seaton requested the information during a recent legislative hearing; you forwarded the request to the court. All employees of the Alaska Court System are exempt from the State Personnel Act in accord with AS 39.25.100(2). The court system has adopted its own personnel/classification system and has designated court positions as classified, partially exempt, or exempt.

The Alaska Court System submitted a plan to implement the retiree rehire program in 2005 following passage of HB 161; that plan was approved by the Director of Retirement and Benefits. The plan imposed somewhat different rehire criteria for positions in the court's classified and partially exempt services.

Standards for Classified rehire:
A PERS retiree may be appointed to a classified position with the Alaska Court system if:

1. A standard competitive recruitment (internal or external, as determined by the HR Director using customary criteria) has been conducted for at least 30 days; and

2. The recruitment generated a pool of five or fewer applicants who met both minimum and preferred qualifications; and

3. Both the HR Director and the supervisor of the position agree that the retiree applicant is clearly superior.

Standards for PX rehire:
A PERS retiree may be appointed to a partially exempt position with the Alaska Court System if the Administrative Director determines that:

1. The retiree's skills and qualifications are highly matched to the critical business needs of the Alaska Court System; and the retiree's skills and qualifications would be extremely difficult to replicate; or

2. Continuity and lack of disruption in the position is extremely important to support an important business need of the Alaska Court System.

The court employs very few individuals under the retiree rehire program. As used by the court system, the Administrative Assistant job title includes positions which provide the primary administrative support to a justice or judge. These positions use the working title of Judicial Assistant. The specific positions referenced by Representative Seaton are in the partially exempt (PX) service.

PCN 419022 Administrative Assistant III (SR 14)
This position serves as the primary Judicial Assistant to the Chief Justice of the Supreme Court. The Chief Justice requested approval to rehire the employee based upon her significant specialized knowledge of and experience with the administrative matters and duties specific to the Chief Justice, and the difficulty associated with attempting to recruit and train a new assistant during the chief justice's term. The Chief Justice serves a three year term. During that period, the Chief Justice receives no additional administrative support although the chief justice assumes significant additional management and administrative duties associated with the operation of the statewide court system. Based upon the applicant's familiarity with the supreme court caseload she is able to direct work flow and assignments to law clerks and handle a large quantity of administrative work without direction. This efficiency allows the Chief Justice to carry a full caseload in addition to the considerable administrative duties of the position. Given the specialized nature of the Chief Justice's work and additional administrative duties, the continuity of rehiring the applicant was a critical concern. The employee was rehired on November 2, 2007.

PCN 419021 - Executive Secretary/System Coordinator (SR 14)
This position serves as the sole Judicial Assistant to a Supreme Court justice. The justice requested approval to rehire the employee citing the benefit of continuity and lack of disruption in hiring and training a new Judicial Assistant during the remaining years of the justice's service on the bench. (This justice is required to retire in April 2009 due to the mandatory retirement age for judges and justices; the employee's tenure in this position will also end in early April.) Recruiting to fill a position with a highly-skilled individual for a short term of employment would have been extremely difficult. The incumbent also has specialized knowledge of the case management system used by the supreme court and court of appeals, and serves as the only specialist in a wide variety of software applications used by the appellate courts. The employee was rehired on August 2, 2005.

Administrative Assistant I (SR 12)
This position serves as Judicial Assistant to a Superior Court Judge in Anchorage. Following an external recruitment open to all applicants, the judge requested approval to appoint the employee, noting that her skills and qualifications are highly matched to critical business needs of the superior court and that those skills and qualifications would be extremely difficult to replace. The applicant had extensive experience working in a variety of positions in the trial and appellate courts. The justification to hire stated that with one exception, none of the small group of internal applicants had been with the court system for any length time and their experience in handling civil cases was limited. While some external candidates had secretarial experience, very few had any experience in the legal system, and none had experience working in a court. The applicant was appointed on June 7, 2006.

If you need additional information, please contact me.

Attachment D – Knowledge Transfer Plan

Progress under this plan can be monitored and reviewed quarterly and reported to the Management Services Consultant as needed.

Development Area	Transfer Type	Recipient(s)	Target Completion Date	Successful Transfer Measurement
1.) Prepare a review and a brief description of the user interface between each of the commercial fisheries in the region, and the associated data management forms and reports in the Integrated Fisheries Database which have been developed to support the information needs of that fishery across the region. The information needs of the Pacific Salmon Commission will be separately considered for each fishery within their purview.	**Returned Retiree:** has the greatest cumulative knowledge of how these interfaces now work, and how they should work with upgraded technology to more fully meet the needs of each associated fishery in the years ahead.	The SE Region IT Supervisor; the Region's second Analyst-Programmer IV, and any designated users, or other support staff.	6/30/2009 (30 months)	Sharing knowledge of the technical workings of IFDB, will be successful when any Recipient, or any authorized ADFG staff member, can quickly call up diagrams, schematics, user, usage, and technical notes, on the web, about any IFDB interface for any fishery in the region
	Job Aids: The Region's IT supervisor will work with other IT staff in the Division and Department to establish standard structures and formats which provide for collaboration and consensus on storing, updating, reviewing, and modifying these reviews.		11/1/2007	These aids are already partially in place on a web site named Confluence." This site is sponsored and supported by DOA/ETS, and has full support and participation by ADFG. Those interested can click http://kiwi.state.ak.us to review the status to date.
	Data Supervision Board (DSB). In the Fall of 2003, the Regional Supervisor for SE Region formed what is now known as the Data Supervision Board. This board, comprised of IT staff and regional managers, meets		Semi-annual regional meetings, starting 11/2005	There are more than 40 data management forms, and over 200 distinct data output formats that represent the interfaces to IFDB. We have an active program underway, under the umbrella name Zander, to

	semi-annually to review projects, and set priorities on the work of the region's IT Staff. **Mentoring**: The returned retiree will also provide for, and allow time for the recipient(s) to read, discuss, and work through the usage issues in each interface review document.		On-going	upgrade and document the technologies which support each of these interfaces. As work is completed on these upgrades the DSB, and anyone with web access, can review the documentation for them under Zander on DOA's Confluence web site.
2.) Prepare technical reviews, including high-level context diagrams, of the components, technical issues, procedures, processes and adopted standards, such as Oracle ADF, which, taken together, are critical to the full functioning of the Integrated Fisheries Database in supporting each fishery.	**Returned Retiree:** has the greatest cumulative knowledge of how these interfaces now work, and how they should work with upgraded technology to more fully meet the needs of each associated fishery in the years ahead. **Job Aids**: The Region's IT supervisor will work with other IT staff in the Division and Department to establish standard structures and formats which provide for collaboration and consensus on storing, updating, reviewing, and modifying these technical reviews. **Mentoring**: The	The SE Region IT Supervisor; the Region's second Analyst-Programmer IV, and any designated users, or other support staff.	On-going 6/30/2008 On-going	These reviews will be more technically oriented than the interface reviews described above. Making them effective for system trouble-shooting will require more extensive production experience, and perhaps new tools. As with all documentation which will be produced routinely by this Knowledge Transfer Plan interface and fishery specific information will be available, at least in summary, for inspection on the DOA Confluence web site as they are released.

	returned retiree will also provide for, and allow time for the recipient(s) to read, discuss, and work through the technical issues in each interface review document.			
3.) Prepare a description of technical and usage issues, including a review of licensing, maintenance, and technical training requirements, for all standard applications (e.g., MS Office, some statistical programs, open source apps, various third-party utilities) used in SE Region which directly, or indirectly, affect data in IFDB.	**Returned Retiree:** has some knowledge of how these interfaces now work, and how they should work with upgraded technology. However, he is not necessarily the primary user of these kinds of apps, nor will he be necessarily familiar with how IFDB data is used. Therefore, the SE Region IT Supervisor will have primary responsibility for working with the relevant users in the preparation of these descriptions with the support and participation of the Returned Retiree.	The SE Region IT Supervisor; the Region's second Analyst-Programmer IV, and any designated users, or other support staff.	1/1/2009	As with all documentation which will be produced routinely by this Knowledge Transfer Plan, interface and fishery specific information will be available, at least in summary, for inspection on the DOA Confluence web site as they are released.
4.) Prepare a plan for the likely evolution of the Region 1 data system beyond June 30, 2009.	**Returned Retiree:** has the greatest cumulative knowledge of how these interfaces now work, and how they should work with upgraded technology to more fully meet the needs of each associated fishery in the years ahead. **Job Aids.** This knowledge can be	The SE Region IT Supervisor; the Region's second Analyst-Programmer IV, and any designated users, or other support staff. Members of the Data Supervision Board,	6/30/2009 Semi-annual regional meetings	Preparation of a Publication titled something like: **Planning Guide to the future development of the Integrated Fisheries Database** As with all documentation

	best utilized by those who will follow the retiree if they are involved in some fashion in a regular series of open discussions about the future evolution of the region's data system.	and other interested and designated members of ADFG staff	beginning in the Fall of 2007	which will be routinely produced by this Knowledge Transfer Plan, interface and fishery specific information will be available, at least in summary, for inspection on the DOA Confluence web site as they are released

Attachment E – Department of Administration, statistics on retiree positions statewide

EMPL#	EMPLOYER NAME	# Active Waivers	# Termed Waivers	Knowledge Tranfer Plan Received	Fund	Active TRS	Active PERS
162	ALEUTIAN REGION SD	0	1	YES	P	0	0
758	ALEUTIAN REGION SD	0	1	YES	T	0	0
111	ANCHORAGE SD	1	3	YES	P	0	1
701	ANCHORAGE SD	11	34	YES	T	11	0
770	ANNETTE ISLAND SD	0	1	YES	T	0	0
219	BARTLETT REGIONAL HOSPITAL	1	0	YES	P	0	1
104	BERING STRAIT SD	0	2	YES	P	0	0
752	BERING STRAIT SD	7	1	YES	T	7	0
184	BRISTOL BAY BOROUGH SD	1	0	YES	P	0	1
768	CHATHAM SD	1	2	YES	T	1	0
129	CITY OF FAIRBANKS	0	1	YES	P	0	0
215	CITY OF HOMER	1	0	YES	P	0	1
134	CITY OF PALMER	1	0	YES	P	0	1
767	COPPER RIVER SD	1	0	YES	T	1	0
764	DENALI BOROUGH SD	0	2	YES	T	0	0
744	DILLINGHAM CITY SD	0	1	YES	T	0	0
116	FAIRBANKS NORTH STAR BOROUGH	0	1	YES	P	0	0
708	HOONAH CITY SD	1	0		T	1	0
124	IDITAROD AREA SD	1	0	YES	P	0	1
761	IDITAROD AREA SD	0	1	YES	T	0	0
108	JUNEAU BOROUGH SD	0	1	YES	P	0	0
710	JUNEAU BOROUGH SD	0	2	YES	T	0	0
122	KETCHIKAN GATEWAY BOROUGH	1	2	YES	P	0	1
177	KETCHIKAN GATEWAY BOROUGH SD	2	1	YES	P	0	2
714	KETCHIKAN GATEWAY BOROUGH SD	3	1	YES	T	3	0
717	KLAWOCK CITY SD	1	0	YES	T	1	0
718	KODIAK ISLAND BOROUGH SD	1	0		T	1	0
757	LAKE & PENINSULA BOROUGH SD	0	1	YES	T	0	0
754	LOWER KUSKOKWIM SD	36	7	YES	T	36	0
753	LOWER YUKON SD	1	1	YES	T	1	0
110	MATANUSKA-SUSITNA BOROUGH SD	2	0	YES	P	0	2
722	MATANUSKA-SUSITNA BOROUGH SD	3	4	YES	T	3	0
736	NORTH SLOPE BOROUGH SD	2	2	YES	T	2	0
751	NORTHWEST ARCTIC BOROUGH SD	0	2	YES	T	0	0
723	PELICAN CITY SD	1	0	YES	T	1	0
724	PETERSBURG CITY SD	0	2	YES	T	0	0
727	SITKA BOROUGH SD	1	0		T	1	0
769	SOUTHEAST ISLAND SD	0	1	YES	T	0	0
756	SOUTHWEST REGION SD	1	1	YES	T	1	0
779	SPECIAL EDUCATION SERVICE AGENCY	1	0	YES	T	1	0
101	STATE OF ALASKA	36	24	YES	P	0	*36
775	TANANA SD	1	0		T	1	0
730	VALDEZ CITY SD	1	0	YES	T	1	0
731	WRANGELL PUBLIC SD	1	0	YES	T	1	0
778	YUPIIAT SD	2	0		T	2	0
	TOTAL	**124**	**103**			**77**	**47**

State of Alaska Agencies		
	Law	3
	Health & Social Services	2
	Military & Veterans Affairs	1
	Natural Resources	1
	Fish & Game	10
	Public Safety	3
	Corrections	3
	Transportation & Public Facilities	6
	Court System	7
Total State Agencies		**36**

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

☐ P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886

☐ 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

L

HB 157

Amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees.

Summary:

- Amends AS 39.25.110 by adding the State Geologist, State Comptroller, and the Chief Economist to the exempt service.
- Amends AS 39.25.110 by moving certain exempt positions in the Division of Oil and Gas (DO&G) from AS 39.25.110(9) (special inquiry, studies, and examinations) to subsection AS 39.25.110(14) which addresses oil and gas positions.
- Extends the sunset of the Retiree Return Program for public employees and teachers (PERS and TRS) from July 1, 2009 to July 1, 2013.

Background:

- HB 157 would allow the State to continue to hire qualified, experienced oil and gas professionals to manage the State's valuable oil and gas resources.
- The State of Alaska owns oil and gas resources worth billions of dollars. It is critical that the State employ qualified, experienced professional staff with specialized knowledge of the oil and gas industry, world markets, and petroleum science and engineering. Significant industry experience also provides access to the latest interpretation technology and techniques.
- Experienced professional staff allows the State to continue making informed decisions regarding the management of its oil and gas resources. These decisions can ultimately make a difference in millions of dollars to State revenues.
- In order to keep current staff and attract new staff, the Department of Natural Resources must be able to offer salaries somewhat competitive with Alaska's oil and gas industry. Failure to do so could lead to substantial future losses in oil and gas revenues.
- This bill would assist the State in attracting and hiring qualified, experienced oil and gas professionals to effectively manage the State's oil and gas resources. Failing to attract qualified staff would ultimately hurt the State.
- Since the State Geologist and the positions in DO&G (exempt under AS 39.25.110(9)) are already funded as exempt positions, there should be no fiscal impact to the state.

Sec. 39.25.110. Exempt service. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the judicial council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education and Early Development as correspondence teachers, teachers in skill centers operated by the Department of Education and Early Development or by the Department of Labor and Workforce Development, or in Mt. Edgecumbe School;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions, and authorities:

(A) *[Repealed, § 13 ch 43 SLA 1994.]*

(B) Alaska Permanent Fund Corporation;

(C) Alaska Industrial Development and Export Authority;

(D) Alaska Commercial Fisheries Entry Commission;

(E) Alaska Commission on Postsecondary Education;

(F) Alaska Aerospace Development Corporation;

(G) Alaska Natural Gas Development Authority;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) the state medical examiner, deputy medical examiner, and assistant medical examiners appointed under AS 12.65.015 and pharmacists and physicians licensed to practice in this state and employed by the Department of Health and Social Services or by the Department of Corrections;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) *[Repealed, § 1 ch 32 SLA 1999.]*

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) emergency fire-fighting personnel employed by the Department of Natural Resources for a fire emergency or for fire prevention and related activities conducted under AS 41.15.030;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) *[Repealed, § 47 ch 99 SLA 2004.]*

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;

(23) *[Repealed, § 6 ch 28 SLA 2003.]*

(24) students employed by the state institutions in which the students are enrolled;

(25) *[Repealed, § 8 ch 2 SLA 2004.]*

(26) investment officers in the Department of Revenue;

(27) *[Repealed, § 10 ch 29 SLA 1999.]*

(28) persons engaged in employment or pre-employment training programs operated by the Department of Military and Veterans' Affairs;

(29) *[Repealed, § 9 ch 115 SLA 1989.]*

(30) a person employed as an actuary or assistant actuary by the division of insurance in the Department of Commerce, Community, and Economic Development;

(31) *[Repealed, § 91 ch 163 SLA 2004.]*

(32) a participant in the Alaska temporary assistance program under AS 47.27 who holds a temporary position with the state in order to obtain job training or experience;

(33) a person employed as a convener under AS 44.62.730 or as a facilitator under AS 44.62.760 related to a negotiated regulation making process under AS 44.62.710 — 44.62.800;

(34) the chief executive officer and employees of the Alaska Mental Health Trust Authority employed under AS 47.30.026(b);

(35) the assistant adjutant general for space and missile defense appointed under AS 26.05.185;

(36) the victims' advocate established under AS 24.65.010 and the advocate's staff;

(37) employees of the Alaska mental health trust land unit established under AS 44.37.050;

(38) the executive director and staff of the Council on Domestic Violence and Sexual Assault established under AS 18.66.010;

(39) the executive director and employees of the Knik Arm Bridge and Toll Authority under AS 19.75.051 and 19.75.061;

(40) the chair of the Workers' Compensation Appeals Commission (AS 23.30.007);

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250;

(42) oil and gas audit masters employed in a professional capacity by the Department of Revenue and the Department of Natural Resources to collect oil and gas revenue by developing policy, conducting studies, drafting proposed regulations, enforcing regulations, and directing audits by oil and gas revenue auditors. (§ 5 ch 144 SLA 1960; am § 1 ch 48 SLA 1961; am § 1 ch 133 SLA 1961; am § 3 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 31 ch 46 SLA 1970; am § 65 ch 69 SLA 1970; am § 13 ch 113 SLA 1970; am § 3 ch 78 SLA 1971; am § 18 ch 78 SLA 1974; am § 42 ch 127 SLA 1974; am § 2 ch 32 SLA 1975; am § 2 ch 79 SLA 1975; am § 37 ch 124 SLA 1975; am § 1 ch 157 SLA 1976; am § 3 ch 90 SLA 1978; am § 7 ch 18 SLA 1980; am § 43 ch 106 SLA 1980; am § 10 ch 131 SLA 1980; am § 4 ch 148 SLA 1980; am § 4 ch 106 SLA 1981; am §§ 2, 3 ch 37 SLA 1982; am § 7 ch 112 SLA 1982; am § 1 ch 11 SLA 1983; am § 1 ch 103 SLA 1984; am § 78 ch 21 SLA 1985; am § 1 ch 50 SLA 1985; am § 69 ch 14 SLA 1987; am § 1 ch 61 SLA 1987; am § 2 ch 37 SLA 1988; am § 2 ch 78 SLA 1988; am § 26 ch 141 SLA 1988; am E.O. No. 72 § 2 (1989) am § 11 ch 95 SLA 1989; am §§ 7, 9 ch 115 SLA 1989; am § 10 ch 88 SLA 1991; am § 1 ch 17 SLA 1992; am § 4 ch 47 SLA 1993; am § 13 ch 43 SLA 1994; am § 31 ch 62 SLA 1995; am § 17 ch 103 SLA 1996; am § 25 ch 107 SLA 1996; am § 6 ch 108 SLA 1996; am § 1 ch 121 SLA 1996; am § 4 ch 117 SLA 1998; am § 10 ch 29 SLA 1999; am § 1 ch 32 SLA 1999; am § 1 ch 15 SLA 2001; am § 2 ch 30 SLA 2001; am § 20 ch 92 SLA 2001; am § 1 ch 27 SLA 2002; am § 2 ch 91 SLA 2002; am § 3 2002 Ballot Measure No. 3; am § 6 ch 28 SLA 2003; am § 5 ch 49 SLA 2003; am § 3 ch 77 SLA 2003; am § 8 ch 2 SLA 2004; am § 91 ch 163 SLA 2004; am § 69 ch 10 FSSLA 2005; am § 1 ch 48 SLA 2006; am § 4 ch 22 SLA 2007; am § 10 ch 1 SSSLA 2007)

DOR Positions

04-5002 State Comptroller PX-non-bargaining

04-3255 Chief, Revenue Economic Research SS-bargaining

We may need to correct the actual title of the position in the bill. Or we can eliminate this position in our budget and create a new position call "Chief Economist" which is what we call the position anyway.

Ginger

DNR Oil & Gas

PCN		Position Title
10-0141		Commercial Analyst
10-0142		Commercial Analyst
10-0143		Petro Land Mgr
10-0144		Petro Land Mgr
10-4100		DOG Div Director
10-4105		Petro Mgr
10-4212		Petro Mkt Analyst
10-4214		Petro Invest Mgr
10-4216		Petro Land Mgr
10-4217		Commercial Analyst
10-4226		Commercial Analyst
10-4227		Dep Director

10-4228		State Geologist
10-T003		Petro Land Mgr
10-T006		Commercial Analyst
10-T007		Commercial Analyst
10-T010		Commercial Analyst
10-T011		Petro Geophysicist
10-T019		Commercial Analyst
10-T015		PSIO Engineer
10-T016		PSIO Engineer
10-T017		PSIO Coordinator

State of Alaska
Department of Revenue
Administrative Services Division

SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
Fax: (907) 465-2394

March 13, 2009

The Honorable Bob Lynn
Chair, House State Affairs Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

SPONSOR STATEMENT
HB 157 Reemployment of Retirees; Exempt Service

HB 157 Reemployment of Retirees; Exempt Service contains three personnel topics regarding state employment. First, extending the sunset provision of the "retire/rehire" employment provision would allow state entities to hire retired employees into existing positions. Second, the Department of Revenue is requesting that two professional positions be made "exempt" for the purposes of allowing flexibility in recruitment and paying market value. Third, certain professional positions concerning oil and gas within the Department of Natural Resources are requested to be made "exempt" for flexibility in recruitment and paying market value.

Each of the portions of the bill are presented in order of the bill:

Department of Revenue – Exempt Positions
Two positions in the Department of Revenue have been difficult to fill and retain because the department cannot offer market pay. The state comptroller oversees billions of dollars and coordinates the state's accounts with national banking agencies. This position is currently partially-exempt, meaning that it is not governed by collective bargaining but that it must be paid within a state salary scale. This position has turned over every year for the past four years due to more appealing private-sector offers accepted by the incumbents. The chief economist position is a classified position and has been open for recruitment for approximately one year. Although one of the division's lead economists is filling this position in acting status, the department is seeking an economist who can speak with experience and authority on Alaska's global petroleum economics.

Department of Natural Resources – Exempt Positions
The division of oil and gas and the division of geological and geophysical survey of the Department of Natural Resources (DNR) are responsible for assessing the state's mineral resources, overseeing the assessment and collection of a large portion of the state's revenues related to oil and gas development, as well as management of the state's oil and gas resources. DNR, through these divisions, must maintain an experienced and professional staff as well as recruit new staff. Without exempt status the State cannot be competitive with industry in hiring the best and most experienced employees in areas where that experience can mean millions of dollars in revenue to the employer.

Retire/Rehire Sunset Extension

Legislation was passed in 2005 that allows for the rehire of certain PERS and TERS employees who retired with a normal retirement. These rehires can continue to receive normal retirement benefits by waiving further participation in the retirement systems. This legislation is scheduled to sunset on July 1, 2009.

In a report provided to the legislature on February 6, 2009, the number of waivers in the retire/rehire program in 2008 were 62 PERS and 85 TERS participants. While the number of participants are seemingly low, these individuals play a vital role in the communities where they are employed. Many rural communities and school districts have benefited from the retire/rehire program to retain retirement eligible individuals in these hard-to-fill positions.

Alaska Legislative Report

Results of the Retiree Return Program enacted by
House Bill 161 in 2005 on

The Public Employees'
and
Teachers' Retirement System



Submitted by
State of Alaska
Department of Administration
Division of Retirement and Benefits
Division of Personnel
February 6, 2009

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

ANNETTE KREITZER, COMMISSIONER

SARAH PALIN, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

February 6, 2009

The Honorable Gary Stevens
Senate President
The Honorable Mike Chenault
House Speaker
25th Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Mr. President and Mr. Speaker:

In 2005, the Twenty-Fourth Legislature enacted House Bill 161 relating to reemployment of retired members of the Teachers' (TRS) and Public Employees' Retirement Systems (PERS) to address a shortage of qualified applicants for teaching and public employment throughout the State of Alaska. Section 12 of this legislation will repeal the Retiree Return Program effective July 1, 2009, unless extended by the Legislature.

In accordance with Section 13 of this legislation, the Department of Administration has prepared this report on the effect of this Act, as amended, on the retirement systems. This report is divided into two separate sections as outlined below:

- Section 1 includes information from the Division of Retirement and Benefits collected from the PERS and TRS employers and retirees participating in HB 161.

- Section 2 includes information from the Division of Personnel regarding the efforts by the State of Alaska to address recruitment difficulties experienced by the executive branch in specific job classes.

Please let me know if you have any questions about this report.

Sincerely,

Annette Kreitzer

Annette Kreitzer
Commissioner
Department of Administration

Section 1
Division of Retirement and Benefits

HB 161 Background

Section 1 of this report was prepared by the Division of Retirement and Benefits. It includes information collected from the PERS and TRS employers and retirees participating in HB 161.

HB 161 was introduced April 5, 2005. This legislation allows the rehire of certain PERS and TRS employees who retired with a normal retirement. These rehires can continue to receive normal retirement benefits by waiving further participation in the retirement systems. During the period of reemployment, no contributions to PERS and TRS are required from the employee. HB 161 addressed concerns regarding the affect on rehiring retirees under this program on the funding of the retirement systems by requiring employers to make contributions toward their unfunded liability for each rehired retiree. Retirees that are rehired in a full-time position are also required to enroll in the employer's active health insurance plan. Retirees hired in full time positions under HB 161 have their retirement health insurance benefits suspended while reemployed. Prior to the passage of this legislation members who retired and then reemployed in a PERS or TRS participating position would have their retirement benefit stopped during the period of reemployment. The member would accrue an additional pension benefit for the second period of employment.

HB 161 also addressed retirees who reemployed under the prior Retiree Rehire Program enacted in 2001 by HB 242/SB149. An attorney general opinion issued in 2004 regarding the HB 242/SB 149, stating that retirees could not continue in employment without affecting their retirement benefits if they rehired prior to the sunset date. The Division notified all participants in the Retiree Rehire Program on November 3, 2004 of this interpretation. HB 161 provides retirees who reemployed prior to November 3, 2004 an extension of participation in the program to December 31, 2006. After that date, continued employment in the program would be contingent on meeting the requirements and conditions of HB 161.

Reporting

This report comprises a summary of the waiver activity for the Retiree Return program under HB 161 from January 1, 2008 to the last reporting period, December 31, 2008 for both the TRS and the PERS.

The information provided regarding participating employers for both the TRS and the PERS and the knowledge transfer plans received are a summary activity since the Retiree Return program became effective on July 1, 2005.

PERS Results

As of December 31, 2008, 30 out of 159 or (18%) of PERS employers have participated in the program with a total of 83 waivers filed with the Division of Retirement and Benefits. As of December 31, 2008, 25 out of 30 or 83% of participating employers have submitted a knowledge transfer plan.

The largest number of retirees rehired over 36 months from their termination and retirement. The second largest number of returned retirees were those who had been retired for 1-6 months. Positions filled with rehired retirees were varied.

Additional information regarding the PERS employers that have participated in the program and detailed information regarding the type of positions rehired is included in the statistical section of this report.

TRS Results

As of December 31, 2008, 34 out of 58 or (58.6%) of TRS employers have participated and 143 waivers were filed with the Division of Retirement and Benefits. As of December 31, 2008, 27 out of 34 or 79% of participating TRS employers have submitted a knowledge transfer plan. The largest number of returned retirees were those who had been retired for over 36 months. The second largest number of returned retirees were those who had been retired for 24-36 months. The largest number of positions rehired was general teachers with the second highest being Special Education teachers.

Additional information regarding the employers that have participated in the program and how they have participated is included in the statistical section of this report.

Financial Impact on the PERS and TRS Systems

HB 161 requires employers to make payments of employer contributions sufficient to cover any unfunded liability created by the program. Retirees who rehire under HB 161 in a full time position have their retiree medical benefits suspended for the period of reemployment.

Summary of Retiree Rehire Program - PERS (HB 161)

The following information summarizes the activity reported by employers to the Division of Retirement and Benefits from January 1, 2008 through December 31, 2008.

Total number of PERS employers	159
Total number of PERS employers participating in HB 161	30
Percentage of total PERS employers participating in HB 161	18%
Total number of PERS waivers active during 2008	62
Total number of employers submitting a knowledge transfer plan	25**

- Once an employer has submitted a resolution and policy to participate in the Retiree Rehire Program, the participation is valid until the program sunsets on June 30, 2009.
- ** The State of Alaska is not required to submit a knowledge transfer plan and is not included in this total.

Job Classes Rehired Under PERS HB 161

ADMINISTRATIVE ASSISTANT I	STATE OF ALASKA
ADMINISTRATIVE ASST III	STATE OF ALASKA
ADMINISTRATIVE MANAGER IV	STATE OF ALASKA
ADMINISTRATIVE SERVICES DIRECTOR	STATE OF ALASKA
AIRPORT LAW ENFORCEMENT SUPERVISOR	KETCHIKAN GATEWAY BOROUGH
ANALYST PROGRAMMER IV	STATE OF ALASKA
ASSISTANT CMS PROJECT MANAGER	STATE OF ALASKA
ASSISTANT COMMISSIONER (2)	STATE OF ALASKA
ASSOCIATE COORDINATOR	STATE OF ALASKA
ASST SUPERVISOR/BUISNESS SERVICES	BERING STRAIT SD
ATTORNEY V	STATE OF ALASKA
ATTORNEY VI	STATE OF ALASKA
BIOMETRICIAN III (2)	STATE OF ALASKA
BOILER/HVAC MECHANIC	MATANUSKA-SUSITNA BOROUGH SD
CHILDREN SERVICES SPECIALIST II	STATE OF ALASKA
COMM FISHERIES ENTRY COMMISSION CHAIRMAN	STATE OF ALASKA
COMMISIONER	STATE OF ALASKA
CORRECTIONAL SUPERINTENDENT I	STATE OF ALASKA
CRIMINAL JUSTICE PLANNER	STATE OF ALASKA
CUSTODIAN	KETCHIKAN GATEWAY BOROUGH SD
DEPUTY ATTORNEY GENERAL	STATE OF ALASKA
DEPUTY CLERK III (2)	STATE OF ALASKA
DEPUTY CLERK IV	STATE OF ALASKA
DEPUTY COMMISSIONER (4)	STATE OF ALASKA
DIRECTOR, CONSTRUCTION AND OPERATIONS	STATE OF ALASKA
DIRECTOR,PROBATION/PAROLE	STATE OF ALASKA
DIVISION DIRECTOR	STATE OF ALASKA
ECONOMIST III	STATE OF ALASKA
ENGINEER I	STATE OF ALASKA
ENGINEER IV	STATE OF ALASKA
ENGINEERING ASSOCIATE (2)	STATE OF ALASKA
EQUIPMENT OPERATOR	STATE OF ALASKA
EXECUTIVE ADMINISTRATOR	STATE OF ALASKA
EXECUTIVE SECRETARY	STATE OF ALASKA
EXECUTIVE SECRETARY/SYSTEM COORDINATOR	STATE OF ALASKA
FACILITIES MANAGER	STATE OF ALASKA
FIRE CHIEF	KETCHIKAN GATEWAY BOROUGH
FISHERIES BIOLOGIST IV	STATE OF ALASKA
FISHERIES SCIENTIST	STATE OF ALASKA
FISHERY BIOLOGIST III (3)	STATE OF ALASKA
FISHERY BIOLOGIST IV	STATE OF ALASKA
GENERAL MAINTENENCE,JOURNEY	STATE OF ALASKA
ITINERANT FOOD SERVICE	BERING STRAIT SD
LANGUAGE TEACHER (2)	ANCHORAGE SD
LIEUTENANT	CITY OF FAIRBANKS
MAINT SPECIALIST BFC FOREMAN	STATE OF ALASKA
MAINTENANCE	ALEUTIAN REGION SD
MAINTENANCE DIRECTOR	IDITAROD AREA SD
MENTAL HEALTH CLINICIAN III	STATE OF ALASKA
PERSONNEL COORDINATOR	KETCHIKAN GATEWAY BOROUGH SD
POLICE OFFICER	CITY OF HOMER

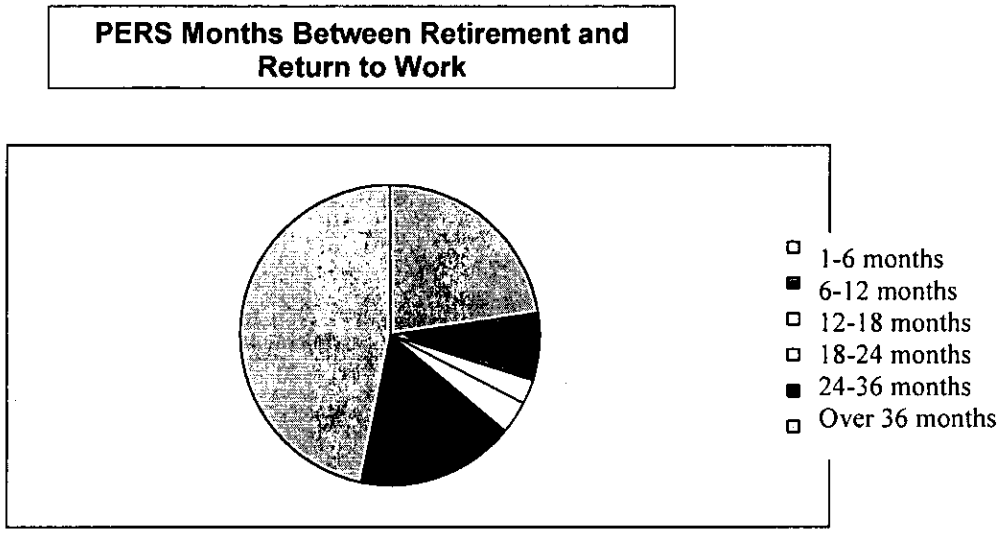
POLICE OFFICER	KETCHIKAN GATEWAY BOROUGH
PROJECT ASSISTANT	STATE OF ALASKA
PROJECT MANAGER	FAIRBANKS NORTH STAR BOROUGH
QUALITY ASSURANCE COORDINATOR	BARTLETT REGIONAL HOSPITAL
REGIONAL SUPERVISOR	STATE OF ALASKA
RESEARCH ANALYST II	STATE OF ALASKA
RURAL COURT TRAINING ASST.	STATE OF ALASKA
SAFETY AND SECURITY COORDINATOR	MATANUSKA-SUSITNA BOROUGH SD
SE REGION DIRECTOR OF CM&O	STATE OF ALASKA
SPECIAL ASSISTANT TO COMMISSIONER	STATE OF ALASKA
SPECIAL ASSISTANT/LEGISLATIVE LIAISON	STATE OF ALASKA
SPECIAL ED PARAEDUCATOR	JUNEAU BOROUGH SD
SPECIAL EDUCATION AIDE	BRISTOL BAY BOROUGH SD
SPECIAL PROJECTS COORDINATOR	STATE OF ALASKA
SR ASSISTANT ATTORNEY GENERAL	STATE OF ALASKA
STATE TROOPER (2)	STATE OF ALASKA
STUDENT SERVICES DIRECTOR	CITY OF PALMER
SUPERVISOR BLDG/GROUNDS	KETCHIKAN GATEWAY BOROUGH SD
TLINGIT TEACHER (2)	ANCHORAGE SD
VESSEL SUPERVISOR	STATE OF ALASKA

Detail of number of Retirees participating in HB 161 between January 1, 2008 and December 31, 2008 by Each Participating PERS Employer

Employer	Number of Waivers
ANCHORAGE SD	2
BARTLETT REGIONAL HOSPITAL	1
BERING STRAIT SD	1
BRISTOL BAY BOROUGH SD	1
CITY OF HOMER	1
CITY OF PALMER	1
FAIRBANKS NORTH STAR BOROUGH	1
IDITAROD AREA SD	1
JUNEAU BOROUGH SD	1
KETCHIKAN GATEWAY BOROUGH	3
KETCHIKAN GATEWAY BOROUGH SD	2
MATANUSKA-SUSITNA BOROUGH SD	2
STATE OF ALASKA	45
	62

PERS Rehired Retiree Employer Rate for Fiscal Year 2010 is 22%

Number of Months Retired Rehired under HB 161 for participating PERS employers



Employer	No. of Months Retired Before Rehire
State of Alaska	
16	1-6 months
4	6-12 months
2	12-18 months
2	18-24 month2
10	24-36 months
26	Over 36 months
Bering Straight School District	
1	1-6 months
1	Over 36 months
Bartlett Regional Hospital-1	10 months
Bristol Bay Borough School District-1	38 months
Juneau Borough School District-1	57 months
Mat-Su Borough School District	
1	1-6 months
1	18-24 months
Anchorage School District-4	79/92/103/116 months (over 36 months)
Fairbanks North Star Borough-1	6 months
Ketchikan Gateway Borough	
1	24-36 months
2	Over 36 months
Ketchikan Gateway Borough School District	
1	1-6 months
1	24-36 months
1	Over 36 months

Iditarod Area School District-1	29 months
City of Fairbanks-1	67 months
City of Homer-1	102 months
City of Palmer-1	62 months
Aleutian Region School District-1	61 months

Summary of Retiree Rehire Program - TRS (HB 161)

The following information summarizes the activity reported by employers to the Division of Retirement and Benefits from January 1, 2008 through December 31, 2008.

Total number of TRS employers	58
Total number of TRS employers participating in HB 161	34*
Percentage of total TRS employers participating in HB 161	58%
Total number of TRS waivers received	85
Total number of employers submitting a knowledge transfer plan	27

* Once an employer has submitted a resolution and policy to participate in the Retiree Rehire Program, the participation is valid until the program sunsets on June 30, 2009.

1064

Job Classes Rehired Under TRS HB 161

ASSISTANT SUPERINTENDENT/DIRECTOR	BERING STRAIT SD
BEHAVIOR SPECIALIST	KODIAK ISLAND BOROUGH SD
CERTIFIED DIRECTOR	MATANUSKA-SUSITNA BOROUGH SD
COUNSELOR	ANCHORAGE SD
COUNSELOR	LOWER KUSKOKWIM SD
COUNSELOR	NORTH SLOPE BOROUGH SD
COUSELOR	YUPIIT SD
CURRICULUM DIRECTOR	DENALI BOROUGH SD
DIRECTOR (2)	BERING STRAIT SD
DIRECTOR	LOWER KUSKOKWIM SD
DIRECTOR OF INSTRUCTIONAL PROGRAM	SOUTHWEST REGION SD
DIRECTOR OF PROGRAM SUPPORT	BERING STRAIT SD
EDUCATION SPECIALIST (2)	LOWER KUSKOKWIM SD
ELD TEACHER	LOWER KUSKOKWIM SD
ELEMENTARY LIBRARIAN	KETCHIKAN GATEWAY BOROUGH SD
ENGLISH TEACHER	KETCHIKAN GATEWAY BOROUGH SD
EXECUTIVE DIRECTOR	SPECIAL ED SERVICE AGENCY
HEALTH OCCUPATIONS TEACHER	ANCHORAGE SD
HEALTHY LIFESTYLE SPECIALIST	NORTHWEST ARCTIC BOROUGH SD
IND SAFETY/EMT INSTRUCTOR	MATANUSKA-SUSITNA BOROUGH SD
LIBRARIAN	ANCHORAGE SD
LIBRARIAN	PETERSBURG CITY SD
LIFE SKILLS TEACHER	ANCHORAGE SD
MATH/SCIENCE TEACHER	DENALI BOROUGH SD
PERSONNEL OFFICER	SOUTHWEST REGION SD
PRINCIPAL (2)	BERING STRAIT SD
PRINCIPAL	KETCHIKAN GATEWAY BOROUGH SD
PRINCIPAL (2)	NORTH SLOPE BOROUGH SD
PRINCIPAL	IDITAROD AREA SD
PSYCHOLOGIST (2)	ANCHORAGE SD
RESOURCE SPECIALIST	MATANUSKA-SUSITNA BOROUGH SD
RESOURCE TEACHER	MATANUSKA-SUSITNA BOROUGH SD
SCHOOL PSYCHOLOGIST (3)	ANCHORAGE SD
SEC CLSRM TEACHER	ANCHORAGE SD
SECONDARY PRINCIPAL	ANNETTE ISLAND SD
SITE ADMINISTRATOR (5)	LOWER KUSKOKWIM SD
SPANISH TEACHER	ANCHORAGE SD
SPECIAL EDUCATION DEPARTMENT CHAIR	ANCHORAGE SD
SPECIAL EDUCATION TEACHER (20)	ANCHORAGE SD
SPECIAL EDUCATION TEACHER	DILLINGHAM CITY SD
SPECIAL EDUCATION TEACHER	JUNEAU BOROUGH SD
SPECIAL EDUCATION TEACHER	LOWER KUSKOKWIM SD
SPECIAL EDUCATION TEACHER (2)	LOWER YUKON SD
SPECIAL EDUCATION TEACHER	NORTHWEST ARCTIC BOROUGH SD
SPECIAL EDUCATION TEACHER	WRANGELL PUBLIC SD
SPEECH LANGUAGE PATHOLOGIST (7)	ANCHORAGE SD
SPEECH THERAPIST	MATANUSKA-SUSITNA BOROUGH SD
STUDENT PSYCHOLOGIST	ANCHORAGE SD
STUDENT SERVICES DIRECTOR	JUNEAU BOROUGH SD
SUPERINDENDENT	TANANA SD
SUPERINTENDENT	BERING STRAIT SD

SUPERINTENDENT	CHATHAM SD
SUPERINTENDENT	COPPER RIVER SD
SUPERINTENDENT	HOONAH CITY SD
SUPERINTENDENT	LOWER KUSKOKWIM SD
SUPERINTENDENT	VALDEZ CITY SD
SUPERINTENDENT OF SCHOOLS	SOUTHEAST ISLAND SD
SUPERINTENDENT/PRINCIPAL TEACHER	ALEUTIAN REGION SD
TEACHER (4)	ANCHORAGE SD
TEACHER	BERING STRAIT SD
TEACHER (2)	CHATHAM SD
TEACHER (2)	KETCHIKAN GATEWAY BOROUGH SD
TEACHER	LAKE AND PENINSULA BOROUGH SD
TEACHER (28)	LOWER KUSKOKWIM SD
TEACHER	MATANUSKA-SUSITNA BOROUGH SD
TEACHER	NORTH SLOPE BOROUGH SD
TEACHER	PELICAN CITY SD
TEACHER	PETERSBURG CITY SD
TEACHER SPEECH PATHOLOGIST	SITKA BOROUGH SD
TEACHER VOC ED	YUPIIT SD
TEACHER, VOCATIONAL EDUCATION	LOWER KUSKOKWIM SD
VOCATIONAL EDUCATION	ANCHORAGE SD
VOC-ED TEACHER	KLAWOCK CITY SD
YUPIK FIRST LANGUAGE ED SPECIALIST	LOWER KUSKOKWIM SD

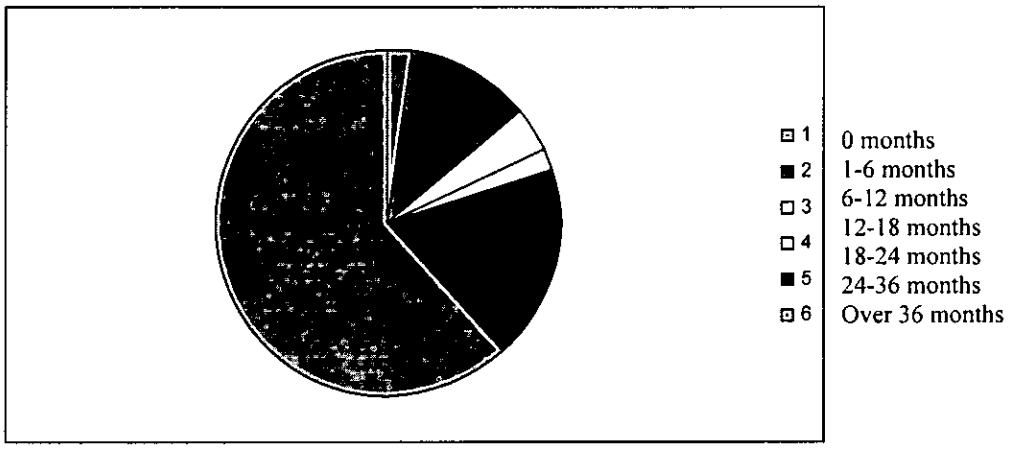
Detail of number of Retirees participating in HB 161 between January 1, 2008 and December 31, 2008 by Each Participating TRS Employer

Employer	No. of Waivers
ANCHORAGE SD	17
BERING STRAIT SD	1
CHATHAM SD	2
COPPER RIVER SD	1
DENALI BOROUGH SD	1
HOONAH CITY SD	1
KETCHIKAN GATEWAY BOROUGH SD	3
KLAWOCK CITY SD	1
KODIAK ISLAND BOROUGH SD	1
LOWER KUSKOKWIM SD	39
LOWER YUKON SD	2
MATANUSKA-SUSITNA BOROUGH SD	4
NORTH SLOPE BOROUGH SD	3
PELICAN CITY SD	1
SITKA BOROUGH SD	1
SOUTHWEST REGION SD	1
SPECIAL EDUCATION SERVICE AGENCY	1
TANANA SD	1
VALDEZ CITY SD	1
WRANGELL PUBLIC SD	1
YUPIIT SD	2
	85

TRS Rehired Retiree Employer Rate for Fiscal Year 2010 is 12.56%

1067

Number of Months Retired Before Rehired under HB 161 for participating TRS employers



Employer	No. of Months Retired Before Rehire
ALEUTIAN REGION SD-1	Over 36 months
ANCHORAGE SD	
1	1-6 months
1	6-12 months
2	12-18 months
1	18-24 months
2	24-36 months
38	Over 36 months
ANNETTE ISLAND SD-1	60 months
BERING STRAIT SD	
1	12-18 months
6	24-36 months
2	Over 36 months
CHATHAM SD	
1	18-24 months
2	Over 36 months
COPPER RIVER SD-1	61 months
DENALI BOROUGH SD	
1	12-18 months
1	Over 36 months
DILLINGHAM CITY SD-1	13 months
HOONAH CITY SD-1	54 months
IDITAROD AREA SD-1	91 months
JUNEAU BOROUGH SD	
1	12-18 months
1	Over 36 months

KETCHIKAN GATEWAY BOROUGH SD	
1*	* 0 months
3	1-6 months
KLAWOCK CITY SD-1	68 months
KODIAK ISLAND BOROUGH SD-1	* 0 months
LAKE AND PENINSULA BOROUGH SD-1	Over 36 months
LOWER KUSKOKWIM SD	
1	0 months
9	1-6 months
1	6-12 months
1	18-24 months
10	24-36 months
20	Over 36 months
LOWER YUKON SD	
1	6-12 months
1	Over 36 months
MAT-SU BOROUGH SD	
1	1-6 months
3	24-36 months
3	Over 36 months
NORTH SLOPE BOROUGH SD-4	Over 36 months
NORTHWEST ARCTIC BOROUGH SD-2	Over 36 months
PELICAN CITY SD-1	150 months
PETERSBURG CITY SD	
1	24-36 months
1	Over 36 months
SITKA BOROUGH SD-1	Over 36 months
SOUTHEAST ISLAND SD-1	26 months
SOUTHWEST REGION SD-2	24-36 months
SPECIAL EDUCATION SERVICE AGENCY-1	1 month
TANANA SD-1	Over 36 months
VALDEZ CITY SD-1	36 months
WRANGELL PUBLIC SD-1	26 months
YUPIIT SD-2	Over 36 months

* Legislation does not require a 30-day break from termination prior to rehire for TRS.

1069

Section 2
Division of Personnel

Division of Personnel and Labor Relations
Retiree Rehire, HB 161 Legislative Report

Section 2 of this report has been prepared by the Division of Personnel & Labor Relations. This Section of the report focuses on the State of Alaska as the largest employer of the PERS system. It includes information on program activity and the efforts of the executive branch to address the recruitment difficulties in job classes in which retired members have been rehired.

House Bill (HB) 161 went into effect on July 1, 2005 and established three sunset dates for re-employed retirees, based upon the date of rehire. In extending the sunset dates of the retiree program, the legislature intended to allow public employers the ability to continue to use this management tool while developing plans to address the knowledge, skills, and abilities that need to be transferred or developed to assure the work can be accomplished following the departure of the retiree.

The final of the three sunset dates established under HB 161 is July 1, 2009 and applies to retirees re-employed on or after July 1, 2005. This group of retirees is eligible to remain employed under a PERS waiver through June 30, 2009. The table below denotes the number of retirees currently employed in the executive branch by agency.

Department*	DMVA	DOC	DNR	F&G	H&SS	Law	DPS	DOT/PF
Classified	1	1	0	9	2	0	1	5
Exempt/Partially Exempt	0	2	1	1	0	3	2	1

*The following departments do not currently employ retirees: Administration, Revenue, Labor & Workforce Development, Education & Early Development, Commerce, Community & Economic Development and Environmental Conservation

To ensure consistent application of the retiree program as intended by the Legislature and compliance with HB 161, the Department of Administration issued a Retiree Rehire Policy (Addendum A) which replaced Administrative Order 225. As with the Administrative Order, the Retiree Rehire Policy placed "side boards" on this program by providing certain criteria that must be met prior to the appointment of a retiree to a position within the classified service.

To make the most effective use of the retiree return program as a management tool, HB 161 requires the hiring authority to work with the Division of Personnel & Labor Relations to develop a plan that addresses efforts to reduce the recruitment difficulties in job classes in which retirees have been hired. The development plan addresses:

- the critical components of the position;

- the knowledge, skills, and abilities that need to be developed in the workplace to assure that the work can be accomplished when the rehired retiree leaves state service; and

- a development plan for accomplishing the transfer of knowledge.

The Division of Personnel & Labor Relations offers a presentation on developing knowledge transfer plans. The presentation addresses identifying the critical components of the job, the knowledge, skills and abilities required to perform the critical components of the job, conducting a skill gap analysis, and finally, developing the knowledge transfer plan. A knowledge transfer plan can be as simple as developing a desk manual for less complex positions, or as detailed as an intensive training program. The division's service centers are available to provide guidance throughout the process.

To date, the director of the Division of Personnel & Labor Relations has received and approved knowledge transfer plans for16 of the 19 classified positions filled by an employee working under a PERS waiver in the retiree/return program. The remaining three have been notified of the requirement to complete.

In an effort to address issues concerning recruitment and retention Governor Palin signed Administrative Order 237 on August 24, 2007. This Administrative Order established an Executive Branch Working Group comprised of six Commissioners and the Director of the Office of Management and Budget to make recommendations regarding recruitment and retention of state employees in the executive branch and efficiencies that the State of Alaska will need to make to address the smaller workforce available to it. The recommendations of the Executive Working Group are attached (Addendum B) in addition to a status update (Addendum C).

The Division of Personnel & Labor Relations will continue to explore opportunities to increase retention and mitigate recruitment difficulties.

Memorandum

Department of Administration
Office of the Commissioner

To: All Commissioners **Date:** September 11, 2006

From: Scott J. Nordstrand
Commissioner **Phone:** 465-5671

Subject: Retiree Rehire Policy – HB 242 / 161

This memo is intended to respond to questions that have arisen regarding the guidelines for employees who were or are rehired in accordance with House Bills 242 and 161. You may be aware that the extension of HB 242 which was introduced last session as HB 161 (retiree return program) generated some angst with several legislators. In order to address the concerns raised by legislators so that agencies could continue to offer this program as a management tool, Governor Murkowski adopted Administrative Order 225 in March of 2005.

Administrative Order 225 acted to place "side boards" on this program by providing certain criteria that must be met with the appointment of rehired retirees to positions in the classified service under HB 242. However, with the sunset of HB 242 and the passage of HB 161, Administrative Order 225 is no longer operative. Therefore, to ensure consistent application of the retiree rehire program as intended by the legislature and compliance with HB 161, this memo has been hereby formalized into policy as outlined below.

A retiree who intends to seek a PERS waiver may be appointed to a position in the classified service if:

- an open competitive recruitment process is conducted for at least 30 days and results in an applicant pool of fewer than five qualified, eligible, and available applicants;
- all qualified, eligible and available applicants are considered;
- the hiring authority demonstrates why no other applicant will have the knowledge, skills, or ability to perform the duties of the position after serving the full probationary period; and
- the retiree has served a thirty-day separation with the PERS. If the employee currently is covered under HB 242, a second thirty-day separation will not be required if the employee is later appointed under HB 161. However, if the employee has not been rehired under HB 242 and has not served the initial thirty-day separation, a thirty-day separation will be required.

Approval to hire a retiree who intends to seek a PERS waiver must be secured in writing from the Director of the Division of Personnel prior to an offer of employment. Within 60 days after receipt of the Director's approval and acceptance of the position by the retiree, the hiring authority shall work with the Division of Personnel to develop a plan that addresses:

- the critical components of the position;
- the knowledge, skills, and abilities that need to be developed in the workplace to assure that the work can be accomplished when the rehired retiree leaves state service; and
- a development plan for accomplishing the transfer of knowledge.

Completed plans shall be submitted to the Director of the Division of Personnel for approval.

Questions regarding this policy may be addressed to your department's Division of Personnel, Management Services Consultant. Additional information on the application of this policy and HB 161 is available on the Division of Personnel's website.

cc: Traci Carpenter, Director
Division of Retirement and Benefits

Administrative Services Directors

Division of Personnel Staff

Executive Working Group
FINAL Report to Governor Sarah Palin
Administrative Order No. 237
Recruitment and Retention of State Employees

I. INTRODUCTION:

Governor Sarah Palin signed Administrative Order No. 237 (AO 237) August 24, 2007. The order established an Executive Branch Working Group to address issues concerning recruitment and retention of State employees in the executive branch. The Working Group was tasked with researching and addressing the issue and providing the Governor with recommendations concerning the findings of the order.

A. The Working Group:

A Working Group, composed of seven members appointed by the commissioner of the Department of Administration was assembled to address recruitment and retention issues. The Working Group members included:

- Department of Administration, Commissioner Annette Kreitzer, chairman;
- Office of Management and Budget, Director Karen Rehfeld;
- Department of Health and Social Services, Commissioner Karleen Jackson;
- Department of Public Safety, Commissioner Walt Monegan;
- Department of Environmental Conservation, Commissioner Larry Hartig;
- Department of Labor and Workforce Development, Commissioner Click Bishop;
- Department of Transportation and Public Facilities, Commissioner Leo von Scheben.

The members' combined experience and accumulated knowledge from 75 plus years working in government service and over 75 years in the private sector ensured a broad-based approach to examining the recruitment and retention situation.

Meetings:
The Working Group held a total of four meetings during September and October. In the short time the Group met, we reviewed current State employee turnover rates that were at 16% in 2006, representing the mid-range for states responding to our request for information. As with other states and the private sector, more troubling is the number of State

employees eligible to retire now and in the next five years, and what that might portend for the State's ability to retain experienced, professional employees to balance and mentor less senior employees.

B. Input:

The Working Group polled the Commissioners from each State department for their views on the current status of recruitment and retention of State employees. Each labor union business manager was contacted and requested to give input. Hiring managers throughout State government, who are on the front lines of hiring decisions and frustrations with the current system of employee recruitment, were canvassed for their ideas and comments. The information gathered from the responses was compiled into a spread sheet which organized the data into categories.

The Working Group specifically requested suggestions without a monetary component, but recognizes there are some solutions that are in the monetary category. The State is faced with employee retention issues on both ends of the spectrum from recruitment to retaining knowledgeable, professional employees. The Working Group identified suggestions to quickly impact a majority of problems brought on by a tight salary schedule and personnel rules. Negotiating fair labor contracts is one piece of the financial puzzle, removing an outdated "longevity" step concept is another. These details are included under, "E. Financial Incentives".

C. Supplemental Data:

Appendices include Administrative Order No. 237, State Employee Unions summary sheet and statistics about State employees excluding the University of Alaska, the Legislature and the Court System. Our efforts were focused only on the Executive Branch departments represented at the Cabinet level.

II. IDENTIFY ISSUES AND PROPOSALS:

AO No. 237 charged the Working Group with identifying the recruitment and retention situation, the costs involved in training, changes that will allow the State to effectively serve its citizens while limiting expansion, opportunities for partnering and cross-training and cost neutral or low-cost solutions to increase worker satisfaction.

A. Costs of training new State employees:

Training costs are a significant expenditure for State agencies.

- A recent federal Department of Labor Study shows that turnover costs one-third to one-half times the annual salary of the employee, not including productivity loss.
- The State must clearly define a training/education track tied to proficiency and advancement in a job series. Some level of mandatory supervisory or other training might be necessary.
- The State may need to provide education incentives and professional development in an effort to provide career-long learning opportunities. The practice of providing education incentives among state agencies is currently inconsistent. The Working Group requested and is awaiting a survey of all departments showing what training and education the State currently pays for and what departments believe would be reasonable for the State to undertake.
- We recommend analyzing the cost of a tuition reimbursement and student loan forgiveness program with payback obligations tied to time on the job, based on a sliding percentage from zero to five years.
- Many departments have commented that the State has become a training ground for other prospective employers. By retaining employees longer with fair contracts and other potential financial considerations, we will lower our total cost of training.

B. Changes that restrain growth of government:

Even with significantly higher oil prices, today's production is only about one-third of what it used to be.

- The State must focus on the highest priorities by division and department to live within our means.
- Contracting some work out where appropriate, should be considered. This currently requires a feasibility study and could require revision to labor contract language.
- The State spends hundreds of millions of dollars on technology to improve and make public documents more accessible. Some of this technology will automate processes meaning that fewer employees will be needed to manually enter data like timesheets. The State needs to plan with these employees an exit strategy to other available State jobs.

C. Opportunities to cross-train within and encourage efficiencies:

The State cannot continue to heavily rely on retirees to return to work as a stop-gap measure to training new employees.

- Develop and implement knowledge transfer plans for soon to be retiring employees.
- High turnover positions must have a "desk manual" to ensure that the most basic information of the position is available when a new employee is hired. Documenting a high turnover position's responsibilities cuts down on the amount of time spent explaining the duties.
- From hiring managers on up, there must be a frank understanding that many entry level jobs will have high turnover. Accepting this and planning for it, while encouraging entry level employees to move up on a State career ladder, will help retention overall.

D. Cost-neutral or low-cost solutions to increase workplace satisfaction:

The State should continue to encourage work/life scheduling flexibility. Hiring managers particularly noted these suggestions related to flexible work schedules and recruitment efforts:

- Broader use of alternate work weeks (4-10's, 9-80's). Some departments are using flexible work schedules but this could be done on a more consistent basis.
- Encourage consideration of broader use of telecommuting and job sharing agreements. An approach could require employees to complete one year on the job in the office location, and be in the office several days a week as part of a telecommuting plan.
- Establish employee recognition and appreciation programs as part of a statewide culture. Department programs should complement the Governor's Statewide Denali Peak Performance Program. Many Commissioners commented that they look for opportunities to recognize excellent customer service or project work by employees.
- Initiate a health and fitness program as part of the State health benefit package. This could pay for itself over time through healthier employees, less sick leave usage, etc. We will need to work with and coordinate with union health trusts on this issue.
- Provide sabbaticals without a break in service or interruption of health benefits. For example, one month after 10 years, three months after 20 years. These could be used in conjunction with

annual leave for continuing education, travel, or just "recharging their batteries".

III. EVALUATE AND RECOMMEND:

The Working Group was charged with evaluating the hiring criteria and practices, education requirements and minimum qualifications, recruitment tools and whether there are ways to improve upon the merit principle to provide better incentives and retain quality employees.

A. Current hiring criteria and practices:

It will take time to inculcate the ideas we believe will result in efficiencies in the State's hiring practices. The processes in place have resulted from years of patchwork attempts to incrementally fix personnel system deficiencies.

- Revamp the classification process and review adequacy of classification resources in the Division of Personnel and Labor Relations to get through all current and backlogged requests and to be more responsive and proactive to workforce changes.
- Conduct a review of the classification system. Review all job classes, update and consolidate with more generic job classes. Minimize or eliminate single-position job classifications.
- Solicit input from younger workers on what it takes to attract, retain, and satisfy the new generation of workers.
- Encourage a broader use of flexibly classed positions, with easier movement between levels in a job series (i.e. I-II-III). (Current list is included in appendices.)
- Review the effectiveness of the HR integration. This should be scheduled in 2008. There continues to be some concern about the impact of the Human Resources integration and its impact on some departments.

B. Current education requirements and minimum qualifications for state employment:

The State needs to be more flexible in its efforts to attract qualified job candidates. The Working Group acknowledges that not every location in the State is having the same challenges drawing applicants.

- Change minimum qualifications to broaden applicant pools. This is not a "dumbing down" of the applicant pools as suggested by some, but a more strategic approach to actual job requirements.

Some examples include removal of a specific degree requirement (i.e. accounting, biology), and replacing with a general degree with a certain number of field-specific credit hours. Specific degree requirements could also be replaced by technical certification or demonstrated expertise. Several departments requested a minimum qualification waiver process.

C. Recruitment tools:

The Workplace Alaska recruitment portal needs to be changed to be more comparable to and competitive with links like monster.com and dice.com – this old technology is not attractive and does not present the State as a progressive, interesting employer. This change will require more planning as it will impact the Online Public Notice system.

- In the short term, we should enable applicants to post resumes on Workplace Alaska similar to other employment websites.
- Each department should have a web link to jobs available on its main website.
- Formalize employee surveys; upon initial hire, after one month, and/or at a minimum an exit survey upon termination. Some suggested making exit interviews mandatory.
- Encourage broader use of internship program. Partner with the University of Alaska on an apprenticeship program. Streamline internship classification with greater flexibility in I-IV levels.

D. Improvements to Merit System:

Efforts should be made to recognize exceptional work and eliminate barriers to employment and promotional opportunities.

- Provide more discretion for increased pay based on performance. Base performance incentives and service steps on the performance evaluations. Use steps (b) through (f) for performance incentives and steps beyond (f) for service steps. This recommendation cannot work if there is not a concomitant effort to prepare proper evaluations.
- Eliminate pay barriers that discourage employees from taking promotions, i.e. not enough pay for the added work and responsibility, loss of over-time pay, if applicable, etc.
- Expand our ability to promote existing employees. In some cases it is easier to hire a new State employee at an advanced step (based on recruitment difficulty or exceptional qualifications).

- Analyze the effectiveness of continued use of market-based pay adjustments. This process addresses specific pay issues but disrupts internal alignment and creates supervisor differentials.

E. Financial Incentives:

In certain areas, the State has become a training ground for the federal government. There is a 24% Alaska cost of living differential between the Federal and State governments that exacerbates this problem.

State labor contracts recently concluded will mean:

1. The 7,920 members of the General Government Unit (GGU) of Alaska State Employees Association will receive a 4% retroactive pay increase contingent on legislative appropriation. The 4% is retroactive to July 1, 2007, followed by 3% increases in FY08 and FY09.
2. The Teachers' Education Association of Mt. Edgecumbe ratified an agreement of a 3% retroactive raise in FY07, followed by 3% in FY08 and 3% in FY09.
3. Labor, Trades and Crafts, Local 71, has ratified an agreement for a two-year contract which includes a 5% increase in FY08 and 2% increase in FY 09. (about 1600 members)
4. Alaska Public Employees Association, bargaining on behalf of the Confidential Employees Association (195 members) ratified an agreement with the State on a three-year contract beginning July 1, 2007 which includes a 4% wage increase on that date, followed by a 3% increase beginning July 1, 2008 and a 3% increase beginning July 1, 2009.

In addition to the monetary components of union contracts the State is a party to, the State makes annual contributions on behalf of each employee to the Public Employee's Retirement System and the Teacher's Retirement System. In the FY09 budget, the State's share of this responsibility for all State employees (union and nonunion) is about $340 million.

The Working Group agrees that we cannot solve, in this fiscal year, all of the inequities that may have built up over time to make the State a less competitive employer. There are concrete steps that can be taken however, some of which will have long lasting effects:

- Eliminate the outmoded longevity steps where employees go years without a pay adjustment. What was meant as an inducement to retain employees has become a barrier to hiring and promoting professional employees. Removing the barrier can be accomplished in some labor contracts, but the statute (AS 39.27.022) must be updated as employees hired at an advanced step are often frozen at that pay range for up to seven years since the system does not recognize private or other government experience. The removal of this barrier would allow the State to recognize experience and provide merit increments in shorter spans of time. Currently, some employees must wait four, nine and 13 years for a pay increase.
- Salaries for the so-called "non-covereds" or non-union State employees will be impacted by the above action in addition to any changes made to the statutory salary schedule to reflect changes negotiated with union employees.
- HB 98 (CHAPTER 53 SLA 05) increased salaries of commissioners among others, but neglected to include deputy commissioner salaries. For a supervisory track beginning with a new single job classification of Administrative Services Manager, which could lead to promotion to a Deputy Division Director and then to Division Director, the Working Group recommends the following structure. We also recognize that professional job classifications within each agency also provide career tracks to director and other management positions. Any changes to existing positions resulting in increases will be absorbed by existing budgets.

Position	Previous	Current	Proposed	Comment
Commissioner	28E	28-30	No change	AS 39.20.080(a)
Deputy Commissioner		28 A-F	28-29	AS 39.20.080(b) requires legislation to increase
Assistant Commissioner		27	27-28	Not widely used, but can be helpful for very large agencies (e.g., HSS)
Division Director	26	27	No change	Increased Nov. 2006
Deputy Director		23	24 or 25	Implement in FY08-no legislation required
Assistant Director		22	23	Not widely used
Admin. Services Manager/Admin Operations Mgr I-III		22-24	23	Make a single job class to progress to deputy director
Administrative Manager I-IV		15-21	No change	

F. Healthy Work Environment:

We know by surveys and studies that employees value a healthy work environment: One where they are encouraged to be proactive about their own health and if a manager, to model good health habits to their co-workers and subordinates.

This cannot be a mandate. Employees must believe this is also important to their abilities in their jobs. This effort is to support those

who willingly want to maintain or make a change in their lifestyles to a healthier one.

As the provider of health insurance coverage for active and retired State employees, the State has incentive to look for ways to encourage both populations to be proactive about fitness and good health.

Through the Alaska Retirement Management Board and the Health Benefits Evaluation Committee (created in the Supervisory Union's labor contract, specific to the 5,500 State of Alaska employees and dependents covered by the Select Benefits health plan) recommendations are coming to the Commissioner of the Department of Administration to make changes to the health plans to entice employees to use preventive health and fitness measures, to provide coverage for colorectal cancer screening for retirees, and for well baby coverage for active employees. This work will continue in conjunction with the Governor's Health Care Strategies Planning Council.

IV. Conclusion:

The State can do better as an employer. We've started down a path to improving our stature as an employer with fair union contracts and a culture of high ethical standards.

The Working Group recognizes that the State must have a plan for implementing further change and intends to continue to meet to provide a roadmap to reach our ultimate goal of regaining and maintaining our status as a competitive employer.

There are many ways the State has constrained itself as an employer through our methods of recruitment. Changes will take time, effort and a commitment from State employees to implement. We can change the current situation and do more to provide a healthy work environment for our employees.

The Working Group evaluated suggestions and comments submitted by various groups throughout the State workforce. The many responses touched on in this report serve as a starting point for State action for current employees as well as those who will work here in the future.

Some have suggested that we should immediately initiate a salary survey. It is our recommendation that we focus on changes encompassed in this report over the next one to two years, and initiate a

salary survey in 2009-10 to help analyze the effectiveness of the changes and identify additional areas needing adjustment.

We encourage all commissioners to carefully review the data available for each department to plan for pending retirements and the knowledge transfer necessary for the State to successfully continue to provide services. The Division of Personnel and Labor Relations will work to streamline this process for departments and provide guidance and tips on successful implementation.

It is imperative that we continue to engage in an open conversation about ways we can improve and continue to meet our recruitment and retention needs.

Action Plan for Administrative Order No. 237

Near Term Actions:

- Continue negotiating and settling labor contracts which are fair and sustainable.
- Prepare legislation to repeal longevity step impediments and replace with a fair alternative.
- Prepare legislation to provide greater flexibility for deputy commissioner's pay.
- Implement deputy director pay increase in FY08.
- Review the training, education and certification survey of all departments and make recommendations for FY09 or FY10.
- There continues to be some concern about the impact of the Human Resources integration and its impact on some departments. A review of the effectiveness of the HR integration should be scheduled in 2008.
- Streamline the intern program process so it is easier for students to come back to work for the State in between college sessions, and it is less cumbersome for those wanting to hire interns.
- Analyze the effectiveness of continued use of market-based pay adjustments.
- Look for opportunities to promote effective healthy living habits that employees can maintain.

Within two years:

- Request funding in the FY09 budget to perform a geographic differential study in accordance with AS 39.27.030.

- Review the history of tuition reimbursement and student loan forgiveness programs and work with the Legislature to determine a flexible plan with payback obligations tied to time on the job, based on a sliding percentage from zero to five years.
- Every department must develop and implement knowledge transfer plans for soon to be retiring employees.
- Every department must continue to audit its use of flexible work schedules (using information already provided by DOA) to determine if broader use of flexible schedules would be welcomed by employees and still accomplish State priorities.
- Revamp the classification process and review adequacy of classification resources in the Division of Personnel and Labor Relations.
- Conduct a review of the classification system. Review all job classes, update and consolidate with more generic job classes. Minimize, eliminate single-position job classifications.

Within three years:

- Conduct a salary survey.
- Replace the Work Place Alaska portal (and the Online Public Notice System).
- Consider legislation to implement a 40-hour work week.

Ongoing Efforts:

- Continue efforts between the DOA and other departments to write less restrictive minimum qualifications for positions, which allow departments more discretion in hiring the most qualified, best person for the position.
- Continue to encourage a broader use of flexibly classed positions, with easier movement between levels in a job series (i.e. I-II-III). (Current list is included in appendices.)

Administrative Order No. 237
Executive Working Group
Status Report of Recommendations

The Executive Working Group on Recruitment and Retention set out a list of action items in the November 2007 report to the Governor. These items and their current status are listed below.

Action Items – Near Term

Action Item	Status	Details
Labor Contracts: ASEA-GGU, APEA-SU, APEA-CEA, PSEA, AVTECTA and IBU	**Completed**	Salary adjustments resulting from HB 417 and labor negotiations have had a cumulative impact of $150 million over three years (FY08-$56.4 million, FY09-$49.8 million, FY10-$44.2 million). See attached cost summary.
LTC, TEAME, ACOA	**Upcoming**	Contracts expire 6/30/09
MM&P, MEBA	**In Negotiations**	Contracts expired 6/30/08
Longevity Step Repeal and replacement with fair alternative	**Completed**	HB 417 repealed longevity steps and implemented pay increments for non-covered employees. PSEA negotiated similar provisions and Letters of Agreement have been signed with GGU, CEA and SU (pending) effective January 1, 2009. Cost to implement estimated at $2.3 million in FY09 and $1.5 million in FY10.
Flexibility for Deputy Commissioner Pay	**Completed**	HB 417 provides for appointment within range 28.
Deputy Director Pay Increase	**Completed**	Division Operations Manager, range 24 Deputy Director, range 25 (partially exempt only)
Training/Certification/ Education Survey Status	**No Action**	Will be put into New Work Plan
HR Integration Study	**Upcoming**	Development of the RFP will begin by October 1, 2008. RFP will be vetted through Working Group before release.
Streamline Intern Process	**Completed**	Levels were consolidated and flex staffing was implemented. Intern openings are now advertised through Workplace Alaska. This allows all interested parties to view/post internships in one central location.
Market-Based Pay	**On Hold**	A contractor will be hired to conduct a salary survey in 2009 to provide a more holistic approach.
Healthy Living Habits	**Ongoing**	Web Portal has been developed and usage is still in discovery stage. The database will be developed in 2009. Incentives for participation are under development.

Action Items – Within Two Years

Action Item	Status	Details
Geographic Differential Study	**In Progress**	$400.0 for study appropriated. The contractor began work on September 16, 2008. The report is planned to be completed by January 31, 2009. The budget impact of implementation will be presented to the 2009 Legislature.
Tuition Reimbursement & Student Loan forgiveness	**In Progress**	Many departments currently reimburse employees for tuition for job-related classes. Departments will be advised of available options. Review of student loan forgiveness will be put into new work plan.
Knowledge Transfer Plans	**In Progress**	DOPLR has a presentation available to assist agencies in the development of these plans.

Administrative Order No. 237
Executive Working Group
Status Report of Recommendations

Flexible Work Schedules (Alternate Workweeks)	**In Progress**	The number of agreements statewide has increased from 1,508 in 2007 to 1,941 in 2008. Effort is continuing to inform departments of available options.
Revamp Classification Process and Review of Resources	**In progress**	Classification studies are being limited to those in class series which have experienced a significant change in duties. A parallel process to address salaries will be explored in conjunction with comprehensive salary survey.
Classification System Review	**In progress**	When appropriate, job classifications are being consolidated and single position job classifications are being eliminated.

Action Items – Within Three Years		
Action Item	**Status**	**Details**
Salary Survey	**In Progress**	Plan to award contract to begin study in January 2009 with expected completion by October 2009.
Workplace Alaska Portal Replacement	**In Progress**	Task Order has been released for the development of system requirements.
Legislation for 40 hour Workweek	**No Action**	Consideration will be given to implement for select groups of employees.

Ongoing Efforts		
Action Item	**Status**	**Details**
Less Restrictive Minimum Qualifications	**In Progress**	21 job class specifications involving over 350 state jobs have been reviewed and updated to ensure MQs reflect current job requirements.
Broader Use of Flexibly Classed Positions	**Completed**	The use of flexibly classed positions has been broadened for use within any series so long as the work exists at the requested levels.
Administrative Clerk Study	**In Progress**	This comprehensive study of 1,150 clerical positions is scheduled for completion by June 30, 2009. The study will examine the changes in clerical work since the classes were last studied (in 1996) and will provide a benchmark for aligning other clerical, paraprofessional and entry-level job classes.
Revamp Employee Evaluation Process	**In Progress**	Newly established pay increments require completion of an evaluation. The evaluation process is being reviewed and streamlined to ensure that employees are evaluated in a meaningful and timely manner.

Discussion Items	
Item	**Details**
Sabbaticals	Explore concept for state employees with extensive service – 15 yrs and up.
Telecommuting	Explore concept for working from home up to three days a week. Policy is under review and development.

1089

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 157
(H) Publish Date: 2/27/09

Identifier (file name): 0035-DOA-DRB-2-13-09
Dept. Affected: Administration
Title: An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller....
RDU: Centralized Administrative Services
Component: Retirement and Benefits
Sponsor: Governor
Requester: Governor's Office
Component Number: 64

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: *(Attach a separate page if necessary)*

This bill extends the sunset of the Retiree Return Program for Public Employees' (PERS) and Teachers' (TRS) Retirement System retirees from July 1, 2009 to July 1, 2013. This program allows public employers and school districts experiencing a shortage of qualified applicants to rehire a PERS or TRS retiree and allow the retiree to continuing receiving retirement benefit by waiving participation in the PERS or TRS during the period of reemployment. This bill represents a continuation of an existing program and therefore has no fiscal impact on the division.

Prepared by: Patrick Shier, Director — Phone 465-4817
Division: Retirement and Benefits — Date/Time 2/13/09 11:23 AM
Approved by: Rachael Petro, Deputy Commissioner — Date 2/13/2009
Department of Administration

(Revised 03/30/08 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 157
(H) Publish Date: 2/27/09

Identifier (file name): 0035-DNR-COM-02-12-09
Dept. Affected: Natural Resources
Title: Exempt Service
RDU: Resource Development
Component: Commissioners Office
Sponsor: Rules Committee
Requester: Governor
Component Number: 423

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill would move certain exempt DNR positions in the Division of Oil and Gas and the Division of Geological and Geophysical Surveys from AS 39.25.110(9) (special inquiry, studies, and examinations) to subsection AS 39.25.110(14) which addresses certain professional oil and gas positions.

No fiscal impact is anticipated. These positions are already funded as exempt positions and in most cases, filled.

Prepared by: Leta Simons, Director
Phone 465-3379
Division: Support Services
Date/Time: February 12, 2009
Approved by: Tom Irwin, Commissioner
Date: February 12, 2009
Natural Resources

(Revised 9/10/2008 OMB)

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 157
(H) Publish Date: 2/27/09

Identifier (file name):0035-DOR-TRE-2-6-09
Dept. Affected: Revenue
Title: Retire-Rehire-Exempt Service
RDU: Taxation and Treasury
Component: Tax/ Treasury
Sponsor: Rules Committee
Requester: Governor Palin
Component Number: 2476 / 121

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: *(Attach a separate page if necessary)*

This bill moves two Department of Revenue positions, the State Comptroller in the Treasury Division and the Chief Economist in the Tax Division into the Exempt Service.

The State Comptroller is currently a partially exempt position, range 27 with a budgeted annual salary of $111,000 and total cost of $162,250, of which $30,660 is GF. The most comparable positions in state corporations such as the Permanent Fund and Alaska Housing Finance are paid in the range from $130,000-$160,000. To be competitive and able to attract and retain staff we would expect to pay this position somewhere in that range.

The Chief Economist is currently a classified position, range 26 with a budgeted annual salary of $90,000 and a total cost of $130,500, all of which is GF. Competitive salaries for this position would be in the range of $125,000-$175,000.

The Department would fund these increases costs through adjustments within each division's budget.

Prepared by: Jerry Burnett, Deputy Commissioner
Phone 465-2300
Division: Treasury Division
Date/Time 2/6/09 12:00 AM
Approved by: Ginger Blaisdell
Date 2/6/2009
Department of Revenue

(Revised 9/10/2008 OMB)

State of Alaska

Department of Revenue

Administrative Services Division

SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
Fax: (907) 465-2394

March 3, 2009

The Honorable Bob Lynn
Chair, House State Affairs Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Lynn:

House Bill 157 was read across the floor on February 27, 2009 and transmitted to the House State Affairs Committee for consideration.

HB 157 Reemployment of Retirees; Exempt Service contains three personnel topics regarding state employment. First, extending the sunset provision of the "retire/rehire" employment provision would allow state entities to hire retired employees into existing positions. Second, the Department of Revenue is requesting that two professional positions be made "exempt" for the purposes of allowing flexibility in recruitment and paying market value. Third, certain professional positions concerning oil and gas within the Department of Natural Resources are requested to be made "exempt" for flexibility in recruitment and paying market value.

While three departments are specifically affected by this legislation, I will be the primary contact for scheduling and questions. Testimony for each provision of the bill will be provided by the respective departments and contacts:

- Retire/Rehire, Kevin Brooks, Deputy Commissioner, Department of Administration
- Oil and gas positions, Melanie Lesh, Legislative Liaison, Department of Natural Resources
- Comptroller and chief economist, Ginger Blaisdell, Director, Administrative Services, Department of Revenue

I respectfully request that HB 157 be scheduled for hearing in the House State Affairs Committee as early as possible.

If the Committee requires any additional information, please contact me.

Sincerely,

VBlaisdell

Ginger Blaisdell
Director

Nancy Manly

From: Blaisdell, Ginger (DOR) [ginger.blaisdell@alaska.gov]
Sent: Monday, March 16, 2009 12:19 PM
To: Nancy Manly
Cc: Lesh, Melanie G (DNR); Brooks, Kevin A (DOA)
Subject: RE: HB 157

DOR Positions
04-5002 State Comptroller PX-non-bargaining
04-3255 Chief, Revenue Economic Research SS-bargaining

We may need to correct the actual title of the position in the bill. Or we can eliminate this position in our budget and create a new position call "Chief Economist" which is what we call the position anyway.

Ginger

DNR Oil & Gas

PCN		Position Title
10-0141		Commercial Analyst
10-0142		Commercial Analyst
10-0143		Petro Land Mgr
10-0144		Petro Land Mgr
10-4100		DOG Div Director
10-4105		Petro Mgr
10-4212		Petro Mkt Analyst
10-4214		Petro Invest Mgr
10-4216		Petro Land Mgr
10-4217		Commercial Analyst
10-4226		Commercial Analyst
10-4227		Dep Director
10-		

4228		State Geologist
10-T003		Petro Land Mgr
10-T006		Commercial Analyst
10-T007		Commercial Analyst
10-T010		Commercial Analyst
10-T011		Petro Geophysicist
10-T019		Commercial Analyst
10-T015		PSIO Engineer
10-T016		PSIO Engineer
10-T017		PSIO Coordinator

From: Nancy Manly [mailto:Nancy_Manly@legis.state.ak.us]
Sent: Monday, March 16, 2009 11:08 AM
To: Blaisdell, Ginger (DOR)
Subject: HB 157

Hi Ginger:

Will you provide the committee with the PCN numbers of the positions that are impacted by this legislation? Can you send them over to me this afternoon so I have them before the meeting tomorrow? Thanks.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

HB

193

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 18, 2009 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-26-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 193**

"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act."

HB 193 LEGISLATIVE ETHICS ACT

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 193 (STA)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
LEG		X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Paul Seaton	Seaton	X			
Max Gruenberg	Gruenberg				–
Peggy Wilson	WILSON	N			
Chair:	LYNN	X			
Chair:					

Nancy Manly

From: Nancy Manly
Sent: Sunday, March 29, 2009 1:32 PM
To: Jane Pierson
Subject: FW: HB 193 - Memo from Dan Wayne
Attachments: 3-26-09 Memo from Legal on HB 193.pdf

Jane – Attached is a memo from Dan Wayne that was transmitted to the Judiciary Committee in the Referral File. Mr. Wayne had expressed some concerns about the definitions in the bill and the subcommittee had asked that he restate his opinion in a memo to be transmitted with the bill.

A committee member expressed surprise about the definition of "constituent" in this memo. Mr. Wayne believes it was more accurate to say that a "constituent" means... an immediate family member of a person who resides in the state... But the concern here is that definition is too broad. An immediate family member of a person who resides in the state could live overseas and may never have lived in Alaska, yet that person would be a constituent?

The feeling is that definition needs more work. Just want to pass on those comments.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

From: Nancy Manly
Sent: Friday, March 27, 2009 4:16 PM
Subject: HB 193 - Memo from Dan Wayne

This 3-26-09 Memo from Legal Services Dan Wayne concerning HB 193

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

papers relating to any matter under investigation before the committee. (§ 1 ch 36 SLA 1984; am § 11 ch 113 SLA 1986; am § 38 ch 47 SLA 2007; am § 5 ch 94 SLA 2008)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, added paragraphs (3) and (4) in subsection (a).

The 2008 amendment, effective September 14, 2008, substituted "annual" for "semi-annual" in paragraph (a)(2).

Sec. 24.60.155. Legislative ethics course. A person who is a legislator, legislative employee, or public member of the committee shall complete a legislative ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days of the first day of the first regular session of each legislature. However, a person who first takes office or begins employment after the 10th day of the first regular session of a legislature shall complete the course required by this section within 30 days after the person's first day of service and, thereafter, as required by this section. The committee may grant a person additional time to complete the course required by this section. (§ 39 ch 47 SLA 2007)

Effective dates. — Section 79, ch. 47, SLA 2007, makes this section effective July 10, 2007, in accordance with AS 01.10.070(c).

Editor's notes. — Under § 75(e), ch. 47, SLA 2007, the committee is required to offer only one type of ethics course in 2008.

Sec. 24.60.158. Informal advice. The committee shall authorize and train its staff to give oral advice and provide a written informal nonbinding advice letter to persons seeking guidance as to the spirit or legal requirements of this chapter, provided that the advice is given with the express stipulations that

(1) the opinions given are not necessarily those of the committee;

(2) although the advice is given in good faith, the person seeking the advice relies on it at the person's own risk; and

(3) the advice is not binding upon the committee. (§ 26 ch 127 SLA 1992)

Conflict issue in ethic laws

Sec. 24.60.160. Advisory opinions. (a) On the request of the committee, the Alaska Public Offices Commission, a person to whom this chapter applies, or a person who has been newly elected to the legislature, the committee shall issue an advisory opinion within 60 days as to whether the facts and circumstances of a particular case constitute a violation of ethical standards. If it finds that it is advisable to do so, the committee may issue an opinion under this section on the request of a person who reasonably expects to become subject to this chapter within the next 45 days. The 60-day period for issuing an opinion may be extended by the committee if the person requesting the opinion consents.

(b) An opinion issued under this section is binding on the committee in any subsequent proceedings concerning the facts and circumstances of the particular case unless material facts were omitted or misstated in the request for the advisory opinion. An opinion issued under this section must be issued with sufficient deletions to prevent disclosing the identity of the person or persons involved. Advisory opinion discussions and deliberations are confidential, unless the requester and anyone else named in the request who is covered by this chapter waives confidentiality. The committee's final vote on the advisory opinion is a public record. (§ 1 ch 36 SLA 1984; am § 12 ch 113 SLA 1986; am § 27 ch 127 SLA 1992; am § 43 ch 74 SLA 1998; am § 40 ch 47 SLA 2007)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, rewrote this section.

The 2007 amendment, effective July 10, 2007, inserted "the committee, the Alaska Public Offices Commission" and made stylistic changes in the first sentence of subsection (a), substituted the last three sentences of subsection (b) for the last sentence, which provided for the confidentiality of advisory opinions.

Sec. 24.60.165. Use of information submitted with request for advice. The committee may not bring a complaint against a person based upon information voluntarily given to the committee by the person in connection with a good faith request for advice under AS 24.60.158 or 24.60.160, and may not use that information against the

person in a proceeding und
from acting on a complaint
complaint is brought by an
place after the advice is r
information or evidence obt
evidence was also submitte

Sec. 24.60.170. Procee
layed amendment note.]
of this chapter if the allege
complaint is filed with the
against all members of t
legislature, or against a pe
the person has terminated
proceedings concerning a c
nated legislative service if
an employee or a legislator
(b) A complaint may be i
signed under oath by the p
that the complainant has r
and describe any facts kno
shall upon request provide
Upon receiving a complai
committee or the subject of
of the proceeding as to the
violated this chapter. The co
of a candidate for electio
accordance with (o) of this s
conduct of a candidate for
campaign period in accorda
provide a copy of the compl
(c) When the committee
the complaint to a staff pers
of the complaint and advise
true, constitute a violation
indicate that a further inve
dation shall be based on th
supplemented by the compl
so by the staff member. The
member, if any, and shall d
constitute a violation of this
proven, would not give rise t
there is insufficient credibl
investigation by the committ
the face of the complaint, th
complainant and the subject
the complainant to provide
decision under this subsectio
the subject of the complaint
obligated to provide the inf
documents that are part of
confidential as provided in (
confidentiality as provided i

Conceptual Amendment

"A legislator or legislative employee may request advice, in writing, from ethics committee staff. By doing so, the legislator or staff requesting the advice is entitled to advice whether the conduct addressed in the request is permissible or impermissible under this title in the opinion of staff."

"If the Committee is concerned about the accuracy of the staff advice, it may issue a formal binding opinion under AS 24.60.159. However, a legislator or staff is entitled to rely upon the informal advices provided under this section until that time, provided the legislator or staff acts in good-faith to provide what the legislator or staff reasonably believe is all material information to committee staff, and all information requested by Committee staff."

that an individual legislator owes each person in the state a duty of representation. If the intent of the bill's definition of "constituent" is that a legislator's constituent is every person who is in or of Alaska, then it might be more accurate to say:

> "constituent" means a person who resides in the state, is registered to vote in the state, or is licensed by the state to do business, or a person who is an immediate family member of a person who resides in the state or is registered to vote in the state.

A definition of the term "legislative purpose" is necessary to the bill in order to support the bill's definition of "non-legislative purpose," a term that is prominent in AS 24.60.030(a)(2). However, the definition of "legislative purpose" provided in this bill is unclear because it describes action, not purpose.

DCW:ljw
09-184.ljw

LEGAL SERVICES

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

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

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

MEMORANDUM March 26, 2009

SUBJECT: Legislative Ethics Act changes (CSHB 193(STA), Work Order No. 26-LS0656\T)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM: Dan Wayne
Legislative Counsel

At the March 25, 2009, meeting of the House State Affairs subcommittee that reviewed this bill, I expressed some concerns about the definitions in the bill and the subcommittee asked that I restate them in a memo to be transmitted with the bill when it leaves your committee.

In the course of drafting or reviewing advisory opinions I have observed that certain undefined terms are very difficult to interpret and apply. Among them are the terms "constituent" and "non-legislative purpose."

The definition of constituent in this bill, "a person to whom a legislator owes a duty of representation under the Constitution of the State of Alaska," leaves the meaning of the term subject to varying interpretation. Article XII, section 5 of the state constitution, requires all public officers to take an oath of office.[1] The language reads as follows: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as . . . [a legislator] to the best of my ability." This suggests that a legislator has, in addition to the general duty of a public officer to support and defend the state and federal constitutions, additional duties specific to that office. However, those duties are not further described in the state constitution.

Other than the requirement that a constituent be a "person," the meaning of constituent is wide open to interpretation under the definition in this bill. Every person in Alaska, including corporations and non-citizens, has rights under the state constitution. A legislator may owe every person in the state a duty in the sense that the legislator has sworn to uphold the state and federal constitutions, but that does not necessarily mean

[1] Legislators are further required, by AS 24.05.060, to take this oath before undertaking the duties of office.

that an individual legislator owes each person in the state a duty of representation. If the intent of the bill's definition of "constituent" is that a legislator's constituent is every person who is in or of Alaska, then it might be more accurate to say:

> "constituent" means a person who resides in the state, is registered to vote in the state, or is licensed by the state to do business, or a person who is an immediate family member of a person who resides in the state or is registered to vote in the state.

A definition of the term "legislative purpose" is necessary to the bill in order to support the bill's definition of "non-legislative purpose," a term that is prominent in AS 24.60.030(a)(2). However, the definition of "legislative purpose" provided in this bill is unclear because it describes action, not purpose.

DCW:ljw
09-184.ljw

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re HB 193 26-LS0656\C

3/26/09
House State Affairs Committee passed out HB 193 26-LS0656\C amended. Please draft a final CS with the following changes:

Amendment #1 (Gruenberg for Gara)
Failed

Conceptual Amendment #2 (Seaton)
Page 5 Line 7 following the word "matter" *insert* "**or responding to an inquiry from an administrative officer"**

Amendment #3 (Johnson offered Gruenberg Amendment)
Withdrawn

26-LS0656\C
Wayne
3/25/09

CS FOR HOUSE BILL NO. 193( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE COGHILL

A BILL

FOR AN ACT ENTITLED

"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to prohibitions on the use of state resources under the Legislative Ethics Act; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act."

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

*** Section 1.** AS 24.60.030(a) is amended to read:

(a) A legislator or legislative employee may not

(1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions, solicitation or acceptance of contributions for a charity event, as defined in AS 24.60.080(a)(2)(B), or the acceptance of a **gift** [LAWFUL GRATUITY] under **AS 24.60.075 or 24.60.080** [AS 24.60.080];

(2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of [EITHER] the legislator, legislative employee, or another person; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of **a legislator's legislative mailing list for campaign purposes, or the use of** mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) the legislative council, notwithstanding AS 24.05.190, from designating a public facility for use by legislators and legislative employees for health or fitness purposes; when the council designates a facility to be used by legislators and legislative employees for health or fitness purposes, it shall adopt guidelines governing access to and use of the facility; the guidelines may establish times in which use of the facility is limited to specific groups;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than

utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others;

(E) a legislator from use of legislative employees to prepare and send out seasonal greeting cards;

(F) a legislator from using state resources to transport computers or other office equipment owned by the legislator but primarily used for a state function;

(G) use by a legislator of photographs of that legislator;

(H) reasonable use of the Internet by a legislator or a legislative employee except if the use is for election campaign purposes;

(I) a legislator or legislative employee from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization in a state facility;

(J) a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(K) full participation in a charity event approved in advance by the Alaska Legislative Council;

(3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds;

(4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to

permit the legislator or legislative employee to perform official duties;

(5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of **a legislator's legislative mailing list, or the use of** mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(E) use by a legislator of photographs of that legislator.

*** Sec. 2.** AS 24.60.030(i) is amended to read:

(i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may

not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the **matter** [CASE] unless [THE]

(1) **the** contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or a witness in the matter** and the contact is made a part of the record; or

(2) **the contact is inadvertent and ex parte and the** fact and substance of the contact **are** [IS] promptly disclosed by the legislator or legislative employee to all parties to the hearing and [THE CONTACT IS] made a part of the record.

*** Sec. 3.** AS 24.60.080(a) is amended to read:

(a) Except as otherwise provided in this section, a legislator or legislative employee may not

(1) solicit, accept, or receive, directly or indirectly, a gift worth $250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than $250 that in a calendar year aggregate to $250 or more in value;

(2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

(A) food or beverage for immediate consumption;

(B) a contribution to a charity event, [FROM ANY PERSON AT ANY TIME, AND] tickets **to** [FOR] a charity event, **and** [AT ANY TIME, EXCEPT THAT TICKETS TO OR] gifts received **in connection with** [AT] a charity event**; however, tickets to a charity event and gifts received in connection with a charity event that are not included in the price of the ticket** [UNDER THIS SUBPARAGRAPH] are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (1) of this subsection; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26

U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services **in connection with** [INVOLVED IN] the charity event;

(C) a gift that is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family;

(D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or

(E) a compassionate gift under AS 24.60.075.

*** Sec. 4.** AS 24.60.080(c) is amended to read:

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

(1) hospitality, other than hospitality described in (4) of this subsection,

(A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or

(B) at a social event or meal;

(2) discounts that are available

(A) generally to the public or to a large class of persons to which the person belongs; or

(B) when on official state business, but only if receipt of the discount benefits the state;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the immediate family of the person; in this paragraph, "immediate family" means

(A) the spouse of the person;

(B) the person's domestic partner;

(C) a child, including a stepchild and an adoptive child, of the person or of the person's domestic partner;

(D) a parent, sibling, grandparent, aunt, or uncle of the person;

(E) a parent, sibling, grandparent, aunt, or uncle of the person's spouse or the person's domestic partner; and

(F) a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse, or the person's domestic partner;

(6) gifts that are not connected with the recipient's legislative status;

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' rights, or the office of the ombudsman;

(8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;

(9) a gift of transportation from a legislator or a legislative employee to a legislator or a legislative employee if the transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or

(10) a contribution to a charity event from any person at any time**, or a ticket to a charity event from a person who is not a lobbyist, an immediate family member of a lobbyist, or acting on behalf of a lobbyist**; in this paragraph, "charity

event" has the meaning given in (a)(2)(B) of this section.

*** Sec. 5.** AS 24.60.080(d) is amended to read:

(d) A legislator or legislative employee who accepts a gift under (c)(4) **of this section that has a value of $250 or more or a ticket to a charity event under (c)(10)** of this section that has a value of $250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of $250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of $250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

*** Sec. 6.** AS 24.60.105 is amended by adding a new subsection to read:

(d) A person may refrain from making a disclosure that is required by this chapter if making the disclosure would violate the United States Constitution, the Constitution of the State of Alaska, or other state or federal law. However, at the request of the committee or a person authorized to act on behalf of the committee, a

person who refrains from making a disclosure under this subsection shall provide the committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient.

*** Sec. 7.** AS 24.60.130(f) is amended to read:

(f) The committee may contract for professional services and may employ staff as it considers necessary. A committee employee, including a person who provides personal services under a contract with the committee, may not be a legislator, an elected or appointed official of a state or local governmental entity, an officer of a political party, a candidate for public office, or a registered lobbyist. The legislative council shall provide office space, equipment, and additional staff support for the committee. The committee shall submit a budget for each fiscal year to the finance committees of the legislature and shall annually submit an estimated budget to the governor for information purposes in preparation of the state operating budget. Public members of the committee **shall receive** [SERVE WITHOUT] compensation **of $150 a day while attending committee meetings and** [FOR THEIR SERVICES, BUT] are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

*** Sec. 8.** AS 24.60.130(n) is amended to read:

(n) **A member who participates at the commencement of a proceeding under AS 24.60.170 shall participate for the duration of the proceeding unless disqualified or unable to continue participating for any reason; however, provision shall be made for service by alternate members on the committee or on a subcommittee, as follows:**

(1) when [WHEN] appointing members of the legislature to serve on the committee, the speaker of the house or the president of the senate, as appropriate, shall appoint an alternate member for each regular member**; an** [. AN] alternate must have the same qualifications as the regular member for whom the alternate stands as alternate and is subject to confirmation as required for the regular member**;**

(2) when selecting public members to serve on the committee, the Chief Justice of the Alaska Supreme Court shall also select one alternate public member; the alternate public member's selection is subject to ratification as

required for selection of the regular public members;

(3) if, except as to a proceeding under AS 24.60.170, [. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is unable to **participate in** [ATTEND] a meeting, the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member at the meeting, and the designated alternate**, unless for any reason unable to participate,** shall **participate for the duration of that meeting; if** [SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is disqualified under (h) of this section from **participating in** [SERVING ON THE COMMITTEE OR THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the regular member is unable to **participate** [ATTEND], the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member **for the duration of** [IN] the proceeding unless the alternate is [ALSO] disqualified **or is for any reason unable to participate; the** [FROM SERVING. THE] designation shall be treated as confidential to the same extent that the identity of the subject of a complaint is required to be kept confidential.

*** Sec. 9.** AS 24.60.990(a) is amended by adding new paragraphs to read:

(17) "constituent" means a person to whom a legislator owes a duty of representation under the Constitution of the State of Alaska;

(18) "constituent service" means assistance, including representation other than legal representation and advice other than legal advice, that is provided by a legislator or a legislator's staff to a constituent;

(19) "legislative purpose" means legislative action or providing constituent service;

(20) "nonlegislative purpose" means a purpose other than a legislative purpose;

(21) "private benefit" means a benefit to a person as a result of a legislative, administrative, or political action of which benefit to that person in particular is a substantial goal and that is greater than the benefit of the legislative, administrative, or political action to a substantial class of persons to which the person

belongs by law, choice, legal entitlement, legal privilege, profession, occupation, industry, or region.

AMENDMENT

OFFERED IN THE HOSUE

BY REPRESENTATIVE SEATON

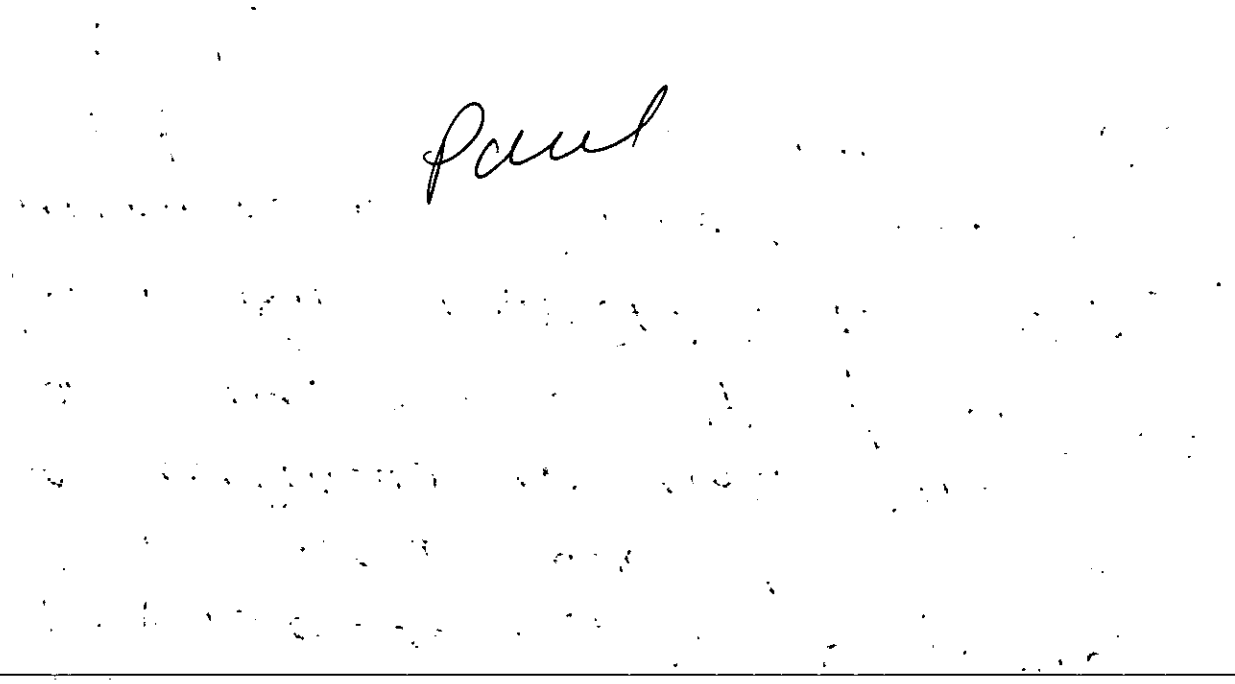
TO CSHB193 v. C

Page 5 line 7 following "**or witness in the matter**" insert "**or responding to an interrogative from an administrative officer**"

inquiry

Paul -

Teri Thurman, chief office of administrative hearings believes this amendment is not necessary. She says there is no gray area if you are a witness or not. ~~There~~ Any other type of contact from an administrative officer would be inadvertant and covered on page 5 lines 8 - 11.


Paul

L

AMENDMENT

OFFERED IN THE HOUSE BY: REPRESENTATIVE GRUENBERG
TO: HB 193

Page 1, line 12 insert:

(i) Except when representing another person as a licensed professional in the State of Alaska in the case for compensation and subject to AS 24.60.100

26-LS0656\S.1
Wayne
3/25/09

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 193( ), Draft Version "S"

Page 1, line 7, following "**subcommittees;**":

Insert "**establishing that persons who are subject to the Legislative Ethics Act may rely without prejudice on certain advice from employees of the Select Committee on Legislative Ethics;**"

Page 7, following line 22:

Insert a new bill section to read:

"*** Sec. 8.** AS 24.60.158 is repealed and reenacted to read:

Sec. 24.60.158. Informal advice. (a) The committee shall authorize and train at least one committee staff employee to respond to requests from legislators, legislative employees, or public members of the committee for advice about the legal requirements of this chapter, including advice as to whether the facts and circumstances of a particular case constitute a violation of ethical standards under this chapter. However, the advice provided by staff is not binding on the committee except as provided under (b) of this section.

(b) A person who is a legislator, legislative employee, or public member of the committee may request a written staff opinion as to whether the facts and circumstances of a particular case constitute a violation of ethical standards under this chapter, and committee staff shall respond to a request made under this subsection in a writing entitled "staff advisory opinion." If the person who requests the opinion provides with the request all information that the person reasonably believes is material to the request, and all information the staff requests, and if the information provided is accurate to the best of the person's understanding, then the person may rely

on the written opinion without prejudice unless it is rescinded by the committee.

(c) The committee is bound by a staff advisory opinion under (b) of this section to the same extent it is bound by an advisory opinion under AS 24.60.160; however, a staff advisory opinion may be rescinded by a majority vote of the committee. An opinion under (b) of this section, whether or not it is rescinded, is subject to the redaction and confidentiality requirements of AS 24.60.160(b)."

Renumber the following bill section accordingly.

AMENDMENT

OFFERED IN THE HOUSE BY: REPRESENTATIVE GRUENBERG
TO: HB 193

Page 1, line 12 insert:

(i) Except when representing another person as a licensed professional in the State of Alaska in the case for compensation and subject to AS 24.60.100

papers relating to any matter under investigation before the committee. (§ 1 ch 36 SLA 1984; am § 11 ch 113 SLA 1986; am § 38 ch 47 SLA 2007; am § 5 ch 94 SLA 2008)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, added paragraphs (3) and (4) in subsection (a).

The 2008 amendment, effective September 14, 2008, substituted "annual" for "semi-annual" in paragraph (a)(2).

Sec. 24.60.155. Legislative ethics course. A person who is a legislator, legislative employee, or public member of the committee shall complete a legislative ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days of the first day of the first regular session of each legislature. However, a person who first takes office or begins employment after the 10th day of the first regular session of a legislature shall complete the course required by this section within 30 days after the person's first day of service and, thereafter, as required by this section. The committee may grant a person additional time to complete the course required by this section. (§ 39 ch 47 SLA 2007)

Effective dates. — Section 79, ch. 47, SLA 2007, makes this section effective July 10, 2007, in accordance with AS 01.10.070(c).

Editor's notes. — Under § 75(c), ch. 47, SLA 2007, the committee is required to offer only one type of ethics course in 2008.

Sec. 24.60.158. Informal advice. The committee shall authorize and train its staff to give oral advice and provide a written informal nonbinding advice letter to persons seeking guidance as to the spirit or legal requirements of this chapter, provided that the advice is given with the express stipulations that

(1) the opinions given are not necessarily those of the committee;

(2) although the advice is given in good faith, the person seeking the advice relies on it at the person's own risk; and

(3) the advice is not binding upon the committee. (§ 26 ch 127 SLA 1992)

Sec. 24.60.160. Advisory opinions. (a) On the request of the committee, the Alaska Public Offices Commission, a person to whom this chapter applies, or a person who has been newly elected to the legislature, the committee shall issue an advisory opinion within 60 days as to whether the facts and circumstances of a particular case constitute a violation of ethical standards. If it finds that it is advisable to do so, the committee may issue an opinion under this section on the request of a person who reasonably expects to become subject to this chapter within the next 45 days. The 60-day period for issuing an opinion may be extended by the committee if the person requesting the opinion consents.

(b) An opinion issued under this section is binding on the committee in any subsequent proceedings concerning the facts and circumstances of the particular case unless material facts were omitted or misstated in the request for the advisory opinion. An opinion issued under this section must be issued with sufficient deletions to prevent disclosing the identity of the person or persons involved. Advisory opinion discussions and deliberations are confidential, unless the requester and anyone else named in the request waive confidentiality. The committee's final vote on the advisory opinion is a public record. (§ 1 ch 36 SLA 1984; am § 12 ch 113 SLA 1986; am § 127 SLA 1992; am § 43 ch 74 SLA 1998; am § 40 ch 47 SLA 2007)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, rewrote this section.

The 2007 amendment, effective July 10, 2007, inserted "the committee, the Alaska Public Offices Commission" and made stylistic changes in the first sentence of subsection (a), substituted the last two sentences of subsection (b) for the last sentence, and provided for the confidentiality of advisory opinions.

Sec. 24.60.165. Use of information submitted with request for advice. The committee may not bring a complaint against a person based upon information voluntarily given to the committee by the person in connection with a good faith request for advice under AS 24.60.158 or 24.60.160, and may not use that information against

person in a proceeding
from acting on a comp
complaint is brought b
place after the advice
information or evidenc
evidence was also subr

Sec. 24.60.170. Pro
layed amendment no
of this chapter if the al
complaint is filed with
against all members
legislature, or against
the person has termin
proceedings concerning
nated legislative servic
an employee or a legisl

(b) A complaint may
signed under oath by t
that the complainant h
and describe any facts
shall upon request prov
Upon receiving a com
committee or the subjec
of the proceeding as to
violated this chapter. Th
of a candidate for ele
accordance with (o) of th
conduct of a candidate
campaign period in acc
provide a copy of the co

(c) When the commit
the complaint to a staff
of the complaint and ac
true, constitute a violat
indicate that a further i
dation shall be based o
supplemented by the co
to by the staff member.
member, if any, and si
constitute a violation of
proven, would not give
there is insufficient cr
investigation by the com
the face of the complain
complainant and the su
the complainant to pro
duction under this subs
the subject of the compl
obligated to provide th
documents that are pa
confidential as provided
confidentiality as provid

ALASKA STATE HOUSE

House State Affairs Subcommittee Report Form

Date: March 25, 2009

Time Meeting Called to Order: 3:08 p.m.

Name of Chairman: Representative Paul Seaton

Members Present: Representative Seaton, Representative Craig Johnson, and Representative Max Gruenberg.

Subject of Meeting: Legislative Ethics

Relevant Legislation: House Bill 193 Legislative Ethics

Persons participating other than committee members: Representative Mike Doogan, Representative Berta Gardner, Dan Wayne (Legislative Legal), Joyce Anderson (Director, Select Committee on Legislative Ethics), and Rynnieva Moss (Legislative Aide to Representative Coghill, sponsor of HB 193).

Subcommittee Recommendations: The subcommittee adopted a CS that made amendments to Section 1 and Section 8; they amended AS 24.60.030(a)(1) to replace the word "gratuity" with "gift" and added a reference to AS 24.60.075 (compassionate gift) to AS 24.60.030(a)(1).

AM #1: Page 8, lines 2, 3, & 4: Delete the word "financial"
Moved by Representative Gruenberg
Passed without objection

AM #2: Introduced and withdrawn by Representative Gruenberg

AM #3: Page 7, line 29: Delete "a goal of a" AND "a"
Insert after "action" the word "providing"
Moved by Representative Gruenberg
Passed without objection

AM #4: Page 7, line 24: Delete the word "natural"

AM #5: Introduced and withdrawn by Representative Gruenberg.

AM #6: Page 1, 12 through Page 2, line 16: Delete all language and insert:

(i) [EXCEPT WHEN REPRESENTING ANOTHER PERSON AS A LICENSED PROFESSIONAL IN THE STATE OF ALASKA IN THE CASE FOR COMPENSATION AND SUBJECT TO AS 24.60.100 FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE

HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE,] A legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or witness** and the contact is made a part of the record; or

(2) **in the event of an inadvertent *ex parte* contact and if the** fact and substance of the contact **are** [IS] promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

Moved by Representative Gruenberg
Passed: Yea – Johnson and Seaton Nay - Gruenberg

AM #7: Amends AS 24.60.030(a)(1) as follows:

(a) A legislator or legislative employee may not

(1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions, solicitation or acceptance of contributions for a **gift** [GRATUITY] event, as defined in AS 24.60.080 (a)(2)(B), or the acceptance of a lawful gratuity under **AS 24.60.075 and** AS 24.60.080 ;

Moved by Representative Gruenberg by request of Dan Wayne
Passed without objection

In addition the committee instructed Dan Wayne to check Title 24.60 to see if the assumption that it was ethical to use a legislative newsletter email database for campaign purposes. If AS 24.60 does not allow that prepare an amendment that would correct the problem.

Representative Seaton also asked Dan Wayne to prepare a legal opinion about the definition of "constituent" and what legal interpretation of "duty of representation under the Constitution of the State of Alaska" is.

Representative Seaton allowed Representative Gara to discuss an amendment he was attempting to have drafted that would basically allow for a person who submitted in writing a request for a determination by the director of the Select Committee on Legislative Ethics for an ethics issue to be exempt from a ethics violation if the committee met at a later date and found the action unethical if the person who receive the determination acted in good faith on the advice of the director. Representative Seaton said that was out of the scope of the purposes of the subcommittee and welcomed Representative Gara to present the issue to the full committee.

Time of Adjournment: 5:02 p.m.

Subcommittee of the
House State Affairs Committee
House Bill No. 193 (STA)
March 25, 2009

Chair Seaton recognized Reps Gardner, Doogan, Gruenberg, Johnson, and Gara

Also present:
Rynnieva Moss, Legislative Aide to Rep John Coghill
Joyce Anderson, Director, Select Committee on Ethics
Dan Wayne, Legislative Legal

Rep Seaton stated that \S version is what has been adopted by the committee and there were questions on that. There was discussion on what version would be used as the changes were addressed, it was finally decided that the committee would use the \S version. Go to page 7 - on S version - Number 19 Legislative Purpose, the S version said *legislative action or constituent service* - changed to goal *of legislative action or a constituent service is a substantial goal.*

Rynnieva Moss recommended to only remove "**a**" and insert "constituent service."

Dan Wayne stated that the P version had a lot of problems because all the changes requested were not done; there just was not enough time. S version is just wrong as it does not contain changes in CS. Not sure if time is going to be very well spent. Nothing the subcommittee was expecting

Rep Seaton - go back to S version and pull out financial in S version.

Committee agrees.

Rep Gruenberg - stated he would like to make the change as an amendment.
Amendment No. 1 - \S version. Page 8 lines 2, 3 and 4, eliminate the word [financial].

Rep Seaton -no objection. Adopted.

Rep Seaton - Page 7 \S version - No. 19 - legislative purpose the committee was concerned that what we have means a

constituent service and so we are changing that to a goal of legislative action or providing constituent service.

Rep Gruenberg - suggested goal of "a legislative action" - may be more than one action remove [a] and at the end of the line remove [a] and insert the word **providing.**

Legislative Action - A goal of legislative action or providing constituent service.

Rep Gardner - in what sense is constituent service not legislative action?

Rep Gruenberg - legislative action is passing laws or budget issues and constituent service is broader term. Is there some definition some where of legislative action?

Rynnieva Moss read AS 24.60.990(a)(9) Legislative Action into the record. A constituent service could be assistance with a clerical error that does not result in legislative action - but sometimes it could result in legislative action because you find a flaw in the law and you introduce legislation to fix it.

Rep Seaton- problem was we have a series of definitions - you got into the goal or the want or desire of a constituent becomes the legislative purpose rather than the legislator providing the service.

Rep Gruenberg - **Amendment No. 2 - strike [a] page 7 line 29 before legislative action and strike [a] after the word or and insert providing constituent service.**
Legislative Purpose: Means a goal of legislative action or providing constituent service.

Dan Wayne - I think you might want to add before providing - **a goal of** [the action] - so it refers to the goal of legislative action or legislative service - to be clear.

Rynnieva - do we need the word goal? Would not a legislative purpose be a legislative action or a constituent purpose?

Dan Wayne - I made these up these definitions originally. A purpose is not a thing not a service. A service is not a purpose it has a purpose.

Rep Gruenberg - purpose and goal are very similar. Amendment to amendment to delete [a goal of]on line 29 as an amendment to the amendment.

Rep Seaton - Amendment No. 2 and amendment - reads "legislative purpose means a legislative action or providing constituent service."

Rep Gruenberg stated that as amended would read "legislative purpose means legislative action or providing constituent service."

Rep Doogan - if you are saying a legislative purpose is a legislative action, it makes no sense. Your purpose is to hit a home run your action is to swing the bad therefore your purpose is to swing the bat. You have a confusion of goals and meanings.

Rep Gruenberg - What do think we should say?

Rep Doogan - if you are talking about the purpose you are talking about the goal of the action not the action itself.

Rep Gruenberg withdrew his second amendment to the amendment.

Rynnieva stated that the definition of purpose out of Black's Law - objective, goal or end.

Rep Seaton - under legislative purpose we have to say something that this an attempt to work on legislative action or something like that in providing constituent service.

Rynnieva - purpose is used because it is used in the statute and she highlighted where it is. We want legislative purpose to include action; not only legislative purpose but also constituent service though it is not yet defined in statute - we want to do that in this bill. One defined and one not.

Rep Seaton - Dan do you think having the word goal there is legally explanatory enough or means working towards a legislative action.

Dan Wayne - I think that I had some other language to narrow it down, but this would mean constituent service is anything you would do for a constituent no matter what it is. So I said goal of legislative action is substantial - in order that it is substantial. Maybe use the word purpose.

Rep Doogan - attempting to define legislative purpose to have two parts, legislative action - already defined and constituent service - not defined in statute. So if what you want to say is legislative purpose is 2 things you legislative purpose and constituent action. Legislative purpose or goal are we trying to define. Are we saying the legislative purpose or goal we are tying to define: legislative purpose means having a goal of legislative action or providing constituent service.

Rynnieva - it is the end product. Legislative action or constituent service we have met a legislative purpose.

3:36:04 PM

Rep Gruenberg- sounds like what Mr. Doogan has said is a good idea, add to **Amendment No. 2 - just add one word - between means and a also add word "having". Just what Rep Doogan suggested. Amendment to amendment**.

No objection to Amendment to Amendment adopted

Amendment No. 2 - Legislative purpose having a goal of legislative action or constituent service.

Dan - we have to define it so we know what it is not. AS 24.60.030(a)(2) read into the record.

Rep Seaton - we are defining non-legislative purpose - Line 31 on page 7 we are defining non-legislative purpose.

Dan - if you say a person has to have a goal - "having" is not the right word.

Rep Johnson - goal in there is intent and if you talk about intention it would be difficult to define. We are defining legislative purpose and all the time is your goal and it may not be constituent related.

Rep Doogan - the definition - legislative action was read into the record again by Rynnieva.

Rep Seaton - legislative purpose means legislative action or providing constituent service. So what I would like to do is amendment 2 withdrawn.

Rep Gruenberg withdrew Amendment No. 2.

Rep Seaton - being Amendment No 3 Page 7, Line 29, delete [a goal of a] [a]removing the word and inserting the word **"providing"** at the end of the line.

Rep Seaton stated Legislative purpose means legislative action or providing constituent service; and asked if there were any objections.

No objection - Amendment No. 3 has passed.

Rynnieva - Page 7, line 24 - delete under constituent [natural].

Rep Gruenberg - Amendment No. 4 constituent - does not have to be natural can be any other form of person.

Rynnieva read the definition of person into the record.

3:42:47 PM

Rep Gardner - do we have a duty currently to represent a business trust.

Rep Gruenberg - as a legislator these things all relate to people and a business is one or more people and they set it up in a trust. A few years ago we had a bill setting up a children's trust. We have had things dealing with trusts.

Rep Seaton - if you have a business in your community or not is there a constitutional duty of representation to those entities.

Dan Wayne - constitutionally - no duty. Talks about how the legislature is set up in Art 2 - but does not spell out duties.

Rynnieva said there is a duty to the constituent. There are plenty of constitutional duties to a constituent.

Rep Gardner - duty to the people leave natural in there.

Rep Doogan - small business in my district, interest of various sorts the people who run those businesses may or may not be constituents in the sense that they vote for me or even live in my district, but they may still come to me and say I don't want this or I do want that - if we were to leave the term natural person in this document, could I talk to them, go to bat for them where it was appropriate - since their interest is not as my constituent but as the owner of a business in my district.

Rep Seaton - legislative purpose is providing constituent service, but if you were talking to ConocoPhillips, ey are not a atural person. business is not a natural person. It would not get constituent service. Not a natural person and therefore it would not be constituent service.

Rep Gardner - do we not also have obligations - every Alaskan is a constituent.

Rep Gruenberg original version limited constituent to your district. We discussed elimination of natural in full committee.

Rep Gardner - if that is the case, what is the reason to have to whom the legislator owes a duty of representation.

Dan - there is no duty of representation owed by the legislator.

Rynnieva - we believe when a legislator takes an oath he believes that he has a duty to protect the constitutional rights and that he does have a duty to protect those rights.

Dan - we are talking about a definition, there is an oath and I am not saying they don't have that responsibility but we are trying to define something - so maybe there does not need to be a definition.

Rep Seaton - if we take out natural. Who is the person that the legislator does not owe representation to that you would be working for or providing service too. Staffer in D.C. who is a resident in D.C. and not an Alaska resident anymore, and no permanent fund - could you provide constituent service to them.

Rynnieva - the answer would be if the person was being deprived of something that the person was eligible for under the constitution.

Rep Gruenberg - people in Alaska they qualify, if all the other people in the world are the second class if they are dealing with an Alaskan issue they should get our representation. I think this focuses on the people and the representation. Read this and mentioned it in committee I thought it was a creative phrase. I think this says we have a duty and right of representation as to that permissible under the constitution. Leave it at that. Keep it in. Someone that would not qualify StateWatch people in Virginia - concerned about Wrangell Islands

- does not have anything to do with Alaska, there is no duty to represent them.

3:51:24 PM

Rep Seaton - what if there is a trip to Darfur - anyway - lets request a leg legal opinion on parameters to forward on with the bill.

Rep Gruenberg - Amendment No. 4 remove [natural] Page 7, line 24.

Rep Seaton - any objection.

Rep Gardner - remove natural then could we say a constituent it could include defenders of wildlife? Then we have a duty to represent?

Dan - might fit better to take out representation and leave duty. Maybe not a duty of representation to a particular person but certainly a duty. The duty to uphold the constitution.

Rynnieva stated that would be acceptable.

Rep Seaton stated that Amendment No. 4 - deals with removing *natural* line 24 - Page 7 - any objections?

No objection - adopted.

Rep Gruenberg moved for Amendment No. 5 - delete [representation] Page 7, line 25.

Rep Gruenberg - to Dan - since you will be doing the legal opinion - you might want to substitute a phrase for representation or leave it in - if you are talking about duty. *"of representation"* - a little uncomfortable to take it out until we have a legal opinion. If we just ask for a legal opinion on that phrase.

Dan - researched it and it would say what has already been stated. Constitution would not provide any information about what duty of representation is. You are limiting the duty but there is no place to find out where that limit is.

Rep Gruenberg - only a duty of public safety or education, and this should be looked at - as a major thing that is the core of the legislature.

Rynnieva - let that word remain - and let it be discussed in Judiciary. It also could be that duty could include representation because it results in legislative action or constituent service.

Rep Gara - when you try and define the people you represent in two constrained a manner you are going to leave someone out and then you have an ethics violation. The people you are allowed to represent (constituents) that you are allowed to represent. The definition should be broad. The constituent should be who you are allowed to represent. Otherwise there will be people outside the line that you want to help but can't because of the definition and who you included in the definition.

Dan Wayne - said that is not what he said. It is the constitution that does not list any duties of representation. It does not mean you don't have a duty, it just means it is not listed. How do I tell if someone's actions are permissible when I don't know the definition of constituent? Constituent service is a service you do for someone.

Rep Seaton we need to know who a constituent is and who it is not. So we know who you can give service to.

Rep Doogan - it means the citizen of Alaska. That is about as limited as it gets. I am not here for the exercise, someone else is going to define it someone else is going to and I am not too happy with how they have done so far and some definitions have to have applicability in the real world. We want the definition to be as encompassing as possible. Don't want narrow definitions of who we can help and how we can help them. It may not be perfect but a long step to the goal I want to go. Helping people deal with the government and not have ethics come after me.

Rep Seaton - you work for all Alaska, work for people of your district, but is your duty to represent the people that elect you or everyone or the people that elect you.

Rynnieva - Rep Coghill feels it should be a very broad definition - sideboards in subparagraph 21 makes it clear. They share a class it is not helping someone to get a contract with the state. That is not constituent service, that is a crime already. But someone that has a right to be represented by their legislator.

Rep Doogan - we took a look at the oath of office and it did not say anything about House District 25 - it says the state of Alaska. Not strictly limited to the confines of my district.

Dan went over what the oath of office is. Not trying to be argumentative. But people that are not citizens have rights under our constitution. Business, corporations, have rights - and should be represented.

Rep Gara - make it as broad as possible. We don't make duty under the constitution clear. Make it any person in the state. Person in statute means business or anything. Legislative purpose if the person is here or not, and then you can represent anyone in the state. You would only help a person out of state if it is a legislative purpose, so then you would help them anyway. You can help them for a legislative purpose and then the rest you help because they are citizens of the state.

Rep Seaton - lots of state residents not living in the state. In the state is a tricky one too.

Rep Gruenberg - too narrow - if we stay within the state. Favors the broadest definition possible. Dealing with people who are Alaskan or people who are concerned about Alaskan issues. Whether it be BP or defenders of wildlife. There is a nexis between them and the state of Alaska. It should not be unethical to look at that person's interests.

Rep Seaton - who are we trying to cut out, who do we want to say a legislator can't call a constituent.

Rep Gruenberg - people who are not Alaskan's or someone trying to get us to take an issue on something that does not in any manner pertain to Alaska. Mid-East war, as most issues don't have a lot to do with Alaska.

Rynnieva - defining constituents because - if you are helping someone who is not a constituent - then it is probably a crime already. The legislature feels that they are likely to be in trouble if they are helping someone when it is their duty to help Alaskans, but it might not be a constituent because there is not a definition of constituent.

Rep Seaton - helping someone that is not in Alaska, but it has a purpose within Alaska.

Rynnieva - but that would be a legislative issue so that would not be unethical.

4:12:33 PM

Rep Doogan - broadest possible interpretation inside Alaska, not outside of Alaska. Likes the language that was under the constitution. No representation for someone out of the state. Might be doing it for some other reason under duties under legislator but not under constituent service.

Rep Gruenberg - group a - wants to take trip to Alaska, please tell us how we get information and we should be able to do that. **Going to withdraw my motion to delete "representation" from the bill.**

Rep Seaton - we are asking for a legal opinion and if there is no duty of representation under the constitution - if there is or isn't. Because if there isn't then we have no constituents.

Dan it may be duty somewhere else. But the legislature has a state-wide constituency. It would never be my conclusion that you have no constituents.

Rep Seaton - for Joyce and the committee to have a definition when they are making decision. He asked Joyce Anderson - as far as serving for the Ethics Committee can a definition help make a decision.

Joyce - needs to see if there is a specific situation.

Rep Gruenberg - to Mr. Wayne - when you look at this - look in the broadest constitutional sense. We are looking at this really from the core of the constitutional perspective. What are we here to do.

Dan - to make legislation - the other things you do are tradition and there is no authority to do this.

Rep Gruenberg continued to discuss his concept of how the legislature serves and what it does.

Rynnieva stated she has wording that the Administrative Hearing Officer suggested for an amendment.

Rep Seaton - **Amendment No. 6 - delete Page 1 line 12 through Page 2 line 16, insert new subsection i. and the rest of the page.**

Rynnieva - when you are dealing with an administrative hearing unless you are a licensed officer, you are no longer involved in that constituent service. Page 1, Section 1. Line 11, runs through page 2 line 16 the rest of the amendment protects the legislator, or staff, if a constituent fails to reveal that the case is in an administrative hearing and the call is made to labor, the legislator or staff would be liable for a violation the way the statute presently reads.

Rep Gruenberg - typo on line 15, a couple of words left out - insert **and if the** before fact and substance of the contact [is]**are**. **Make that a conceptual amendment and include it with the rest of Amendment No. 6.**
4:28:14 PM

No objections to Amendment No. 6.

Rep Seaton objected to Amendment No. 6, he thinks that it needs to be looked at further. It could be a CPA or licensed person in some function and then a legislator could go before a body and that is what we would be allowing and that is line 1 and 2. Policy call is - are we going to look at this and say is the affect on a Department Director who is sitting across from a legislator is okay in the public interest and we are going to balance that with an officer and the public perception is that the legislator is subservient to representing himself in a license.

Rynnieva - this a policy call and I am going to let you all make that policy decision. Yu have to make the call.

Rep Seaton - **Amendment No. 1 to Amendment No. 6** - deletes line 1 and 2 and would not allow them to be a for hire representation.

Rep Gruenberg objected.

Rep Seaton - lawyers and CPA's - anybody can be hired to go in and represent one side of a party in an administrative decision.
4:33:57 PM
Is public purpose of not having a legislator or legislative employee less?

Rep Doogan - there is no public purpose having them sit across the table unless you think that their job shapes the opinion of the person sitting across from them. Question is whether in a situation as part time legislators is if we can dictate how a person can make a living. Historically shied away from this, people have to eat, they go out of here and do their jobs. It is not clear to me that legislators get extra spin or (b) even if they do, you can tell someone that if they run for office a person can't make a living from what they have been doing. Pretty close call. It will be debated every step of the way.

Rep Seaton - the debate means it is questionable. It has a public perception. City council or whomever, as a legislator people react differently. Is that perception a problem.

Rep Johnson how far is the step from I am a legislator and if I represent you how far I can go because of power. It has happened and it is the step we are trying to avoid. If I decided to do it, I could make a good living representing people.

Rep Doogan - in Rep Johnson's statement, he already broke the law by getting clients because of your position. But as a living representing people, or going out and representing people because of who you are is something that could interfere with our livelihood.

Rep Gruenberg recommended that we adopt the practice that we did in the subcommittee and give it back to the full committee with the note and comments that the full committee had to make a decision.

Rep Johnson wants it in and then the committee can take it out if it wants.

Rep Gruenberg - Ms Thurbon wanted people who were representing someone would be able to respond to contacts and supply information. That would mean only people that could do it were not legislators. By taking the first two lines out you may have trouble getting information. A legislator or legislative employee may not attempt to influence the content of a hearing and that does not have anything to do with representation.

Rep Seaton if it is left in only licensed people could give the information. But language is substituting for the language we are taking out.

Rep Gruenberg reviewed again over the information and the what was happening to the bill in this section - meant that a legislator could not even speak to the issue, if not representing them.

Rep Seaton - only talks to someone with a license that is doing it for compensation. Taking out line 1 and 2 and starts on line 7.

Joyce - looked at this statue prior and it does not prevent even with what you are removing, from speaking at an administrative hearing if you are called. Just can't be initiated by the representative.

Amendment 6
Rep Johnson -yes,
Rep Gruenberg - no,
Rep Seaton - yes,

Amendment passed.

Split decision

4:49:16 PM

Rep Seaton - Non-legislative purpose Sub B - this paragraph does not prohibit information a(2)(B) -

Rynnieva - involves legislators using voter registration lists for their office and those lists used by legislators for non-legislative purposes.

Rep Seaton - mailing lists and news lists we generate since those are not available to the general public we would not be able to use those for campaign purposes. Not intended. But since it is here I would like clarification on it. Non legislative purpose.

Dan - two ways to read it. General public or non legislative purposes. It is okay to use the list if available for non legislative purposes.

Rep Seaton - The list for our mail outs are not available to the general public and if we use it- it is only legal if we make the list available to the general public.

Dan - another exception 5(B) says that a limitation does not prevent the use for non legislative purposes.

Rep Seaton - operating under the assumption we could use the list when we campaign but that is not consistent with the law.

Rynnieva - have Dan make a determination and come up with an amendment for tomorrow.

Rep Gruenberg - Page 2 sub paragraph A-5-B - you may not use.....for use in and he read it into the record.

Rep Seaton unless the mailing list was available to the general public we could not use it for a non legislative purpose. Wants a clarification.

Joyce - ethics made an advisory opinion and said if you take your constituent data base and you use it for campaign purposes it was a diminimus use of state resources and so it could be used for non legislative use. She will provide it to the committee.

Dan - look at 24.60.030 (a)(1) lawful gratuity - should say gift - under - conforming change.

Rep Seaton - prepare a conforming change.

Amendment No. 7 - to 24.60.030 - a.1 - change gratuity to gift under 24.60.075 or 24.60.080.

Without objection passed Amendment No. 7.

Rep Gruenberg - noticed that Rep Gara did have an issue and will offer it.

Rep Gara - present a problem in ethics law that deserves attention. I still do not have language. Right now we have a problem with the law. Situation with honest legislator will go to ethics staff and they get advice, but the law says you can't rely on the advice, but you can have a complaint filed against you and if the advice was wrong you get an ethics violation. And if you get a hearing and the advice was wrong you get an ethics violation. Your opponent uses it against you. So your option is to take informal advice you can't rely on or require a full hearing, unreasonable, expensive and wrong, but there is no middle ground. But if you ask in writing and give all the info they want and you get an opinion you rely on and if this is an

issue that is not that clear then hold a hearing but you are allowed to rely on the advice until the hearing is held. You have to get advice and rely on it. As for hearing it will take 60 days and you can't help constituents for 60 days. Proposal is to supply info to staff and if they decide a close issue, get a hearing, but you have some thing to have in the meantime. Right now the honest legislature can be held liable doing what they were told they could do.

Rep Seaton - a bit out of the bounds of what we were given as a subcommittee.

Rep Johnson said he would like to see this tomorrow and some examples. Deal with it tomorrow.

Rep Seaton - sounds like you are saying the ethics wants advice even though informal advice is given all the time.

5:05:19 PM
Tomorrow come when the committee gets together. Get to ethics committee tonight.

Adjourned 5:06p.m.

LEGAL SERVICES

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

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

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

MEMORANDUM March 26, 2009

SUBJECT: Legislative Ethics Act changes (CSHB 193(STA), Work Order No. 26-LS0656\T)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM: Dan Wayne
Legislative Counsel

At the March 25, 2009, meeting of the House State Affairs subcommittee that reviewed this bill, I expressed some concerns about the definitions in the bill and the subcommittee asked that I restate them in a memo to be transmitted with the bill when it leaves your committee.

In the course of drafting or reviewing advisory opinions I have observed that certain undefined terms are very difficult to interpret and apply. Among them are the terms "constituent" and "non-legislative purpose."

The definition of constituent in this bill, "a person to whom a legislator owes a duty of representation under the Constitution of the State of Alaska," leaves the meaning of the term subject to varying interpretation. Article XII, section 5 of the state constitution, requires all public officers to take an oath of office.[1] The language reads as follows: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as . . . [a legislator] to the best of my ability." This suggests that a legislator has, in addition to the general duty of a public officer to support and defend the state and federal constitutions, additional duties specific to that office. However, those duties are not further described in the state constitution.

Other than the requirement that a constituent be a "person," the meaning of constituent is wide open to interpretation under the definition in this bill. Every person in Alaska, including corporations and non-citizens, has rights under the state constitution. A legislator may owe every person in the state a duty in the sense that the legislator has sworn to uphold the state and federal constitutions, but that does not necessarily mean

[1] Legislators are further required, by AS 24.05.060, to take this oath before undertaking the duties of office.

Nancy Manly

From: Katie Koester

Sent: Wednesday, March 25, 2009 6:01 PM

To: Nancy Manly

Nancy,

From what I understand from the HSTA subcommittee meeting today the additional requests of legal outside of changes to the CS were:

1) A legal opinion explaining what "of representation" adds to AS 24.60.990(a)(17). Why is it in the section and what would be the change in interpretation if "of representation" was taken out?
2) A legal opinion discussing the prohibition of using mailing list for non legislative purposes, AS 24.60.030 (2)(B). Could this statute be interpreted to mean that legislators may not use a mailing or email list that they have collected as a legislator for a campaign purpose?

I also have 2 advisory opinions of my desk from Ethics, I trust that you got thoose as well and will provide them to the committee (2004-01 and 2005-01)

Katie Koester
Legislative Aide
Rep. Seaton
907.465.2028

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th, Suite 230
Anchorage, AK
(907) 269-0150
FAX: 269-0152

Mailing Address:
P.O. Box 101468
Anchorage, AK
99510-1468

November 9, 2005

ADVISORY OPINION 2005-01

Subject: Conflict of Interest – Legislative Contacts with Administrative Decision Maker

RE: AS 24.60.030(i) and legislative contacts with administrative decision makers

You are a legislator and therefore covered by the legislative ethics code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived your right to confidentiality under AS 24.60.160(b).

Statement of Facts

You have asked several specific questions in regard to AS 24.60.030(i).[1] This subsection makes it a violation of the legislative ethics code for a legislator or legislative employee to "attempt to influence the outcome of an administrative hearing by directly or indirectly

---

[1] This new subsection of AS 24.60.030, "Prohibitions related to conflicts of interest and unethical conduct," became effective July 1, 2005. The office of administrative hearings, created effective July 1, 2004, began hearing administrative proceedings that began on or after July 1, 2005. Sec. 92(a), ch. 163, SLA 2004. No previous advisory opinions have discussed AS 24.60.030(i).

This new subsection provides:

> (i) Except for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the
>
> (1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or
>
> (2) fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

contacting or attempting to contact" a decision maker in an administrative adjudication. Such communication is only permitted if the communication with the decision maker is made in the presence of all parties to the adjudication, and made a part of the record; or, if the fact and substance of the communication is promptly disclosed to all parties and made part of the record.

You ask how AS 24.60.030(i) will be applied in the following situations.

1. Can a legislator[2] contact a decision maker without trying to influence the outcome of the case by asking the decision maker:
   a. if certain documents had been filed;
   b. whether a file was complete; or
   c. if there was other information that could be provided.

2. Who has the duty to disclose a contact to all parties in an adjudication under AS 24.60.030(i)(2)? What if the legislator does not know the identity or contact information of other parties?

3. If a legislator decides to advocate on behalf of a constituent, does that legislator have a duty to disclose the fact and substance of the contact to all parties to the hearing and make the contact a part of the record? Shouldn't the agency have the burden of distributing the substance of the contact with a decision maker to all parties?

Discussion

The provisions of AS 24.60.030(i) will only apply to an administrative matter that has progressed to a hearing. A legislator or legislative staff member may contact any administrative department with questions regarding a matter that is not the subject of a pending administrative adjudication.[3]

The ethical standards which prohibit ex parte contacts by legislators and legislative employees recognize that impartial fact finders and decision makers are an essential part of the due process of law.[4] Administrative decision makers are required to be impartial

---

[2] All references in this opinion to a legislator also apply to legislative employees subject to AS 24.60.

[3] It may be difficult to determine from a constituent whether the matter of concern has reached the stage that this ethical prohibition applies so care should be taken to avoid contacting any person or entity that has the authority to make a final decision. It may be prudent for a legislator to make a call to the department administering a matter, to determine the appropriate person to contact for the information, in order to avoid inadvertently contacting a decision maker.

[4] Under the Alaska Constitution, a person may not "be deprived of life, liberty, or property, without due process of law." The Alaska Supreme Court has interpreted this provision as requiring an impartial fact finder. In re Robson, 575 P.2d 771 (Alaska 1978); K & L Distributors, Inc. v. Murkowski, 486 P.2d 351 (Alaska 1971). Questioning of a decision-maker while the case is pending impairs the impartiality of the judicial process. It may even invalidate the decision reached in the matter, causing the whole matter to be reheard. "To subject an administrator to a searching examination as to how

and may not engage in ex parte communications.[5] An ex parte communication is a contact or communication (personal communications or some form of evidence) with the decision maker that takes place outside the presence of all parties to the proceeding.

1. Obtaining information on behalf of a constituent in regard to an administrative adjudication.

While a legislator or legislative staff member may contact an administrative department with questions regarding a matter, once that matter is assigned to a hearing officer or other decision maker there should be no direct contact with the decision maker.

Once a matter is in a hearing process, questions to the administrative unit should be limited to procedural matters and case information. The answers to those questions can most likely be answered by a person other than the decision maker. For example, if the office of administrative hearings has jurisdiction of the matter, that office will be able to provide information about the case file without impairing the impartial role of the hearing officer.[6] If the adjudication is not within the jurisdiction of the office of administrative

---

and why he reached his decision in a case still pending before him, . . . sacrifices the appearance of impartiality - the *sine qua non* [essential condition] of American *judicial* justice . . . ." Pillsbury v. F.T.C., 354 F.2d 952, 963 (5th Cir Ct. of Appeals, 1966). "Legislative intervention which occurs during a pending decisional process of an agency endangers and may undermine the integrity of the ensuing decision, and it has been held that administrative decisions which are based in whole or in part on pressures emanating from the legislature may be invalid." 73 C.J.S. Sec. 31, Public Administrative Law and Procedure.

[5] For example *see* AS 44.62.630 in the Administrative Procedure Act, also *see* AS 44.64.050(b) regarding the standard of conduct for hearing officers in the office of administrative hearings.

[6] *See* AS 44.64.030 for the jurisdiction of the office of administrative hearings. Child support services and permanent fund dividend adjudications are under the jurisdiction of the office of administrative hearings.

AS 44.64.050 provides fundamental standards of conduct required of hearing officers. The chief administrative law judge is required to adopt regulations for a code of conduct.

> . . . The following fundamental canons of conduct shall be included in the code: in carrying out official duties, an administrative law judge or hearing officer shall
>
> (1) uphold the integrity and independence of the office;
>
> (2) avoid impropriety and the appearance of impropriety;
>
> (3) perform the duties of the office impartially and diligently;
>
> (4) conduct unofficial activities in ways that minimize the risk of conflict with the obligations of the office; and

hearings, the agency holding the hearings will have procedures to insulate the decision makers from improper contacts. Legislators subject to AS 24.60 will be expected to make every effort to obtain basic procedural or case file information about a matter under administrative adjudication by means other than contacting the hearing officer. Also, in response to your questions, it would not be the proper function of any administrator in the adjudicatory process to give advice in response to your questions, but only to provide information about the case file, parties, scheduling or other routine procedural matters.[7]

---

(5) refrain from inappropriate activity in seeking employment with another agency or employer or in seeking reappointment.

The proposed draft regulations at 2 AAC 64.030 provide:

> (b) The following guidelines apply to any determination on whether a hearing officer of administrative law judge has adhered to the canons [of hearing officer conduct]:
>
> (1) The requirement to uphold the integrity and independence of the office, and of the hearing function, dictates that a hearing officer or administrative law judge establish and personally observe high standards of conduct and avoid improper ex parte communications with private and agency parties on the subject of a hearing request; so that the integrity and independence of the office and hearing function will be preserved;
>
> . . .
>
> (3) The requirement to perform the duties of the office or of the hearing function impartially and diligently dictates that a hearing officer or administrative law judge . . .
>
> (B) not initiate, permit, or consider improper ex parte communications, . . .

"improper ex parte communications" are defined at 2 AAC 64.990(13) as

> a direct or indirect, oral or written communication between a decision maker and a party to a proceeding, or another person trying to influence the decision maker, which occurs outside the presence of the other parties, and without a notice and an opportunity to participate being given to the other parties.

[7] You have asked "can a legislator contact a decision maker to ask if there was other information that could be provided." This would require the decision maker or the administrator in charge of the case file to advise the legislator on how to conduct the case or influence the outcome. This would not be appropriate, as it impairs the impartiality of the hearing process.

In the rare instance that a communication with a hearing officer occurs the legislator must comply with AS 24.60.030(i)(2): the "fact and substance of the contact [must be] promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact [must be] made a part of the record." A failure by a legislator to properly make this disclosure may be held to be a violation of the legislative ethics code.

The committee is also concerned that ex parte contacts, by a legislator or legislative employee, with a decision maker creates an appearance of a violation of the ethics code. This is based on AS 24.60.010 which provides in pertinent part:

> The legislature finds that
>
> . . .
>
> (2) a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest;
>
> . . .

2. Who has the duty to disclose a contact to all parties in an adjudication under AS 24.60.030(i)(2)? What if the legislator does not know the identity or contact information of other parties?

If contact with a decision maker does occur, a legislator or legislative employee must notify all parties and make the contact a part of the record. Complying with this requirement of disclosure to all parties is the responsibility of the legislator who initiated the ex parte contact, not the adjudicator hearing the matter. Information about the other parties to the matter can be obtained as discussed in the answer to the first question.

There is no obligation to contact all parties in regarding communications with administrative departments or personnel initiated by a legislator when a matter has not yet been assigned to a hearing officer.

3. If a legislator decides to advocate on behalf of a constituent, does that legislator have a duty to disclose the fact and substance of the contact to all parties to the hearing and make the contact a part of the record? Shouldn't the agency have the burden of distributing the substance of the contact with a decision maker to all parties?

As discussed above, a legislator may advocate and communicate on an administrative matter on behalf of a constituent. AS 24.60.030(i) only applies once an administrative matter is assigned to an administrative decision maker. In the event that a legislator makes an ex parte contact with a decision maker, the requirements of AS 24.60.030(i)(2) apply. The ethics statute clearly places the responsibility for compliance with (i)(2) on the legislator making the ex parte contact, not the adjudication agency or the administrative agency who is a party to the matter.

Conclusion

For the reasons stated above, the committee finds that a legislator or legislative employee seeking information on an administrative matter that is assigned to a hearing officer, individual, board or commission should not attempt to contact the decision maker assigned to that matter.[8] Information about the procedural aspects of the matter may be sought from the office administering the hearing, but not the decision maker directly. If a legislator or legislative employee makes an ex parte communication and fails to comply with the requirements of AS 24.60.030(i)(2), it could be considered a violation of the legislative ethics code.

AS 24.60.030 does not apply to contacts in regard to administrative matters that have not been assigned to an administrative decision maker.

Adopted by the Select Committee on Legislative Ethics on November 9, 2005.

Members present and concurring in this opinion were:
Herman G. Walker, Jr. Chair
Representative Max Gruenberg
Senator Hollis French
Senator Ben Stevens
Ann Rabinowitz, public member
Marianne Stillner, public member
H. Connor Thomas, public member

Members dissenting from this opinion were:

Members absent were:
Representative Bruce Weyhrauch
Dennis "Skip" Cook, public member

BRC:med
05-475.med

[8] The only exceptions are described in AS 24.60.030(i):

> [e]xcept for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case . . .

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th, Suite 230
Anchorage, AK
(907) 269-0150
FAX: 269-0152

Mailing Address:
P.O. Box 101468
Anchorage, AK
99510-1468

April 23, 2004

ADVISORY OPINION 2004-01

Subject: Conflict of Interest – Constituent Information

RE: Use of constituent information gathered by a legislator.

You are a legislator and therefore covered by the Legislative Ethics Code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived your right to confidentiality under AS 24.60.160(b).

Statement of Facts

You have asked the following questions:

1. Can constituent information gathered by a candidate who is subsequently elected to office be used by the legislator during his or her term of office?

2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

You characterized the information referred to in the questions as:

A. Voter information obtained from the Division of Elections for a small fee.

B. Information obtained from public sources such as Permanent Fund recipients and corporation and business licenses databases which can be downloaded by anyone from public agency internet sites for free or for a small fee.

C. Information gathered about individual constituents during a legislator's term, including email addresses, phone and fax numbers, and issue information.

D. Similar constituent information as in C obtained during a candidate's campaign.

Discussion

In this document

- "constituent" means a natural person residing within a legislator's district;
- "information" means contact information including name and address as well as any other information and facts known about the contact such as issues and legislation the contact is interested in;
- "database" means an organized body of related information which is in a format read by computer database programs.

1. Can constituent information gathered by a candidate who is subsequently

elected to office be used by the legislator during his or her term of office?

This question involves a legislator using, for legislative purposes, information gathered in the course of an election campaign, described in D above. This information was obtained using private resources. There is no prohibition in the ethics code on a legislator using private resources for legislative purposes, so a legislator may use for legislative purposes information gathered during non-legislative time without the use of legislative resources.

> 2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

It is assumed in this answer that "information gathered by a legislator" is information collected for the legislator, described in C above, with the help of legislative staff employed to handle constituent concerns using legislative equipment. This information is being gathered for the benefit of the legislator in performing public duties. As long as the purpose is to assist the legislator in performing current legislative duties, the building and maintenance of a database containing constituent information is permitted using legislative resources. As is the case with the files maintained by a legislator's office for legislative use, a database is considered to be the confidential property of the legislator.[1]

There is a general prohibition against using legislative resources for non-legislative purposes:

> (a) A legislator or legislative employee may not . . . (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

AS 24.60.030(a)(2). However there is an exemption for a de minimis use:

> [AS 24.60.030(a)(2)] does not prohibit (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

We find that it is considered to be a de minimis use of public assets under AS 24.60.030(a)(2)(A) for a legislator to make a copy of a database created or maintained in the legislator's own office for personal or campaign use.[2]

---

[1] When the legislator leaves office, the files and information belong to the legislator. A legislator's files, including information such as databases on a legislator's office computers are considered confidential.

[2] This opinion does not condone the unauthorized copying of copyright protected information.

In regard to voter information and other publicly available databases, the information described in A and B above, a legislator may obtain this information for legislative purposes. This information would probably be combined into the legislator's constituent database. As discussed above, a legislator can make a copy of the legislator's own database for personal or campaign purposes.

In the case of purchased databases, there may be copyright issues if a person copies a database rather than purchasing another license for separate use. If the legislator wants another copy of a commercial database, a separate license, if required, should be purchased with personal funds.

Conclusion

For the reasons stated above, the committee finds that constituent information gathered by a candidate using private resources can be used by that person if subsequently elected to serve as a legislator, and that constituent information gathered by a legislator using legislative resources such as staff time and equipment for legislative purposes may be copied and used for personal or campaign use by a legislator as a de minimis use of public assets under AS 24.60.030(a)(2)(A).

Adopted by the Select Committee on Legislative Ethics on April 23, 2004

Members present and concurring in this opinion were:

H. Connor Thomas, Chair
Representative Mary Kapsner
Representative Norman Rokeberg
Senator Kim Elton
Senator Ben Stevens
Dennis "Skip" Cook, public member
Ann Rabinowitz, public member
Marianne Stillner, public member

Member present & abstained from voting because not present for entire discussion:

Herman G. Walker, public member

BRC:mdr:lmb
04-164.mdr

1150

L

ALASKA STATE HOUSE OF REPRESENTATIVES

Contact:
Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

Date: March 24, 2009

To: Dan Wayne, Legal Counsel

From: Rynnieva Moss, Legislative Aide

Re: HB 193 LS 0656\E

A subcommittee has been formed to discuss a CS for HB 193. Rep. Seaton is the chair and Representatives Johnson and Gruenberg are the other two members.

Here is a summary of the proposed amendments and requested information:

Amendment recommended by Terry Thurbon, Chief Administrative Law Judge for the Office of Administrative Hearings:

Sec. 1.[1]

(i) Except **when representing another person as a licensed professional in the State of Alaska in the case for compensation and subject to AS 24.60.100** [FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE,] a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing

[1] Representative Seaton has concerns this section allows a legislator or legislative aide to solicit clients for administrative hearings in this section. I explained we are trying to limit the involvement of legislators and staff with an administrative hearings. I don't know if the licensed professional will ease his concerns, so please review this and see if there is a way to make this clearer.

or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or witness** and the contact is made a part of the record; or

(2) **in the event of an inadvertent *ex parte* contact** fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

***Sec. 8.**

OK (17) "constituent" means a [NATURAL] person whom a legislator owes a duty of representation under the Constitution of the state of Alaska

ok? (19) "legislative purpose" means a goal of a legislative action or [A] **providing a** constituent service.

good (21) "private benefit" means a [FINANCIAL] benefit to a person as a result of a legislative, administrative, or political action of which [FINANCIAL] benefit to that person in particular is a substantial goal and that is greater than the [FINANCIAL] benefit of the legislative, administrative, or political action to a substantial class of persons to which the person belongs by law, choice, legal entitlement, legal privilege, profession, occupation, industry, or region.

I am not asking for a CS at this time but would ask you be available for the subcommittee meeting tomorrow from 3 to 5 p.m. tomorrow. I believe it is being held in the Speaker's Chambers.

ALASKA STATE HOUSE OF REPRESENTATIVES

Contact:
Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

Date: March 24, 2009

To: Dan Wayne, Legal Counsel

From: Rynnieva Moss, Legislative Aide

Re: HB 193 LS 0656\E

A subcommittee has been formed to discuss a CS for HB 193. Rep. Seaton is the chair and Representatives Johnson and Gruenberg are the other two members.

Here is a summary of the proposed amendments and requested information:

Amendment recommended by Terry Thurbon, Chief Administrative Law Judge for the Office of Administrative Hearings:

Sec. 1.[1]

(i) Except **when representing another person as a licensed professional in the State of Alaska in the case for compensation and subject to AS 24.60.100** [FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE,] a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing

[1] Representative Seaton has concerns this section allows a legislator or legislative aide to solicit clients for administrative hearings in this section. I explained we are trying to limit the involvement of legislators and staff with an administrative hearings. I don't know if the licensed professional will ease his concerns, so please review this and see if there is a way to make this clearer.

or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or witness** and the contact is made a part of the record; or

(2) **in the event of an inadvertent *ex parte* contact** fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

***Sec. 8.**

OK (17) "constituent" means a [NATURAL] person whom a legislator owes a duty of representation under the Constitution of the state of Alaska

ok? (19) "legislative purpose" means a goal of a legislative action or [A] **providing a** constituent service.

good (21) "private benefit" means a [FINANCIAL] benefit to a person as a result of a legislative, administrative, or political action of which [FINANCIAL] benefit to that person in particular is a substantial goal and that is greater than the [FINANCIAL] benefit of the legislative, administrative, or political action to a substantial class of persons to which the person belongs by law, choice, legal entitlement, legal privilege, profession, occupation, industry, or region.

I am not asking for a CS at this time but would ask you be available for the subcommittee meeting tomorrow from 3 to 5 p.m. tomorrow. I believe it is being held in the Speaker's Chambers.

Pg 1 Line 12 delete Line 12.
Pg 2 delete lines 1-16
and insert conceptual
→ AMENDMENT #6

BY

a licensed professional in the state of Alaska

(i) Except when representing another person as ~~an attorney in the case~~ for (delete)
compensation and subject to AS 24.60.100 [FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE,] a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or witness** and the contact is made a part of the record; or

(2) **in the event of an inadvertent *ex parte* contact** (comma after contact insert and if the (conceptual amendment) are) fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

Rynnieva Moss

From: Thurbon, Terry L (DOA) [terry.thurbon@alaska.gov]
Sent: Monday, March 23, 2009 4:46 PM
To: Rynnieva Moss
Subject: HB 193

Rynnieva:

Per our discussion, here is a markup of AS 24.60.030(i). The changes in the first two lines are what I was suggesting when we spoke. As I reviewed the subsection in light of our conversation, a few other possible changes occurred as well that I think would have the effect of preserving the *ex parte* contact principles I am concerned about losing while achieving your goal of cutting off case-related contacts altogether except when the legislator/legislative employee is appearing as the attorney in the case. Frankly, I cannot think of a situation in which it would be appropriate for a hearing officer or final decisionmaker to be asking a legislator or legislative employee for information to be considered in connection with a specific case unless the legislator or legislative employee has become a fact witness and the testimony/affidavits become part of the record, with the party who did not call the person as a witness having the right to cross examine, or is a party him/herself.

(i) Except **when representing another person as an attorney in the case for compensation and subject to AS 24.60.100** [FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE,] a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or witness** and the contact is made a part of the record; or

(2) **in the event of an inadvertent *ex parte* contact** fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

I will drop in for the hearing tomorrow morning and, as we discussed, I may submit formal written comments for Judiciary since I might be unavailable when the matter comes before that committee.

Terry L. Thurbon
Chief Administrative Law Judge
Office of Administrative Hearings
P.O. Box 110231
Juneau, Alaska 99811-0231
(907) 465-1886
(907) 465-2280 (fax)
terry.thurbon@alaska.gov

(1) a former member of the legislature or to a person formerly employed by the legislative branch of government unless a provision of this chapter specifically states that it applies;

(2) a person elected to the legislature who at the time of election is not a member of the legislature.

(b) The provisions of this chapter specifically supersede the provisions of the common law relating to legislative conflict of interest that may apply to a member of the legislature or a legislative employee. This chapter does not supersede or repeal provisions of the criminal laws of the state. This chapter does not exempt a person from applicable provisions of another law unless the law is expressly superseded or incompatibly inconsistent with the specific provisions of this chapter. (§ 1 ch 36 SLA 1984; §§ 2, 3 ch 113 SLA 1986; am § 1 ch 167 SLA 1988; am § 2 ch 127 SLA 1992; am § 18 ch 47 SLA 2007)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, substituted "a provision of this chapter" for "the provision" in paragraph (a)(1).

Article 2. Standards of Conduct.

Section
30. Prohibitions related to conflicts of interest and unethical conduct
31. Restrictions on fund raising
33. Restrictions on employee candidacies
35. Protection of whistle blowers
37. Open meetings guidelines
39. Discrimination prohibited
40. Contracts or leases
50. State programs and loans
60. Confidential information
70. Disclosure of close economic associations
75. Compassionate gift exemption
80. Gifts
85. Restrictions on earned income and honoraria
90. Nepotism
100. Representation
105. Deadlines for filing disclosures
112. Applicability to volunteers and educational trainees
115. Disclosure required of a legislator, legislative employee, or public member of the committee after final day of service

Sec. 24.60.030. Prohibitions related to conflicts of interest and unethical conduct. (a) A legislator or legislative employee may not

(1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions, solicitation or acceptance of contributions for a charity event, as defined in AS 24.60.080(a)(2)(B), or the acceptance of a lawful gratuity under AS 24.60.080;

(2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) the legislative council, notwithstanding AS 24.05.190, from designating a public facility for use by legislators and legislative employees for health or fitness purposes; when the council designates a facility to be used by legislators and legislative employees for health or fitness purposes, it shall adopt guidelines governing access to and use of the facility; the guidelines may establish times in which use of the facility is limited to specific groups;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately

after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others;

(E) a legislator from use of legislative employees to prepare and send out seasonal greeting cards;

(F) a legislator from using state resources to transport computers or other office equipment owned by the legislator but primarily used for a state function;

(G) use by a legislator of photographs of that legislator;

(H) reasonable use of the Internet by a legislator or a legislative employee except if the use is for election campaign purposes;

(I) a legislator or legislative employee from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization in a state facility;

(J) a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(K) full participation in a charity event approved in advance by the Alaska Legislative Council;

(3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds;

(4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties;

(5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(E) use by a legislator of photographs of that legislator.

(b) A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection.

(c) Unless approved
which the legislator or
employee may not use or
legislator is entitled und
individuals eligible to vo
(1) a "campaign perio
(A) begins 60 days bef
cooperative organized un
begins on the date of the
(B) ends the day after
election;
(2) a mass mailing is
legislative employee, or a
legislature or another fed
telephone cooperative.
(d) A legislator, legisla
legislative employee, or a
may not distribute or post
other communications int
public areas in a facility
prohibition applies wheth
may post, in the legislato
been concluded.
(e) A legislator may n
behalf,
(1) agree to, threaten
legislative, administrati
employment, nomination
or not provide a politica
legislator, or provide or
(2) state or imply tha
constituent service as a
contribution, donate or
provide a thing of value
(3) unless required b
withhold official action
the financial interest
employment.
(f) A legislative empl
legislature. A legislator
including a governmen
A person required to m
the committee by the
organization on whose
record of the disclosur
in the journal. This su
is appointed to a boar
to the committee if th
journal during the cal
(g) Unless required
may not vote on a qu
business, investment,
tial and the effect on

(c) Unless approved by the committee, during a campaign period for an election in which the legislator or legislative employee is a candidate, a legislator or legislative employee may not use or permit another to use state funds, other than funds to which the legislator is entitled under AS 24.10.110, to print or distribute a political mass mailing to individuals eligible to vote for the candidate. In this subsection,

(1) a "campaign period" is the period that

(A) begins 60 days before the date of an election to the board of an electric or telephone cooperative organized under AS 10.25, a municipal election, or a primary election, or that begins on the date of the governor's proclamation calling a special election; and

(B) ends the day after the cooperative election, municipal election, or general or special election;

(2) a mass mailing is considered to be political if it is from or about a legislator, legislative employee, or another person who is a candidate for election or reelection to the legislature or another federal, state, or municipal office or to the board of an electric or telephone cooperative.

(d) A legislator, legislative employee, or another person on behalf of the legislator or legislative employee, or a campaign committee of the legislator or legislative employee, may not distribute or post campaign literature, placards, posters, fund-raising notices, or other communications intended to influence the election of a candidate in an election in public areas in a facility ordinarily used to conduct state government business. This prohibition applies whether or not the election has been concluded. However, a legislator may post, in the legislator's private office, communications related to an election that has been concluded.

(e) A legislator may not directly, or by authorizing another to act on the legislator's behalf,

(1) agree to, threaten to, or state or imply that the legislator will take or withhold a legislative, administrative, or political action, including support or opposition to a bill, employment, nominations, and appointments, as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value;

(2) state or imply that the legislator will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value; or

(3) unless required by the Uniform Rules of the Alaska State Legislature, take or withhold official action or exert official influence that could substantially benefit or harm the financial interest of another person with whom the legislator is negotiating for employment.

(f) A legislative employee may not serve in a position that requires confirmation by the legislature. A legislator or legislative employee who serves on a board of an organization, including a governmental entity, shall disclose the board membership to the committee. A person required to make a disclosure under this subsection shall file the disclosure with the committee by the deadlines set out in AS 24.60.105 stating the name of each organization on whose board the person serves. The committee shall maintain a public record of the disclosure and forward the disclosure to the appropriate house for inclusion in the journal. This subsection does not require a legislator or legislative employee who is appointed to a board by the presiding officer to make a disclosure of the appointment to the committee if the appointment has been published in the appropriate legislative journal during the calendar year.

(g) Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question if the legislator has an equity or ownership interest in a business, investment, real property, lease, or other enterprise if the interest is substantial and the effect on that interest of the action to be voted on is greater than the effect

on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region.

(h) An employee who engages in political campaign activities other than incidental campaign activities during the employee's work day shall take leave for the period of campaigning. Political campaign activities while on government time are permissible if the activities are part of the normal legislative duties of the employee, including answering telephone calls and handling incoming correspondence.

(i) Except for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or

(2) fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record. (§ 1 ch 36 SLA 1984; am § 27 ch 85 SLA 1988; am § 8 ch 167 SLA 1988; am § 3 ch 127 SLA 1992; am §§ 13 — 18 ch 74 SLA 1998; am § 8 ch 3 SLA 2002; am § 49 ch 163 SLA 2004; am § 2 ch 10 SLA 2006; am §§ 19 — 21 ch 47 SLA 2007)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, in subsection (a), in paragraph (2) rewrote the introductory language, rewrote subparagraphs (A)-(C), added subparagraphs (D) and (E), and in paragraph (5) rewrote subparagraphs (A)-(C) and added subparagraphs (D) and (E); rewrote subsections (c), (d), and (g), added the last three sentences in subsection (f), and added subsection (h).

The 2002 amendment, effective April 16, 2002, in subsection (a) substituted "10 days" for "five days" in two places in subparagraphs (2)(E) and (5)(E); added subparagraphs (F)-(K) in paragraph (2); added subparagraph (F) in paragraph (5); and made stylistic changes.

The 2004 amendment, effective July 1, 2005, added subsection (i).

The 2006 amendment, effective March 31, 2006, in subsection (a), inserted "solicitation or acceptance of contributions for a charity event, as defined in AS 24.60.080(c)(10)" in paragraph (1) and "or legislative employee" in paragraph (2)(J), and added paragraph (2)(L), making corresponding stylistic changes.

The 2007 amendment, effective July 10, 2007, substituted "AS 24.60.080(a)(2)(B)" for "AS 24.60.080(c)(10)" in paragraph (a)(1), deleted former paragraphs (a)(1)(C) and (a)(5)(C), relating to telephone or facsimile use and redesignated the following subparagraphs accordingly, substituted "60 days" for "90 days" in paragraph (c)(1)(A), rewrote the second sentence of subsection (f), and substituted "person" for "legislator or legislative employee who is" in the third sentence of subsection (f).

NOTES TO DECISIONS

No duty to disclose. — Two former members of the Alaska legislature who were charged with honest services fraud under 18 USCS §§ 1341, 1343, and 1346 could exclude evidence of their failure to disclose a conflict of interest arising from their dealings with a corporation; neither this section nor AS 24.60.010 impose a duty to disclose, and state law controls. United States v. Kott, — F. Supp. 2d — (D. Alaska Sept. 4, 2007).

Legislature did not intend to imply a duty to disclose. — Alaska legislature clearly knows how to establish a duty to disclose and has done so in several instances. Its failure to include an explicit duty to disclose in subsection (e)(3) is significant; reading AS 24.60 as a whole, it would be inappropriate to imply a duty to disclose matters within the ambit of (e)(3). United States v. Kott, — F. Supp. 2d — (D. Alaska Sept. 4, 2007).

Sec. 24.60.031. Restrictions on fund raising. (a) A legislative employee may not

(1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for state or municipal office; however, a legislative employee may, except in the capital city or in the municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city, solicit or accept a contribution, promise, or pledge for a campaign for state or municipal office that occurs during the 90 days immediately preceding the election for that office; or

(c) The committee may impose a fine on a person who files a disclosure after a deadline set by this chapter. The amount of the fine imposed under this subsection may not exceed $2 for each day to a maximum of $100 for each late filing unless the committee determines that the late filing was inadvertent or wilful. If the committee finds that a late filing was inadvertent, the maximum fine the committee may impose under this subsection is $25. If the committee determines that the late filing was wilful, the amount of the fine imposed under this subsection may be $100 for each day but may not exceed a maximum of $2,500. (§ 31 ch 127 SLA 1992; am §§ 62, 63 ch 74 SLA 1998; am § 6 ch 94 SLA 2008)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, in subsection (a) substituted ". A person who files" for ", or file" near the middle and added "has violated this chapter and may be subject to imposition of a fine as provided in (c) of this section or AS 24.60.240" at the end; and added subsection (c).

The 2008 amendment, effective September 14, 2008, substituted "late filing unless the committee determines that the late filing was inadvertent or willful" for "disclosure for a late disclosure" in the second sentence of subsection (c), deleted "However" at the beginning of the third sentence of that subsection, and added the last sentence of that subsection.

Article 5. Miscellaneous and General Provisions.

Section	Section
970. Actions by the attorney general	990. Definitions
980. Cooperation by state agencies	995. Short title

Sec. 24.60.970. Actions by the attorney general. The attorney general may independently bring civil actions relating to violations under this chapter regardless of the outcome or settlement of a charge before the committee. This section does not prohibit the attorney general from bringing an action under another civil or criminal law. (§ 30 ch 127 SLA 1992)

Revisor's notes. — Enacted as AS 24.60.178. Renumbered in 1992.

Sec. 24.60.980. Cooperation by state agencies. Each agency of the executive branch of state government shall, to the extent permitted by state or federal law, cooperate fully with the committee or a subcommittee by providing information and assistance, including disclosure of financial material and other records relating to a potential violation of this chapter. (§ 1 ch 36 SLA 1984)

Revisor's notes. — Formerly AS 24.60.180. Renumbered in 1992.

Sec. 24.60.990. Definitions. (a) In this chapter,

(1) "administrative action" means conduct related to the development, drafting, consideration, enactment, defeat, application, or interpretation of a rule, regulation, policy, or other action in a regulatory proceeding or a proceeding involving a license, permit, franchise, or entitlement for use;

(2) "anything of value," "benefit," or "thing of value" includes all matters, whether tangible or intangible, that could reasonably be considered to be a material advantage, of material worth, use, or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for; "anything of value," "benefit," or "thing of value" does not include

(A) an item listed in AS 24.60.080(a)(2)(B) or (c);

(B) campaign contributions, pledges, political endorsements, support in a political campaign, or a promise of endorsement or support;

(C) contributions to a cause or organization, including a charity, made in response to a direct solicitation from a legislator or a person acting at the legislator's direction; or

(D) grants under AS 37.05.316 to named recipients;

(3) "committee" means the Select Committee on Legislative Ethics and includes, when appropriate, the senate or house subcommittee;

(4) "compensation" means remuneration for personal services rendered, including salary, fees, commissions, bonuses, and similar payments, but does not include reimbursement for actual expenses incurred by a person;

(5) "domestic partner" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage;

(6) "immediate family" means

(A) the spouse or domestic partner of the person; or

(B) a parent, child, including a stepchild and an adoptive child, and sibling of a person if the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person;

(7) "income" means an asset that a person has received or expects to receive, regardless of whether it is earned or unearned; inheritances and other gifts are not income;

(8) "knowingly" has the meaning given in AS 11.81.900;

(9) "legislative action" means conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of a law, amendment, resolution, report, nomination, or other matter affected by legislative action or inaction;

(10) "legislative director" means the director of the legislative finance division, the legislative auditor, the director of the legislative research agency, the ombudsman, the victims' advocate, the executive director of the Legislative Affairs Agency, and the directors of the divisions within the Legislative Affairs Agency;

(11) "legislative employee" means a person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes public members and staff of the committee; it does not include individuals who perform functions that are incidental to legislative functions, including security, messenger, maintenance, and print shop employees, and other employees designated by the committee;

(12) "lobbyist" means a person who is required to register under AS 24.45.041 and is described under AS 24.45.171, but does not include a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission;

(13) "political action" means conduct in which public officials, including legislators or legislative employees, use their official position or political contacts to exercise influence on state and local government employees or entities; it includes but is not limited to endorsing and pledging support or actively supporting a legislative matter, a nominee, or a candidate for public office;

(14) "registered lobbyist" means a person who is required to register under AS 24.45.041;

(15) "representation" means action taken on behalf of another, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings;

(16) "state office" includes the office of governor, lieutenant governor, member of the legislature, or similar state office.

(b) A person has a substantial interest in legislative, administrative, or political action if the person (1) is not a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action; (2) is a natural person and will be directly and substantially affected financially by a legislative, administrative, or

political act
to which the
(3) has or s
legislature
subsection,
of or owned
legislative, a
SLA 1998; a
SLA 2003; a

Revisor's no
paragraph (17)
time former pa
graphs (5) - (14
Effect of am
effective Janua
paragraph (6) [f
and former para
The 2001 am
serted "the vict
[formerly (9)].
The first 2003
2003, in subsecti

Sec. 24.60
(§ 18 ch 12 S

Effective dat
makes this secti

Section
10. Office of vic
20. Appointmer
30. Qualificatio
40. Term of offi
50. Removal
60. Compensati
70. Staff and de
80. Office facilit
90. Procedure
100. Jurisdiction;
110. Advocacy on
120. Investigatio

Effective date
makes this chapte

Sec. 24.65.
of the state th
of victims' rig

Sec. 24.65.
pointment as
committee co
senate and th
house. One m
selection com

political action in a way that is greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region; (3) has or seeks contracts in excess of $10,000 annually for goods or services with the legislature or with an agency of the state; or (4) is a lobbyist. For the purpose of this subsection, the state, the federal government, and an agency, corporation, or other entity of or owned by the state or federal government do not have a substantial interest in legislative, administrative, or political action. (§ 31 ch 127 SLA 1992; am §§ 64, 65 ch 74 SLA 1998; am § 17 ch 92 SLA 2001; am §§ 32, 33, 41 ch 108 SLA 2003; am § 7 ch 115 SLA 2003; am §§ 47, 48 ch 47 SLA 2007)

Revisor's notes. — Paragraph (5) was enacted as paragraph (17) and renumbered in 2003, at which time former paragraph (15) was repealed and paragraphs (5) - (14) were renumbered as (6) - (15).

Effect of amendments. — The 1998 amendment, effective January 1, 1999, in subsection (a) rewrote paragraph (6) [formerly (5)] and added paragraph (16) and former paragraph (15).

The 2001 amendment, effective July 1, 2002, inserted "the victim's advocate," in paragraph (a)(10) [formerly (9)].

The first 2003 amendment, effective September 14, 2003, in subsection (a) substituted "domestic partner" for "spousal equivalent" in subparagraph (6)(A), repealed former paragraph (15), and added paragraph (5).

The second 2003 amendment, effective September 15, 2003, updated a section reference in paragraph (a)(12).

The 2007 amendment, effective July 10, 2007, substituted "AS 24.60.080(a)(2)(B) or (c)" for "AS 24.60.080(c)" in subparagraph (a)(2)(A); and substituted "an asset that a person has received or expects to receive, regardless of whether it is" for "assets that are received, regardless of whether they are" in paragraph (a)(7).

Sec. 24.60.995. Short title. This chapter may be cited as the Legislative Ethics Act. (§ 18 ch 12 SLA 2006)

Effective dates. — Section 43, ch. 12, SLA 2006 makes this section effective April 4, 2006.

Chapter 65. Office of Victims' Rights.

Section

10. Office of victims' rights
20. Appointment of the victims' advocate
30. Qualifications
40. Term of office
50. Removal
60. Compensation
70. Staff and delegation
80. Office facilities and administration
90. Procedure
100. Jurisdiction; duties
110. Advocacy on behalf of crime victims; records
120. Investigations
130. Powers
140. Consultation
150. Procedure after investigation
160. Publication of recommendations
170. Annual report
180. Judicial review
190. Immunity of the victims' advocate
200. Victims' advocate's privilege not to testify or produce documents or other evidence
210. Penalty
250. Definitions

Effective dates. — Section 49, ch. 92, SLA 2001 makes this chapter effective July 1, 2002.

Sec. 24.65.010. Office of victims' rights. There is created in the legislative branch of the state the office of victims' rights. The victims' advocate is the director of the office of victims' rights. (§ 19 ch 92 SLA 2001)

Sec. 24.65.020. Appointment of the victims' advocate. (a) A candidate for appointment as the victims' advocate shall be nominated by the victims' advocate selection committee composed of three members of the senate appointed by the president of the senate and three members of the house of representatives appointed by the speaker of the house. One member of a minority party caucus in each house shall be appointed to the selection committee.

(2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory, or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

NOTES TO DECISIONS

Jurisdiction over divorce action. — This section does not affect the common-law rule that Alaska courts have jurisdiction over a divorce action when one of the parties is domiciled in Alaska, where "domicile" is defined as physical presence plus an intent to remain permanently. Perito v. Perito, 756 P.2d 895 (Alaska 1988).

Quoted in E.H. v. State, 23 P.3d 1186 (Alaska 2001).

Stated in State v. Andrade, 23 P.3d 58 (Alaska 2001).

Sec. 01.10.060. Definitions. (a) In the laws of the state, unless the context otherwise requires,

(1) "action" includes any matter or proceeding in a court, civil or criminal;

(2) "daytime" means the period between sunrise and sunset;

(3) "month" means a calendar month unless otherwise expressed;

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(5) "nighttime" means the period between sunset and sunrise;

(6) "oath" includes affirmation or declaration;

(7) "peace officer" means

(A) an officer of the state troopers;

(B) a member of the police force of a municipality;

(C) a village public safety officer;

(D) a regional public safety officer;

(E) a United States marshal or deputy marshal; and

(F) an officer whose duty it is to enforce and preserve the public peace;

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

(9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing.

(b) In the laws of the state, "lewd conduct," "lewd touching," "immoral conduct," "indecent conduct," and similar terms do not include the act of a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. Nothing in this subsection may be construed to authorize an act that is

26-LS0656\S
Wayne
3/23/09

CS FOR HOUSE BILL NO. 193( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE COGHILL

A BILL

FOR AN ACT ENTITLED

"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act."

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

*** Section 1.** AS 24.60.030(i) is amended to read:

(i) Except for supplying information requested by the hearing officer or the

individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the **legislator or legislative employee is representing another person in the case for compensation and subject to AS 24.60.100**

[(1) CONTACT IS MADE IN THE PRESENCE OF ALL PARTIES TO THE HEARING OR THE PARTIES' REPRESENTATIVES AND THE CONTACT IS MADE A PART OF THE RECORD; OR

(2) FACT AND SUBSTANCE OF THE CONTACT IS PROMPTLY DISCLOSED BY THE LEGISLATOR OR LEGISLATIVE EMPLOYEE TO ALL PARTIES TO THE HEARING AND THE CONTACT IS MADE A PART OF THE RECORD].

*** Sec. 2.** AS 24.60.080(a) is amended to read:

(a) Except as otherwise provided in this section, a legislator or legislative employee may not

(1) solicit, accept, or receive, directly or indirectly, a gift worth $250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than $250 that in a calendar year aggregate to $250 or more in value;

(2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

(A) food or beverage for immediate consumption;

(B) a contribution to a charity event, [FROM ANY PERSON AT ANY TIME, AND] tickets **to** [FOR] a charity event, **and** [AT ANY TIME, EXCEPT THAT TICKETS TO OR] gifts received **in connection with** [AT] a charity event; **however, tickets to a charity event and gifts received in**

connection with a charity event that are not included in the price of the ticket [UNDER THIS SUBPARAGRAPH] are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (1) of this subsection; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services **in connection with** [INVOLVED IN] the charity event;

(C) a gift that is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family;

(D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or

(E) a compassionate gift under AS 24.60.075.

*** Sec. 3.** AS 24.60.080(c) is amended to read:

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

(1) hospitality, other than hospitality described in (4) of this subsection,

(A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or

(B) at a social event or meal;

(2) discounts that are available

(A) generally to the public or to a large class of persons to which the person belongs; or

(B) when on official state business, but only if receipt of the discount benefits the state;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the immediate family of the person; in this paragraph, "immediate family" means

(A) the spouse of the person;

(B) the person's domestic partner;

(C) a child, including a stepchild and an adoptive child, of the person or of the person's domestic partner;

(D) a parent, sibling, grandparent, aunt, or uncle of the person;

(E) a parent, sibling, grandparent, aunt, or uncle of the person's spouse or the person's domestic partner; and

(F) a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse, or the person's domestic partner;

(6) gifts that are not connected with the recipient's legislative status;

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' rights, or the office of the ombudsman;

(8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;

(9) a gift of transportation from a legislator or a legislative employee to a legislator or a legislative employee if the transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the

control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or

(10) a contribution to a charity event from any person at any time**, or a ticket to a charity event from a person who is not a lobbyist, an immediate family member of a lobbyist, or acting on behalf of a lobbyist**; in this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

*** Sec. 4.** AS 24.60.080(d) is amended to read:

(d) A legislator or legislative employee who accepts a gift under (c)(4) **of this section that has a value of $250 or more or a ticket to a charity event under (c)(10)** of this section that has a value of $250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of $250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of $250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

*** Sec. 5.** AS 24.60.105 is amended by adding a new subsection to read:

(d) A person may refrain from making a disclosure that is required by this chapter if making the disclosure would violate the United States Constitution, the Constitution of the State of Alaska, or other state or federal law. However, at the request of the committee or a person authorized to act on behalf of the committee, a person who refrains from making a disclosure under this subsection shall provide the committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient.

*** Sec. 6.** AS 24.60.130(f) is amended to read:

(f) The committee may contract for professional services and may employ staff as it considers necessary. A committee employee, including a person who provides personal services under a contract with the committee, may not be a legislator, an elected or appointed official of a state or local governmental entity, an officer of a political party, a candidate for public office, or a registered lobbyist. The legislative council shall provide office space, equipment, and additional staff support for the committee. The committee shall submit a budget for each fiscal year to the finance committees of the legislature and shall annually submit an estimated budget to the governor for information purposes in preparation of the state operating budget. Public members of the committee **shall receive** [SERVE WITHOUT] compensation **of $150 a day while attending committee meetings and** [FOR THEIR SERVICES, BUT] are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

*** Sec. 7.** AS 24.60.130(n) is amended to read:

(n) **A member who participates at the commencement of a proceeding under AS 24.60.170 shall participate for the duration of the proceeding unless disqualified or unable to continue participating for any reason; however, provision shall be made for service by alternate members on the committee or on a subcommittee, as follows:**

(1) when [WHEN] appointing members of the legislature to serve on the committee, the speaker of the house or the president of the senate, as appropriate, shall appoint an alternate member for each regular member**; an** [. AN] alternate must

have the same qualifications as the regular member for whom the alternate stands as alternate and is subject to confirmation as required for the regular member;

(2) when selecting public members to serve on the committee, the Chief Justice of the Alaska Supreme Court shall also select one alternate public member; the alternate public member's selection is subject to ratification as required for selection of the regular public members;

(3) if, except as to a proceeding under AS 24.60.170, [. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is unable to **participate in** [ATTEND] a meeting, the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member at the meeting, and the designated alternate**, unless for any reason unable to participate,** shall **participate for the duration of that meeting; if** [SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is disqualified under (h) of this section from **participating in** [SERVING ON THE COMMITTEE OR THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the regular member is unable to **participate** [ATTEND], the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member **for the duration of** [IN] the proceeding unless the alternate is [ALSO] disqualified **or is for any reason unable to participate; the** [FROM SERVING. THE] designation shall be treated as confidential to the same extent that the identity of the subject of a complaint is required to be kept confidential.

*** Sec. 8.** AS 24.60.990(a) is amended by adding new paragraphs to read:

(17) "constituent" means a natural person to whom a legislator owes a duty of representation under the Constitution of the State of Alaska;

(18) "constituent service" means assistance, including representation other than legal representation and advice other than legal advice, that is provided by a legislator or a legislator's staff to a constituent;

(19) "legislative purpose" means a goal of a legislative action or a constituent service;

(20) "nonlegislative purpose" means a purpose other than a legislative

purpose;

(21) "private benefit" means a financial benefit to a person as a result of a legislative, administrative, or political action of which financial benefit to that person in particular is a substantial goal and that is greater than the financial benefit of the legislative, administrative, or political action to a substantial class of persons to which the person belongs by law, choice, legal entitlement, legal privilege, profession, occupation, industry, or region.

new definition

ALASKA STATE HOUSE OF REPRESENTATIVES

Contact:
Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

House Bill 193 Legislative Ethics Amendments
Sponsor Statement

The Select Committee on Legislative Ethics requested some changes to the Legislative Ethics Statutes to address several issues discussed by the committee.

Two amendments requested by the committee address tickets to charity events and disclosure of gifts of tickets for charitable events that have a value of more than $250.00. They allow persons who are not lobbyists to give a gift of a ticket to a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of more than $250.00. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the $250.00 limit. The bill clarifies that lobbyists, immediate family members of lobbyists, or persons acting on behalf of a lobbyist may not exceed the $250 limit.

The committee also recommended two changes to the statutes that deal with the public members of the Select Committee on Legislative Ethics. First, public members would be paid a $150 a day stipend for attending meetings. Secondly, an alternate member of the committee selected to replace a regular member of the committee for some purpose would serve for the entire duration of the proceeding.

The bill clarifies that disclosures prohibited by state and federal law are not required by the Select Committee on Legislative Ethics.

The bill draws a bright line for legislators and legislative staff to follow for assisting constituents with problems they encounter with state agencies. Once an issue has been appealed to an administrative hearing officer, the legislator or legislative staffer may no longer make contacts with the agency, unless he or she is acting in a private capacity and reports any compensation for the representation to the Select Committee on Legislative Ethics.

Finally this bill reopens the discussion of AS 24.60.030(a)(2), the use of public funds, facilities, etc for the private benefit of either the legislative, a legislative employee, or another person. The committee has recognized that many things a legislator or staff does for constituents, such as problems with child support or the permanent fund dividend, results in a monetary benefit for the constituent. Section 8 of this bill adds definitions for "constituent", "constituent service", "legislative purpose", "nonlegislative purpose", and "private benefit" to better clarify the law. While Representative Coghill disagrees with some of the definitions, he feels it is important to open the dialogue on the subject and fix the problem.

ALASKA STATE HOUSE OF REPRESENTATIVES

Contact:
Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

House Bill 193 Legislative Ethics Amendments
Sectional

Section 1. Draws a bright line for legislators and legislative staff to follow for assisting constituents with problems they encounter problems with state agencies. Once an issue has been appealed to an administrative hearing officer, the legislator or legislative staffer may no longer make contacts with the agency, unless he or she is acting in a private capacity and reports any compensation for the representation to the Select Committee on Legislative Ethics.

Sec. 2 & Sec. 4. Two amendments requested by the committee address tickets to charity events and disclosure of gifts of tickets for charitable events that have a value of more than $250.00. They allow persons who are not lobbyists to give a gift of a ticket to a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of more than $250.00. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the $250.00 limit.

Sec. 3. Clarifies that lobbyists, immediate family members of lobbyists, or persons acting on behalf of a lobbyist may not exceed the $250 limit.

Sec. 5. Clarifies that disclosures prohibited by state and federal law are not required by the Select Committee on Legislative Ethics.

Sec. 6. The committee also recommended two changes to the statutes that deal with the public members of the Select Committee on Legislative Ethics. First, public members would be paid a $150 a day compensation for attending meetings.

Sec. 7. Alternate members of the committee selected to replace a regular member of the committee for some purpose would serve for the entire duration of the proceeding.

Sec. 8. Reopens the discussion of AS 24.60.030(a)(2), the use of public funds, facilities, etc for the private benefit of the legislative, a legislative employee, or another person. The committee has recognized that many things a legislator or staff does for constituents, such as problems with child support or the permanent fund dividend, results in a monetary benefit for the constituent. Section 8 of this bill adds definitions for "constituent", "constituent service", "legislative purpose", "nonlegislative purpose", and "private benefit" to better clarify the law. While Representative Coghill disagrees with some of the definitions, he feels it is important to open the dialogue on the subject and fix the problem.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 193**
() Publish Date:

Identifier (file name): HB193-COU-ETH-03-23-09
Dept. Affected: Legislature
Title "An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing;"
RDU Legislative Council
Component Select Comm on Legislative Ethics
Sponsor Representative Coghill
Requester House State Affairs
Component Number 2321

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual	4.5	4.5	4.5	4.5	4.5	4.5	4.5
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**4.5**	**4.5**	**4.5**	**4.5**	**4.5**	**4.5**	**4.5**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	4.5	4.5	4.5	4.5	4.5	4.5	4.5
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**4.5**	**4.5**	**4.5**	**4.5**	**4.5**	**4.5**	**4.5**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

HB 93 makes changes to the Legislative Ethics Act. Sec. 6. of this legislation authorizes compensation for public members of the committee in the amount of $150 a day while attending committee meetings. Currently, public members do not receive compensation but are entitled to per diem and travel expenses.

There are five public members of the Select Committe on Legislative Ethics. For purposes of this fiscal note, it is estimated that the Committee will meet six times each year and that each meeting will last one day. This will result in a $4,500 increase in the annual budget for the Select Committees on Legislative Ethics.

Prepared by: Karla Schofield, Deputy Director
Phone 465-6626
Division Legislative Affairs Agency
Date/Time 3/23/09 8:23 AM
Approved by: Pamela Varni, Executive Director
Date 3/23/2009
Legislative Affairs Agency

(Revised 9/10/2008 OMB)

Coghill
will be read across 3/18
Rynnerson wrote in
margins what
Bill does

HB 193

26-LS0656\E

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE COGHILL

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act."

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

*** Section 1.** AS 24.60.030(i) is amended to read:

(i) Except for supplying information requested by the hearing officer or the

L
1176

individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the **legislator or legislative employee is representing another person in the case for compensation and subject to AS 24.60.100**

[(1) CONTACT IS MADE IN THE PRESENCE OF ALL PARTIES TO THE HEARING OR THE PARTIES' REPRESENTATIVES AND THE CONTACT IS MADE A PART OF THE RECORD; OR

(2) FACT AND SUBSTANCE OF THE CONTACT IS PROMPTLY DISCLOSED BY THE LEGISLATOR OR LEGISLATIVE EMPLOYEE TO ALL PARTIES TO THE HEARING AND THE CONTACT IS MADE A PART OF THE RECORD].

Black line for constituent issues that go to admin hearing

*** Sec. 2.** AS 24.60.080(a) is amended to read: GIFTS

(a) Except as otherwise provided in this section, a legislator or legislative employee may not

(1) solicit, accept, or receive, directly or indirectly, a gift worth $250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than $250 that in a calendar year aggregate to $250 or more in value;

(2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

(A) food or beverage for immediate consumption;

(B) a contribution to a charity event, [FROM ANY PERSON AT ANY TIME, AND] tickets **to** [FOR] a charity event, **and** [AT ANY TIME, EXCEPT THAT TICKETS TO OR] gifts received **in connection with** [AT] a charity event; **however, tickets to a charity event and gifts received in**

$250 limit on lobbyists gifts to charity events

connection with a charity event that are not included in the price of the ticket [UNDER THIS SUBPARAGRAPH] are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (1) of this subsection; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services **in connection with** [INVOLVED IN] the charity event;

(C) a gift that is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family;

(D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or

(E) a compassionate gift under AS 24.60.075.

*** Sec. 3.** AS 24.60.080(c) is amended to read:

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

(1) hospitality, other than hospitality described in (4) of this subsection,

(A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or

(B) at a social event or meal;

(2) discounts that are available

(A) generally to the public or to a large class of persons to which the person belongs; or

(B) when on official state business, but only if receipt of the discount benefits the state;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the immediate family of the person; in this paragraph, "immediate family" means

(A) the spouse of the person;

(B) the person's domestic partner;

(C) a child, including a stepchild and an adoptive child, of the person or of the person's domestic partner;

(D) a parent, sibling, grandparent, aunt, or uncle of the person;

(E) a parent, sibling, grandparent, aunt, or uncle of the person's spouse or the person's domestic partner; and

(F) a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse, or the person's domestic partner;

(6) gifts that are not connected with the recipient's legislative status;

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' rights, or the office of the ombudsman;

(8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;

(9) a gift of transportation from a legislator or a legislative employee to a legislator or a legislative employee if the transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the

control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or

(10) a contribution to a charity event from any person at any time**, or a ticket to a charity event from a person who is not a lobbyist, an immediate family member of a lobbyist, or acting on behalf of a lobbyist**; in this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

clarifies charity ticket cannot be accepted from lobbyist if over $250.00

*** Sec. 4.** AS 24.60.080(d) is amended to read:

(d) A legislator or legislative employee who accepts a gift under (c)(4) **of this section that has a value of $250 or more or a ticket to a charity event under (c)(10)** of this section that has a value of $250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of $250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of $250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

requires disclosure of ticket cost over $250.00

* **Sec. 5.** AS 24.60.105 is amended by adding a new subsection to read:

(d) A person may refrain from making a disclosure that is required by this chapter if making the disclosure would violate the United States Constitution, the Constitution of the State of Alaska, or other state or federal law. However, at the request of the committee or a person authorized to act on behalf of the committee, a person who refrains from making a disclosure under this subsection shall provide the committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient.

* **Sec. 6.** AS 24.60.130(f) is amended to read:

(f) The committee may contract for professional services and may employ staff as it considers necessary. A committee employee, including a person who provides personal services under a contract with the committee, may not be a legislator, an elected or appointed official of a state or local governmental entity, an officer of a political party, a candidate for public office, or a registered lobbyist. The legislative council shall provide office space, equipment, and additional staff support for the committee. The committee shall submit a budget for each fiscal year to the finance committees of the legislature and shall annually submit an estimated budget to the governor for information purposes in preparation of the state operating budget. Public members of the committee **shall receive** [SERVE WITHOUT] compensation **of $150 a day while attending committee meetings and** [FOR THEIR SERVICES, BUT] are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

* **Sec. 7.** AS 24.60.130(n) is amended to read:

(n) **A member who participates at the commencement of a proceeding under AS 24.60.170 shall participate for the duration of the proceeding unless disqualified or unable to continue participating for any reason; however, provision shall be made for service by alternate members on the committee or on a subcommittee, as follows:**

(1) when [WHEN] appointing members of the legislature to serve on the committee, the speaker of the house or the president of the senate, as appropriate, shall appoint an alternate member for each regular member**; an** [. AN] alternate must

if no disclosure if violating state or federal law

Compensation for committee members

Participation of alternate in meetings

have the same qualifications as the regular member for whom the alternate stands as alternate and is subject to confirmation as required for the regular member;

(2) when selecting public members to serve on the committee, the Chief Justice of the Alaska Supreme Court shall also select one alternate public member; the alternate public member's selection is subject to ratification as required for selection of the regular public members;

(3) if, except as to a proceeding under AS 24.60.170, [. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is unable to **participate in** [ATTEND] a meeting, the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member at the meeting, and the designated alternate**, unless for any reason unable to participate,** shall **participate for the duration of that meeting; if** [SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is disqualified under (h) of this section from **participating in** [SERVING ON THE COMMITTEE OR THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the regular member is unable to **participate** [ATTEND], the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member **for the duration of** [IN] the proceeding unless the alternate is [ALSO] disqualified **or is for any reason unable to participate; the** [FROM SERVING. THE] designation shall be treated as confidential to the same extent that the identity of the subject of a complaint is required to be kept confidential.

*** Sec. 8.** AS 24.60.990(a) is amended by adding new paragraphs to read:

too limited

(17) "constituent" means a natural person to whom a legislator owes a duty of representation in the legislature because the person resides in the legislator's election district, is registered to vote in that district, or is a member of the immediate family of a person who is registered to vote in that district;

definitions

(18) "constituent service" means assistance, including representation other than legal representation and advice other than legal advice, that is provided by a legislator or a legislator's staff to a constituent of the legislator;

(19) "legislative purpose" means a goal of a legislative action or a

constituent service that is a primary goal or, when measured against other goals of the legislative action or constituent service, is a substantial goal;

(20) "nonlegislative purpose" means a purpose other than a legislative purpose;

(21) "private benefit" means a benefit, other than a benefit to a political party, that is personal to the recipient and does not have a legislative purpose or that satisfies, in whole or in part, a person's substantial interest in legislative, administrative, or political action under (b) of this section.

ALASKA STATE HOUSE OF REPRESENTATIVES

Contact:
Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

Date: March 19, 2009

To: Representative Bob Lynn, Chairman
House State Affairs Committee

From: Representative John Coghill JBC

Re: HB 193 Legislative Ethics Bill

I am requesting a hearing for HB 193, *"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit for the purposes of the Legislative Ethics Act"* at your earliest convenience.

I have attached backup for the bill.

Thank you for your consideration.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit

P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@legis.state.ak.us

November 4, 2008

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
STATEWIDE SUICIDE PREVENTION COUNCIL
SUNSET REVIEW
November 4, 2008

Audit Control Number
06-20055-08

The review was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Currently, under AS 44.66.010(a)(8), the Statewide Suicide Prevention Council (council) is scheduled to terminate on June 30, 2009. We recommend the legislature extend the termination date of the council until June 30, 2013.

Four of the fifteen voting members of the council are legislators. Since the Legislative Audit Division is part of the legislative branch, our agency does not meet the independence standard required by generally accepted government auditing standards. Therefore, we are disclosing our lack of adherence to the independence auditing standard.

Except for the independence standard discussed above, the audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	Page
Objectives, Scope, and Methodology	1
Organization and Function	3
Report Conclusions	5
Findings and Recommendations	7
Analysis of Public Need	11
Agency Response	
Department of Health and Social Services	19
Statewide Suicide Prevention Council	23

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Statewide Suicide Prevention Council (SSPC or council) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if the termination date of the council should be extended. State law currently specifies SSPC will terminate on June 30, 2009. If no action is taken by the legislature, the council will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the council should be extended.

2. To determine if the council is operating in the public interest.

3. To provide a current status on the recommendations made in the prior report.

Our assessment of the operations and performance of the council was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the council.

Scope and Methodology

Auditors and audit organizations are required to be independent in both fact and appearance to the entities being audited. Audit organizations are presumed to be organizationally independent per generally accepted government auditing standards under various situations. One of those situations, which is applicable to the Division of Legislative Audit, is when the,

> *. . .audit organization is in a different branch of government within the same level of government as the audited entity; for example, legislative auditors auditing an executive branch program.*

The Division of Legislative Audit does not meet the organizational independence requirements because four of the fifteen voting members of SSPC are members of the Alaska State Legislature. Readers of this report may not view the conclusions, findings, and

recommendations as impartial because of the lack of organizational independence. Nevertheless, we conducted the audit of SSPC as required by AS 24.20.271 and AS 44.66.050.

Our audit reviewed the operations and activities of the council from FY 05 through FY 08.

During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Budget documents, session laws, and other legislative information related to the council's operations.
- Council meeting minutes, bi-laws, and website.
- Annual reports to the legislature and governor.
- Financial reports from the State Accounting System.
- The *Statewide Suicide Prevention Plan.*
- Alaska Injury Prevention Center's follow-back studies to the council.
- Other documents related to the council's operations and mission, as necessary.

In addition, we interviewed:

- Various SSPC members, SSPC coordinators, and staff under the Department of Health and Social Services.
- Board members, executive directors and other staff of the Alaska Mental Health Trust Authority (AMHTA), Alaska Mental Health Board (AMHB) and Advisory Board on Alcoholism and Drug Abuse (ABADA).

We also attended the following meetings:

- May 5-6, 2008 meeting of SSPC.
- June 13, 2008 meeting of representatives from SSPC, Division of Behavioral Health, Division of Senior and Disability Services, the Alaska Commission on Aging, AMHTA, ABADA, AMHB, and the Governor's Council on Disability and Special Education.
- June 17, 2008 SSPC teleconference for a working session on the revision of the Suicide Prevention Plan.

ORGANIZATION AND FUNCTION

Under AS 44.29.350, the Statewide Suicide Prevention Council (SSPC or council) is charged with advising the legislature and the governor on,

> *...actions that can and should be taken to improve health and wellness throughout the state by reducing suicide and its effect on individuals, families, and communities.*

In addition to this advisory role, the council's activities include planning, coordinating, educating, training, and providing technical support on the prevention of suicide.

The council consists of 15 members. There are two senators, two representatives, two executive branch employees, and nine public members. The senate seats and the representative seats are appointed by the president of the senate and the speaker of the house, respectively. The executive branch and public seats are appointed by the governor.

Exhibit 1

Council Members
As of September 30, 2008

Officers:
- Brenda Moore, Public, Chair
- Pat Donelson, Public, Chair-Elect
- Renee Gayhart, DHSS, Treasurer

Other Members:
- Charles Jones, Public
- Celena Powder, Public
- William Martin, Public
- Bernard Gatewood, Public
- Vacant, Public
- Vacant, Public
- Vacant, Public
- Bill Hogan, DHSS
- Johnny Ellis, Senate
- Kim Elton, Senate
- Woodie Salmon, House
- Reggie Joule, House

Alaska Statute 44.29.300 specifies the public seats be filled by,

> *...one member of the Advisory Board on Alcoholism and Drug Abuse; one member of the Alaska Mental Health Board; one person recommended by the Alaska Federation of Natives, Inc.; one person who is a counselor in a secondary school; one adult who is active in a statewide youth organization; one person who has experienced the death by suicide of a member of the person's family; one person who resides in a rural community in the state that is not connected by road or the Alaska marine highway to the main road system of the state; one person who is a member of the clergy; and one person who is under the age of 18.*

Except for the members of the House of Representatives who serve two years, council members serve staggered four-year terms.

The council is staffed by a coordinator, who, by statute, is employed by the council and directly responsible to the council. As of July 1, 2008, the coordinator is the project manager for the Prevention and Early Intervention section. The coordinator is employed for the council on a part-time basis and is assisted by a project coordinator from the same division.

The council receives administrative assistance from the Department of Health and Social Services.

REPORT CONCLUSIONS

Under AS 44.66.010(a)(8), the Statewide Suicide Prevention Council (SSPC or council) will terminate on June 30, 2009. If the legislature does not take action to extend the termination date, the council will have one year to administratively conclude its affairs.

Alaska Statute 44.29.350 defines the purpose of the council.

> *The council shall serve in an advisory capacity to the legislature and the governor with respect to what actions can and should be taken to...*

The statute continues, listing the six areas where the council should advise the legislature and the governor. In addition to advising the legislature through testimony to the House and Senate Committees, the council has taken on a direct role in various areas. These areas include broadening the public awareness of suicide and the related risk factors, the development of a statewide suicide prevention plan, and other examples which are discussed in more detail in the Analysis of Public Need section of this report.

Suicide remains a major public health problem in Alaska. Over the last seven years, the crude rate[1] for suicide has ranged from over 16 to 23, while the national average crude rate for suicide was 11 in 2005[2].

Exhibit 2

Suicides of Alaska Residents By Year*

	Year of Death						
	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**
Deaths	103	131	123	154	127	132	146
Crude Rate	16.3	20.5	19	23.4	19.1	19.7	21.6

*2006 and 2007 data is still provisional and subject to change.

Source: Alaska Bureau of Vital Statistics

In addition to the rate of suicide being significantly higher than the national average, the profile of those committing suicide is also substantially different. In national statistics, elderly individuals are more likely to commit suicide; in Alaska, suicide is most commonly committed by individuals in their 20s. Suicide rates in Alaska are also disproportionately high in the native population.

[1] Crude rate is the number of suicides per 100,000 population.
[2] USA Suicide: 2005 Official Final Data, from American Association of Suicidology on its website, http://www.suicidology.org.

In developing our conclusion on whether SSPC's termination date should be extended, we evaluated SSPC's operations using the 11 factors set out in AS 44.66.050(c) to determine if the council has demonstrated a public need for its continued operation.

We found no direct correlation between the activities of the council and the change in the suicide rate for any particular year. However, given that the council's role is primarily advisory and suicide is a public health concern that is often linked with mental illness and substance abuse, both which are long term health issues, it is unlikely that a direct identifiable correlation will ever be clearly visible.

However, through the efforts of the council we have seen a broader and more public acknowledgement of the problem of suicide in Alaska. We saw the council responding to communities by working to revise the statewide suicide prevention plan, making it less clinical and more user-friendly. The council and the Department of Health and Social Services, Division of Behavioral Health (DHSS, DBH) have proposed an initiative to develop a cross-disciplinary, community-driven, and research-based approach to reducing the number of deaths by suicide in Alaska. A Suicide Prevention Strategy and Implementation Plan will be available to the legislature by December 15, 2008.

Overall, we found that the council is operating in the public interest and spearheading efforts that are necessary to address the public health concern of suicide. Therefore, we recommend the legislature extend the termination date of the council to June 30, 2013.

The four year extension is recommended because of the following issues:

- At the end of FY 08, the council was organizationally aligned with the Prevention and Early Intervention section, Division of Behavioral Health. A key to enhancing the effectiveness of the council is a good working relationship between the council and DBH, each focused on its own mission – coordinating but not duplicating. A limited extension will allow for a reevaluation of whether the closer alignment with DBH has impeded the independent voice of the council.

- Secondly, the membership requirements for appointment to the council make it difficult to fill all the seats and to ensure sufficient participation to meet quorum requirements. Again, a limited extension will allow a timely reexamination of this problem.

These issues are more fully discussed in the Findings and Recommendations section of this report.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Statewide Suicide Prevention Council (SSPC or council) should, in accordance with statutes, appoint its own coordinator and perform annual performance reviews.

Effective July 1, 2008, the Department of Health and Social Services (DHSS) assigned SSPC coordinator responsibilities to the Prevention and Early Intervention section[3] manager in the Division of Behavioral Health (DBH). This SSPC coordinator appointment was not made in accordance with the statutes and appears to diminish SSPC's autonomy and independent voice with the governor and legislature. Also, the coordinator may be placed in a position with potentially conflicting responsibilities between the council and DBH.

DHSS' decision was based on department personnel resource needs and a desire to align the activities of the council and the section.

The hiring, supervision, and evaluation of the SSPC coordinator are part of the council's rights and responsibilities per the statutes.[4] DHSS has traditionally assisted the council with the coordinator's selection. However, SSPC was not involved in the latest selection. Also, the council has not annually evaluated the coordinator's performance for at least the past four years. Neglecting these statutory requirements may have diminished the council's ability to maintain an independence voice.

We recommend the council either accept the current coordinator through a formal vote or initiate actions to hire a new coordinator. In addition, it is critical that the council conduct annual performance evaluations as required by statute, particularly if the coordinator is a DBH employee. Only through the council's interest in remaining autonomous can its independent voice be assured.

Recommendation No. 2

The legislature should consider modifying the composition of council membership.

During FY 05 – FY 08, there were excessive vacancies on the council and significant absences by council members at its meetings. Additionally, those being appointed to the

[3] Prevention and Early Intervention is the section responsible for DHSS programs that address suicide prevention.
[4] Alaska Statute 44.29.330(b) states,

> *The council may employ a coordinator to assist the council. The coordinator is in the partially exempt service. The coordinator shall be directly responsible to the council in the performance of the coordinator's duties. The council shall annually review the performance of the coordinator.*

1193

council did not always meet the statutory qualifications for the position. Exhibit 3 illustrates the extent of vacancies and absences over the last four years.

Exhibit 3

Statutory Qualifications	Do incumbents meet the qualifications	Rate of attendance at SSPC meeting FY 05 – FY 08
Four legislator seats: Senate majority member Senate minority member House majority member House minority member	 Yes No No Yes	Overall 15%
Two persons employed by the executive branch of state government	Yes	Overall 73%
A member of the Advisory Board on Alcoholism and Drug Abuse	Yes	60%
A member of the Alaska Mental Health Board	Yes	100%
A person recommended by the Alaska Federation of Natives, Inc.	Yes	100%
A person who is a secondary school counselor	No[5]	80%
A person who is an adult and active in statewide youth organizations	Yes	73%
A person whose family has experienced death by suicide	Vacant[6]	33%
A person who lives in a rural community – not connected by either the road system or the marine highway	Vacant[7]	0%
A member of the clergy	Yes	93%
A person under the age of 18	Yes	33%
Overall Average[8]		**54%**

The composition of the council's membership is established in AS 44.29.300 and includes very specific qualifications which have created difficulties in filling the positions. Vacancies combined with low attendance rates make it difficult for the council to establish a quorum at its meetings.

The legislature should consider changes to AS 44.29.300 to broaden the qualifications of council members to ensure that appointees are interested in the work of the council and can

[5] The current incumbent is a secondary school principal.
[6] This position has been vacant since November 2005.
[7] This position has been vacant for more than 3 of the 4 years between FY 05 and FY 08.
[8] This average includes one member appointed to the council that does not meet any of the statutory criteria. This member's attendance over the last 4 years has been at 87%.

1194

make the time commitment necessary to serve. Additionally, consideration should be given to making legislative members non-voting to prevent potential quorum issues.

Current Status of Prior Audit Recommendations

Prior Recommendation No. 1

The Division of Behavioral Health Community-based Suicide Prevention Program coordinator should ensure prevention programs conform to the statewide suicide prevention plan .

Current Status
This recommendation is no longer an issue. Starting in FY 06, the State has followed a national trend to provide grants on a more comprehensive programmatic basis. Grant funds are awarded in a way that allows communities to focus the funds according to local priorities, rather than awarding separate grants for mental health, substance abuse, or suicide programs.

Additionally, the council has undertaken a rewrite of the statewide suicide prevention plan to make it more user-friendly, so Alaskan communities can better use the plan in developing their grant activities and community plans.

Prior Recommendation No. 2

The administrative manager for Department of Health and Social Services Boards and Commission and the Statewide Suicide Prevention Council coordinator should develop a more formalized information system of reporting financial information to the council.

Current Status
This recommendation has been resolved. Council members are receiving budget and financial reports as part of their meeting packets.

Prior Recommendation No. 3

The council should ensure it provides public notice of all council meetings as required by Alaska Statute 44.62.310.

Current Status
This recommendation has been resolved.

Prior Recommendation No. 4

The Office of the Governor should make appointments to the council in a timely manner.

Current Status
Appointments to the council continue to be a problem. See current Recommendation No. 2.

(Intentionally left blank)

1196

ANALYSIS OF PUBLIC NEED

The following analysis of commission activities relates to the public need factors defined in the sunset law, AS 44.66.050. This analysis was not intended to be comprehensive, but to address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or program has operated in the public interest.

To assess whether the Statewide Suicide Prevention Council (SSPC or council) has operated in the public interest, we measured the council's activities against objectives set out by the legislature for SSPC in state law, at AS 44.29.350.[9] From our review of council activities, we conclude SSPC has reasonably addressed its statutory objectives.

The council, as an advisory body, has made presentations to the House and Senate Committees on Health, Education and Social Services. Additionally, they provide the legislature and the governor with the council's annual report.

The council also actively participates in the six areas in which they are intended to advise the legislature and the governor. The following discussion describes the council's areas of active participation:

1. Actions to be taken to improve health and wellness by reducing suicide.

   During FY 08, the council, in partnership with Department of Health and Social Services, Division of Behavioral Health (DHSS, DBH), proposed the Alaska Suicide Prevention Initiative to the governor and the legislature. The initiative proposed developing a cross-disciplinary, community-driven and research-based approach to reduce the number of deaths by suicide in Alaska. The initiative addressed potential activities from FY 09 through FY 13. The FY 09 budget included an increment dedicated to the development of the Suicide Prevention Strategy and Implementation Plan, which is to be completed by December 15, 2008.

[9] Alaska Statute 44.29.350 states,

> *The council shall serve in an advisory capacity to the legislature and the governor with respect to what actions can and should be taken to (1) improve health and wellness throughout the state by reducing suicide and its effects on individuals, families, and communities; (2) broaden the public's awareness of suicide and the risk factors related to suicide; (3) enhance suicide prevention services and programs throughout the state; (4) develop healthy communities through comprehensive, collaborative, community-based and faith-based approaches; (5) develop and implement a statewide suicide prevention plan; and (6) strengthen existing and build new partnerships between public and private entities that will advance suicide prevention efforts in the state.*

2. Increasing public awareness of suicide and the related risk factors.

The council has become increasingly diligent in this area. The council continues to maintain a website[10] that provides suicide statistics, risk factors, and prevention. Additionally, the website provides links to resources such as the council's annual reports and statewide suicide prevention plan.

The council participated in many conferences and workshops during FY 05 through FY 08, making presentations or providing information displays. The council also purchased and distributed items such as pens, pencils, magnets, and posters to those needing support for suicide prevention related functions.

In 2006 the council initiated the "Live Your Dream" bracelet campaign which targets the State's youth population. This has been viewed as particularly popular and successful in spreading suicide awareness.

The council has contributed to the "YOU KNOW ME" media campaign which focuses on suicide prevention awareness. The Alaska Mental Health Trust Authority (AMHTA) has sponsored the council in this endeavor since 2005.

3. Enhance suicide prevention services and programs throughout the State.

Overall, the council enhances suicide prevention services and programs by directly providing information or providing direction to other knowledgeable sources. Throughout the year, the council receives two to three requests per week for information or technical assistance. Their web site generates questions from the public and other organizations who then request informational materials from the council. As appropriate, they also provide studies, DVDs, books, and other materials on suicide and suicide prevention.

Other examples of SSPC's enhancement of suicide prevention services include:

- Involvement in the certification of Careline[11] and DBH's targeted gatekeeper training.[12]

- Having the Careline phone number placed in phone books across the State.

[10] http://health.hss.state.ak.us/suicideprevention/default.htm
[11] Careline is Alaska's statewide toll-free crisis intervention and assistance hotline.
[12] DBH has contracted for the development of a training curriculum specific to Alaska. Gatekeepers are individuals who have face-to-face contact with large numbers of people in their community. The council's role in the initiative is to review the developed curriculum and provide feedback.

- Sponsoring travel for communities that needed assistance to attend gatekeeper training.

- Providing funds which allowed the Careline project manager, the Boys & Girls Club representative, and the Survivor Group representative to attend the American Association of Suicidology Conference in 2006.

4. Develop healthy communities though comprehensive, collaborative, community-based and faith-based approaches.

   The council has maintained faith-based partnerships through some SSPC members' participation in faith-based organizations. Other community approaches have included:

   - Sponsoring an Alaska State Council on the Arts workshop in Bethel to orient artists and arts organizations to programs, resources, and grant opportunities.

   - Providing a liaison to assist grassroots community members as they researched and established a nonprofit organization whose mission is suicide prevention, awareness, and support of the survivors.

   - Providing technical support to community programs providing suicide prevention services via research, best practices updates, referral resources, training, and conference opportunities.

   - Recommending the Boys & Girls Clubs' staff development director receive training and certification as a gatekeeper[13] trainer.

5. Develop and implement a statewide suicide prevention plan.

   SSPC completed its first statewide plan in 2004, and it followed the format of the National Strategy for Suicide Prevention and existing plans from other states. However, communities did not find the plan user-friendly in providing guidance in aligning their grant activities and community plans with the statewide plan. The council is now revising the statewide plan to make it more relevant to the granting process for the Comprehensive Behavioral Health Prevention and Early Intervention Services grants.

6. Collaborating on planning activities with other related agencies.

   In 2005 SSPC established a memorandum of agreement (MOA) with the Advisory Board on Alcoholism and Drug Abuse (ABADA), the Alaska Mental Health Board (AMHB), and DHSS. In 2006 an MOA was established with AMHTA. The purpose of the MOAs is coordination and collaboration to achieve the best outcomes for their targeted

[13] See footnote 12 for more information about gatekeepers.

beneficiaries. Their websites are interlinked and these entities participate in reciprocal reporting.

Other boards that SSPC collaborates with include Alaska Commission on Aging, Alaska Brain Injury Network, Governor's Council on Disabilities and Special Education, Faith-Based and Community Initiatives, and Division of Behavioral Health. While there is reciprocal reporting between these boards, MOAs have not yet been established.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

SSPC has not operated in strict compliance with the statutes in regards to the composition of the council and some personnel matters. Specifically:

1. SSPC was not involved in hiring its latest coordinator, a position directly responsible to the council; nor has the council reviewed the coordinator's performance for any of the past four years. These are requirements stated in AS 44.29.330. At least in appearance, these moves could impede the council's independence and autonomy when advising the legislature and the governor. (See Recommendation No. 1)

2. Some council members either do not meet the positions' requirements as presented in the statutes or have excessive absences from the board meetings and other SSPC activities. (See Recommendation No. 2)

Exhibit 4

Schedule of Operating Expenditure and Funding Sources
(Unaudited)

	FY 05	FY 06	FY 07	FY 08
Expenditures				
Personal Services	$ 18,300	$ 26,028	$ 22,307	$ 35,915
Travel	23,847	32,636	41,155	51,072
Services	33,335	37,515	19,821	18,205
Commodities	14,383	6,336	8,461	2,142
Total Operating Expenditures	$ 89,865	$ 102,515	$ 91,744	$ 107,334
Funding Sources				
General Fund Appropriations	$ 89,865	$ 102,515	$ 91,744	$ 107,334
Total Funding	$ 89,865	$ 102,515	$ 91,744	$ 107,334

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The council has not pursued any statutory changes.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The council provided public notices to all but one of their meetings. However, public comment periods occurred during all of the meetings. The council has conscientiously made efforts to conduct at least one of their four meetings in a remote location such as Bethel, Kotzebue, and Sitka. They have held three town hall meetings, usually following one of their regularly scheduled meetings. Additionally, the public has the opportunity to contact the council, through its website, to offer feedback and request information.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Under AS 44.29.350, the council has developed and implemented a statewide suicide prevention plan. The existing plan is currently under major revision to increase its usability. The council has requested input from participants outside the council such as the grantees, gatekeepers,[14] and members of other boards. Once the plan has been approved by the council, it will be sent out for public testimony. Further revisions, as a result of public testimony, may be made before its release.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

Neither the Office of the Ombudsman nor the Office of Victim's Rights reported any complaints filed with them regarding SSPC.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

This criterion is not applicable since SSPC does not regulate any occupations or professions.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

Nothing in our review of the council indicated that there were any complaints involving SSPC personnel practices.

[14] See footnote 12 for more information about gatekeepers.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

As discussed in Report Conclusions, we recommend the council be continued. However, in Recommendation No. 1, we also suggest that the appointment of the council's coordinator be approved by the council and annual performance reviews of the coordinator's performance should be conducted as set out in statute. This is important for SSPC to maintain its autonomy in the future for advising the legislature and governor. Due to personnel resource concerns and the desire for closer alignment between the council and DBH, DHSS has organizationally moved the administration of the council to DBH, specifically the Prevention and Early Intervention section. It is essential that DHSS and the council develop means to assure the council maintains an independent voice.

As discussed in Recommendation No. 2, the council should ensure that appointed members meet the qualifications of AS 44.29.300. We suggest the legislature consider broadening the qualifications for membership to ensure sufficient qualified and interested individuals are available and willing to serve on the council.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

The council established performance measures which are detailed in the annual reports to the legislature. For the FY 08 annual report, the measures were:

- Reduction of the three-year average rate of Alaska suicides.

  SSPC has been unable to achieve this objective at this time. During FY 08, the council has partnered with DHSS, DBH in an initiative, attempting to accomplish this by FY 13.

- Review and update the statewide suicide prevention plan.

  SSPC members are currently reviewing the plan with the objective of making it more relevant to the granting process for the Comprehensive Behavioral Health Prevention and Early Intervention Services grants.

- Consistently review data to identify trends, make analyses, and provide recommendations regarding suicide prevention, education and services needed in the State.

  The Follow-Back Study, which presented Alaska suicide data and analysis for the period from September 1, 2003 through August 31, 2006, was received by SSPC in February 2007. The council has and continues to use this study to make recommendations to the legislature, executive branch agencies, and the public.

- Support and assist Alaskans in starting a state Suicide Prevention Awareness Network (Network).

  The council supported the Alaska Suicide Prevention Action Coalition (ASPAC) in its research into becoming a Network affiliate. Although the Coalition decided to incorporate and maintain its autonomy, its goals are similar to the Network and further the goals of the council.

- Increase the number of communities that can recognize the warning signs of suicide through increasing the number of community-based suicide prevention grantees who align their community funding with the statewide suicide prevention plan.

  The Prevention and Early Intervention section gave comprehensive prevention grants to communities for the FY 06 - FY 08 three-year grant cycle. A comprehensive prevention grant can be used to address any alcohol, drug, mental health, or suicide related issue. Since none of the grants during this grant cycle were specifically for suicide prevention, no tracking was done to determine whether grantees aligned their funding with the statewide plan. As comprehensive prevention grants continue to be made by DBH, the council should revise this performance measure.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

The Statewide Suicide Prevention Council mission overlaps with other state entities such as the Alaska Mental Health Board, the Advisory Board on Alcoholism and Drug Abuse, and the Alaska Mental Health Trust Authority. However, the council was established to bring attention and focus, specifically, to the suicide issue in Alaska, so overlapping missions are to be expected.

While the council actively collaborates with various other boards and commissions with related missions, there does not appear to be any duplication of activities between the council and these other governmental agencies or in the private sector.

(Intentionally left blank)

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

December 1, 2008

RECEIVED
DEC 0 1 2008
LEGISLATIVE AUDIT

Pat Davidson
Legislative Auditor
Alaska State Legislature, Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Dear Ms. Davidson:

Thank you for this opportunity to provide a written response to the *Preliminary Audit Report on the Statewide Suicide Prevention Council, Sunset Review, November 4, 2008.* I have reviewed the report and offer the following comments.

First, we appreciate your staff's careful attention to detail and the thorough nature of the audit process, including the many interviews and opportunities for individuals to be heard and to voice their opinions. Suicide is a critical social issue for the State of Alaska and the Statewide Suicide prevention Council (SSPC) has a significant responsibility to find strategies and solutions to begin reducing the rate of suicide throughout our state.

As stated in the audit report, the SSPC has recently undergone a significant change in location within the department and in their staff coordination. Beginning July 1, 2008, the SSPC is now under the direction of the Division of Behavioral Health, section of Prevention & Early Intervention Services. The reason for this change of location was to allow for better coordination of statewide suicide prevention efforts between the SSPC and Behavioral Health and to promote a more seamless and coordinated approach to suicide prevention in Alaska. While this transition is complete, the SSPC members and Behavioral Health staff are continuing to define and develop their relationship and structure. We are confident this change will accomplish its intended purpose and provide for better statewide alignment in issues related to suicide prevention.

The Department of Health and Social Services (DHSS) supports and agrees with the audit findings and recommendations. We are pleased with the recommendation to extend the SSPC for four more years, with a new sunset date of June 30, 2013. We believe the DHSS and the SSPC are at a critical juncture to make significant progress in reducing and preventing suicide in Alaska. DHSS, in partnership with the council and others, recently received a 3-year federal Garrett Lee Smith Youth Suicide Prevention grant to focus on developing regional strategies to 'turn the corner' on suicide data. In addition, with one-time funding from the FY08 Legislature, we are offering regional suicide prevention planning grants focusing on those regions of Alaska with the highest rates of suicide. It is our intent that these planning grants will become the foundation of the Statewide Suicide Prevention Initiative, a joint effort of the DHSS and the Council. The four (4) year extension will allow these projects to become embedded in our statewide strategy and to develop sustainability of community/regional efforts.

In response to the other two recommendations, again we are in agreement with the findings and recommendation, with the following comments and suggestions.

Recommendation No. 1:

The Statewide Suicide Prevention Council should, in accordance with statues, appoint its own coordinator and perform annual performance reviews.
With the change in location of the SSPC to the Division of Behavioral Health, and the departure of Kathryn Craft as Coordinator, interim decisions were made with minimal input from the council. One decision was to have two current Behavioral Health staff share the role of providing support to the council. L. Diane Casto, Section Manager and James Gallanos, Project Coordinator, are currently sharing the task of providing staff support to the council. It was never the intent that these two staff would be the Council Coordinator, but would be available to provide support and guidance as requested from Council Chairperson Brenda Moore.

Due to limited funding, there are not enough funds for a full-time coordinator, and in fact, Ms. Craft provided approximately .25 FTE services to the council. At the most recent SSPC meeting in September, and again during a November telephonic executive work session of the council , it was decided that the personnel money available in the SSPC budget will be used to hire a . 50 FTE Project Assistant, hired by the council, to provide day-to-day support. We are beginning the process to reclass the current Position Control Number (PCN) previously assigned to Ms. Craft. Once completed, we will begin the solicitation and hiring process, with input and direction from the council. The position will be located in the Juneau offices of the Division of Behavioral Health.

We also support the audit recommendation for the council to conduct annual evaluations of the council staff person and will provide assistance as requested.

Recommendation No. 2:

The legislature should consider modifying the composition of council membership.

As stated in the audit, there have been "excessive vacancies on the council and significant absences by council members at its meetings. "In addition, it is noted that "those being appointed to the council did not always meet the statutory qualifications for the position." We agree with both of these conclusions and support the recommendation to consider modifying the composition of the council membership.

In July, when the SSPC came into the Division of Behavioral Health, section of Prevention & Early Intervention Services, Ms. Casto began a dialogue with the Director of Boards and Commissions about the current vacancies and how best to recruit and/or encourage applications to fill these positions. Through this process, it became evident that the current membership did not directly meet the statutory qualifications for council membership. Discussions with the office of Boards and Commissions continue with DBH staff to make sure vacant positions are

filled in a timely manner and that applicants meet the statutory requirements. The office of Boards and Commissions is currently reviewing a number of applications for SSPC membership.

In addition, at the September meeting of the SSPC, there was a discussion about these current qualifications or categories of representation, and the council agrees that some modifying of the council composition would be beneficial. Providing more flexibility and broader definitions (i.e. expanding a secondary school counselor to a school counselor or K-12 school personnel) would allow for a larger pool of potential candidates.

Another area that has concerned the council is the large number of legislators required as council members. While the council is not concerned with having legislative representation and in fact supports their membership, it is difficult for legislators to be available for meetings, creating difficulty having a quorum for conducting council business. As reported in the audit, legislative members have attended meeting 15% of the time over the last 4 years.

With the challenges the current statutory qualifications have created, the DHSS supports the recommendation to modify the membership and, upon request, will work with the council to develop broader and more flexible categories of representation for possible legislative action.

I want to thank you for the opportunity to review and respond to the preliminary audit report. We support the work of the Legislative Audit team, and believe your recommendations will strengthen the Statewide Suicide Prevention Council, the collaboration with Behavioral Health, and the council outcomes.

Please do not hesitate to contact me if you have questions or would like additional information.

Sincerely,

William H. Hogan
Commissioner

cc: Melissa Stone, Director, Division of Behavioral Health

(Intentionally left blank)

To: Legislative Budget and Audit Committee
Division of Legislative Audit

RECEIVED
NOV 30 2008
LEGISLATIVE AUDIT

From: Statewide Suicide Prevention Council
Brenda Moore, Chair

Re: Department of Health and Social Services
Statewide Suicide Prevention Council, Sunset Review, November 4, 2008

November 28, 2008

Recommendation No. 1

The Statewide Suicide Prevention Council (SSPC or council) should, in accordance with statutes appoint its own coordinator and perform annual performance reviews.

During an executive session, Nov. 24, 2008, the council discussed hiring a part-time coordinator to work in conjunction with the Division of Behavioral Health, Office of Prevention and Early Intervention manager and prevention specialist that currently provides administrative support to the council. There was consensus among council members that it could develop its own goals and implementation plans with input and assistance from its current administrative support staff. A coordinator is needed to organize and carry out operational activities necessary to support the council in achieving its goals. The council determined to form a committee to review the budget and job classification in order to hire a coordinator. A performance review schedule and procedure will also be established.

Recommendation No. 2

The legislature should consider modifying the composition of council membership.

The council is in agreement with the recommendation to broaden the qualifications of council members to ensure that appointees are interested in the work of the council and can make the time commitment necessary to serve. In addition the council agrees to the recommendation that consideration should be made to making legislative members non-voting to prevent potential quorum issues.

26-LS0656\C
Wayne
3/25/09

CS FOR HOUSE BILL NO. 193( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE COGHILL

A BILL

FOR AN ACT ENTITLED

"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to prohibitions on the use of state resources under the Legislative Ethics Act; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act."

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

*** Section 1.** AS 24.60.030(a) is amended to read:

(a) A legislator or legislative employee may not

(1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions, solicitation or acceptance of contributions for a charity event, as defined in AS 24.60.080(a)(2)(B), or the acceptance of a **gift** [LAWFUL GRATUITY] under **AS 24.60.075 or 24.60.080** [AS 24.60.080];

(2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of [EITHER] the legislator, legislative employee, or another person; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of **a legislator's legislative mailing list for campaign purposes, or the use of** mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) the legislative council, notwithstanding AS 24.05.190, from designating a public facility for use by legislators and legislative employees for health or fitness purposes; when the council designates a facility to be used by legislators and legislative employees for health or fitness purposes, it shall adopt guidelines governing access to and use of the facility; the guidelines may establish times in which use of the facility is limited to specific groups;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than

utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others;

(E) a legislator from use of legislative employees to prepare and send out seasonal greeting cards;

(F) a legislator from using state resources to transport computers or other office equipment owned by the legislator but primarily used for a state function;

(G) use by a legislator of photographs of that legislator;

(H) reasonable use of the Internet by a legislator or a legislative employee except if the use is for election campaign purposes;

(I) a legislator or legislative employee from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization in a state facility;

(J) a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(K) full participation in a charity event approved in advance by the Alaska Legislative Council;

(3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds;

(4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to

permit the legislator or legislative employee to perform official duties;

(5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of **a legislator's legislative mailing list, or the use of** mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(E) use by a legislator of photographs of that legislator.

*** Sec. 2.** AS 24.60.030(i) is amended to read:

(i) **A** [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may

not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the **matter** [CASE] unless [THE]

(1) **the** contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or a witness in the matter** and the contact is made a part of the record; or

(2) **the contact is inadvertent and ex parte and the** fact and substance of the contact **are** [IS] promptly disclosed by the legislator or legislative employee to all parties to the hearing and [THE CONTACT IS] made a part of the record.

*** Sec. 3.** AS 24.60.080(a) is amended to read:

(a) Except as otherwise provided in this section, a legislator or legislative employee may not

(1) solicit, accept, or receive, directly or indirectly, a gift worth $250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than $250 that in a calendar year aggregate to $250 or more in value;

(2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

(A) food or beverage for immediate consumption;

(B) a contribution to a charity event, [FROM ANY PERSON AT ANY TIME, AND] tickets **to** [FOR] a charity event**, and** [AT ANY TIME, EXCEPT THAT TICKETS TO OR] gifts received **in connection with** [AT] a charity event**; however, tickets to a charity event and gifts received in connection with a charity event that are not included in the price of the ticket** [UNDER THIS SUBPARAGRAPH] are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (1) of this subsection; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26

U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services **in connection with** [INVOLVED IN] the charity event;

(C) a gift that is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family;

(D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or

(E) a compassionate gift under AS 24.60.075.

*** Sec. 4.** AS 24.60.080(c) is amended to read:

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

(1) hospitality, other than hospitality described in (4) of this subsection,

(A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or

(B) at a social event or meal;

(2) discounts that are available

(A) generally to the public or to a large class of persons to which the person belongs; or

(B) when on official state business, but only if receipt of the discount benefits the state;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the immediate family of the person; in this paragraph, "immediate family" means

(A) the spouse of the person;

(B) the person's domestic partner;

(C) a child, including a stepchild and an adoptive child, of the person or of the person's domestic partner;

(D) a parent, sibling, grandparent, aunt, or uncle of the person;

(E) a parent, sibling, grandparent, aunt, or uncle of the person's spouse or the person's domestic partner; and

(F) a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse, or the person's domestic partner;

(6) gifts that are not connected with the recipient's legislative status;

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' rights, or the office of the ombudsman;

(8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;

(9) a gift of transportation from a legislator or a legislative employee to a legislator or a legislative employee if the transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or

(10) a contribution to a charity event from any person at any time**, or a ticket to a charity event from a person who is not a lobbyist, an immediate family member of a lobbyist, or acting on behalf of a lobbyist**; in this paragraph, "charity

event" has the meaning given in (a)(2)(B) of this section.

*** Sec. 5.** AS 24.60.080(d) is amended to read:

(d) A legislator or legislative employee who accepts a gift under (c)(4) **of this section that has a value of $250 or more or a ticket to a charity event under (c)(10)** of this section that has a value of $250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of $250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8), **(c)(10),** and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of $250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

*** Sec. 6.** AS 24.60.105 is amended by adding a new subsection to read:

(d) A person may refrain from making a disclosure that is required by this chapter if making the disclosure would violate the United States Constitution, the Constitution of the State of Alaska, or other state or federal law. However, at the request of the committee or a person authorized to act on behalf of the committee, a

person who refrains from making a disclosure under this subsection shall provide the committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient.

*** Sec. 7.** AS 24.60.130(f) is amended to read:

(f) The committee may contract for professional services and may employ staff as it considers necessary. A committee employee, including a person who provides personal services under a contract with the committee, may not be a legislator, an elected or appointed official of a state or local governmental entity, an officer of a political party, a candidate for public office, or a registered lobbyist. The legislative council shall provide office space, equipment, and additional staff support for the committee. The committee shall submit a budget for each fiscal year to the finance committees of the legislature and shall annually submit an estimated budget to the governor for information purposes in preparation of the state operating budget. Public members of the committee **shall receive** [SERVE WITHOUT] compensation **of $150 a day while attending committee meetings and** [FOR THEIR SERVICES, BUT] are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

*** Sec. 8.** AS 24.60.130(n) is amended to read:

(n) **A member who participates at the commencement of a proceeding under AS 24.60.170 shall participate for the duration of the proceeding unless disqualified or unable to continue participating for any reason; however, provision shall be made for service by alternate members on the committee or on a subcommittee, as follows:**

(1) when [WHEN] appointing members of the legislature to serve on the committee, the speaker of the house or the president of the senate, as appropriate, shall appoint an alternate member for each regular member**; an** [. AN] alternate must have the same qualifications as the regular member for whom the alternate stands as alternate and is subject to confirmation as required for the regular member;

(2) when selecting public members to serve on the committee, the Chief Justice of the Alaska Supreme Court shall also select one alternate public member; the alternate public member's selection is subject to ratification as

required for selection of the regular public members;

(3) if, except as to a proceeding under AS 24.60.170, [. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is unable to **participate in** [ATTEND] a meeting, the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member at the meeting, and the designated alternate**, unless for any reason unable to participate,** shall **participate for the duration of that meeting; if** [SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular [LEGISLATIVE] member of the committee or a subcommittee is disqualified under (h) of this section from **participating in** [SERVING ON THE COMMITTEE OR THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the regular member is unable to **participate** [ATTEND], the chair of the committee or a subcommittee shall designate the regular member's alternate to **participate** [SERVE] in place of the regular member **for the duration of** [IN] the proceeding unless the alternate is [ALSO] disqualified **or is for any reason unable to participate; the** [FROM SERVING. THE] designation shall be treated as confidential to the same extent that the identity of the subject of a complaint is required to be kept confidential.

*** Sec. 9.** AS 24.60.990(a) is amended by adding new paragraphs to read:

(17) "constituent" means a person to whom a legislator owes a duty of representation under the Constitution of the State of Alaska;

(18) "constituent service" means assistance, including representation other than legal representation and advice other than legal advice, that is provided by a legislator or a legislator's staff to a constituent;

(19) "legislative purpose" means legislative action or providing constituent service;

(20) "nonlegislative purpose" means a purpose other than a legislative purpose;

(21) "private benefit" means a benefit to a person as a result of a legislative, administrative, or political action of which benefit to that person in particular is a substantial goal and that is greater than the benefit of the legislative, administrative, or political action to a substantial class of persons to which the person

belongs by law, choice, legal entitlement, legal privilege, profession, occupation, industry, or region.

ALASKA STATE HOUSE

House State Affairs Subcommittee Report Form

Date: March 25, 2009

Time Meeting Called to Order: 3:08 p.m.

Name of Chairman: Representative Paul Seaton

Members Present: Representative Seaton, Representative Craig Johnson, and Representative Max Gruenberg.

Subject of Meeting: Legislative Ethics

Relevant Legislation: House Bill 193 Legislative Ethics

Persons participating other than committee members: Representative Mike Doogan, Representative Berta Gardner, Dan Wayne (Legislative Legal), Joyce Anderson (Director, Select Committee on Legislative Ethics), and Rynnieva Moss (Legislative Aide to Representative Coghill, sponsor of HB 193).

Subcommittee Recommendations: The subcommittee adopted a CS that made amendments to Section 1 and Section 8; they amended AS 24.60.030(a)(1) to replace the word "gratuity" with "gift" and added a reference to AS 24.60.075 (compassionate gift) to AS 24.60.030(a)(1).

AM #1: Page 8, lines 2, 3, & 4: Delete the word "financial"
Moved by Representative Gruenberg
Passed without objection

AM #2: Introduced and withdrawn by Representative Gruenberg

AM #3: Page 7, line 29: Delete "a goal of a" AND "a"
Insert after "action" the word "providing"
Moved by Representative Gruenberg
Passed without objection

AM #5: Page 7, line 24: Delete the word "natural"

AM #6: Page 1, 12 through Page 2, line 16: Delete all language and insert:

(i) [EXCEPT WHEN REPRESENTING ANOTHER PERSON AS A LICENSED PROFESSIONAL IN THE STATE OF ALASKA IN THE CASE FOR

COMPENSATION AND SUBJECT TO AS 24.60.100 FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE,] A legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives **while the legislator or legislative employee is acting as a party or witness** and the contact is made a part of the record; or

(2) **in the event of an inadvertent *ex parte* contact and if the** fact and substance of the contact **are** [IS] promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

Moved by Representative Gruenberg
Passed: Yea – Johnson and Seaton Nay - Gruenberg

AM #7: Amends AS 24.60.030(a)(1) as follows:

(a) A legislator or legislative employee may not

(1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions, solicitation or acceptance of contributions for a **gift** [GRATUITY] event, as defined in AS 24.60.080 (a)(2)(B), or the acceptance of a lawful gratuity under **AS 24.60.075 and** AS 24.60.080 ;

Moved by Representative Gruenberg by request of Dan Wayne
Passed without objection

In addition the committee instructed Dan Wayne to check Title 24.60 to see if the assumption that it was ethical to use a legislative newsletter email database for campaign purposes. If AS 24.60 does not allow that prepare an amendment that would correct the problem.

Representative Seaton also asked Dan Wayne to prepare a legal opinion about the definition of "constituent" and what legal interpretation of "duty of representation under the Constitution of the State of Alaska" is.

Representative Seaton allowed Representative Gara to discuss an amendment he was attempting to have drafted that would basically allow for a person who submitted in writing a request for a determination by the director of the Select Committee on Legislative Ethics for an ethics issue to be exempt from a ethics violation if the committee met at a later date and found the action unethical if the person who receive the determination acted in good faith on the advice of the

director. Representative Seaton said that was out of the scope of the purposes of the subcommittee and welcomed Representative Gara to present the issue to the full committee.

Representative Gara asked that someone from OCS be present on Friday to discuss the process used for a ten in state custody and how this legislation would affect the way they would a teen pregnancy when the teen is in state custody.

Time of Adjournment: 5:02 p.m.

Subcommittee of the
House State Affairs Committee
House Bill No. 193 (STA)
March 25, 2009

Chair Seaton recognized Reps Gardner, Doogan, Gruenberg, Johnson, and Gara

Also present:
Rynnieva Moss, Legislative Aide to Rep John Coghill
Joyce Anderson, Director, Select Committee on Ethics
Dan Wayne, Legislative Legal

Rep Seaton stated that \S version is what has been adopted by the committee and there were questions on that. There was discussion on what version would be used as the changes were addressed, it was finally decided that the committee would use the \S version. Go to page 7 - on S version - Number 19 Legislative Purpose, the S version said *legislative action or constituent service* - changed to goal *of legislative action or a constituent service is a substantial goal.*

Rynnieva Moss recommended to only remove "**a**" and insert "constituent service."

Dan Wayne stated that the P version had a lot of problems because all the changes requested were not done; there just was not enough time. S version is just wrong as it does not contain changes in CS. Not sure if time is going to be very well spent. Nothing the subcommittee was expecting

Rep Seaton - go back to S version and pull out financial in S version.

Committee agrees.

Rep Gruenberg - stated he would like to make the change as an amendment.
Amendment No. 1 - \S version. Page 8 lines 2, 3 and 4, eliminate the word [financial].

Rep Seaton -no objection. Adopted.

Rep Seaton - Page 7 \S version - No. 19 - legislative purpose the committee was concerned that what we have means a

constituent service and so we are changing that to a goal of legislative action or providing constituent service.

Rep Gruenberg - suggested goal of "a legislative action" - may be more than one action remove [a] and at the end of the line remove [a] and insert the word **providing.**

Legislative Action - A goal of legislative action or providing constituent service.

Rep Gardner - in what sense is constituent service not legislative action?

Rep Gruenberg - legislative action is passing laws or budget issues and constituent service is broader term. Is there some definition some where of legislative action?

Rynnieva Moss read AS 24.60.990(a)(9) Legislative Action into the record. A constituent service could be assistance with a clerical error that does not result in legislative action - but sometimes it could result in legislative action because you find a flaw in the law and you introduce legislation to fix it.

Rep Seaton- problem was we have a series of definitions - you got into the goal or the want or desire of a constituent becomes the legislative purpose rather than the legislator providing the service.

Rep Gruenberg - **Amendment No. 2 - strike [a] page 7 line 29 before legislative action and strike [a] after the word or and insert providing constituent service.**
Legislative Purpose: Means a goal of legislative action or providing constituent service.

Dan Wayne - I think you might want to add before providing - **a goal of** [the action] - so it refers to the goal of legislative action or legislative service - to be clear.

Rynnieva - do we need the word goal? Would not a legislative purpose be a legislative action or a constituent purpose?

Dan Wayne - I made these up these definitions originally. A purpose is not a thing not a service. A service is not a purpose it has a purpose.

Rep Gruenberg - purpose and goal are very similar. Amendment to amendment to delete [a goal of]on line 29 as an amendment to the amendment.

Rep Seaton - Amendment No. 2 and amendment - reads "legislative purpose means a legislative action or providing constituent service."

Rep Gruenberg stated that as amended would read "legislative purpose means legislative action or providing constituent service."

Rep Doogan - if you are saying a legislative purpose is a legislative action, it makes no sense. Your purpose is to hit a home run your action is to swing the bad therefore your purpose is to swing the bat. You have a confusion of goals and meanings.

Rep Gruenberg - What do think we should say?

Rep Doogan - if you are talking about the purpose you are talking about the goal of the action not the action itself.

Rep Gruenberg withdrew his second amendment to the amendment.

Rynnieva stated that the definition of purpose out of Black's Law - objective, goal or end.

Rep Seaton - under legislative purpose we have to say something that this an attempt to work on legislative action or something like that in providing constituent service.

Rynnieva - purpose is used because it is used in the statute and she highlighted where it is. We want legislative purpose to include action; not only legislative purpose but also constituent service though it is not yet defined in statute - we want to do that in this bill. One defined and one not.

Rep Seaton - Dan do you think having the word goal there is legally explanatory enough or means working towards a legislative action.

Dan Wayne - I think that I had some other language to narrow it down, but this would mean constituent service is anything you would do for a constituent no matter what it is. So I said goal of legislative action is substantial - in order that it is substantial. Maybe use the word purpose.

Rep Doogan - attempting to define legislative purpose to have two parts, legislative action - already defined and constituent service - not defined in statute. So if what you want to say is legislative purpose is 2 things you legislative purpose and constituent action. Legislative purpose or goal are we trying to define. Are we saying the legislative purpose or goal we are tying to define: legislative purpose means having a goal of legislative action or providing constituent service.

Rynnieva - it is the end product. Legislative action or constituent service we have met a legislative purpose.

3:36:04 PM

Rep Gruenberg- sounds like what Mr. Doogan has said is a good idea, add to **Amendment No. 2 - just add one word - between means and a also add word "having". Just what Rep Doogan suggested. Amendment to amendment**.

No objection to Amendment to Amendment adopted

Amendment No. 2 - Legislative purpose having a goal of legislative action or constituent service.

Dan - we have to define it so we know what it is not. AS 24.60.030(a)(2) read into the record.

Rep Seaton - we are defining non-legislative purpose - Line 31 on page 7 we are defining non-legislative purpose.

Dan - if you say a person has to have a goal - "having" is not the right word.

Rep Johnson - goal in there is intent and if you talk about intention it would be difficult to define. We are defining legislative purpose and all the time is your goal and it may not be constituent related.

Rep Doogan - the definition - legislative action was read into the record again by Rynnieva.

Rep Seaton - legislative purpose means legislative action or providing constituent service. So what I would like to do is amendment 2 withdrawn.

Rep Gruenberg withdrew Amendment No. 2.

Rep Seaton - being Amendment No 3 Page 7, Line 29, delete [a goal of a] [a]removing the word and inserting the word **"providing"** at the end of the line.

Rep Seaton stated Legislative purpose means legislative action or providing constituent service; and asked if there were any objections.

No objection - Amendment No. 3 has passed.

Rynnieva - Page 7, line 24 - delete under constituent [natural].

Rep Gruenberg - Amendment No. 4 constituent - does not have to be natural can be any other form of person.

Rynnieva read the definition of person into the record.

3:42:47 PM

Rep Gardner - do we have a duty currently to represent a business trust.

Rep Gruenberg - as a legislator these things all relate to people and a business is one or more people and they set it up in a trust. A few years ago we had a bill setting up a children's trust. We have had things dealing with trusts.

Rep Seaton - if you have a business in your community or not is there a constitutional duty of representation to those entities.

Dan Wayne - constitutionally - no duty. Talks about how the legislature is set up in Art 2 - but does not spell out duties.

Rynnieva said there is a duty to the constituent. There are plenty of constitutional duties to a constituent.

Rep Gardner - duty to the people leave natural in there.

Rep Doogan - small business in my district, interest of various sorts the people who run those businesses may or may not be constituents in the sense that they vote for me or even live in my district, but they may still come to me and say I don't want this or I do want that - if we were to leave the term natural person in this document, could I talk to them, go to bat for them where it was appropriate - since their interest is not as my constituent but as the owner of a business in my district.

Rep Seaton - legislative purpose is providing constituent service, but if you were talking to ConocoPhillips, ey are not a atural person. business is not a natural person. It would not get constituent service. Not a natural person and therefore it would not be constituent service.

Rep Gardner - do we not also have obligations - every Alaskan is a constituent.

Rep Gruenberg original version limited constituent to your district. We discussed elimination of natural in full committee.

Rep Gardner - if that is the case, what is the reason to have to whom the legislator owes a duty of representation.

Dan - there is no duty of representation owed by the legislator.

Rynnieva - we believe when a legislator takes an oath he believes that he has a duty to protect the constitutional rights and that he does have a duty to protect those rights.

Dan - we are talking about a definition, there is an oath and I am not saying they don't have that responsibility but we are trying to define something - so maybe there does not need to be a definition.

Rep Seaton - if we take out natural. Who is the person that the legislator does not owe representation to that you would be working for or providing service too. Staffer in D.C. who is a resident in D.C. and not an Alaska resident anymore, and no permanent fund - could you provide constituent service to them.

Rynnieva - the answer would be if the person was being deprived of something that the person was eligible for under the constitution.

Rep Gruenberg - people in Alaska they qualify, if all the other people in the world are the second class if they are dealing with an Alaskan issue they should get our representation. I think this focuses on the people and the representation. Read this and mentioned it in committee I thought it was a creative phrase. I think this says we have a duty and right of representation as to that permissible under the constitution. Leave it at that. Keep it in. Someone that would not qualify StateWatch people in Virginia - concerned about Wrangell Islands

- does not have anything to do with Alaska, there is no duty to represent them.

3:51:24 PM

Rep Seaton - what if there is a trip to Darfur - anyway - lets request a leg legal opinion on parameters to forward on with the bill.

Rep Gruenberg - Amendment No. 4 remove [natural] Page 7, line 24.

Rep Seaton - any objection.

Rep Gardner - remove natural then could we say a constituent it could include defenders of wildlife? Then we have a duty to represent?

Dan - might fit better to take out representation and leave duty. Maybe not a duty of representation to a particular person but certainly a duty. The duty to uphold the constitution.

Rynnieva stated that would be acceptable.

Rep Seaton stated that Amendment No. 4 - deals with removing *natural* line 24 - Page 7 - any objections?

No objection - adopted.

Rep Gruenberg moved for Amendment No. 5 - delete [representation] Page 7, line 25.

Rep Gruenberg - to Dan - since you will be doing the legal opinion - you might want to substitute a phrase for representation or leave it in - if you are talking about duty. *"of representation"* - a little uncomfortable to take it out until we have a legal opinion. If we just ask for a legal opinion on that phrase.

Dan - researched it and it would say what has already been stated. Constitution would not provide any information about what duty of representation is. You are limiting the duty but there is no place to find out where that limit is.

Rep Gruenberg - only a duty of public safety or education, and this should be looked at - as a major thing that is the core of the legislature.

Rynnieva - let that word remain - and let it be discussed in Judiciary. It also could be that duty could include representation because it results in legislative action or constituent service.

Rep Gara - when you try and define the people you represent in two constrained a manner you are going to leave someone out and then you have an ethics violation. The people you are allowed to represent (constituents) that you are allowed to represent. The definition should be broad. The constituent should be who you are allowed to represent. Otherwise there will be people outside the line that you want to help but can't because of the definition and who you included in the definition.

Dan Wayne - said that is not what he said. It is the constitution that does not list any duties of representation. It does not mean you don't have a duty, it just means it is not listed. How do I tell if someone's actions are permissible when I don't know the definition of constituent? Constituent service is a service you do for someone.

Rep Seaton we need to know who a constituent is and who it is not. So we know who you can give service to.

Rep Doogan - it means the citizen of Alaska. That is about as limited as it gets. I am not here for the exercise, someone else is going to define it someone else is going to and I am not too happy with how they have done so far and some definitions have to have applicability in the real world. We want the definition to be as encompassing as possible. Don't want narrow definitions of who we can help and how we can help them. It may not be perfect but a long step to the goal I want to go. Helping people deal with the government and not have ethics come after me.

Rep Seaton - you work for all Alaska, work for people of your district, but is your duty to represent the people that elect you or everyone or the people that elect you.

Rynnieva - Rep Coghill feels it should be a very broad definition - sideboards in subparagraph 21 makes it clear. They share a class it is not helping someone to get a contract with the state. That is not constituent service, that is a crime already. But someone that has a right to be represented by their legislator.

Rep Doogan - we took a look at the oath of office and it did not say anything about House District 25 - it says the state of Alaska. Not strictly limited to the confines of my district.

Dan went over what the oath of office is. Not trying to be argumentative. But people that are not citizens have rights under our constitution. Business, corporations, have rights - and should be represented.

Rep Gara - make it as broad as possible. We don't make duty under the constitution clear. Make it any person in the state. Person in statute means business or anything. Legislative purpose if the person is here or not, and then you can represent anyone in the state. You would only help a person out of state if it is a legislative purpose, so then you would help them anyway. You can help them for a legislative purpose and then the rest you help because they are citizens of the state.

Rep Seaton - lots of state residents not living in the state. In the state is a tricky one too.

Rep Gruenberg - too narrow - if we stay within the state. Favors the broadest definition possible. Dealing with people who are Alaskan or people who are concerned about Alaskan issues. Whether it be BP or defenders of wildlife. There is a nexis between them and the state of Alaska. It should not be unethical to look at that person's interests.

Rep Seaton - who are we trying to cut out, who do we want to say a legislator can't call a constituent.

Rep Gruenberg - people who are not Alaskan's or someone trying to get us to take an issue on something that does not in any manner pertain to Alaska. Mid-East war, as most issues don't have a lot to do with Alaska.

Rynnieva - defining constituents because - if you are helping someone who is not a constituent - then it is probably a crime already. The legislature feels that they are likely to be in trouble if they are helping someone when it is their duty to help Alaskans, but it might not be a constituent because there is not a definition of constituent.

Rep Seaton - helping someone that is not in Alaska, but it has a purpose within Alaska.

Rynnieva - but that would be a legislative issue so that would not be unethical.

4:12:33 PM

Rep Doogan - broadest possible interpretation inside Alaska, not outside of Alaska. Likes the language that was under the constitution. No representation for someone out of the state. Might be doing it for some other reason under duties under legislator but not under constituent service.

Rep Gruenberg - group a - wants to take trip to Alaska, please tell us how we get information and we should be able to do that. **Going to withdraw my motion to delete "representation" from the bill.**

Rep Seaton - we are asking for a legal opinion and if there is no duty of representation under the constitution - if there is or isn't. Because if there isn't then we have no constituents.

Dan it may be duty somewhere else. But the legislature has a state-wide constituency. It would never be my conclusion that you have no constituents.

Rep Seaton - for Joyce and the committee to have a definition when they are making decision. He asked Joyce Anderson - as far as serving for the Ethics Committee can a definition help make a decision.

Joyce - needs to see if there is a specific situation.

Rep Gruenberg - to Mr. Wayne - when you look at this - look in the broadest constitutional sense. We are looking at this really from the core of the constitutional perspective. What are we here to do.

Dan - to make legislation - the other things you do are tradition and there is no authority to do this.

Rep Gruenberg continued to discuss his concept of how the legislature serves and what it does.

Rynnieva stated she has wording that the Administrative Hearing Officer suggested for an amendment.

Rep Seaton - **Amendment No. 6 - delete Page 1 line 12 through Page 2 line 16, insert new subsection i. and the rest of the page.**

Rynnieva - when you are dealing with an administrative hearing unless you are a licensed officer, you are no longer involved in that constituent service. Page 1, Section 1. Line 11, runs through page 2 line 16 the rest of the amendment protects the legislator, or staff, if a constituent fails to reveal that the case is in an administrative hearing and the call is made to labor, the legislator or staff would be liable for a violation the way the statute presently reads.

Rep Gruenberg - typo on line 15, a couple of words left out - insert **and if the** before fact and substance of the contact [is]**are**. **Make that a conceptual amendment and include it with the rest of Amendment No. 6.**
4:28:14 PM

No objections to Amendment No. 6.

Rep Seaton objected to Amendment No. 6, he thinks that it needs to be looked at further. It could be a CPA or licensed person in some function and then a legislator could go before a body and that is what we would be allowing and that is line 1 and 2. Policy call is - are we going to look at this and say is the affect on a Department Director who is sitting across from a legislator is okay in the public interest and we are going to balance that with an officer and the public perception is that the legislator is subservient to representing himself in a license.

Rynnieva - this a policy call and I am going to let you all make that policy decision. Yu have to make the call.

Rep Seaton - **Amendment No. 1 to Amendment No. 6** - deletes line 1 and 2 and would not allow them to be a for hire representation.

Rep Gruenberg objected.

Rep Seaton - lawyers and CPA's - anybody can be hired to go in and represent one side of a party in an administrative decision.
4:33:57 PM
Is public purpose of not having a legislator or legislative employee less?

Rep Doogan - there is no public purpose having them sit across the table unless you think that their job shapes the opinion of the person sitting across from them. Question is whether in a situation as part time legislators is if we can dictate how a person can make a living. Historically shied away from this, people have to eat, they go out of here and do their jobs. It is not clear to me that legislators get extra spin or (b) even if they do, you can tell someone that if they run for office a person can't make a living from what they have been doing. Pretty close call. It will be debated every step of the way.

Rep Seaton - the debate means it is questionable. It has a public perception. City council or whomever, as a legislator people react differently. Is that perception a problem.

Rep Johnson how far is the step from I am a legislator and if I represent you how far I can go because of power. It has happened and it is the step we are trying to avoid. If I decided to do it, I could make a good living representing people.

Rep Doogan - in Rep Johnson's statement, he already broke the law by getting clients because of your position. But as a living representing people, or going out and representing people because of who you are is something that could interfere with our livelihood.

Rep Gruenberg recommended that we adopt the practice that we did in the subcommittee and give it back to the full committee with the note and comments that the full committee had to make a decision.

Rep Johnson wants it in and then the committee can take it out if it wants.

Rep Gruenberg - Ms Thurbon wanted people who were representing someone would be able to respond to contacts and supply information. That would mean only people that could do it were not legislators. By taking the first two lines out you may have trouble getting information. A legislator or legislative employee may not attempt to influence the content of a hearing and that does not have anything to do with representation.

Rep Seaton if it is left in only licensed people could give the information. But language is substituting for the language we are taking out.

Rep Gruenberg reviewed again over the information and the what was happening to the bill in this section - meant that a legislator could not even speak to the issue, if not representing them.

Rep Seaton - only talks to someone with a license that is doing it for compensation. Taking out line 1 and 2 and starts on line 7.

Joyce - looked at this statue prior and it does not prevent even with what you are removing, from speaking at an administrative hearing if you are called. Just can't be initiated by the representative.

Amendment 6
Rep Johnson -yes,
Rep Gruenberg - no,
Rep Seaton - yes,

Amendment passed.

Split decision

4:49:16 PM

Rep Seaton - Non-legislative purpose Sub B - this paragraph does not prohibit information a(2)(B) -

Rynnieva - involves legislators using voter registration lists for their office and those lists used by legislators for non-legislative purposes.

Rep Seaton - mailing lists and news lists we generate since those are not available to the general public we would not be able to use those for campaign purposes. Not intended. But since it is here I would like clarification on it. Non legislative purpose.

Dan - two ways to read it. General public or non legislative purposes. It is okay to use the list if available for non legislative purposes.

Rep Seaton - The list for our mail outs are not available to the general public and if we use it- it is only legal if we make the list available to the general public.

Dan - another exception 5(B) says that a limitation does not prevent the use for non legislative purposes.

Rep Seaton - operating under the assumption we could use the list when we campaign but that is not consistent with the law.

Rynnieva - have Dan make a determination and come up with an amendment for tomorrow.

Rep Gruenberg - Page 2 sub paragraph A-5-B - you may not use.....for use in and he read it into the record.

Rep Seaton unless the mailing list was available to the general public we could not use it for a non legislative purpose. Wants a clarification.

Joyce - ethics made an advisory opinion and said if you take your constituent data base and you use it for campaign purposes it was a diminimus use of state resources and so it could be used for non legislative use. She will provide it to the committee.

Dan - look at 24.60.030 (a)(1) lawful gratuity - should say gift - under - conforming change.

Rep Seaton - prepare a conforming change.

Amendment No. 7 - to 24.60.030 - a.1 - change gratuity to gift under 24.60.075 or 24.60.080.

Without objection passed Amendment No. 7.

Rep Gruenberg - noticed that Rep Gara did have an issue and will offer it.

Rep Gara - present a problem in ethics law that deserves attention. I still do not have language. Right now we have a problem with the law. Situation with honest legislator will go to ethics staff and they get advice, but the law says you can't rely on the advice, but you can have a complaint filed against you and if the advice was wrong you get an ethics violation. And if you get a hearing and the advice was wrong you get an ethics violation. Your opponent uses it against you. So your option is to take informal advice you can't rely on or require a full hearing, unreasonable, expensive and wrong, but there is no middle ground. But if you ask in writing and give all the info they want and you get an opinion you rely on and if this is an

issue that is not that clear then hold a hearing but you are allowed to rely on the advice until the hearing is held. You have to get advice and rely on it. As for hearing it will take 60 days and you can't help constituents for 60 days. Proposal is to supply info to staff and if they decide a close issue, get a hearing, but you have some thing to have in the meantime. Right now the honest legislature can be held liable doing what they were told they could do.

Rep Seaton - a bit out of the bounds of what we were given as a subcommittee.

Rep Johnson said he would like to see this tomorrow and some examples. Deal with it tomorrow.

Rep Seaton - sounds like you are saying the ethics wants advice even though informal advice is given all the time.

5:05:19 PM
Tomorrow come when the committee gets together. Get to ethics committee tonight.

Adjourned 5:06p.m.

Nancy Manly

From: Katie Koester

Sent: Wednesday, March 25, 2009 6:01 PM

To: Nancy Manly

Nancy,

From what I understand from the HSTA subcommittee meeting today the additional requests of legal outside of changes to the CS were:

1) A legal opinion explaining what "of representation" adds to AS 24.60.990(a)(17). Why is it in the section and what would be the change in interpretation if "of representation" was taken out?
2) A legal opinion discussing the prohibition of using mailing list for non legislative purposes, AS 24.60.030 (2)(B). Could this statute be interpreted to mean that legislators may not use a mailing or email list that they have collected as a legislator for a campaign purpose?

I also have 2 advisory opinions of my desk from Ethics, I trust that you got thoose as well and will provide them to the committee (2004-01 and 2005-01)

Katie Koester
Legislative Aide
Rep. Seaton
907.465.2028

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th, Suite 230
Anchorage, AK
(907) 269-0150
FAX: 269-0152

Mailing Address:
P.O. Box 101468
Anchorage, AK
99510-1468

April 23, 2004

ADVISORY OPINION 2004-01

Subject: Conflict of Interest – Constituent Information

RE: Use of constituent information gathered by a legislator.

You are a legislator and therefore covered by the Legislative Ethics Code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived your right to confidentiality under AS 24.60.160(b).

Statement of Facts

You have asked the following questions:

1. Can constituent information gathered by a candidate who is subsequently elected to office be used by the legislator during his or her term of office?

2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

You characterized the information referred to in the questions as:

A. Voter information obtained from the Division of Elections for a small fee.

B. Information obtained from public sources such as Permanent Fund recipients and corporation and business licenses databases which can be downloaded by anyone from public agency internet sites for free or for a small fee.

C. Information gathered about individual constituents during a legislator's term, including email addresses, phone and fax numbers, and issue information.

D. Similar constituent information as in C obtained during a candidate's campaign.

Discussion

In this document

- "constituent" means a natural person residing within a legislator's district;
- "information" means contact information including name and address as well as any other information and facts known about the contact such as issues and legislation the contact is interested in;
- "database" means an organized body of related information which is in a format read by computer database programs.

1. Can constituent information gathered by a candidate who is subsequently

elected to office be used by the legislator during his or her term of office?

This question involves a legislator using, for legislative purposes, information gathered in the course of an election campaign, described in D above. This information was obtained using private resources. There is no prohibition in the ethics code on a legislator using private resources for legislative purposes, so a legislator may use for legislative purposes information gathered during non-legislative time without the use of legislative resources.

> 2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

It is assumed in this answer that "information gathered by a legislator" is information collected for the legislator, described in C above, with the help of legislative staff employed to handle constituent concerns using legislative equipment. This information is being gathered for the benefit of the legislator in performing public duties. As long as the purpose is to assist the legislator in performing current legislative duties, the building and maintenance of a database containing constituent information is permitted using legislative resources. As is the case with the files maintained by a legislator's office for legislative use, a database is considered to be the confidential property of the legislator.[1]

There is a general prohibition against using legislative resources for non-legislative purposes:

> (a) A legislator or legislative employee may not . . . (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

AS 24.60.030(a)(2). However there is an exemption for a de minimis use:

> [AS 24.60.030(a)(2)] does not prohibit (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

We find that it is considered to be a de minimis use of public assets under AS 24.60.030(a)(2)(A) for a legislator to make a copy of a database created or maintained in the legislator's own office for personal or campaign use.[2]

---

[1] When the legislator leaves office, the files and information belong to the legislator. A legislator's files, including information such as databases on a legislator's office computers are considered confidential.

[2] This opinion does not condone the unauthorized copying of copyright protected information.

In regard to voter information and other publicly available databases, the information described in A and B above, a legislator may obtain this information for legislative purposes. This information would probably be combined into the legislator's constituent database. As discussed above, a legislator can make a copy of the legislator's own database for personal or campaign purposes.

In the case of purchased databases, there may be copyright issues if a person copies a database rather than purchasing another license for separate use. If the legislator wants another copy of a commercial database, a separate license, if required, should be purchased with personal funds.

Conclusion

For the reasons stated above, the committee finds that constituent information gathered by a candidate using private resources can be used by that person if subsequently elected to serve as a legislator, and that constituent information gathered by a legislator using legislative resources such as staff time and equipment for legislative purposes may be copied and used for personal or campaign use by a legislator as a de minimis use of public assets under AS 24.60.030(a)(2)(A).

Adopted by the Select Committee on Legislative Ethics on April 23, 2004

Members present and concurring in this opinion were:

H. Connor Thomas, Chair
Representative Mary Kapsner
Representative Norman Rokeberg
Senator Kim Elton
Senator Ben Stevens
Dennis "Skip" Cook, public member
Ann Rabinowitz, public member
Marianne Stillner, public member

Member present & abstained from voting because not present for entire discussion:

Herman G. Walker, public member

BRC:mdr:lmb
04-164.mdr

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th, Suite 230
Anchorage, AK
(907) 269-0150
FAX: 269-0152

Mailing Address:
P.O. Box 101468
Anchorage, AK
99510-1468

November 9, 2005

ADVISORY OPINION 2005-01

Subject: Conflict of Interest – Legislative Contacts with Administrative Decision Maker

RE: AS 24.60.030(i) and legislative contacts with administrative decision makers

You are a legislator and therefore covered by the legislative ethics code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived your right to confidentiality under AS 24.60.160(b).

Statement of Facts

You have asked several specific questions in regard to AS 24.60.030(i).[1] This subsection makes it a violation of the legislative ethics code for a legislator or legislative employee to "attempt to influence the outcome of an administrative hearing by directly or indirectly

---

[1] This new subsection of AS 24.60.030, "Prohibitions related to conflicts of interest and unethical conduct," became effective July 1, 2005. The office of administrative hearings, created effective July 1, 2004, began hearing administrative proceedings that began on or after July 1, 2005. Sec. 92(a), ch. 163, SLA 2004. No previous advisory opinions have discussed AS 24.60.030(i).

This new subsection provides:

> (i) Except for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the
>
> (1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or
>
> (2) fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

contacting or attempting to contact" a decision maker in an administrative adjudication. Such communication is only permitted if the communication with the decision maker is made in the presence of all parties to the adjudication, and made a part of the record; or, if the fact and substance of the communication is promptly disclosed to all parties and made part of the record.

You ask how AS 24.60.030(i) will be applied in the following situations.

1. Can a legislator[2] contact a decision maker without trying to influence the outcome of the case by asking the decision maker:
   a. if certain documents had been filed;
   b. whether a file was complete; or
   c. if there was other information that could be provided.

2. Who has the duty to disclose a contact to all parties in an adjudication under AS 24.60.030(i)(2)? What if the legislator does not know the identity or contact information of other parties?

3. If a legislator decides to advocate on behalf of a constituent, does that legislator have a duty to disclose the fact and substance of the contact to all parties to the hearing and make the contact a part of the record? Shouldn't the agency have the burden of distributing the substance of the contact with a decision maker to all parties?

Discussion

The provisions of AS 24.60.030(i) will only apply to an administrative matter that has progressed to a hearing. A legislator or legislative staff member may contact any administrative department with questions regarding a matter that is not the subject of a pending administrative adjudication.[3]

The ethical standards which prohibit ex parte contacts by legislators and legislative employees recognize that impartial fact finders and decision makers are an essential part of the due process of law.[4] Administrative decision makers are required to be impartial

---

[2] All references in this opinion to a legislator also apply to legislative employees subject to AS 24.60.

[3] It may be difficult to determine from a constituent whether the matter of concern has reached the stage that this ethical prohibition applies so care should be taken to avoid contacting any person or entity that has the authority to make a final decision. It may be prudent for a legislator to make a call to the department administering a matter, to determine the appropriate person to contact for the information, in order to avoid inadvertently contacting a decision maker.

[4] Under the Alaska Constitution, a person may not "be deprived of life, liberty, or property, without due process of law." The Alaska Supreme Court has interpreted this provision as requiring an impartial fact finder. In re Robson, 575 P.2d 771 (Alaska 1978); K & L Distributors, Inc. v. Murkowski, 486 P.2d 351 (Alaska 1971). Questioning of a decision-maker while the case is pending impairs the impartiality of the judicial process. It may even invalidate the decision reached in the matter, causing the whole matter to be reheard. "To subject an administrator to a searching examination as to how

and may not engage in ex parte communications.[5] An ex parte communication is a contact or communication (personal communications or some form of evidence) with the decision maker that takes place outside the presence of all parties to the proceeding.

1. Obtaining information on behalf of a constituent in regard to an administrative adjudication.

While a legislator or legislative staff member may contact an administrative department with questions regarding a matter, once that matter is assigned to a hearing officer or other decision maker there should be no direct contact with the decision maker.

Once a matter is in a hearing process, questions to the administrative unit should be limited to procedural matters and case information. The answers to those questions can most likely be answered by a person other than the decision maker. For example, if the office of administrative hearings has jurisdiction of the matter, that office will be able to provide information about the case file without impairing the impartial role of the hearing officer.[6] If the adjudication is not within the jurisdiction of the office of administrative

---

and why he reached his decision in a case still pending before him, . . . sacrifices the appearance of impartiality - the *sine qua non* [essential condition] of American *judicial* justice . . . ." Pillsbury v. F.T.C., 354 F.2d 952, 963 (5th Cir Ct. of Appeals, 1966). "Legislative intervention which occurs during a pending decisional process of an agency endangers and may undermine the integrity of the ensuing decision, and it has been held that administrative decisions which are based in whole or in part on pressures emanating from the legislature may be invalid." 73 C.J.S. Sec. 31, Public Administrative Law and Procedure.

[5] For example *see* AS 44.62.630 in the Administrative Procedure Act, also *see* AS 44.64.050(b) regarding the standard of conduct for hearing officers in the office of administrative hearings.

[6] *See* AS 44.64.030 for the jurisdiction of the office of administrative hearings. Child support services and permanent fund dividend adjudications are under the jurisdiction of the office of administrative hearings.

AS 44.64.050 provides fundamental standards of conduct required of hearing officers. The chief administrative law judge is required to adopt regulations for a code of conduct.

> . . . The following fundamental canons of conduct shall be included in the code: in carrying out official duties, an administrative law judge or hearing officer shall
>
> (1) uphold the integrity and independence of the office;
>
> (2) avoid impropriety and the appearance of impropriety;
>
> (3) perform the duties of the office impartially and diligently;
>
> (4) conduct unofficial activities in ways that minimize the risk of conflict with the obligations of the office; and

hearings, the agency holding the hearings will have procedures to insulate the decision makers from improper contacts. Legislators subject to AS 24.60 will be expected to make every effort to obtain basic procedural or case file information about a matter under administrative adjudication by means other than contacting the hearing officer. Also, in response to your questions, it would not be the proper function of any administrator in the adjudicatory process to give advice in response to your questions, but only to provide information about the case file, parties, scheduling or other routine procedural matters.[7]

> (5) refrain from inappropriate activity in seeking employment with another agency or employer or in seeking reappointment.

The proposed draft regulations at 2 AAC 64.030 provide:

> (b) The following guidelines apply to any determination on whether a hearing officer of administrative law judge has adhered to the canons [of hearing officer conduct]:
>
> (1) The requirement to uphold the integrity and independence of the office, and of the hearing function, dictates that a hearing officer or administrative law judge establish and personally observe high standards of conduct and avoid improper ex parte communications with private and agency parties on the subject of a hearing request; so that the integrity and independence of the office and hearing function will be preserved;
>
> . . .
>
> (3) The requirement to perform the duties of the office or of the hearing function impartially and diligently dictates that a hearing officer or administrative law judge . . .
>
> (B) not initiate, permit, or consider improper ex parte communications, . . .

"improper ex parte communications" are defined at 2 AAC 64.990(13) as

> a direct or indirect, oral or written communication between a decision maker and a party to a proceeding, or another person trying to influence the decision maker, which occurs outside the presence of the other parties, and without a notice and an opportunity to participate being given to the other parties.

[7] You have asked "can a legislator contact a decision maker to ask if there was other information that could be provided." This would require the decision maker or the administrator in charge of the case file to advise the legislator on how to conduct the case or influence the outcome. This would not be appropriate, as it impairs the impartiality of the hearing process.

In the rare instance that a communication with a hearing officer occurs the legislator must comply with AS 24.60.030(i)(2): the "fact and substance of the contact [must be] promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact [must be] made a part of the record." A failure by a legislator to properly make this disclosure may be held to be a violation of the legislative ethics code.

The committee is also concerned that ex parte contacts, by a legislator or legislative employee, with a decision maker creates an appearance of a violation of the ethics code. This is based on AS 24.60.010 which provides in pertinent part:

> The legislature finds that
>
> . . .
>
> (2) a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest;
>
> . . .

2. Who has the duty to disclose a contact to all parties in an adjudication under AS 24.60.030(i)(2)? What if the legislator does not know the identity or contact information of other parties?

If contact with a decision maker does occur, a legislator or legislative employee must notify all parties and make the contact a part of the record. Complying with this requirement of disclosure to all parties is the responsibility of the legislator who initiated the ex parte contact, not the adjudicator hearing the matter. Information about the other parties to the matter can be obtained as discussed in the answer to the first question.

There is no obligation to contact all parties in regarding communications with administrative departments or personnel initiated by a legislator when a matter has not yet been assigned to a hearing officer.

3. If a legislator decides to advocate on behalf of a constituent, does that legislator have a duty to disclose the fact and substance of the contact to all parties to the hearing and make the contact a part of the record? Shouldn't the agency have the burden of distributing the substance of the contact with a decision maker to all parties?

As discussed above, a legislator may advocate and communicate on an administrative matter on behalf of a constituent. AS 24.60.030(i) only applies once an administrative matter is assigned to an administrative decision maker. In the event that a legislator makes an ex parte contact with a decision maker, the requirements of AS 24.60.030(i)(2) apply. The ethics statute clearly places the responsibility for compliance with (i)(2) on the legislator making the ex parte contact, not the adjudication agency or the administrative agency who is a party to the matter.

Conclusion

For the reasons stated above, the committee finds that a legislator or legislative employee seeking information on an administrative matter that is assigned to a hearing officer, individual, board or commission should not attempt to contact the decision maker assigned to that matter.[8] Information about the procedural aspects of the matter may be sought from the office administering the hearing, but not the decision maker directly. If a legislator or legislative employee makes an ex parte communication and fails to comply with the requirements of AS 24.60.030(i)(2), it could be considered a violation of the legislative ethics code.

AS 24.60.030 does not apply to contacts in regard to administrative matters that have not been assigned to an administrative decision maker.

Adopted by the Select Committee on Legislative Ethics on November 9, 2005.

Members present and concurring in this opinion were:
Herman G. Walker, Jr. Chair
Representative Max Gruenberg
Senator Hollis French
Senator Ben Stevens
Ann Rabinowitz, public member
Marianne Stillner, public member
H. Connor Thomas, public member

Members dissenting from this opinion were:

Members absent were:
Representative Bruce Weyhrauch
Dennis "Skip" Cook, public member

BRC:med
05-475.med

[8] The only exceptions are described in AS 24.60.030(i):

> [e]xcept for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case . . .

Nancy Manly

From: Katie Koester

Sent: Wednesday, March 25, 2009 6:01 PM

To: Nancy Manly

Nancy,

From what I understand from the HSTA subcommittee meeting today the additional requests of legal outside of changes to the CS were:

1) A legal opinion explaining what "of representation" adds to AS 24.60.990(a)(17). Why is it in the section and what would be the change in interpretation if "of representation" was taken out?
2) A legal opinion discussing the prohibition of using mailing list for non legislative purposes, AS 24.60.030 (2)(B). Could this statute be interpreted to mean that legislators may not use a mailing or email list that they have collected as a legislator for a campaign purpose?

I also have 2 advisory opinions of my desk from Ethics, I trust that you got thoose as well and will provide them to the committee (2004-01 and 2005-01)

Katie Koester
Legislative Aide
Rep. Seaton
907.465.2028

HB 205

HOUSE COMMITTEE REPO T

(7)
Date Referred to Committee: March 25, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 4-14-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 205**

"An Act relating to the permanent fund dividend of an otherwise qualified individual who dies during the qualifying year; and providing for an effective date."

HB 205 PERMANENT FUND DIVIDEND FOR DECEASED

Recommends it be replaced with [ ] HCS *or* [✓] CS *for* HB 205 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____

CS Forthcoming

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent _____ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV	1	✓		

PREVIOUS

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Pete Petersen	Petersen	X			
Peggy Wilson	WILSON	X			
M. S. Gruenberg	Gruenberg				
Paul Seaton	SEATON		X		
Chair:	LYNN	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re CS for HB 205 26-LS0780\R

4/14/09
House State Affairs passed out CS for HB 205 Version R as written. Please draft a final CS. Thanks.

Nancy Manly

From: Paul Grossi
Sent: Monday, April 13, 2009 5:01 PM
To: 'Nancy_Manly@legis.state.ak.us'
Subject: CSHB 105 changes

Nancy,

The drafted CS for HB 205 makes three changes:

1) Page 1, line 12, "**received a dividend for the year immediately before the qualifying year and,**" was inserted after the words, "If and individual who"

2) Page 1, Line 13, "**after having been a state resident for at least 180 days immediately before the date of death,**" was inserted after the words, "dies during the qualifying year"

3) Pag 1, Line 14, "**and (a)(5)**" was inserted after the words, "notwithstanding (a)(1)-(3)"

These changes are proposed to deal with technical issues raised by Chris Poag from the Department of Law and Debbie Bitney from the Permanent Fund Dividend Division. The changes in the CS satisfy their concerns.

Thanks,

Paul Grossi
Staff for Rep. Crawford

[redacted]

[redacted]

Sent: Tuesday, April 07, 2009 9:58 AM

[redacted]

Subject: FW: Senate Bill #171

[redacted]

Sent: Tuesday, April 07, 2009 9:54 AM
To: Sen. Kevin Meyer
Subject: Senate Bill #171

Dear Senator Meyer,

I am writing today to voice my unqualified support for Senate Bill #171. I personally find it ludicrous that an otherwise qualified individual is ineligible for the PFD should he or she have the misfortune to die outside the specified time frame of January to March! Were these people (assuming Alaska residency and otherwise being eligible) somehow ***not*** Alaskans during the previous 9 months in the cycle? I commend you wholeheartedly for introducing this bill and I assure you that I will continue to support it during its travels through the legislative process.

God bless you!
Molly Palmer
Valdez, Alaska

26-LS0780\R
Cook
4/11/09

CS FOR HOUSE BILL NO. 205( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE CRAWFORD

A BILL

FOR AN ACT ENTITLED

"An Act relating to the permanent fund dividend of an otherwise qualified individual who dies during the qualifying year; and providing for an effective date."

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

* **Section 1.** AS 43.23.005(h) is amended to read:

(h) If an individual who would otherwise have been eligible for a permanent fund dividend dies after applying for the dividend but before the dividend is paid, the department shall pay the dividend to a personal representative of the estate or to a successor claiming personal property under AS 13.16.680. If an individual who would otherwise have been eligible for a dividend and who did not apply for the dividend dies during the application period, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. **If an individual who received a dividend for the year immediately before the qualifying year and who would otherwise have been eligible for a dividend dies during the qualifying year after having been a state resident for at**

least 180 days immediately before the date of death, notwithstanding (a)(1) - (3) and (a)(6) of this section, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. Notwithstanding AS 43.23.011, **an** [THE] application for **a** [THE] dividend may be filed by the personal representative or the successor **under this subsection** at any time before the end of the application period for the next dividend year.

*** Sec. 2.** This Act takes effect January 1, 2010.

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

SPONSOR STATEMENT: HOUSE BILL 205

HB 205 is a bill that provides for the issuance of a Permanent Fund Dividend Check to the caretaker of a deceased persons estate should that person die during the eligibility year. Passage of this bill would assist families with the costs associated with the loss of a family member and would close a loophole that now exists in the Permanent Fund Dividend distribution system.

Currently, children born on the last possible day of the eligibility year receive PFD, college students are able to spend the majority of their time outside the State of Alaska and still receive a PFD, and Alaskan residents are allowed to spend up to 180 days outside of Alaska and still receive a PFD. HB 205 levels the playing field for those who would have been eligible but died during the eligibility year. A persons loved ones should not be disadvantaged by a technicality.

HB 205 is a common sense bill that will decrease the burden on already suffering families. Those who are eligible to receive a Permanent Fund Dividend check from the State of Alaska should retain that eligibility whether they live for one day of the year or three hundred. HB 205 helps families and does not disadvantage the state.

E-mail: Representative_Harry_Crawford@legis.state.ak.us

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

House Bill No. 205: Sectional Summary

Section 1: Amends AS 43.23.005 (h) to include language that allows for a person who would have otherwise been eligible for a Permanent Fund Dividend check dies during the qualifying year, then a personal representative of the estate can receive their dividend.

Section 2: Provides for an effective date of January 1st 2010

E-mail: Representative_Harry_Crawford@legis.state.ak.us

Zac Mannix

From: vada moore [vada@alaska.net]

Sent: Wednesday, February 18, 2009 3:28 PM

To: Rep. Kyle Johansen; Rep. Peggy Wilson; Rep. Beth Kerttula; Rep. Andrea Doll; Rep_William_ThomasJr@legis.state.ak.us; Rep. Woodie Salmon; Rep_Michael_Kelly@legis.state.ak.us; Rep. David Guttenberg; Rep. Scott Kawasaki; Rep. Jay Ramras; Rep. John Coghill; Rep. John Harris; Rep. Carl Gatto; Rep. Wes Keller; Rep. Mark Neuman; Rep. Bill Stoltze; Rep. Anna Fairclough; Rep. Nancy Dahlstrom; Rep. Bob Roses; Rep. Max Gruenberg; Rep. Harry Crawford; Rep. Sharon Cissna; Rep. Les Gara; Rep. Berta Gardner; Rep. Mike Doogan; Rep. Lindsey Holmes; Rep. Bob Buch; Rep. Craig Johnson; Rep. Ralph Samuels; Sen. Kevin Meyer; Rep. Bob Lynn; Rep. Mike Hawker; Rep. Kurt Olson; Rep. Mike Chenault; Rep. Paul Seaton; Rep. Gabrielle LeDoux; Rep. Bryce Edgmon; Rep. Mary Nelson; Rep. Richard Foster; Rep. Reggie Joule; carol okamoto

Subject: Decease participants-PFD filings

Gentlemen and Ladies of the House of Representatives of the State of Alaska:
On Feb 8, 2009 there was an article titled Permanent Fund Dilemma. The 2 ladies speaking to the reporters of the Peninsula Clarion, had just lost their (husband and/or father) in November 2008. They have been advised by PFD officials they're family member (deceased) are not eligible for a permanent fund check when and if one comes out to the populance in the fall of 2009. Now both of said gentlemen have been and were long-time residents of Alaska and have not spent 1/2 of each winter stateside anytime, if ever, so the could still be able to receive PFD checks.
I would like to lodge a suggestion to you at this time: If a person passes away and has been in the state, at least, 6 months of that said year applied for then, they should be eligible for 50% of PFD check coming out the following fall; if passed away after 3/4 part of the year after September, then said deceased estate should be able to collect 75% of said dividend. Now those 2 gentlemen both passed in November, wouldn't you think their estates should receive the 75% amount and estate would then be able to file between Jan., 1, 2009, and the deadline of March 31, 2009, to receive a said check in the fall pay-outs.
Would you please investigate this matter and try to enact a legislative motion and/or law to cover this problem. Please feel free to contact me at POBox 585, Anchor Point, Alaska 99556 by mail, or call either of these phone #'s 907-235-9606, or 907-399-9880.

Thank you so much, Vada L Moore, Alaska Citizen since 7-13-63

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address:
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry T. Crawford, Jr.
East Anchorage District 21
E-mail: Representative_Harry_Crawford@legis.state.ak.us
Website www.akdemocrats.org

MEMORANDUM

To: Rep. Bob Lynn
From: Rep. Harry Crawford
Re: HB 205
Date: 04//5/2009

I respectfully request that the House State Affairs Committee schedule a hearing for HB 205, "An Act relating to the permanent fund dividend of an otherwise qualified individual who dies during the qualifying year".

With this request I am submitting a current version of this bill, a sponsor statement, a sectional analysis, and any supporting material. Upon scheduling a list of teleconference needs will be submitted to the Chair along with the names of those who will be testifying.

Please contact myself or my staff should you require any further information or have any questions regarding this hearing request.

HB

225

HOUSE COMMITTEE REPC Γ

(7)
Date Referred to Committee: April 10, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 4-14-09

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 225**

"An Act relating to the State Procurement Code; relating to the procurement of supplies, services, professional services, construction services, state fisheries products, state agricultural products, state timber, and state lumber; relating to procurement preferences; relating to procurement by the office of the ombudsman, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, and other state agencies and public corporations; and providing for an effective date."

HB 225 STATE PROCUREMENT CODE

Recommends it be replaced with [ ] HCS *or* [✓] CS *for* HB 225 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ CS

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent _____ Committee

Forthcoming

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Adm	1			✓
COR	2			✓

PREVIOUS

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Grenberg	–			
Peggy Wilson	WILSON	X			
Pete Petersen	PETERSEN	X			
Chair: Paul Seaton	SEATON	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re HB 225 26-LS0791\R

4/14/09
House State Affairs passed out HB 225 Version R amended. Please draft a final CS to include the conceptual amendment:

Conceptual Amendment #1 (Seaton)
Require two successive annual reports to legislature, after the effective date, on Section 14 and Section 28 of the bill. b1

House Bill 225
Sponsor Statement
"An Act relating to the State Procurement Code..."

House Bill 225 makes numerous changes to the state's procurement code. Collectively, these changes streamline the procurement code to ensure consistent application of the law, and results in a more understandable, efficient procurement process. These changes are needed to prevent failed procurements and provide modern procurement tools and techniques to the State's workforce.

Streamlining is accomplished in part by simplifying the application of our many preferences, which is currently complex and confusing for our employees and vendors. The bill makes application of the preferences uniform – currently, preferences do not contain the same language so they must be applied differently. The bill eliminates the Alaska Offeror's preference and Employers of people with disabilities preference. The Offeror's preference is only contained in regulations, has no basis in statute, and limits competition for our RFPs. The employers of people with disabilities preference is a seldom used preference that is very difficult for the Division of Vocational rehabilitation to administer. As of today there are only two vendors receiving this preference, both of which are in the business of leasing office space to the state. This bill also eliminates bidder preferences for our office lease procurements and contains an Alaska Veteran preference, which mirrors HB 24.

Another problem we have in state procurement is solved by clarifying the Alaska business license requirements. Under the current law, a high percentage of offers on high dollar, complex projects are rejected on a technicality. The bill also modifies protest procedures to reduce frivolous protests, and affords us greater flexibility to renegotiate contracts.

HB 225 modernizes our Procurement Code and provides tools and techniques to our employees that have proven cost effective in the private sector. For example, the bill allows for electronic receipt of bids, and for successive rounds of negotiations which has been a very successful technique in other states and the private sector. The bill also eliminates the requirement to maintain outdated vendor lists in a time when commerce is moving online.

The dollar threshold for informal or small procurements is also increased, which will simplify many purchases that are now procured via time consuming and more complex formal procurement rules.

It has been many years since our procurement code has been modernized. These changes will position us to become more efficient and cost effective in our purchasing and contracting.

I urge your support on this piece of legislation.

HB 225
Sectional Analysis

*** Section 1:** Amends AS 24.55.275

Updates a citation to reflect the renumbering of a preference.

*** Section 2:** Amends AS 36.15.050(a)

Amends the local agricultural preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

*** Section 3:** Amends AS 36.15.050(b)

Amends the local fisheries preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

*** Section 4:** Amends AS 36.15.050 by adding a new subsection (h)

Amends the local agricultural and fisheries preferences to disallow a bidder from being granted both a local agricultural/fisheries preference and an Alaska product preference under another statute.

*** Section 5:** Amends AS 36.30.015(e)

Updates a citation to reflect the renumbering of a preference.

*** Section 6:** Amends AS 36.30.015(f)

Adds the Alaska Industrial Development Authority and the Alaska Energy Authority to a list of agencies exempt from the procurement code and updates a citation to reflect the renumbering of a preference.

*** Section 7:** Amends AS 36.30.015(h)

Updates a citation to reflect the renumbering of a preference.

*** Section 8:** Amends AS 36.30.020

Updates a citation to reflect the renumbering of a preference.

*** Section 9:** Amends AS 36.30.030

Updates a citation to reflect the renumbering of a preference.

*** Section 10:** Amends AS 36.30.080(f)

Increases the threshold limit for small procurements of leased space from 3,000 square feet to 7,000 square feet, consistent with section 24.

*** Section 11:** Amends AS 36.30.110(b)

Clarifies Alaska business license requirements for competitive sealed bids and qualification for the Alaska bidder preference. Change would require bidders to show proof of their Alaska Business License prior to award, but would require the license at the time of bid submission in order to qualify for the Alaska bidder preference.

*** Section 12:** Amends AS 36.30.130(a)

Eliminates reference to a procurement officer's use of vendor lists, reflecting the repeal of the statute establishing the vendor lists.

*** Section 13:** Amends AS 36.30.170

Updates a citation to reflect the renumbering of the Alaska bidder preference.

*** Section 14:** Amends AS 36.30 by adding a new section 36.30.195

Adds a new section to the procurement code that allows for multi-step revised sealed bidding, a new process that will allow a procurement officer to use successive steps of sealed bidding to obtain the best and final bid price for purposes of award.

*** Section 15:** Amends AS 36.30.200(b)

Minor modification to language regarding construction procurements.

*** Section 16:** Amends AS 36.30.210(b)

Clarifies construction contractor registration requirements, now explicitly requiring registration before award of a contract.

*** Section 17:** Amends AS 36.30.210(e)

Clarifies Alaska business license requirements for competitive sealed proposals and qualification for the Alaska bidder preference using language consistent with that used in Section 11.

*** Section 18:** Amends AS 36.30 by adding a new section 36.30.245

Adds a new section to the procurement code that allows for multi-step negotiations. This has essentially the same effect as Section 14, but it applies to the competitive sealed proposal process. A procurement officer will be able to gain the best and final proposal for purposes of award through successive steps of negotiation and proposal submission.

*** Section 19:** Amends AS 36.30.250(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 20:** Amends AS 36.30 by adding a new section 36.30.255

Directs procurement officers to consider only the preferences listed in statute when applying preferences under a competitive sealed proposal process, and instructs them to apply the preferences only to the price portion of a proposal. This effectively eliminates the Alaska offeror's preference contained in regulation at 2 AAC 12.260(e), and which has no basis in statute.

*** Section 21:** Amends AS 36.30 by adding a new section 36.30.290

Adds a new section allowing an agency to accept electronic bids and proposals.

*** Section 22:** Amends AS 36.30.308(b)

Revises the approval process for innovative procurements to require review by the chief procurement officer or commissioner of the department of transportation and public facilities rather than the Department of Law, consistent with other alternate procurement processes.

*** Section 23:** Amends AS 36.30.310

Revises the statute relating to emergency procurements, clarifying that the commissioner of administration shall adopt regulations defining emergency conditions and who shall be responsible for written determinations of the basis for an emergency procurement.

*** Section 24:** Amends AS 36.30.320(a)

Increases the threshold under which a state agency may use informal procurement process to $100,000 for goods and professional services, to $200,000 for construction, and 7,000 square feet for lease of space.

*** Section 25:** Amends AS 36.30 by adding a new section 36.30.321

Adds a new section consolidating the Alaska bidder and related preferences formerly at AS 36.30.170(b). This section also simplifies the qualification for the disability and employment program preferences, eliminates the seldom used employers of people with disabilities preference, and establishes the Alaska veteran preference and its qualifications.

*** Section 26:** Amends AS 36.30.322(a)

Modifies the use of local forest products statute to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other preferences.

*** Section 27:** Amends AS 36.30.336 by repealing and reenacting

Clarifies which preferences are cumulative and which may not be combined. (example: bidders can not claim both an employment program preference and disabled bidder preference)

*** Section 28:** Amends AS 36.30 by adding a new section 36.30.364

Adds a new section allowing the chief procurement officer to renegotiate a contract without an additional competitive process, subject to several conditions ensuring that the renegotiated contract is at least as favorable to the state as the original contract and that the additional period of performance does not exceed five years.

*** Section 29:** Amends AS 36.30.560

Clarifies the timeframe within with a protest must be filed.

*** Section 30:** Amends AS 36.30.565(b)

Clarifies the meaning of "good cause" requiring that a protestor show why they could not file a protest before the deadline, allowing a procurement officer to better determine whether to consider a filed protest that is not timely.

*** Section 31:** Amends AS 36.30 by adding a new section 36.30.567

Adds new sections relating to protests, requiring a protest filing to be accompanied by a refundable $250 filing fee.

*** Section 32:** Amends AS 36.30 by adding a new section 36.30.572

Adds a new section to allow a procurement officer to temporarily delay award of a contract in order to address a protest, rather than issue a stay of award.

*** Section 33:** Amends AS 36.30.655

Eliminates reference to the removal of debarred or suspended persons from vendor lists, reflecting the repeal of a law establishing the vendor lists.

*** Section 34:** Amends AS 36.30.700

Adds language to the cooperative purchasing section that allows the state to more effectively use contracts established by other public procurement units.

*** Section 35:** Amends AS 36.30.700 by adding a new subsection (b)

Adds a new section explicitly authorizing the state to participate in cooperative procurements with other governments and waiving procurement preferences that otherwise prevent other public purchasing units from participating in cooperative purchase agreements sponsored or conducted by the state.

*** Section 36:** Amends AS 36.30.850(b) by adding new paragraphs

Adds new exemptions for; contracts for lease space located outside the state; for contracts for investigative services entered into by the department for the Alaska personnel board, the office of public advocacy, and the Alaska Public Offices Commission; for commodities used in the prisoner employment program; and for professional training.

*** Section 37:** Amends AS 36.30.900 by adding new paragraphs

Moves the definition for "Alaska bidder" (formerly contained in 36.30.170(b)), and adds new definitions for "electronic signature," "in writing," "signature," and "written."

*** Section 38:** Amends AS 36.90.049(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 39:** Amends AS 38.35.017(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 40:** Amends AS 44.62.310(d)

Adds language to clarify that the Administrative Procedure Act does not apply to meetings with offerors under the multi-step negotiation process contained in section 18 or to renegotiation of contracts in section 29.

*** Section 41:** Amends AS 44.88.085(a)

Technical change regarding application of the Administrative Procedure Act to AIDEA.

*** Section 42:** Repeals statutes establishing the vendor list and relationships to other preferences.

*** Section 43:** Amends the uncodified law of the State of Alaska

Clarifies the application of the procurement act to pending solicitations during transition period.

*** Section 44:** Amends the uncodified law of the State of Alaska

Changes the catch line of 36.30.360 from "Determination of responsibility" to Determination of nonresponsibility."

*** Section 45:** Effective Date

Language making the procurement act effective immediately.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 225**
() Publish Date:

Identifier (file name): **HB225-DOA-DGS-04-10-09**
Dept. Affected: Administration
Title: An Act relating to the state procurement code...
RDU: Centralized Administrative Services
Component: Purchasing
Sponsor: Reps. FAIRCLOUGH
Requester: (H)STA
Component Number: 60

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	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	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: *(Attach a separate page if necessary)*

This legislation would make numerous changes to the state's procurement code. Collectively, these changes streamline the procurement code to ensure consistent application of the law, and would result in a more understandable, efficient process. It has been many years since our procurement code has been modernized. These changes are needed to help reduce the number of failed procurements, simplify confusing and burdensome requirements, and to allow for modern procurement techniques.

Prepared by: Vern Jones, Director — Phone 465-4817
Division: General Services — Date/Time 4/10/09 11:52 AM
Approved by: Kevin Brooks — Date 4/10/2009
Deputy Commissioner

(Revised 03/30/08 OMB)

Alaska State Legislature

Representative Anna Fairclough – House District 17

MEMORANDUM

Date: April 8th, 2009

To: Representative Bob Lynn
Chair

From: Representative Anna Fairclough

Re: HB --- "An Act relating to the State Procurement Code; relating to the procurement of supplies, services, professional services, construction services, state fisheries products, state agricultural products, state timber, and state lumber; relating to procurement preferences; relating to procurement by the office of the ombudsman, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, and other state agencies and public corporations; and providing for an effective date." (Pending Introduction)

I am requesting a hearing for HB --- "An Act relating to the State Procurement Code; relating to the procurement of supplies, services, professional services, construction services, state fisheries products, state agricultural products, state timber, and state lumber; relating to procurement preferences; relating to procurement by the office of the ombudsman, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, and other state agencies and public corporations; and providing for an effective date" at your earliest convenience. I have attached relevant materials for your committee.

Thank you in advance for your consideration.

Attachments:
I. Sponsor Statement
II. Section Analysis
III. HB ---

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB225-DOC-OC-04-13-09**
() Publish Date:

Identifier (file name): HB225-DOC-OC-04-13-09
Dept. Affected: DOC
Title "Act relating to State Procurement Code; procurement of supplies services, professional services, construction services, and preferences ..."
RDU Adminstration & Support
Component Office of the Commissioner
Sponsor Representative Fairclough
Requester Governor
Component Number 694

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation provides language revisions that offer clarification or flexibility in handling certain procurement situations.

Passage of this legislation should have no financial impact to the Department of Corrections.

Prepared by: Leslie Houston, Director
Phone (907) 465-3339
Division Administration and Support
Date/Time 4/13/09 10:53 AM
Approved by: Dwayne Peeples, Deputy Commissioner
Date 4/13/2009
Department of Corrections

HB

241

R

Alaska State Legislature

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801
Phone: (907) 465-3743
1-800-565-3743
Fax: (907) 465-2381

INTERIM ADDRESS:
600 E Railroad Avenue
Wasilla, AK 99654
Phone : 907-376-3725
Fax: (907) 376-4768

Representative Carl Gatto

Memorandum

Date: February 15, 2010

To: Representative Bob Lynn, Chairman
House State Affairs Committee

From: Representative Carl Gatto, Chair
House Military and Veteran Affairs Committee

Re: Explanation of Changes between original (CS) for HB 241, 26-LS0680\E Kane and new (CS) for HB 241, 26-LS0680\S Kane

Some members of the committee expressed concern over areas of ambiguity or confusion in the first committee substitute, 26-LS0680\E. The new CS, 26-LS0680\S seeks to address these concerns by:

- Deleting the word "all" on page 2, line 14, to guard against misinterpreting the statute as a mandate for the Department of Revenue to investigate *every* publically traded company, as opposed to just those companies relating to Alaska's investment portfolio

- Eliminating confusion regarding page 3, lines 26-27. The more ambiguous "gasoline and related products" was changed to "petroleum products."

- Adding new wording, Section 1 (j) (3), on page 3, lines 28-30, to more clearly define "direct investment." Under the new language, "direct investment" that would be subject to the $20,000,000 threshold for scrutiny would "directly and significantly contribute to the enhancement of Iran's ability to develop petroleum resources, military equipment, or nuclear capabilities."

- Inserting a new provision, Section 1 (j) (9) (B), on page 4, line 31 through page 5, line 1. This new language makes clear that, for the purposes of HB 241, a parent company is only responsible for the practices of a subsidiary or jointly-owned company in which it holds a controlling interest. This provision was designed to

address the concern that the bill could be broadly read to include any dealings with a "scrutinized company" or narrowly read to exempt any company that merely formed a subsidiary to administer its interests in Iran.

26-LS0680\S
Kane
2/15/10

CS FOR HOUSE BILL NO. 241( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GATTO, Ramras, Keller, Lynn

A BILL

FOR AN ACT ENTITLED

"An Act relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in certain companies that do business in Iran, and restricting those investments; and providing for an effective date."

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

*** Section 1.** AS 37.10 is amended by adding new sections to read:

Sec. 37.10.072. Iran divestment. (a) The commissioner or a fiduciary of a fund subject to this title may not invest in and shall cause the fund to divest ownership, if any, in the publicly traded securities of a company that the commissioner places on a list of scrutinized companies that conduct or have direct investments in business operations in Iran. Divestment of an ownership interest in a scrutinized company shall occur within 90 days after it is placed on the list created and updated under (c) of this section if the investment is managed by the commissioner or fiduciary. On or before January 31 of each year, if a fund has investments managed by an outside investment

manager, the fiduciary shall direct the investment manager not to invest in and to divest, within 90 days after receiving the direction, ownership, if any, in the publicly traded securities of a company that the commissioner places on a list of scrutinized companies that conduct or have direct investments in business operations in Iran.

(b) If an investment in a fund under (a) of this section is managed as a commingled investment or other business structure in which the fund is not the sole owner of the investment interest or if the investment is an index fund, the provisions of (a) of this section do not apply. The commissioner shall require that, on or before January 31 of each year, the fiduciary submit letters to the managers of commingled investments requesting the managers to consider removing from the commingled investment any company on the list of scrutinized companies.

(c) The commissioner shall create and update quarterly, before the first day of the immediately succeeding calendar quarter, a list of scrutinized companies.

(d) The commissioner shall make reasonable efforts to investigate publicly traded companies to determine whether the company is a scrutinized company for the purposes of this section. In conducting the investigation, the commissioner may use the following:

(1) credible publicly available information regarding companies with active business operations compiled by nonprofit organizations, research firms, international organizations, and government entities;

(2) information supplied by institutional investors that have divested from scrutinized companies.

(e) The commissioner shall provide written notice and an opportunity to comment in writing to each company identified as a scrutinized company under (d) of this section.

(f) The commissioner shall add a company identified under (d) of this section to the list of scrutinized companies not earlier than 90 days after providing written notice under (e) of this section, unless the company demonstrates to the commissioner that it does not conduct or have direct investments in business operations in Iran that exceed the $20,000,000 threshold referred to in Public Law 104-172 (Iran Sanctions Act of 1996), as amended.

(g) The commissioner shall make every effort to avoid erroneously adding a company to the list of scrutinized companies. The commissioner shall verify that a company qualifies as a scrutinized company before adding it to the list of scrutinized companies.

(h) Annually, on or before January 31, the commissioner shall advise the president of the senate, the speaker of the house of representatives, and the United States presidential special envoy for Iran of the companies on the list of scrutinized companies.

(i) The commissioner may adopt regulations under AS 44.62 to carry out the purposes of the section.

(j) In this section,

(1) "business operations"

(A) means power production activities, mineral extraction activities, oil-related activities, or the production of military equipment;

(B) does not include operations that the company can demonstrate

(i) are conducted under a license from the United States Department of the Treasury, Office of Foreign Assets Control, or are expressly exempted from licensure under federal law;

(ii) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(iii) consist of providing goods or services that are used only to promote health or education;

(iv) have been voluntarily suspended; or

(v) consist of the retail sale of petroleum products;

(2) "commissioner" means the commissioner of revenue;

(3) "direct investment" means an investment that directly and significantly contributes to the enhancement of Iran's ability to develop petroleum resources, military equipment, and nuclear capabilities;

(4) "Government of Iran" means the government of the Islamic

Republic of Iran or its instrumentalities or political subdivisions and companies owned or controlled by the Islamic Republic of Iran;

(5) "military equipment"

(A) means weapons, arms, military supplies, and equipment that readily may be used for military purposes;

(B) includes radar systems or military-grade transport vehicles, supplies, or services sold or provided directly to a force actively participating in armed conflict in Iran;

(6) "mineral extraction activities"

(A) means exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys, oxides, or ore;

(B) includes activities involving gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc;

(7) "oil-related activities" means

(A) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; and

(B) constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure;

(8) "power production activities" includes establishing power-generating plants or hydroelectric dams, selling or installing components for the project, or providing service contracts related to the installation or maintenance of the project;

(9) "scrutinized company" means

(A) any company engaging in any and all active business operations that are subject or liable to sanctions under Public Law 104-172 (Iran Sanctions Act of 1996), as amended, and that involve the maintenance of a company's existing assets or investments in Iran, or the deployment of new investments to Iran that meet or exceed the $20,000,000 threshold referred to in Public Law 104-172 (Iran Sanctions Act of 1996), as amended; or

(B) the subsidiary of a company described in (A) of this

paragraph if the parent company holds a controlling interest in the subsidiary.

Sec. 37.10.073. Divestment exemptions, immunity, and indemnification. For actions taken, or inaction done in good faith, in compliance with AS 37.10.072, the commissioner of revenue, a fiduciary, an agent, attorney, trustee, officer, employee, staff, custodian, research firm, or investment manager under contract of the commissioner of revenue or the fiduciary, and board members complying with AS 37.10.220 or AS 37.13.120 are

(1) exempt from a conflicting state statutory or common law obligation, including an obligation with respect to choice of an asset manager, investment fund, or investment for the securities portfolio of the public fund;

(2) immune from liability under state or local law;

(3) indemnified and held harmless by the State of Alaska from claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including costs and attorney fees, and against all liability, losses, and damages of any nature that the commissioner of revenue, the fiduciary, the agent, attorney, trustee, officer, employee, staff, custodian, research firm, or investment manager under contract of the commissioner of revenue or the fiduciary, or the board member may, at any time, sustain because of a decision to restrict, reduce, or eliminate an investment made in compliance with AS 37.10.072; and

(4) immune from adverse licensing actions under AS 08.

*** Sec. 2.** AS 37.10.220 is amended by adding a new subsection to read:

(d) The board shall comply with AS 37.10.072.

*** Sec. 3.** AS 37.13.120 is amended by adding a new subsection to read:

(f) The board shall comply with AS 37.10.072.

*** Sec. 4.** REPEAL. AS 37.10.072, 37.10.220(d); and AS 37.13.120(f) are repealed on the day after

(1) Iran is removed from the United States Department of state's list of countries that have been determined to repeatedly provide for acts of international terrorism; or

(2) the United States Congress or the President of the United States, through legislation or executive order, declares that the Iran divestment authorized in AS 37.10.072

Alaskan Iran Divestiture Testimony February 9, 2010

Mr. Chairman, and members of the committee, my name is David Gottstein. I am a resident of Anchorage. I am also the Alaska Chair of the American Israel Public Affairs Committee, an American advocacy group that tries to foster good relations between the United States and Israel, America's staunchest strategic ally, and the only true democracy in the Middle East.

The United States, along with The West, is under attack by Radical Islam. Those trying to convert us or to destroy our way of life are using every means at their disposal to attack us in their Holy War against us. Terror incidents seem to be reported almost weekly from around the world. Almost all rooted in Radical Islam. Not ordinary Islam, but Radical Islam, that unfortunately controls most of the Muslim world. Recent arrests in Houston, Denver and Brooklyn these last few months alone, along with the Fort Hood massacre, and now the Christmas Day thwarted airline suicide attempt, all point to the fact that we are under siege even on American soil. Even though Al Qaeda, the Taliban, and the other Radical Islamic movements spreading terror and death across the Middle East and Asia, are a loose collection organizationally, they all share the embracing of jihad, or Holy War, against the West. And that makes their collective arsenal deadly and sizable. At the heart of the Radical Islamic movement, and the most dangerous, is Iran. That is because the intersection of their vast oil wealth controlled by a Radical Islamic government determined to develop nuclear weapons has allowed them to come dangerously close to completing their decade's long march to join the nuclear club. Almost every week, including this week, we hear about their progress. The prospects of a nuclear Iran, capable of launching intercontinental ballistic missiles as far away as Europe, with Israel clearly in its sights, and the danger of them spreading weapons to their allies, along with for sure starting a nuclear arms race in the region, all has to be balanced against the far reaching negative consequences should military action need to be used to derail Iran's weapons program. The only good outcome is that we get Iran to change their behavior. And stop weapons development. Included in our arsenal of tools to cause that change include diplomacy, sanctions, blockades, and then military action. Diplomacy hasn't, and isn't likely to work. That leaves sanctions as the appropriate tool at this time. A peaceful approach. Sanctions have in the past had mixed results for sure. However recent revelations about the advancement and state of Iran's nuclear weapons program necessitate our using all peaceful means possible to solve the problem before having to consider harsher actions. The hope is that a collection of enhanced sanctions, including State divestitures, and the passage of the Iran Sanctions Act

passed just two weeks ago at the Federal level, intended to thwart an already weak economy, including limiting the importation of refined petroleum products, representing 40% of their domestic fuel use, might push the rulers to change their behavior. If only to preserve their own power. During a period of intense public pressure as a result of the stolen election last June, there is an extraordinary opportunity to influence things positively. And hopefully avoid the need for a discussion about military options. President Amahdinejad, a self-proclaimed holocaust denier, clearly has in his sights, the wiping of Israel off the face of the planet. Which, if he were to try and accomplish through nuclear means, would have devastating and calamitous economic consequences worldwide as the oil rich Middle East would turn into a firestorm.

As respected legislators, you are most often consumed by the onslaught of requests you get from constituents, groups, and colleagues. Especially during the shortened legislative session. All of which pretty much having to do with local and or statewide issues. Seldom, however, are you asked to grapple with national issues. But today is different. Today you have the opportunity to join in the most serious war effort since the defeat of the Nazis and the Soviet Union, by joining forces with all our men and women in uniform who are deeply engaged in the war against Radical Islam and their tactics of terror. Twenty other states have already directed their investment pools to divest from international companies that are engaged in Iranian oil and gas development to the tune of $20 million or more. It is already illegal for American companies to do so.

We would respectfully ask for your support of legislation calling for the divestiture of stocks within the Permanent Fund, the State Retirement Programs, in addition to the Budget Reserve account, not yet included in the Committee Substitute, that have been "Scrutinized" and identified by credible sources as commercial collaborators with Iran in their oil and gas development, to be monitored by the Commissioner of Revenue. In order to not have to reinvent a very complicated wheel, we strongly suggest piggybacking on a technical approach adopted by other jurisdictions such as Florida, where it already works. As contemplated in this legislation, The Commissioner would be required every 90 days to identify companies that, according to credible sources, have been "Scrutinized" as having exceeded the $20 million threshold investment in Iran, and therefore qualify as divestment candidates. After which, should any State portfolios contain candidate companies, the Commissioner shall notify said candidates of the designation, offering them 90 days to defend and or cure. He or she will also instruct the State's asset managers who have such companies in State portfolios to divest said companies in the event the

company fails to cure or properly defend. The legislation will have no other impact on any other state or commercial activity that may be occurring among any of the parties or others inside or outside the State of Alaska, other than stocks may be sold. The legislation before you, like the one just passed at the federal level, would, among other things, protect fiduciaries from deviating from the prudent investor rules regarding unbiased investing. Scrutinized companies would be under extra institutional selling because of the designation, and therefore more likely to suffer price decay than under normal circumstances.

In defense of America, and in support of our troops, and for the Western World in general, we make this special request. It is the one official and meaningful thing you can do to join the fight in the war against terror. We thank you in advance for your support, and are available to answer questions you may have.

Thank you again for allowing me to testify.

David Gottstein

Alaskan Iran Divestiture 2010

Dear Fellow American:

The United States, along with The West, is under attack by radical Islam. Terror incidents occur around the world, and virtually all of these are born of a radical Islamic agenda of achieving political ends through violence. Recent arrests in Houston, Denver and Brooklyn these last few months alone, along with the Fort Hood massacre, and now the Christmas Day thwarted airline suicide attempt, reveal that such acts of violence continue even here at home.

At the heart of the radical Islamic movement, and the most dangerous, is the Islamic Republic of Iran. The combination of their vast oil wealth controlled by a radical, ideological regime determined to develop nuclear weapons has propelled Iran to the forefront of the United States national security concerns. Iran is today dangerously close to completing a decades-long march to establish itself as a nuclear power. The prospects of a nuclear Iran, capable of launching ballistic missiles as far away as Europe, with Israel clearly in its sights, would permanently strategically destabilize the region.

The likelihood of Iran providing weapons to their allies, along with the certainty of provoking a nuclear arms race in the region, all has to be weighed against the far reaching negative consequences should military action need to be used to derail Iran's nuclear weapons ambitions. The only potentially positive outcome is convincing Iran to change their behavior beforehand by convincing Iran's regime that having a nuclear weapon will cost them more than not having one. This is the reason, and probably the only reason that Iran's radical leadership will abandon nuclear weapons development.

President Obama has embarked on a policy of diplomatic engagement with the regime, only to be rebuffed time and again. Included in the U.S. diplomatic arsenal are real and effective sanctions, including Iran divestment. Diplomacy alone hasn't and isn't likely to work. Divestment efforts by states can support and enhance sanctions, making a broad and effective sanctions regime a better, more effective tool at this time. This then is a peaceful approach, but one that can have a real impact on the policy options of Iran.

The hope is that a collection of enhanced sanctions, including State divestitures, and the passage of the Iran Refined Petroleum Sanctions Act, or IRPSA, will establish this mechanism. These efforts enjoy wide support at the Federal level, and are intended to impact an already weak and vulnerable Iranian economy. As a result of the falsified Iranian election last June, this is a period of intense internal public pressure on the regime, and a greater international awareness on the brutality of Iran's rulers than ever before. This is an extraordinary opportunity to influence Iran's actions positively, and hopefully avoid the need for a discussion about military options.[Please see the attached Wall Street Journal Op-Ed piece.]

As a respected state legislator, you are most often taken up with requests from constituents, groups, and colleagues, and even more so during a shortened legislative session. Seldom, however, are you asked to grapple with national issues or international affairs. But today is different. Today you have the opportunity to join forces with freedom-loving people around the world, and all our men and women in uniform who are engaged in the war against radical Islam and their tactics of terror. Nineteen states and the District of Columbia have already directed their public funds to divest from international companies that have invested $20 million or more in Iranian oil and gas development. It is already illegal for American companies to participate in the development of Iran's oil and gas sector.

We respectfully ask for your support of legislation calling for the divestiture of stocks within the Permanent Fund and State Retirement Programs that have been "Scrutinized" and identified by credible sources as commercial collaborators with Iran in their oil and gas development, to be monitored by the Commissioner of Revenue.

These divestment and reporting mechanisms are complex, but have been done elsewhere in the U.S. quite effectively. We strongly suggest piggybacking on a technical approach adopted by other jurisdictions such as Florida, where it already works. As contemplated in this legislation, The Commissioner would be required every 90 days to identify companies that, according to credible sources, have been "Scrutinized" as having exceeded the $20 million threshold investment in Iran, and therefore qualify as divestment candidates. After which, should any State portfolios contain candidate companies, the Commissioner shall notify said candidates of the designation, offering them 90 days to defend and or cure. He or she will also instruct the State's asset managers who have such companies in State portfolios to divest said companies in the event the company fails to cure or successfully defend. The legislation will have no other impact on any other state or commercial activity that may be occurring among any of the parties or others inside or outside the State of Alaska, other than stocks may be sold. From an investment point of view, stepping out of the way of potentially falling stocks where institutional selling has been mandated, would be prudent in itself.

In defense of America, in support of our troops, and for the cause of liberty in general, we make this special request. It is one truly meaningful thing you can do to join the fight in the war against terrorism. We thank you in advance for your support, and are available to answer questions you may have.

Sincerely;.....David Gottstein 907-230-1031

Iran Divestment Campaigns by State as of June 2009

11:10 AM Aug 10, 2009

States that have enacted Iran divestment legislation:

Arizona – May 2008
California – October 2007
Florida – June 2007
Georgia – May 2008
Illinois – September 2007
Indiana – May 2009
Louisiana – July 2007
Maryland – May 2008
Minnesota – May 2009
Michigan – July 2008
Nevada – June 2009
New Jersey – January 2008
Utah – March 2009
Washington, DC – March 2009

States that have adopted Iran divestment policies:

Colorado – January 2009
Missouri – June 2006
New York – November 2007
Ohio – June 2007
Texas – September 2008
Washington – March 2008

with many more hopefully

States considering Iran divestment legislation or policies:

Colorado (Announced, January 2009)
Massachusetts (Reintroduced – January 2009)
Mississippi (2 bills failed, January 2009)
New York (Bill in Assembly – January 2009)
Virginia (Bill failed, February 2009)
Washington (Bill in House – January 2009)

Table 3: Scrutinized Companies with Activities in the Iran Petroleum Energy Sector

No companies were added this quarter.

Company	Country of Incorporation	Date of Initial Scrutinized Classification
China Petroleum & Chemical Corp (CPCC) Sinopec	China	September 19, 2007
CNPC Hong Kong Ltd.	Hong Kong	September 19, 2007
ENI	Italy	September 19, 2007
Gas District Cooling (Putrajaya) Sdn Bhd	Malaysia	April 14, 2009
Gazprom	Russia	September 19, 2007
Gazprom Neft	Russia	September 16, 2008
GS Engineering & Construction Corp.	S. Korea	September 16, 2008
GS Holdings	S. Korea	September 19, 2007
Indian Oil Corp Ltd (IOCL)	India	September 19, 2007
Inpex Corp.	Japan	September 19, 2007
Kingdream PLC	China	April 14, 2009
KLCC Property Holdings Bhd	Malaysia	April 14, 2009
Midciti Resources Sdn Bhd	Malaysia	September 19, 2007
MISC Bhd	Malaysia	September 19, 2007
MISC Capital Ltd.	Malaysia	April 14, 2009
Mosenergo	Russia	September 16, 2008
Oil & Natural Gas Corp (ONGC)	India	September 19, 2007
Optimal Olefins Sdn Bhd	Malaysia	September 19, 2007
Persian Gold PLC	United Kingdom	July 28, 2009
PetroChina	China	September 19, 2007
Petroliam Nasional (Petronas)	Malaysia	September 19, 2007
Petronas Capital Limited	Malaysia	September 19, 2007
Petronas Dagangan Bhd	Malaysia	September 19, 2007
Petronas Gas Berhad	Malaysia	September 19, 2007
Repsol YPF	Spain	September 19, 2007
Royal Dutch Shell PLC	United Kingdom	September 19, 2007
Shell International Finance BV	Netherlands	October 27, 2009
Sinopec Finance	China	April 14, 2009
Sinopec Kantons Holdings Ltd	Bermuda	September 19, 2007
Sinopec Shanghai Petrochemical	China	September 19, 2007
Sinopec Yizheng Chemical Fibre	China	March 25, 2008
Snam Rete Gas	Italy	September 19, 2007
StatoilHydro	Norway	September 19, 2007
Total (Nigeria) PLC	Nigeria	March 25, 2008
Total SA	France	September 19, 2007
# of Companies	**35**	

26-LS0680\E
Kane
2/8/10

CS FOR HOUSE BILL NO. 241( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GATTO, Ramras, Keller

A BILL

FOR AN ACT ENTITLED

"An Act relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in certain companies that do business in Iran, and restricting those investments; and providing for an effective date."

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

* **Section 1.** AS 37.10 is amended by adding new sections to read:

Sec. 37.10.072. Iran divestment. (a) The commissioner or a fiduciary of a fund subject to this title may not invest in and shall cause the fund to divest ownership, if any, in the publicly traded securities of a company that the commissioner places on a list of scrutinized companies that conduct or have direct investments in business operations in Iran. Divestment of an ownership interest in a scrutinized company shall occur within 90 days after it is placed on the list created and updated under (c) of this section if the investment is managed by the commissioner or fiduciary. On or before January 31 of each year, if a fund has investments managed by an outside investment

manager, the fiduciary shall direct the investment manager not to invest in and to divest, within 90 days after receiving the direction, ownership, if any, in the publicly traded securities of a company that the commissioner places on a list of scrutinized companies that conduct or have direct investments in business operations in Iran.

(b) If an investment in a fund under (a) of this section is managed as a commingled investment or other business structure in which the fund is not the sole owner of the investment interest or if the investment is an index fund, the provisions of (a) of this section do not apply. The commissioner shall require that, on or before January 31 of each year, the fiduciary submit letters to the managers of commingled investments requesting the managers to consider removing from the commingled investment any company on the list of scrutinized companies.

(c) The commissioner shall create and update quarterly, before the first day of the immediately succeeding calendar quarter, a list of scrutinized companies.

(d) The commissioner shall make reasonable efforts to investigate all publicly traded companies to determine whether the company is a scrutinized company for the purposes of this section. In conducting the investigation, the commissioner may use the following:

(1) credible publicly available information regarding companies with active business operations compiled by nonprofit organizations, research firms, international organizations, and government entities;

(2) information supplied by institutional investors that have divested from scrutinized companies.

(e) The commissioner shall provide written notice and an opportunity to comment in writing to each company identified as a scrutinized company under (d) of this section.

(f) The commissioner shall add a company identified under (d) of this section to the list of scrutinized companies not earlier than 90 days after providing written notice under (e) of this section, unless the company demonstrates to the commissioner that it does not conduct or have direct investments in business operations in Iran that exceed the $20,000,000 threshold referred to in Public Law 104-172 (Iran Sanctions Act of 1996), as amended.

(g) The commissioner shall make every effort to avoid erroneously adding a company to the list of scrutinized companies. The commissioner shall verify that a company qualifies as a scrutinized company before adding it to the list of scrutinized companies.

(h) Annually, on or before January 31, the commissioner shall advise the president of the senate, the speaker of the house of representatives, and the United States presidential special envoy for Iran of the companies on the list of scrutinized companies.

(i) The commissioner may adopt regulations under AS 44.62 to carry out the purposes of the section.

(j) In this section,

(1) "business operations"

(A) means power production activities, mineral extraction activities, oil-related activities, or the production of military equipment;

(B) does not include operations that the company can demonstrate

(i) are conducted under a license from the United States Department of the Treasury, Office of Foreign Assets Control, or are expressly exempted from licensure under federal law;

(ii) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(iii) consist of providing goods or services that are used only to promote health or education;

(iv) have been voluntarily suspended; or

(v) consist of the retail sale of gasoline and related products;

(2) "commissioner" means the commissioner of revenue;

(3) "Government of Iran" means the government of the Islamic Republic of Iran or its instrumentalities or political subdivisions and companies owned or controlled by the Islamic Republic of Iran;

(4) "military equipment"

(A) means weapons, arms, military supplies, and equipment that readily may be used for military purposes;

(B) includes radar systems or military-grade transport vehicles, supplies, or services sold or provided directly to a force actively participating in armed conflict in Iran;

(5) "mineral extraction activities"

(A) means exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys, oxides, or ore;

(B) includes activities involving gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc;

(6) "oil-related activities" means

(A) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; and

(B) constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure;

(7) "power production activities" includes establishing power-generating plants or hydroelectric dams, selling or installing components for the project, or providing service contracts related to the installation or maintenance of the project;

(8) "scrutinized company" means any company engaging in any and all active business operations that are subject or liable to sanctions under Public Law 104-172 (Iran Sanctions Act of 1996), as amended, and that involve the maintenance of a company's existing assets or investments in Iran, or the deployment of new investments to Iran that meet or exceed the $20,000,000 threshold referred to in Public Law 104-172, (Iran Sanctions Act of 1996) as amended.

Sec. 37.10.073. Divestment exemptions, immunity, and indemnification. For actions taken, or inaction done in good faith, in compliance with AS 37.10.072, the commissioner of revenue, a fiduciary, an agent, attorney, trustee, officer, employee, staff, custodian, research firm, or investment manager under contract of the

commissioner of revenue or the fiduciary, and board members complying with AS 37.10.220 or AS 37.13.120 are

(1) exempt from a conflicting state statutory or common law obligation, including an obligation with respect to choice of an asset manager, investment fund, or investment for the securities portfolio of the public fund;

(2) immune from liability under state or local law;

(3) indemnified and held harmless by the State of Alaska from claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including costs and attorney fees, and against all liability, losses, and damages of any nature that the commissioner of revenue, the fiduciary, the agent, attorney, trustee, officer, employee, staff, custodian, research firm, or investment manager under contract of the commissioner of revenue or the fiduciary, or the board member may, at any time, sustain because of a decision to restrict, reduce, or eliminate an investment made in compliance with AS 37.10.072; and

(4) immune from adverse licensing actions under AS 08.

*** Sec. 2.** AS 37.10.220 is amended by adding a new subsection to read:

(d) The board shall comply with AS 37.10.072.

*** Sec. 3.** AS 37.13.120 is amended by adding a new subsection to read:

(f) The board shall comply with AS 37.10.072.

*** Sec. 4.** REPEAL. AS 37.10.072, 37.10.220(d); and AS 37.13.120(f) are repealed on the day after

(1) Iran is removed from the United States Department of state's list of countries that have been determined to repeatedly provide for acts of international terrorism; or

(2) the United States Congress or the President of the United States, through legislation or executive order, declares that the Iran divestment authorized in AS 37.10.072 interferes with the conduct of United States foreign policy.

*** Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INITIAL IDENTIFICATION OF SCRUTINIZED COMPANIES. Within 90 days after the effective date of this Act, the commissioner of revenue shall diligently work to

identify all scrutinized companies in which a fund under AS 37 has direct holdings. The commissioner may use the sources in AS 37.10.072(d)(1) and (2), as enacted by sec. 1 of this Act, as appropriate, to identify a scrutinized company.

*** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

NOTICE. Not later than 30 days after the enactment of this Act, the Department of Law is directed to submit written notice to the Attorney General of the United States describing this Act.

*** Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 241**
() Publish Date:

Identifier (file name): HB241-DOR-TRS-2-5-10
Dept. Affected: Revenue

Title: Iran Divestiture
RDU: Treasury and Taxation
Component: ARMB/ARMB Custody

Sponsor: Representatives Gatto
Requester: House State Affairs
Component Number: 2813/2812

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Part-time	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Temporary	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

ANALYSIS: *(Attach a separate page if necessary)*

This bill requires the fiduciaries of the state's retirement systems, the Supplemental Annuity Plan and the deferred compensation plan to divest certain investments in publicly traded companies that conduct business operations or have direct investments in business operations in Iran. While Treasury believes that active and passive separate account managers will not charge additionally for divestment, Treasury will incur some costs in developing a list of companies that conduct or have direct investments in business operations in Iran. Other costs to be considered would include development of letters to fund managers of commingled investments, the opportunity cost of staff time to implement new policies and processes to implement this bill. The effect this bill will have on investment performance is unknown.

Prepared by: Pamela J. Leary, Comptroller; Jerry Burnett, Deputy Commissioner — Phone 465-2300
Division: Treasury — Date/Time 2-5-10; 4:28pm
Approved by: Ginger Blaisdell, Director — Date 2-5-10; 4:34pm
Administrative Services Division

(Revised 11/6/2009 OMB)

Alaska State Legislature

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801
Phone: (907) 465-3743
1-800-565-3743
Fax: (907) 465-2381

INTERIM ADDRESS:
600 E Railroad Avenue
Wasilla, AK 99654
Phone : 907-376-3725
Fax: (907) 376-4768

Representative Carl Gatto

Memorandum

Date: February 3, 2010

To: Representative Bob Lynn, Chairman
House State Affairs Committee

From: Representative Carl Gatto, Chair
House Military and Veteran Affairs Committee

Re: Explanation of Changes between HB 241 Original and (SS) for HB 241

The sponsor certainly intended to encourage vigilance on the part of the Department of Revenue in ensuring state funds do not support insurgent training, advancements in nuclear weaponry, or dictatorial rule in Iran. It was not the goal of HB 241, though, to saddle the Department of Revenue with an overly broad, cumbersome new mandate. References throughout the original bill to "companies that conduct or have direct investments in business operations in Iran" were changed to "companies on the list of scrutinized companies." This change was meant to ensure that Department of Revenue did not undertake to investigate and identify *all* companies with a financial interest in Iran regardless of their relationship to Alaska state funds, but rather would understand its mandate was to monitor those companies meeting criteria laid out in the bill. This language change, as well as the establishment of a $20,000,000 threshold for scrutiny, brought HB 241 more in line with laws in other states and at the federal level. This facilitates cooperation with and utilization of other monitoring agencies. The monetary threshold also ensures that HB 241 targets government oil revenues rather than the Iranian people.

Page 4, lines 1-27 were added to ensure that HB 241 complied with the federal government's Iran Sanctions Act of 1996 and to reiterate that HB 241 is intended to further the goals of said act.

Page 5, lines 7-14 were added to insulate the state from lawsuits concerning any lost revenue due to divestment in Iran.

Alaska State Legislature

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801
Phone: (907) 465-3743
1-800-565-3743
Fax: (907) 465-2381

INTERIM ADDRESS:
600 E Railroad Avenue
Wasilla, AK 99654
Phone : 907-376-3725
Fax: (907) 376-4768

Representative Carl Gatto

Sponsor Statement
HB 241
Iran Divestiture

In 2007, the U.S. military released the first public evidence that Iran had been supplying Iraqi insurgents with weaponry and training.[1] Then, in 2008, the International Atomic Energy Agency released evidence "strongly suggesting" the country had experimented with nuclear weapons.[2] Finally, Mahmoud Ahmadinejad began his second term in August despite riots protesting perceived election fraud and international doubt as to the election's validity.[3] The Iranian regime is increasingly hostile and unstable. For the security of Alaska's citizens—indeed of all Americans—the Department of Revenue should join with twenty-one states, the federal government, and the District of Columbia in rejecting financial entanglements with such an overtly hostile foreign power.[4]

The Department of Revenue will, in order of priority:

- Compile a list of companies that conduct or have direct investments in business operations in Iran over a certain monetary threshold;
- Divest from and halt further investment in the publically traded securities of companies on the aforementioned list;
- Contact the managers of any comingled investments in which the state has a stake to strongly encourage divestment in Iran
- Annually update the list of companies with a financial interest in Iran and inform both the legislature and the public of any changes;

The bill is repealed if and when Iran is removed from the United States Department of State's list of countries that have been determined to repeatedly provide support for acts of international terrorism or the United States Congress or President of the United States officially declare the divestment outlined in the bill to impede U.S. foreign policy.

---

[1] McIntyre, Jamie. "Iraqi Insurgents Being Trained in Iran, U.S. Says." *Iraq: Transition of Power*. CNN, 12 Apr. 2007. <http://www.cnn.com/2007/WORLD/meast/04/11/iraq.main/index.html>.
[2] Sanger, David E. "Agency Confronts Iran with Evidence on Weapons." *The New York Times* 22 Feb. 2008, Middle East sec.
[3] Murphy, Dan. "Iran's Ahmadinejad Takes Office Scorning "Scowls" of Enemies." *The Christian Science Monitor* 05 Aug. 2009, Global News sec.
[4] "State Divestment Legislation- Enacted Laws." *Labor and Economic Development Committee*. National Conference of State Legislatures, 09 Apr. 2008. <http://www.ncsl.org/?tabid=13297>.

LEGAL SERVICES

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

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

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

MEMORANDUM February 3, 2010

SUBJECT: Sectional summary of SSHB 241 (Work Order No. 26-LS0680\R)

TO: Representative Carl Gatto
Attn: Thomas Reiker

FROM: Brian J. Kane BJK
Legislative Counsel

You have requested a sectional summary of SSHB 241, a bill relating to divestment in certain companies doing business with Iran.

Please note that a sectional summary of a bill is not an authoritative interpretation of a bill. The bill itself is the best statement of its contents.

Section 1 of the bill enacts a new section, AS 37.10.072. It states that the commissioner of revenue or a fiduciary of a fund listed in AS 37 may not invest in and shall cause the fund to divest in publicly traded securities of a company that the commissioner places on a list of scrutinized companies that conduct or have direct investments in business operations in Iran and must divest, if needed, within 90 days after the company is placed on the list. The commissioner is required to make reasonable efforts to investigate all publicly traded companies to determine whether the company is a scrutinized company that should be placed on the list. The commissioner must make certain reports based on the investigations into companies that may or may not be on the list.

Section 2 of the bill requires the Alaska Retirement Management Board to comply with the provisions of AS 37.10.072.

Section 3 of the bill requires the board of trustees of the Alaska Permanent Fund Corporation to comply with the provisions of AS 37.10.072.

Section 4 of the bill provides that the statutes enacted in the bill are repealed the day after Iran is removed from the United States Department of State's list of countries that have been determined to repeatedly provide for acts of international terrorism or, the United States Congress or the President of the United States, through legislation or executive order, declares that the Iran divestment authorized in the Act interferes with the conduct of United States foreign policy.

Section 5 of the bill requires the commissioner of revenue to diligently work on compiling the list of scrutinized countries within 90 days after the effective date of the Act.

Section 6 of the bill directs the Department of Law to submit written notice to the Attorney General of the United States describing this Act no more than 30 days after the effective date of the Act.

Section 7 of the bill provides for an immediate effective date.

BJK:med
10-010.med

Witness Biographies: State Affairs Hearing on HB 241-Iran Divestiture

About David Gottstein

David R. Gottstein is the founder and chief architect of Dynamic Capital Management and Efficient Tax. He has a B.S. in economics and finance from the University of Pennsylvania's Wharton School. After completing postgraduate work in Food Marketing Management at the University of Southern California,, Mr. Gottstein became active in Carr-Gottstein Co., Inc., a family owned grocery operation headquartered in Anchorage, Alaska. For the next ten years, he worked in various management capacities for the company. Positions held include Sales Manager, Senior Grocery Buyer, and Director of Distribution for a 250,000 square foot distribution center with 150 employees. Mr. Gottstein left the company twice during his tenure to gain additional professional experience. For six months in 1981 Mr. Gottstein was a legislative aide to the Alaska State Senate President. In late 1984, he arranged two internships at leading financial firms, including Furman Selz of New York, New York, and the Frank Russell Company of Tacoma, Washington. Mr. Gottstein has spent the last twenty years developing, refining, and utilizing proprietary advanced portfolio management tools that act as a foundation in the execution of portfolio management at Dynamic Capital Management. In 1998 he invented Efficient Tax, and in 2000 achieved the issuance of a patent on it by the U.S. Patent & Trademark Office. He is currently the Alaska Chair of the American Israel Public Affairs Committee.

What is AIPAC?

For more than half a century, the American Israel Public Affairs Committee has worked to help make Israel more secure by ensuring that American support remains strong. From a small pro-Israel public affairs boutique in the 1950s, AIPAC has grown into a 100,000-member national grassroots movement described by *The New York Times* as "the most important organization affecting America's relationship with Israel."

Political advocacy is one of the most effective ways in which AIPAC works to accomplish its mission. Each year, AIPAC is involved in more than 100 legislative and policy initiatives involving Middle East policy or aimed at broadening and deepening the U.S.-Israel bond.

AIPAC works to secure vital U.S. foreign aid for Israel to help ensure Israel remains strong and secure. AIPAC is working to promote strategic cooperation between the two nations, to develop sound U.S. anti-terrorist policies, to share homeland security techniques and technologies, and to stop rogue nations such as Iran from acquiring weapons of mass destruction.

These efforts are critical to Israel's security and to American interests in the Middle East and around the world. In addition to working closely with Congress, AIPAC also actively educates and works with candidates for federal office, White House, Pentagon and State Department officials, and other policymakers whose decisions affect Israel's future and America's policies in the Middle East. AIPAC keeps political leaders and citizen activists apprised of critical developments affecting the U.S-Israel relationship through publications such as the Near East Report and continually updated news and issues analysis.

While building support in Washington is essential, AIPAC is found wherever the future of the U.S.-Israel relationship could be affected. AIPAC has a network of 10 regional offices and nine satellite offices that help pro-Israel activists from Missoula to Miami learn how they can affect Israel's future and security by promoting strong ties with the United States.

Throughout the year and around the country, AIPAC sponsors exciting events and educational programs featuring leading members of Congress, policymakers and top analysts. AIPAC also works on hundreds of college campuses, teaching student activists how to answer Israel's detractors and how to use political involvement to build support for Israel.

The core of AIPAC's mission is building a base of citizen advocates who team with our expert staff to educate America's elected officials, policy makers and opinion leaders. But we also engage in many important initiatives to ensure that whatever the future holds, AIPAC will be positioned to effectively promote the U.S.-Israel relationship.

Among our most recent efforts is the Synagogue Initiative, which makes AIPAC information and staff available to congregations across America. AIPAC also reaches out to Christian, Hispanic, African American and other key community leaders to help ensure that Americans remain committed to a strong and vital U.S.-Israel relationship.

AIPAC is registered as a domestic lobby and supported financially by private donations. The organization receives no financial assistance from Israel, from any national organization or any foreign group. AIPAC is not a political action committee. It does not rate, endorse or contribute to candidates. Because it is a lobby, contributions to AIPAC are not tax deductible.

Alaskan Iran Divestiture 2010

Dear Fellow American:

The United States, along with The West, is under attack by radical Islam. Terror incidents occur around the world, and virtually all of these are born of a radical Islamic agenda of achieving political ends through violence. Recent arrests in Houston, Denver and Brooklyn these last few months alone, along with the Fort Hood massacre, and now the Christmas Day thwarted airline suicide attempt, reveal that such acts of violence continue even here at home.

At the heart of the radical Islamic movement, and the most dangerous, is the Islamic Republic of Iran. The combination of their vast oil wealth controlled by a radical, ideological regime determined to develop nuclear weapons has propelled Iran to the forefront of the United States national security concerns. Iran is today dangerously close to completing a decades-long march to establish itself as a nuclear power. The prospects of a nuclear Iran, capable of launching ballistic missiles as far away as Europe, with Israel clearly in its sights, would permanently strategically destabilize the region.

The likelihood of Iran providing weapons to their allies, along with the certainty of provoking a nuclear arms race in the region, all has to be weighed against the far reaching negative consequences should military action need to be used to derail Iran's nuclear weapons ambitions. The only potentially positive outcome is convincing Iran to change their behavior beforehand by convincing Iran's regime that having a nuclear weapon will cost them more than not having one. This is the reason, and probably the only reason that Iran's radical leadership will abandon nuclear weapons development.

President Obama has embarked on a policy of diplomatic engagement with the regime, only to be rebuffed time and again. Included in the U.S. diplomatic arsenal are real and effective sanctions, including Iran divestment. Diplomacy alone hasn't and isn't likely to work. Divestment efforts by states can support and enhance sanctions, making a broad and effective sanctions regime a better, more effective tool at this time. This then is a peaceful approach, but one that can have a real impact on the policy options of Iran.

The hope is that a collection of enhanced sanctions, including State divestitures, and the passage of the Iran Refined Petroleum Sanctions Act, or IRPSA, will establish this mechanism. These efforts enjoy wide support at the Federal level, and are intended to impact an already weak and vulnerable Iranian economy. As a result of the falsified Iranian election last June, this is a period of intense internal public pressure on the regime, and a greater international awareness on the brutality of Iran's rulers than ever before. This is an extraordinary opportunity to influence Iran's actions positively, and hopefully avoid the need for a discussion about military options.[Please see the attached Wall Street Journal Op-Ed piece.]

As a respected state legislator, you are most often taken up with requests from constituents, groups, and colleagues, and even more so during a shortened legislative session. Seldom, however, are you asked to grapple with national issues or international affairs. But today is different. Today you have the opportunity to join forces with freedom-loving people around the world, and all our men and women in uniform who are engaged in the war against radical Islam and their tactics of terror. Nineteen states and the District of Columbia have already directed their public funds to divest from international companies that have invested $20 million or more in Iranian oil and gas development. It is already illegal for American companies to participate in the development of Iran's oil and gas sector.

We respectfully ask for your support of legislation calling for the divestiture of stocks within the Permanent Fund and State Retirement Programs that have been "Scrutinized" and identified by credible sources as commercial collaborators with Iran in their oil and gas development, to be monitored by the Commissioner of Revenue.

These divestment and reporting mechanisms are complex, but have been done elsewhere in the U.S. quite effectively. We strongly suggest piggybacking on a technical approach adopted by other jurisdictions such as Florida, where it already works. As contemplated in this legislation, The Commissioner would be required every 90 days to identify companies that, according to credible sources, have been "Scrutinized" as having exceeded the $20 million threshold investment in Iran, and therefore qualify as divestment candidates. After which, should any State portfolios contain candidate companies, the Commissioner shall notify said candidates of the designation, offering them 90 days to defend and or cure. He or she will also instruct the State's asset managers who have such companies in State portfolios to divest said companies in the event the company fails to cure or successfully defend. The legislation will have no other impact on any other state or commercial activity that may be occurring among any of the parties or others inside or outside the State of Alaska, other than stocks may be sold. From an investment point of view, stepping out of the way of potentially falling stocks where institutional selling has been mandated, would be prudent in itself.

In defense of America, in support of our troops, and for the cause of liberty in general, we make this special request. It is one truly meaningful thing you can do to join the fight in the war against terrorism. We thank you in advance for your support, and are available to answer questions you may have.

Sincerely;.....David Gottstein 907-230-1031

Witness Biographies: State Affairs Hearing on HB 241-Iran Divestiture

Akiva Tor

Consul General of Israel, Pacific Northwest Region

Akiva Tor is the Consul General of Israel for the Pacific Northwest region. He has served as World Jewish Affairs Adviser to the President of Israel, as Director of the Israel Economic and Cultural Office in Taipei, as Deputy Director for Palestinian Affairs in the Israel Ministry of Foreign Affairs. He is a graduate of the Harvard University Kennedy School of Government and has written and lectured extensively on Jewish values in the foreign policy of Israel and on ethical considerations in international relations.

He served as a paratrooper in the Israel Defense Forces and as infantry captain in the IDF reserves. He is interested in running, mountain biking and ascending high places. Akiva is married to Naomi, a community social worker. Their home town is Beit Shemesh, near Jerusalem, and they have four children - Yonah, Zohar, Yehudah and Roni.

Witness Biographies: State Affairs Hearing on HB 241-Iran Divestiture

About Sarah Steelman



Sarah Steelman is currently serving as a professor at Missouri State University in their Executive in Residence program teaching a political science class in leadership and public policy change. She just finished a four year term as State Treasurer of Missouri serving as the 44th State Treasurer after having been elected in 2004. Steelman elected not to run again for State Treasurer and made an unsuccessful bid for Governor in 2008.

As Missouri Treasurer Steelman was responsible for the management of more than $19 billion in Missouri's annual revenue and managed the investment of over $3 billion in long- and short-term investments in the state's portfolio. She started the first terror-free investment fund in the nation which ensured that no taxpayer dollars are invested in terrorist sponsoring countries. Many other states have followed her lead enacting similar policies.

As treasurer Steelman served as chairman of the state's Higher Education Savings Board, which administers the Missouri Saving for Tuition, or MOST program and as Chairman of the Missouri Housing Development Commission. She also served as a member of the Missouri State Employee Retirement System and the Board of Fund Commissioners that oversees issuance of debt instruments by the state.

In 1998 and 2002, Steelman was elected to serve as the Senator for the 16th State Senatorial District. As a member of the State Senate, Steelman served as chairman of the Senate Committee on Commerce and the Environment. She served as a member of the Senate Committee on Aging, Families, Mental and Public Health; a member of the Senate Committee on Education; and a member of the Senate Committee on Governmental Accountability and Fiscal Oversight.

She also served on the Missouri Consolidated Health Plan Board of Trustees; the Joint Task Force on Terrorism, Bio-Terrorism and Homeland Security; and the Joint Committee on Rules.

Previously, Steelman served as deputy director of the Missouri Department of Natural Resources – Division of Geology and Land Survey. She also worked as an economist for the Department of Revenue and as an adjunct professor in economics at Lincoln University. She served as an investment broker and as the director of the Big Brothers and Big Sisters program in Rolla, a not-for-profit organization that matches children in need of attention with volunteer mentors.

Steelman holds a Bachelor of Arts degree in History and a Master of Arts degree in Economics from the University of Missouri – Columbia. She is married to David Steelman and is the mother of three boys – Sam, Joe, and Michael. Her stepdaughter, Amanda is married to Taylor Moore and lives in Springfield, Missouri with their baby Lily.

The Wall Street Journal Terror-Free Investing
Printed in The Wall Street Journal
By Sarah Steelman
JEFFERSON CITY, Mo. -- The idea of "shareholder democracy" is today much bruited about, but whatever connotations that term has acquired, at bottom it means investors have a "vote" -- that is, they can choose where to put their money, and where not. That kind of democracy assumes a new urgency in the post-9/11 world, as tens of billions of dollars are currently surging into countries that sponsor terrorism.

According to the independent research provider Conflict Securities Advisory Group (CSAG), there are some 485 publicly traded companies doing business with four regimes designated by the State Department as sponsors of terror. The activities of these mostly foreign-owned companies -- such as Total, Sinopec and BNP Paribas -- in terrorist-sponsoring states generate billions in revenues for the governments of Iran, Sudan, North Korea and Syria.
By so doing, these companies create part of the cash flow that enables these nations to underwrite the activities that our armed forces are fighting around the world. Were they to stop doing business with our enemies, it would be vastly more difficult for those regimes to sponsor terrorism, finance weapons of mass destruction programs and threaten -- or, in the case of Sudan, engage in -- genocide.

In this case, shareholders -- citizens -- have the power to influence. If American investors in these businesses -- not only institutional investors such as public pension systems, money managers, investment trusts and university endowments, but also individuals -- pressure companies to sever such business relations, they can become change agents in the financial sector and force multipliers for our troops abroad. It's high time we afford all American investors the opportunity to exert this influence by investing terror-free. That's why I am pleased to announce that the Missouri Investment Trust (MIT) became, in July of this year, the first public agency in America to implement a terror-free investment fund. This specially crafted, actively managed international fund screens out companies with ties to regimes involved with terrorism.

Our experience makes clear that it is possible for investors to hold these companies accountable for their business decisions by excluding their stocks from portfolios. We are proving that terror-free investing is a matter of *choice*, and that Wall Street will respond to the demand. What's more, it can be accomplished with leading investment firms and without sacrificing returns.

From a financial standpoint the results have been impressive. MIT, in conjunction with CSAG and Boston-based State Street Global Advisers, engaged in extensive due diligence. We back tested bidders' portfolios, for instance, and found that performance would not have been impaired over the past five years had the terror-free screen been in place.
The transition to the new fund was minimally disruptive. In fact, in the first quarter following its establishment, MIT's screened fund outperformed the MSCI EAFE index (the benchmark for international equities in developed Asian and European countries) by 74 basis points – showing

that this terror-free public fund will do well for Missourians while also doing good for America. This result should not be surprising. The Securities and Exchange Commission determined years ago that companies conducting business in U.S.-sanctioned nations are exposed to "global security risk" -- risk that, in some cases, can negatively affect share value. Sadly, and somewhat shockingly, the vast majority of fiduciaries have, to date, ignored this financial risk, to say nothing of the ethical considerations, when investing in these companies.

Terror-free investing should not, however, be limited to public funds. Elected officials, fund managers, American corporations and Wall Street ought to afford this investment option to the maximum degree possible.

Toward that end, in 2007, Missouri's 529 College Savings Advisor Plan will make available to all American investors the Roosevelt Anti-Terror Multi-Cap Fund (RATF) -- the only mutual fund in the country that is currently certified to exclude companies that have business ties to the terrorist-sponsoring states referenced. Additionally, Missouri is actively pursuing the inclusion of an international terror-free fund in our 529 advisor plan line-up.

Missouri is not alone in believing that Americans want to invest terror-free. Nationwide Financial has elected to make this same certified fund available to investors through its vehicle for corporate 401(k) plans. Recently, Swiss America, a tangible asset firm located in Arizona, became the first Nationwide 401(k) client to offer its employees the RATF option. The vast majority of Swiss America's employees took advantage of this option. Nationwide is exploring how to make a terror-free investment option more available to its over 25,000-member private sector plan base.

More importantly, this type of shareholder activism has a long record of success. Over 20 years ago, companies responded to such pressure by freezing their business relations with South Africa until apartheid was abolished. In short order, the government maintaining that oppressive practice was forced first to abandon it and then to relinquish power.

Lincoln said it best: "We -- even we here -- have the power, and bear the responsibility." This American culture of civic engagement has made all the difference: encompassing everything dumping tea into a harbor to buying war bonds to serving in the armed forces.

By choosing to invest terror-free, we can help cut off financing for terror-sponsoring governments, help our soldiers, make our investments less risky and make a difference in the contemporary fight for liberty. That's democracy.

Ms. Steelman is state treasurer of Missouri.

http://online.wsj.com/article/SB116606981566249923.html?mod=googlenews_wsj

The Committee on the Present Danger

fighting terrorism and the ideologies that drive it

The Honorable R. James Woolsey
The Honorable George P. Shultz
Co-Chairmen

Senator Jon Kyl
Senator Joseph Lieberman
Honorary Co-Chairmen

A Committee on the Present Danger Policy Paper:

IRAN - AN UPDATE

In December 2004 the Committee on the Present Danger published its initial policy paper on Iran, recommending a number of U.S. policy steps to achieve a democratic Iran.

Since then, Iran has continued dissembling over its nuclear program. The Militant Islamist Mahmoud Ahmadinejad became president of Iran last summer in an election that was neither free nor fair and that was boycotted by a majority of Iranians. He has issued a call to "wipe Israel off the face of the map" and denied that the Holocaust occurred. He has promised a "world without America," adding that such a goal is "attainable, and surely can be achieved."

Ahmadinejad has reiterated the objective of the constitution that has governed Iran since the 1979 revolution: perpetuation of theocracy and militant, offensive jihad. He has said: "The message of the [Islamic] Revolution is global ... Allah willing, Islam will conquer what? It will conquer all the mountain tops of the world." Hassan Abbassi, "intelligence" advisor to the Iranian president, has been specific about how that might be accomplished: "We have a strategy drawn up for the destruction of Anglo-Saxon civilization," he boasted. "We must make use of everything we have at hand to strike at this front by means of our suicide operations or by means of our missiles."

Ahmadinejad personifies the most radical of the Shi'ite Islamists who espouse theocracy and reject democracy. Their war against us began before 9/11. Such Militant Islamists cannot be appeased - they will wage war until they are stopped.

There is ample evidence that most Iranians do not endorse such radicalism - rather, they yearn for the opportunity to chart their own destiny unhindered by the regime's tools: the Revolutionary Guards, the Basij and the Morality Police.

Nearly a century ago, Iran adopted a constitution that established freedoms for its citizens – freedoms that have been lost. The ruling regime sponsors terrorism, represses human rights, jails dissidents, oppresses women, and is determined to have nuclear weapons. We believe the United States' policy objective must be regime change in Iran so that the Iranian people can join the international community and indeed the Free World; so that Iran can become a nation that does not repress its own people and threaten others, one with a freely-elected government accountable to the people, not to a tiny minority bent on theocratic dictatorship.

700 12th Street, N.W., Suite 800
Washington, D.C. 20005-3949

Mailing Address: P.O. Box 65196
Washington, D.C. 20035-5196

Tel: 202/778-1032
Fax: 202/659-7923

E-mail: info@fightingterror.org

We present the following proposals toward this objective of regime change. We stress that military options should be only a last resort.

PRESSURE IRAN'S GOVERNMENT

Defuse the nuclear threat posed by Iran. The International community's goal must be to prevent the development or acquisition of nuclear weapons by Iran's present rulers, who comprise the most radical regime in the Broader Middle East, a terrorist-sponsoring regime espousing explicitly hostile, aggressive and genocidal intentions.

In September the International Atomic Energy Agency voted 22-1 that Iran was in non-compliance with its governing statute. This vote was a necessary trigger to send the matter to the United Nations Security Council.

The issue is not whether Iran is entitled to have nuclear reactors to generate electricity; it is the current ruler's insistence on having the capability to enrich uranium and undertake other steps in the nuclear fuel cycle that will enable them to acquire nuclear weapons. The regime already has - with North Korean help - a major ballistic missile program. In time, the mating of these programs will threaten the security of many nations.

On Tuesday, January 10, at its Natanz facility, Iran removed the International Atomic Energy Agency's (IAEA) seals on its nuclear equipment. The Iranian government states that its purpose is to engage in "research." It is clear to any objective observer, given the full range of the government's duplicity and actions, that the real purpose is to obtain enriched uranium as a step toward producing weapons.

On Thursday, January 13, after nearly three years of fruitless negotiations, the EU-3 (Britain, France and Germany) declared the discussions with Iran at a "dead end" and urged that the matter be referred to the Security Council. A first step will be referral by the IAEA board to the Security Council.

Some say that any Security Council punitive action against Iran would be thwarted by a veto -- Russian, Chinese or both. But the Russians reacted quite negatively to Iran's rebuff of their recent proposal to enrich Iran's nuclear fuel in Russia (which would provide a means of blocking Iranian nuclear weapons development). An Iranian nuclear energy program has been and can be lucrative for Russia, but Russia has never supported an Iranian effort to develop weapons. In recent weeks the Russians have moved much closer than before to the U.S. position.

China generally opposes sanctions of any kind; however, if the EU-3, the U.S. and Russia are united and China finds itself isolated on the issue, it may be amenable to persuasion -- if not to vote "aye," then to abstain, which would have the same effect.

There is a strong lever available to generate support in the Security Council: the Iran, Libya Sanctions Act of 1996 (ILSA, amended in 2001 and extended to the end of this year). ILSA

allows our government to impose severe sanctions on any company that invests more than $20 million a year in Iranian oil production. This can include denying Export-Import Bank loans, barring export licenses, barring U.S. banks from lending more than $10 million a year to sanctioned parties, barring sanctioned financial institutions from serving as primary dealers of U.S. bonds, banning U.S. government procurement of goods and services from sanctioned parties and imposing import sanctions. Since many overseas-based oil industry companies are closely allied with U.S. companies, through subsidiaries or contracts, the invocation of this act could have a major impact on them as well as on American companies.

Although the act has not been invoked, it could be by administrative order. The mere threat of invocation might be enough to get reluctant countries--such as Russia and China -- to vote with us (or abstain) on the Security Council because of the close ties American oil companies have with their own companies.

If this leverage or other persuasion results in positive Security Council action, there are several sanctions the Council could impose on Iran. Among these would be an embargo on refined petroleum products (which Iran imports), a freeze on Iranian government and leadership assets abroad (see "Smart Sanctions" below) and prohibiting Foreign Direct Investment (FDI) in Iran.

If Security Council cooperation of Russia and China cannot be obtained, we should tell the EU-3 that they and we should impose the sanctions described to the fullest extent possible. And, if the EU-3 do not join us, we can unilaterally invoke ILSA to greatly crimp Iran's ability to obtain FDI for oil production expansion.

Simultaneous with these steps the U.S. can and should apply ancillary pressure on Tehran. Iran uses Hezbollah to project its influence in the region. Now that Syria has withdrawn from Lebanon, the U.S. is providing Lebanon with considerable aid. Under threat of withdrawing the aid we should demand that Lebanon use its army to disarm Hezbollah whose cadres in the southern part of the country conduct raids against Israel. An added benefit: A disarmed Hezbollah is a necessary pre-condition for full Lebanese sovereignty and freedom.

In time, once Iran has become a democratically-governed country, in peace with its neighbors and the world, nuclear energy for power production purposes would no longer lead to the threat of nuclear weaponry.

Smart Sanctions. The Grand Ayatollah Khamenei and President Ahmadinejad and their circles are the problem and the Iranian people are our natural allies. We should develop sanctions that target the leaders, their families and their cohorts so that the sanctions are harmful to them, not the people of Iran.

As part of a "smart" sanctions effort, we can create leverage against the theocratic regime by deftly making it known that an international legal case is being marshaled against Khamenei and his cohorts. U.S. Government agencies, working closely with human rights organizations, should

begin gathering evidence. Then we could seek the cooperation of like-minded governments, leading toward the possible creation of an international tribunal to try Khamenei and others. By calling for the elimination of Israel, for example, Ahmadinejad has violated Article 3(c) of the 1949 Genocide Convention which makes punishable "direct and public incitement to commit genocide." Ahmadinejad did not utter his statement in private; he did it before an audience of 4,000 people.

Other crimes for which evidence could be gathered include financing and facilitating of terrorists, corruption, the torture and murder of Khamenei's opponents at home and abroad, and development of weapons of mass destruction in violation of the Non-proliferation Treaty and other accords. There is precedent for a special tribunal gathering evidence and eventually indicting a leader still in office. It is the case of Liberia's Charles Taylor and the U.N.-approved Sierra Leone tribunal. In Taylor's case, having an Interpol arrest warrant out against him contributed toward de-legitimizing him.

Other "smart" sanctions can be developed as well. Iran's Revolutionary Foundations *(bunyads)* control 35 percent of Iran's import-export business and are directly controlled by Khamenei. The Iranian people are well aware that Khamenei, certain other mullahs and their supporters have grown rich and corrupt. The U.S. and other nations are becoming more adept at identifying the economic crimes and assets of dictators and their cohorts. We should undertake a serious effort to identify those companies and overseas accounts associated with Khamenei and his entourage and Ahmadinejad and his and develop sanctions targeting them.

BUILD THE OPPOSITION

Fund and assist pro-democracy dissidents within Iran to help them better organize and communicate. It is time to strongly support Iranian freedom fighters. Regime change can come from within. While the pace cannot be predicted, it can be accelerated by giving pro-democracy Iranians the assistance and tools they require.

Activate the U.S. Interests Section of the Swiss embassy in Tehran. Iran has 36 Iranian nationals in its Interests Section of the Pakistan embassy in Washington. We should have the equivalent number of U.S. nationals in Tehran. At present we have none. Once in place, this group of Americans would be a listening post and an active cadre to encourage non-violent democratic forces in Iran. If Iran does not agree to reciprocity, we should expel the 36 Iranians from the United States. (Of course, posting American diplomats again in Tehran must depend on having confidence that Americans in Iran will receive full diplomatic rights and privileges – the experience of U.S. diplomats in Tehran in 1979 cannot be forgotten. Means to guarantee diplomatic protection would need to be explored.)

Undermine pillars of regime support. Khamenei relies on his security services to keep him in power. Faced with demonstrations in 2002, Khamenei was unsure the army would obey his orders and thus resorted to using hired paramilitary thugs.

The U.S. has opportunities to quietly develop relations with the military and various services in Iran and should seek to do so. Our CIA, FBI and Drug Enforcement Agency forces in the region have issues to work on, ranging from cross-border threats to terrorism to drugs. In developing these relationships our people should make it clear that those who cooperate in the transition to democracy can thrive "on the other side" (as many others in former dictatorships have done), but that those who persist in committing crimes against the Iranian people or others will be prosecuted. Specifically, we should call for the eradication of the Islamic Guard Corps and the Basij, reform or elimination of the Ministry of Information and investigation into the government's support for vigilante groups such as Ansar al-Hezballah.

ENGAGE THE IRANIAN PEOPLE

The President should appoint a senior official as the "point person" on Iran, and he should announce this in high-profiles speeches spelling out U.S. policy - and the stakes involved in Iran. This would be aimed at both the Iranian and American peoples. Once appointed, the official should speak frequently with the Iranian people through all available media, such as radio, the Internet, satellite television. They will know he is speaking for the American president.

He should dramatize the plight of Iranian dissidents, jailed because they dared to call for free speech and assembly - journalists such as Siamak Pourzand and Arash Sigarchi, and democracy advocates such as Ahmad Batebi and the Mohammadi brothers, Manouchehr and Akbar. And, this official should coordinate U.S. efforts to have Iran barred from UNESCO and the U.N. Human Rights Commission (or its successor organization).

Television, radio, the Internet. The U.S. Government's Farsi-language Radio Farda ("Tomorrow") and several hours weekly of Voice of America television are a beginning, but not enough if we are going to effectively communicate directly with the Iranian people. Furthermore, these outlets do not always convey a coordinated U.S. policy message. They should, even if it means making staff changes.

A number of private U.S.-based Iranian satellite television stations exist, but they are under-funded and thus unable to achieve their real potential. A budget equal to that of Radio Farda and VOA television should be made available to them. At least $10 million annually should be appropriated to assist independent television, radio and Internet communications with the Iranian people. Provide additional funds to pro-democracy dissidents within Iran to help them better organize and communicate.

Visa and exchanges. Ultimately it is Iranians themselves who will make the breakthrough to democracy and remove the Militant Islamists from power. There are many ways we can help, particularly with young Iranians and women as major agents of change. Cultural, academic and professional exchanges must form an important part of our effort to assist Iranians in the democratization of their country. Visiting scholars have considerable freedom of movement and association. Young activists from democratic countries could also enter Iran as tourists to meet with their Iranian counterparts. We should authorize American non-governmental organizations

(NGOs) such as Freedom House to operate within Iran and press the Iranian government to accept their presence.

Toward these ends, we should tie U.S. visas for Iranians to those which Iran grants to the U.S. Over the last year approximately four Iranians received visas to enter the U.S. to every one American receiving an Iranian visa. If the Iran government does not grant us parity, we should limit the number of visas we grant to the number granted us over the previous 12 months, and we should bar Iranian officials, their family members and business partners from entering the U.S.

PUBLICIZE THE REPRESSION

Disseminate widely information about the Iran regime's repression. Public hangings, Morality Police crackdowns on women thought to be dressed with insufficient modesty, the continued solitary confinement of journalist Akbar Ganji for supporting democracy - all are manifestations of a repressive regime.

Though promising improvements in social welfare, the mullahs and their followers have not delivered. Individual incomes are two-thirds, on average, of what they were before the fall of the Shah. Many young men are underemployed or unemployed. Iran's population is predominantly young and all of this contributes to their disillusionment of the regime. We should use every means possible to disseminate these cases of repression - and others - to build international support for regime change.

CONCLUSION

For too long there has been in the U.S. an academic debate about Iran: "engagement vs. containment" and "dialogue vs. regime change." Inaction and ambivalence in policy were the result. The hope that the Khatami Administration, elected in 1997, would put through important reforms lingered. As hope faded, the pro-democracy student movement turned away from the feckless Khatami regime. By 2004, however, the disgust of the pro-democracy students was complete and they turned their backs on the self-styled "moderates" in Iran.

The advent of Ahmadinejad, with his inflammatory rhetoric - frequently reiterated - makes it clear that we should adopt a determined and muscular policy aimed at non-violent regime change in Iran. The means can range from moral support for a student-led effort to demand a national referendum in favor of a constitution based on the Universal Declaration of Human Rights to the various elements described in this paper and other elements that will be formulated as circumstances dictate.

###

January 23, 2006

Iran Policy Committee

Insights: International Peace and Security

The Threat that Iran poses to Iraq

Wednesday, January 20, 2010

By Raymond Tanter

Since the invasion of Iraq in 2003, Iran has sought to dominate Iraq politically, economically, and militarily. The most recent and visible manifestation of Iran's meddling with its neighbor was the late December 2009 seizure of a portion of the remote Fakka oil field in Maysan Province in southeastern Iraq; although the Iranians, however, withdrew after three days, the seizure made it clear that Tehran has the capability to enforce its will on Baghdad. Also, there is the threat of suicide bombing in Iraq by foreign Arabs; in addition to Syria—Iran's only Arab ally—Iran itself has become another entry point for foreign suicide bombers to enter Iraq, e.g., for Arabs entering Iraq from Afghanistan.

Political Threats

Despite promises to the United States not to do so if Washington took action against the main political opposition to Tehran based in Iraq, thousands of Iranian-sponsored clerics crossed into Iraq from Iran. They carried books, compact discs, and audiotapes that promoted the Iranian version of militant Islam in spring 2003, following Operation Iraqi Freedom. Furthermore, the Islamic Revolutionary Guards Corps Qods (Jerusalem) Force established and continues to support armed underground cells across the Shiite southern region of Iraq, using the humanitarian organization, the Iranian Red Crescent, as a front.

The Jerusalem Force has medical centers and local charities in Najaf, Baghdad, Hillah, Basra, and Amarah to gain support from the local population. Even as Tehran began to send Iranian operatives into post-Saddam Iraq, members of what has become Iraqi Hezbollah infiltrated the country. Because most of Iraqi Hezbollah's members are Arab, they constitute an even more effective Iranian proxy in Iraq than Farsi-speaking Iranian agents trained in Arabic.

Tehran tasked Iraqi Hezbollah with sending agents and clerics across a major portion of southern Iraq. Indeed, once major combat operations came to an end on 1 May 2003, Hezbollah "holy warriors" crossed into the country not only from Syria, but from Iran as well, again despite pledges from Tehran to

Washington not to interfere in Iraq. Initially, these operatives numbered nearly 100, but this relatively small figure has increased and belies their potential impact on behalf of Tehran.

Hezbollah established "charitable" organizations in Iraq to create a favorable environment for recruiting, which is a tactic Lebanese Hezbollah had previously tested and honed in southern Lebanon with Iranian assistance. Furthermore, according to Mohammed al Alawi, Hezbollah's chief spokesman in Iraq, the organization's agents act as local police forces in many southern cities (e.g., Nasiriya, Ummara), ignoring the official Multinational Force-Iraq and Iraqi government ban on illegal militias.

Overall, Tehran uses Iraqi Hezbollah to supplement its own penetration of local Iraqi governing offices and judiciaries. The Iranian regime has used Iraqi Hezbollah to smuggle Iraqis living in Iran back into their native country. A significant number of Iraqis have dual nationalities and have resided in Iran for many years; some have even served as Revolutionary Guards commanders. Hezbollah helps conceal their long association with Iran; indeed, some of these individuals have joined Iraqi police forces since the end of major combat.

Additionally, Iraqi Hezbollah cased coalition assembly centers in Iraq and tracked the timing and order of movements by various coalition vehicles including tanks, armored personnel carriers, and motorcades. Iraqi Hezbollah agents videotaped locations in two-person teams, often with public transportation like taxis. Footage of targets is sometimes concealed behind commonplace imagery (e.g., wedding festivities) to avoid detection by coalition forces. Such reports echo Iraqi Hezbollah's own public statements, voiced as early as mid-April 2003, regarding its willingness to attack U.S. forces in Iraq and its increasing ability to do so.

Military Threats

A more nefarious aspect of the Iranian threat to Iraq is Tehran's transfer of weapons to its proxies in Iraq. In Joint Guidance for 2010, General Mike Mullen, Chairman of the Joint Chiefs of Staff, stated that "Iran...ships weapons to surrogates inside Iraq." According to the Department of State 2008 Country Reports on Terrorism,

Tehran was responsible for some of the lethality of anti-Coalition attacks by providing militants with the capability to assemble improvised explosive devices (IEDs) with explosively formed projectiles (EFPs) that were specially designed to defeat armored vehicles. The Qods Force, in concert with Lebanese

Hizballah, provided training both inside and outside of Iraq for Iraqi militants in the construction and use of sophisticated IED technology and other advanced weaponry.

Tehran pursues its perceived interests in dominating Iraq by such means as supplying arms to its proxy forces there. Indeed, Iran's shipment of IEDs to Iraqi proxies is part of the Iranian regime's broader effort to subvert the Iraqi government while making Baghdad dependent on Tehran for protection against such threats. The transfer of IEDs into Iraq is particularly troublesome as U.S forces withdraw because Iraq lacks intelligence and technology in the American arsenal to counter the IED threat.

According to revelations made be the main Iranian opposition group, the Mujahedeen-e Khalq (MEK), since 2006, Iranian ordnance factories have produced an advanced form of roadside bomb incorporating EFPs to satisfy orders placed by the Islamic Revolutionary Guards Corps (IRGC). These IED/EFPs are often placed along roadsides at choke points where vehicles must slow down, such as at intersections and junctions. This procedure gives the operator time to judge the moment to fire—when the vehicle is moving more slowly. Detonation is controlled by a cell phone triggering device, cable, radio control, TV remote control, or passive infrared sensor. IEDs can be deployed singly, in pairs, or in arrays, depending on the tactical situation.

Within Iran, ordnance factories are located in the Lavizan neighborhood of northern Tehran where weapons production occurs at three independent industrial sectors called Sattari, Sayad Shirazi, and Shiroodi. The Sattari Industry specializes in making various types of anti-tank mines and bombs, and now parts for IEDs.

In 2008, there is a production site at Parchin, to the southeast of Tehran, also revealed by the MEK. A new generation of roadside bomb was being produced by affiliates of Iran's Ministry of Defense for use by proxies in Iraq. Tehran began to transfer the Sahere ("Vigilant" in Farsi), to Iraq along its southern border with Iran. This weapon targeted U.S. armored vehicles and tanks. During 2007, the Qods Force transferred new bombs mainly through the border crossings of the Misan province, particularly at Majr al-Kabir. The bombs were then distributed to Baghdad and elsewhere in Iraq.

One recipient of the Sahere has been Moqtada al-Sadr's Mahdi Army, which used the weapons against American forces in Sadr City, Hay Al-Amin, Eskan, and Al-Sholeh districts of Baghdad. According to a militia report to the Qods Force headquarters in Tehran,

In the Hay Al-Amin area of Baghdad, a full column of American forces was set ablaze using these bombs. This heroic operation was carried out by the Sheikh Hossein al-Zobaidi group. But regrettably the brothers who took part in exploding these bombs did not have a chance to pull back on time and as a result of the aerial bombardment of the area, fourteen members of the Sheikh Hossein al-Zobaidi group were martyred.

Confirming MEK revelations, in January 2007, Commander, Multinational Corps-Iraq, LTG Ray Odierno and then-Director of National Intelligence, John Negroponte, released similar intelligence documenting the Iranian supply of the most deadly roadside bombs. A February 2007 Pentagon briefing in Baghdad revealed Iran's supply of sophisticated weapons technology to Iraqi militias and was a comprehensive presentation of evidence regarding Iran's destabilizing role in Iraq.

Documents captured along with Iranian Qods Force members arrested in Iraq during 2006 revealed that the Iranian regime was also assisting Sunni groups, such as al Qaeda and Ansar al Islam, in addition to Tehran's Shiite insurgent proxies.

British officers in Iraq also have acknowledged the presence of Iranian weapons in Iraq. In March 2007, they attributed over 30 British casualties from an attack on a base in Basra to Katyusha-style rockets and mortars originating in Iran. The British military distinguished new Iranian-supplied weaponry from the older mortars looted from Iraqi army bases that had been used by the militias in the past.

Not only does Iran produce IEDs for Iraqi proxies, it also trains them in bomb-making. The Jalil Abad Qods Force garrison is used to train Iraqi Hezbollah members to assemble bombs, use Rocket-Propelled Grenades (RPGs), and fire Katyusha rockets. Iraqi insurgents have also used "sticky IEDs," which are magnetically attached to vehicles to carry out precise assassinations of Iraqi officials. These compact IEDs are magnetically attached to the underside of automobiles and detonated with timers or by remote control.

Iraqi government officials, mainly from the army and police are the primary targets, but local officials, judges, journalists, and Sons of Iraq members have also been attacked. The danger from a force protection perspective is that insurgents will begin employing sticky IEDs against U.S. military officials and other high risk personnel. This risk is especially acute during the period of the 2010 drawdown of U.S. forces.

There are fewer American intelligence gathering operations and lack of effective use of Iranian dissident intelligence sources in Iraq, which are under increasing threat from Iranian regime proxies in the Iraq Security Forces.

Countermeasures

The U.S. military has deployed a number of successful countermeasures to address the threat from IEDs in Iraq. Mine Resistant Ambush Protected Vehicles (MRAPs) were originally employed by Explosive Ordinance Disposal (EOD) units at the outset of Operation Iraqi Freedom; but with the growing IED threat, the Marine Corps championed the vehicle as a troop carrier during 2007. MRAPs proved much more effective than simply up-armoring Hummers, which had been a short-term solution. Although MRAP Vehicles, signal jammers, and special road clearing vehicles have helped lower the percentage of casualties from IEDs from 60% during 2006 and 2007, the number of roadside bomb attacks remains high.

Insurgents will almost never detonate an IED in close proximity to their cache and almost never launch an IED attack so far from their cache that they risk being intercepted. Software is available to combine proximity with other factors like demographic composition of neighborhoods. If an attack is believed to be carried out by an Iranian-supported Shiite group, it is extremely unlikely that the militia's weapons cache would be in a predominately Sunni area. After inputting such information, an algorithm determines the most likely cache sites.

Conclusions

Because the Iranian regime continues to pose political and military threats to Iraq, it is important to counter these threats. Research of the Iran Policy Committee suggests that the most effective antidote to the political threat in Iraq would be for the international community to protect Iranian dissidents in Iraq from the growing threat posed by Iraqi proxies of Iran.

Regarding the military threat posed by Tehran to Baghdad, such as the transfer of weapons to Iran's regional Shiite proxies and Sunni insurgents, countermeasures are essential tools for the U.S. military to leave in the Iraqi arsenal. Iranian weapons are going to Shiite militias that include rogue elements of Moqtada al-Sadr's Mahdi army militia and a breakaway faction of the Badr Corps, the armed wing of a

powerful Iraqi Shiite political party.

Given the high priority placed on Iran's nuclear program and Tehran's diplomatic intractability to date on its nuclear file, a diplomatic solution to Iran's transfer of improvised explosive devices is unlikely. And as Tehran develops a nuclear weapons capability, it will likely be even less vulnerable to diplomatic pressure and more emboldened to pursue its perceived interests via the transfer of arms to its proxies in Iraq. Hence, as U.S. forces withdraw from Iraq, it is important to leave Iraqi Security Forces with the capability to counter the improvised explosive device threat from Iran.

The good news is that Washington has designated Iran's Islamic Revolutionary Guards Corps Qods Force and Iraqi Hezbollah as foreign terrorist organizations. According to research of the Iran Policy Committee, the bad news is that Washington also continues to designate Tehran's main political opposition in exile with extensive influence in Iran—the National Council of Resistance of Iran and Mujahadeen-e-Khalq—as foreign terrorist organizations. This research suggests that removal of the terrorist tag from these two organizations would be one way to decrease the political threat posed by the Tehran to Baghdad and the military threat to American forces as they withdraw from Iraq.

But perhaps the best hope for countering the Iranian threat to Iraq as American forces draw down is to increase the Iranian regime's problems at home. To the degree that the United States can rhetorically and covertly support Iran's growing "Green" movement, encourage dissidents within Iran to work with oppositionists in Paris and in Iraq, such as the National Council of Resistance of Iran and Mujahadeen-e-Khalq, respectively; and divide the Iranian regime with "crippling sanctions," Tehran will be less capable of being a growing threat to Iraq.

Raymond Tanter, Ph.D. is Visiting Researcher at Georgetown University, Professor Emeritus at The University of Michigan, and President and co-founder of the Iran Policy Committee.

National Public Radio

Morning Edition

Missouri Pioneers Iran Divestment Efforts

by Michele Kelemen

March 16, 2007

March 16, 2007

Divestment was used to fight apartheid in South Africa, and has been used to shame Sudan. Now, Missouri has taken action to divest from companies that do business with Iran and other nations on the State Department's list of countries that sponsor terrorism. Missouri officials and others hope that more states will consider similar action.

Missouri was helped by the efforts of a former Defense Department official, Frank Gaffney, who researched state pension funds' ties to countries on the State Department's terrorism-suppport list.

"Roughly 100 of the leading pension funds of the United States had about $188 billion invested in companies that were doing business with one more of those state sponsors of terror," Gaffney said.

The first activists to pick up on this were those interested in punishing Sudan, not because of its links to terrorism, but because of the violence in Darfur. That divestment push has been fairly successful, with several states and universities dumping shares of companies doing business in Sudan.

Missouri Treasurer Sarah Steelman told a news conference in Washington this week that she hopes states will now follow her lead — and start what she calls terror-free employee pension funds.

"It seems strange to me that we send men and women to defend freedom — some of whom pay the ultimate sacrifice — however, we have not yet used our most powerful weapon, America's financial markets," Steelman said.

Though supporters of this campaign portray it as a broad battle against terrorism, there is no evidence that it could pressure al-Qaida. Its main target is Iran — along with other countries on the U.S. blacklist — including Sudan, Syria and North Korea. Steelman says it was an uphill battle in her state to divest from companies doing business in those countries.

"We heard the argument about performance, that performance is going to suffer and we've proved that this is not true," she said. "We've heard that states shouldn't be in the role of foreign policy. That's nonsense. We are not in the business of setting foreign policy. We were just implementing foreign policy set by the State Department and American businesses can't do business in those countries."

Most of the companies dropped from the Missouri state pension fund were European - but she says the list also included Halliburton — the company Vice President Dick Cheney used to run — because one of its subsidiaries' business dealings in Iran's oil sector. Several members of congress — including Democrat Brad Sherman of California - want to close all the loopholes for American companies.

"Right now the door is open to American dollars going into the pockets of terrorist countries," Sherman said. "Our job is to close that door one step at a time."

He joined Steelman at the Washington news conference and said the idea is to put the maximum possible pressure on states accused of sponsoring terrorism.

"We need therefore to put the maximum possible pressure on major corporations in the world to get them to stop providing necessary capital to these terrorist states," Sherman said. "In particular, Iran is very susceptible to a cut-off of investment in its oil sector and we have to devote our efforts to hit that Achilles heel."

ARMS CONTROL ASSOCIATION
The authoritative source on arms control

Published on *Arms Control Association* (http://www.armscontrol.org)

States Divest From Businesses Tied to Iran

Brian Radzinsky

Eleven U.S. states have adopted legislation to divest public pension funds from companies with financial ties to Iran's petroleum, defense, and nuclear sectors in an attempt to persuade Iran to give up its uranium-enrichment program and alleged sponsorship of terrorism. Almost 20 more states are considering similar legislation to supplement existing federal and international sanctions.

This is the first time that state investments have been leveraged for nonproliferation goals. During the 1980s, anti-apartheid activists urged state and local authorities and some universities to divest holdings from companies invested in or doing business with South Africa. During the 1990s, humanitarian activists persuaded Massachusetts to divest from companies "doing business with" Burma (Myanmar). More recently, almost 30 states passed legislation to divest from companies with investments in or engaged in trade with Sudan. The Iran case is unique, however, because divestment legislation explicitly references Iran's alleged sponsorship of terrorists and its uranium-enrichment program.

Since the 2003 discovery of Iran's clandestine uranium-enrichment program, the UN Security Council has imposed three rounds of sanctions freezing the finances and limiting the travel of prominent members of the nuclear and ballistic missile programs (see page 39). Enriched uranium can fuel nuclear reactors and provide the explosive core for a nuclear weapon.

The effort by U.S. states to divest from Iran mirrors a larger change in the Bush administration's approach to Iran. For its part, the U.S. government has maintained various sanctions on Iran since 1979. Recently, however, Washington has moved away from advocating sanctions against individuals and organizations and toward a strategy of financial isolation. The Department of the Treasury in 2007 barred Iran's Bank Saderat, Bank Sepah, and Bank Melli from the U.S. financial system and cut off their ability to conduct transactions with U.S. banks through a third party. (See *ACT*, March 2007.) In March, the UN Security Council urged member states to "exercise vigilance" about the activities of these banks. (See *ACT*, April 2008.) Treasury officials have recently discussed sanctioning Iran's central bank, which is said to have picked up some of the business that used to flow to sanctioned institutions.

Legal Challenges

State divestment efforts also face legal challenges. The National Foreign Trade Council (NFTC) in 2000 successfully sued Massachusetts over legislation to divest from Myanmar. In that case, NFTC v. Crosby, the U.S. Supreme Court ruled that Massachusetts' decision hindered the president's ability to

conduct foreign policy effectively. The NFTC won another legal battle in a U.S. district court over an Illinois law mandating divestment from Sudan.

Lawmakers have taken steps to circumvent subsequent court challenges. Several bills pending at the federal level encourage and authorize state divestments. The Iran Sanctions Enabling Act, introduced by Barack Obama (D-Ill.), the presumed Democratic presidential nominee, and Sam Brownback (R-Kan.) in the Senate and a bipartisan group of eight representatives in the House, would publish in the Federal Register the names of companies with $20 million or more invested in Iran's energy sector and authorize individual states to adopt divestment legislation.

The bill also provides legal safe harbor for fund administrators who might oppose divestment on grounds that doing so would cause their funds to depreciate. To this end, the bill protects mutual fund managers from lawsuits and pension fund managers from charges of fiduciary responsibility. According to Missouri's treasurer, the Missouri portfolio suffered minimal disruption following divestment and in some years outperformed the original fund.

Divesting From Terrorism

Most divestment legislation adopts the criteria laid out in the 1996 Iran Sanctions Act to identify significant investment in Iran. Formerly the Iran-Libya Sanctions Act, it requires the president to sanction those foreign companies with investments of $20 million or more in Iran's energy sector.

In that vein, legislation signed in Arizona, California, Colorado, Florida, Georgia, Illinois, Louisiana, Maryland, and Michigan directs state pension administrators to divest from companies that meet this standard and companies with financial ties to Iranian "terrorist organizations" identified by the U.S. government. Also anathema are companies that facilitate Iran's acquisition of nuclear, chemical, or biological weapons technology or military equipment.

Missouri and New Jersey have adopted explicitly "terror-free" investment policies. Terror-free investing, part of a larger initiative endorsed by the American Israel Public Affairs Committee (AIPAC), the Center for Security Policy, and a number of other groups, encourages U.S. states to divest from companies "reasonably known to be operating directly with the government or a government-controlled agency in U.S.-sanctioned nations, or that are engaged in the sponsorship of terrorism." Known as the Divest Terror movement, proponents argue that investing in such blacklisted countries as Cuba, Iran, North Korea, Sudan, and Syria poses not just a threat to national security, but to the health of the investments themselves.

Of these countries, Iran stands the most to lose from widespread divestment from its economy. Iran's gross domestic product is greater than that of Cuba, North Korea, Sudan, and Syria combined—around $600 billion, according to most sources.

The movement has gained several prominent adherents, including presumptive Republican presidential nominee Sen. John McCain (Ariz.). In a June 2 speech at AIPAC's national convention, McCain called for a "worldwide divestment campaign" in order to pressure Iran's "radical elite."

The target of state divestments, both in practice and as a part of a broader strategy to pressure Iran financially, is to hurt companies with significant ties to Iran's energy sector. Companies potentially affected by divestments include such European giants as Spain's Repsol, France's Alcatel and Total, and Royal Dutch Shell. Some states' pension funds are too small to conceivably have an impact. On the other hand, California's Public Employees and State Teachers Retirement Systems invest a combined $400 billion in U.S. and international companies. An estimated $2 billion of those funds are tied up in Iran's oil sector.

Matthew Levitt, a former Treasury Department official in the Office of Terrorism and Financial Intelligence and director of the Stein Counterterrorism Center at the Washington Institute for Near East Policy, concedes that divestment alone will probably not force Iran to adhere to international demands. "The real issue is not divestment [by itself]," he says, "but the totality of the various [coercive] measures. Together they have a very good chance of forcing Iran to rethink its policies."

Click here to comment
on this article.

Arms Control Today Counterproliferation Iran Nuclear Nonproliferation The Middle East and Africa

The Arms Control Association is a non-profit, membership-based organization.
If you find our resources useful, please consider joining or making a contribution.
Arms Control Today encourages reprint of its articles with permission of the Editor.

© 1997-2009 Arms Control Association
1313 L St., NW, Ste. 130
Washington, DC 20005
Tel: (202) 463-8270 | Fax: (202) 463-8273

Source URL: http://www.armscontrol.org/act/2008_07-08/StatesDivest

HB 251

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 19, 2010 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-11-10

The STATE AFFAIRS Committee considered: **HB 251**

HOUSE BILL NO. 251
"An Act relating to liens on vehicles; and providing for an effective date."

HB 251-PRIORITY OF TOWING LIENS

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW **FISCAL NOTES** *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DCCED				X
DOT&PF				X

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			0	
Carl Gatto	Gatto			X	
Mike Hawker	Hawker			L	
Pete Petersen	PetersEN			X	
Chair: Bohl	LYNN	X			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 251
() Publish Date:

Identifier (file name): HB251-DOT-CO-3-08-10
Title: Priority of Towing Liens
Sponsor: Rep. Ramras
Requester: H STA

Dept. Affected: DOT&PF
RDU: Administration and Support
Component: Commissioner's Office
Component Number: 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

There is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison — Phone 465-4772
Division: Department of Transportation and Public Facilities — Date/Time 3/8/10 5:00pm
Approved by: Frank Richards, Deputy Commissioner — Date 3/8/2010
Department of Transportation and Public Facilities

(Revised 11/5/2009 OMB)

Chair, Judiciary
Chair, Economic Development, Trade & Tourism
Energy
Military & Veteran Affairs
Joint Armed Services
State Capitol, Room 118
Juneau, Alaska 99801-1182
Phone: (907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Alaska State Legislature
House of Representatives

While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465- 3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Representative Jay Ramras
District 10

Sponsor Statement
HB 251 – PRIORITY OF TOWING LIENS

Towing companies provide necessary service to Alaskans through the removal of abandoned, junked, and wrecked vehicles from public thoroughfares and private property. Alaskan towing companies follow prescribed laws in providing these towing services and in most cases are acting under the authorization or direction of public safety officers. Alaskan towing companies should be paid for providing these services to the public, but in certain situations they are not. Providing a statutory mechanism so that these small towing businesses are first in line for payment for delivered services will reduce business risk to these companies. House Bill 251 changes the priority in which payments may be made to provide for a fairer business environment to towing companies.

House Bill 251 prioritizes a possessory lien for towing services lawfully provided in conformity with AS 28.10.502. This prioritization is necessary and gives first position to towing companies to recoup costs for impound and contractual vehicular towing and storage. Without House Bill 251's clarifying language, Alaska's towing service companies could be harmed by allowing other lien holders to take possession of a vehicle in impound without paying for towing and storage services already provided. A nonpayment situation would at a minimum shift costs to other Alaskans and unfairly increase their towing charges, or in extreme cases induce business hardships and cause business failure for towing companies.

House Bill 251 corrects a current situation whereby certain lien holders may receive impound services from towing companies without paying for all or part of the charges. This is unfair to Alaska's towing companies. Reducing unfair business risk to Alaska's small companies is in the best interest of the state.

Representative_Jay_Ramras@legis.state.ak.us

Alaska Towing Association

The Voice of Alaskan Towing Professionals

RE: Alaska Towing Association supports HB 251

Members of the towing industry in Alaska have begun to catch up with our counterparts in other states over the last decade, and many Alaskan towers are now on the leading edges of towing technology and practice. Towing in Alaska presents unique challenges, but our members meet those challenges, and towing entities both large and small provide daily professional support to our emergency services and law enforcement systems.

Unfortunately, the modernization of the towing industry across the state has increased costs for towing businesses almost exponentially in recent years as Alaskan towers have upgraded equipment to meet the demands of newer vehicles, improved response times, procedures and training to enhance public safety, and satisfied an ever-growing list of license and permit requirements from Federal, State and local municipalities.

These costs are of course passed on to consumers. Vehicle mishaps and subsequent towing frequently involves great financial liability for vehicle owners, their lenders, and/or their insurance companies. Alaska Statute AS 28.10.502 offers some measure of protection to towers, providing for a Towing and Storage Lien to be automatically placed on any vehicle lawfully towed and stored to ensure payment for the towers' services. This lien is most commonly applied to abandoned or wrecked vehicles removed from public or private property, or towed from public roadways at the request of law enforcement officials, and stored in secured lots at the expense of the towing company.

However, a court decision in the 3rd Judicial Court has determined that perfected liens supercede a tower's possessory lien based on AS 28.10.391, and this decision has effectively nullified the Towing & Storage Lien. Practically speaking, this means a tower may recover, tow, and store a vehicle at real cost to himself and his company, and then be denied payment, lose possession of the collateral, and have no real recourse for financial satisfaction for his loss. HB 251 will alleviate this discrepancy by prioritizing the Towing and Storage lien.

Most other states, if not all, have long resolved the issue between possessory liens and perfected liens on towed or stored vehicles in favor of prioritizing the tower's lien. The obvious fact of services rendered, and payment due for those services creates a reasonable and lawful expectation of payment. In no way does this financial obligation for services supercede the interest in collateral of a perfected lien, rather it merely prioritizes payment for services rendered.

Alaska's statutory disparity is unfortunate, and presumably unintended, but is a very real and expensive issue for Alaska Towing Association members. Towers respond to thousands of vehicle emergencies every year, and remove wrecked vehicles from Alaska's roadways every day. This kind of towing is an integral part of most small towing business models within Alaska. Each emergency tow can easily cost a tower several hundred dollars in labor, fuel, equipment, insurance and operating costs, depending on services rendered and length of time it must be secured and stored.

If the costs of these services cannot be reasonably recouped on even one vehicle simply because a perfected lien exists prior to the tow company's possessory lien, a financial hardship condition develops.

If towing companies continue to be effectively forced to provide their services for free, the current status quo for providing these services to law enforcement agencies at no cost to the agency may change, and State and local law enforcement jurisdictions may be placed into the position of hiring their own towing contractors or otherwise purchasing towing services.

Alaska has much work to do to improve and enhance the towing industry in our state. It has been largely unregulated and unmonitored for many years. Careful evaluation of the issues within the industry is necessary, and thoughtful legislation is required for the protection of both the public and the small businessmen and women within the industry.

The members of the Alaska Towing Association consider HB 251 one step in this direction. The small change to AS 28.10.502 presented in the bill will help protect industry providers from an effective theft of services. In turn, this will help ensure that the many small towing operators across the state remain in business, and ensure a competitive industry that continues to improve itself to meet the demands of the motoring public and Alaska's law enforcement agencies.

The Alaska Towing Association supports HB 251. If it is passed into law, towers can remain willing and available to respond to that next call from their local law enforcement dispatcher in the dead of night knowing they have the protection of the law to ensure they will be compensated for the service they provide.

Shawn Ross
President, Alaska Towing Association

Representative Jay Ramras
Chair, Judiciary
Chair, Economic Development, Trade & Tourism
Energy
Military & Veteran Affairs
Joint Armed Services
State Capitol, Room 118
Juneau, Alaska 99801-1182
Phone: (907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Alaska State Legislature

House of Representatives

Interim:
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146
Toll Free: (877) 465-3004

House District 10

Memo

To: Rep. Bob Lynn, Chairman House State Affairs

From: Rep. Jay Ramras

Date: 18 February 2010

Re: Hearing request for HB 251 in House State Affairs.

Please accept this memo as a request for HB 251 to be heard before House State Affairs Committee. Please find the attached documents for this purpose:

- Sponsor Statement
- HB 251 - a26-LS0786\R
- Support

Thank you for your time and consideration, should you have any questions, please do not hesitate to contact Don Habeger at 465-3004.

Representative_Jay_Ramras@legis.state.ak.us

HB

274

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

The House State Affairs Committee has agreed to waive the State Affairs referral for HB 274, "*Establishing Purple Heart Day.*" Signature and agreement to waive does not constitute support or opposition to the bill, nor obligate the member to a specific vote on the House Floor.

Rep. Bob Lynn, Chair

Rep. Paul Seaton, Vice Chair

Rep. Craig Johnson

Rep. Peggy Wilson

Rep. Carl Gatto

Rep. Max Gruenberg

Rep. Pete Petersen

ALASKA STATE LEGISLATURE

Representatives Nancy Dahlstrom, Berta Gardner, Bob Buch, Wes Keller, Pete Petersen, Bob Lynn, Carl Gatto, Chris Tuck, Mike Doogan, Bill Thomas, Mike Hawker, David Guttenberg, Jay Ramras, Anna Fairclough, Craig Johnson, Charisse Millet, Bob Herron

To: Representative Bob Lynn
House State Affairs Committee, Chair

From: Representative Nancy Dahlstrom
Representative Berta Gardner

Date: February 3, 2010

Re: Hearing Request for HB 274

I am respectfully requesting that House Bill 274, "An Act establishing August 7 as Purple Heart Day " be scheduled for a hearing in the House State Affairs Committee at your earliest convenience.

The Purple Heart is awarded to United States service men and women who have been either wounded or killed in battle. Approximately 1.7 million service men and women, including many Alaskans, have received the Purple Heart. Currently, there are about 500,000 Purple Heart recipients who are living. In designating each August 7 as Purple Heart Day, we honor those who have received our oldest military medal on the day of its inception.

Included in this packet:

- A Current Version of HB 274
- Sponsor Statement
- Backup Information
- Letters of Support

If necessary, other backup will be forthcoming. Please contact Representative Dahlstrom's staffer Laura Pierre at 465-3783 or Representative Gardner's staffer Ellie Sica at 465-4930.

ALASKA STATE LEGISLATURE



Representatives Nancy Dahlstrom, Berta Gardner, Bob Buch, Wes Keller, Pete Petersen, Bob Lynn, Carl Gatto, Chris Tuck, Mike Doogan, Bill Thomas, Mike Hawker, David Guttenberg, Jay Ramras, Anna Fairclough, Craig Johnson, Charisse Millet, Bob Herron

Sponsor Statement
HB 274

"An Act establishing August 7 as Purple Heart Day."

On August 7, 1782, General George Washington established the Badge of Military Merit to honor military enlisted men and noncommissioned officers. This badge was only awarded to three Revolutionary War soldiers before its use was discontinued after the war. In 1932, on Washington's 200th birthday, the United States reinstituted the Badge of Military Merit renaming it the "Purple Heart."

Throughout its history the Purple Heart has been awarded for meritorious service. With the introduction of the Legion of Merit in 1942, the award of the Purple Heart transitioned to honoring members of the United States armed forces who have been wounded or killed in battle.

Since this honor has been reinstituted in the United States, approximately 1.7 million service men and women, including many Alaskans, have received the Purple Heart. Currently, there are about 500,000 Purple Heart recipients who are living.

In the past, the State of Alaska and the Municipality of Anchorage has recognized August 7 as Purple Heart Day. It is, however, our nation's oldest military medal, and we wish to honor recipients on an annual basis on the day of the award's inception. We ask you for your support to establish August 7 as Purple Heart Day in perpetuity to honor those who have been wounded or killed in battle.

Ellie Sica

From:	ronakph@gci.net on behalf of Ron Siebels [ronakph@gci.net]
Sent:	Thursday, January 21, 2010 4:36 PM
To:	Rep. Berta Gardner; Rep. Nancy Dahlstrom; Sen. Johnny Ellis; Rep. Anna Fairclough; Rep. Carl Gatto; Rep. Cathy Munoz; Rep. Charisse Millett; Rep. Chris Tuck; Rep. Craig Johnson; Rep. David Guttenberg; Rep. Jay Ramras; Rep. Mike Chenault; Rep. Mike Doogan; Rep. Mike Hawker; Rep. Pete Petersen; Rep. Alan Austerman; Rep. Bill Thomas; Rep. Bob Buch; Rep. Bob Herron; Rep. Bob Lynn; Rep. John Coghill; Rep. Kurt Olson; Rep. Max Gruenberg; Rep. Wes Keller; Sen. Charlie Huggins; Sen. Con Bunde; Sen. Gary Stevens; Josh Tempel
Cc:	Noah Hanson; Ellie Sica; John Bircher; JimS; CJones; Bill Hutton; BMcKenty; Jack Leonard; Frank Van-Hoy
Subject:	Purple Heart Trail bill,---HB274

Dear members of the Alaska legislature,

I asked my local Representative (Berta Gardner) to help me get a bill passed that would establish August 7th as Purple Heart day in perpetuity. Represenative Gardner jumped right on this with her consistent support and we also have gained the immediate and dedicated support of Representative Nancy Dahlstrom.

Earlier today in reviewing the on-line status of HB274 I note that many of you have already signed on as sponsors/co-sponsors. "THANK YOU", and on behalf of our statewide MOPH members I sincerely express our appreciation for your devoted commitment towards all of Alaska's combat wounded veterans. I can assure you that our Alaska legislators from both houses in Juneau have placed Alaska firmly and admirably on the National Map in terms of taking care of its veterans. Alaska is well noticed and I proudly take your commitment with me on trips to other locations. I am proud to tell other veterans and a variety of Washington officials how well our elected officials support veteran causes in this state. I can also assure you that Alaska is frequently envied by the veterans of many other states. Your support has helped all of Alaska, veteran and non-veteran, in obtaining a favorable image all across this great nation.

Again, the bill I refer you to is HB274, the "Purple Heart Day" bill. This is intended to be an honorary action issue in perpetuity. Governor Palin signed a similar declaration last year prior to leaving office. I maintain that it could probably be done every year but that would only create more work and tie your hands from your other heavy workload of important tasks. A onetime permanent fix through the state legislature is the way to go in my opinion. It should not create hardly any cost for the state and it is not intended to be a paid holiday. Much history of August 7th as Purple Heart Day is widely available on internet sources.

To the point; I think there is sufficient support in Juneau to get this bill approved during this Legislative session and we thank each of you for your continued support to help get it accomplished. So, pending approval of HB274 our next desire is to have the bill signed during a public event that could take place during our annual MOPH Department convention that will occur on Saturday, June 12th in Anchorage. I have already contacted the Governor's office about a possible bill signing pending the legislative approval of HB274. Our MOPH National Commander and his wife have made plans to join us at our Convention on June 12th. If our Alaskan elected officials can get HB274 passed and a bill signing ceremony is set-up then I feel confident that I can get the event included in the Purple Heart magazine which is distributed across all reaches of America including off shore areas. I envision an event of about an hour duration that could occur around mid-day in conjunction with our MOPH convention.

I think there is plenty of time to work out any possible bill signing details with media involvement. I just wanted to give everyone a timely heads up on the possibility of having a public bill signing event on June 12th, (pending bill approval). The bill sponsors and the Governor will of course be invited to this anticipated free public event along with our members who are Purple Heart recipients.

I would also ask that you help spread the good word on this bill and enlist the support of other Alaska legislative members. Unanimous legislative consent would send yet another strong message to everyone that Alaska consistently and historically stands firmly behind "ALL" of its veterans.

I thank each of you for your time and consideration, and wish the best that life can offer to each of you and your loved ones.

Please feel free to contact me with any questions or concerns.

I remain "Yours In Patriotism"

Ron Siebels
Ron Siebels
MOPH, National Americanism Officer
MOPH, National Purple Heart Trail coordinator
MOPH, Department Commander, Alaska

Noah Hanson

From: ronakph@gci.net on behalf of Ron Siebels [ronakph@gci.net]
Sent: Tuesday, January 19, 2010 11:06 AM
To: Noah Hanson
Cc: Rep. Berta Gardner; Rep. Nancy Dahlstrom
Subject: Support for Purple Heart Day legislation.
Attachments: PURPLE HEART DAY.pdf

Noah, I hope the following is the support information you need. Please contact me for anything else I can help you with. Please remember that I will be in DC during the first part of February. I should be available here in Alaska the rest of January.

Dear Honorable Legislators serving Alaska,
The purpose of this message is to enlist your support to declare August 7th of each year as Purple Heart Day in Alaska on a forever/perpetual basis. Governor Palin declared August 7th as Purple Heart day last year and I am sure that Governor Parnell would do so again this year. But I believe that doing it once on a permanent basis and in the right manner through the legislative process will save everyone time and paperwork in the future.

It was on August 7th 1782 that General George Washington first created the Badge of Military Merit to honor the bravery of his soldiers. In 1932 General Douglas McArthur put new life into this award and it was recreated as the Purple Heart.

The following is from archives: quote>>
On February 22, 1932 (the 200th anniversary of George Washington's birth), the War Department issued the following General Order: "By order of the President of the United States, the Purple Heart established by General George Washington at Newburgh, August 7, 1782, during the War of the Revolution, hereby revived out of respect to his memory and military achievements. " unquote<<

I would also like to direct your attention to the attached information because it offers even more details.

There is a precedence for this action in other states. Wisconsin has excellent legislation that has established August 7th as Purple Heart Day in perpetuity. This date is also recognized as Purple Heart Day at the National level. Here is the legislative action from Wisconsin;

Wisconsin's Purple Heart Day

Purple Heart Day in Wisconsin is designated in state law. Wisconsin State Statutes s. 14.16 (11) states:

"*The governor shall annually proclaim* **August 7** *as* **Purple Heart Day** *and urge the people and organizations of the state to display the American flag on that day as a public expression of the recognition of those individuals who have been wounded or killed in action preserving the freedoms that all United States citizens cherish.*"

Other states are increasingly taking similar action. I see Alaska as sort of a trend setter on legislation that honors and supports veterans. It is my intent to get this Alaska Legislative Accomplishment included in the Purple Heart magazine when the bill passes in Juneau.

I see little if any cost in this legislation. I do not ask for this to be another paid holiday for anyone, I only ask for the honorary declaration. I therefore kindly ask for the full support of both the House and the Senate to establish August 7th as Purple Heart Day in Alaska on a permanent basis. Thank you!

Ron Siebels

Ron Siebels
MOPH, National Americanism Officer
MOPH, National Purple Heart Trail coordinator
MOPH, Department Commander, Alaska

All Members of the 26th Legislature, 19 Jan 2010

This letter is to proclaim on behalf of the Commander Tom Schanrock and all members of Department of Alaska Disabled American Veterans of Alaska support HB274, making Aug 7, Purple Heart Day annually in Alaska.

We also suggest verbiage be added to the legislation to have the Governor issue a proclamation annually for our fellow veterans and Purple Heart recipients recognition

Respectfully,

Pamela F. Beale, Adjutant,
State Disabled American Veterans
Commander, DAV Metro Chapter 7

STATE OF ALASKA

Executive Proclamation by Sarah Palin, Governor

WHEREAS, on August 7, 1782, General George Washington created the Badge of Military Merit, later to become the Purple Heart, which was awarded to singularly meritorious and loyal soldiers. The badge was honorably worn on the left breast of a uniform coat; and

WHEREAS, today, the Purple Heart is awarded to a member of the Armed Forces by the President of the United States to recognize those who have been wounded or killed during a time of conflict; and

WHEREAS, serving as a symbol of love, loyalty, and sacrifice for our country, the Purple Heart is one of the most recognized and respected of all military medals; and

WHEREAS, Alaska has a rich military history, and citizens across the state are dedicated to recognizing the presence of our military men and women serving in our communities; and

WHEREAS, we extend our appreciation and recognition of the important contributions of the Armed Services to the state of Alaska and communities throughout our state;

NOW, THEREFORE, I, Sarah Palin, Governor of the state of Alaska, do hereby proclaim August 7, 2009 as:

Purple Heart Day

in Alaska, and encourage all citizens to recognize the importance of our United States servicemen and women Purple Heart recipients, especially those living in our communities, and observe this day in honor of their selflessness and devotion to our state and nation.

Dated: July 23, 2009

PURPLE HEART DAY-Political News

Political News

August 7th is Purple Heart Day - a Day to Honor America's Combat Wounded and Fallen Heroes

Washington DC 8/07/2009 12:54 AM GMT (TransWorldNews)

Washington, DC - Each year on August 7th, Americans should pause to remember and honor the brave men and women who were either wounded on the battlefield or paid the ultimate sacrifice with their lives. The Purple Heart is awarded to any member of the U.S. Armed Forces that has been wounded or died as a result of a wound in battle. This now includes those persons who died in captivity while a prisoner of war (POW). We now celebrate Purple Heart Day on the anniversary of its inception, August 7th. On this day it is our patriotic duty to remember and recognize those people willing to serve our country, no matter the price.

The Medal now known as the Purple Heart actually began as the "Badge of Military Merit." On August 7th, 1782 in Newburgh, New York, General George Washington ordered the creation of a badge of distinction for enlisted men and noncommissioned officers. The badge took the form of a heart in purple cloth or silk, edged with narrow lace or binding, and was pinned to a uniform coat above the left breast. The Badge of Military Merit was only awarded to three Revolutionary War soldiers and fell into disuse following the War of Independence. Although never abolished, the award was not proposed again officially until after World War I.

On October 10, 1927, then Army Chief of Staff General Charles Pelot Summerall directed that a draft bill be sent to Congress "to revive the Badge of Military Merit," but the bill was later withdrawn. On January 7, 1931, Summerall's successor, General Douglas MacArthur, confidentially reopened work on a new design, involving the Washington Commission of Fine Arts. Elizabeth Will, an Army heraldic specialist in the Office of the Quartermaster General, was named to redesign the newly revived medal, which became known as the Purple Heart. Using general specifications provided to her, Will created the design sketch for the present medal of the Purple Heart. This new design was issued on the bicentennial of George Washington's birth and MacArthur was the first recipient of the Purple Heart.

During the early period of American involvement in World War II, the Purple Heart was awarded both for wounds received in action against the enemy and for meritorious performance of duty. With the establishment of the Legion of Merit, by an Act of Congress, the practice of awarding the Purple Heart for meritorious service was discontinued. By Executive Order 9277, dated December 3, 1942, the decoration was extended to be applicable to all services and required that regulations of the Services be uniform in application as far as practicable. This executive order also authorized the award only for wounds received.

The organization now known as the "Military Order of the Purple Heart (MOPH) of the U.S.A. Inc.," was formed in 1932 for the protection and mutual interest of all who have received the decoration. Chartered by the Congress, The MOPH is unique among Veteran Service Organizations in that all its members were wounded in combat. For this sacrifice, they were awarded the Purple Heart Medal. With grants from the MOPH Service Foundation, the MOPH and its Ladies Auxiliary promote Patriotism, Fraternalism, and the Preservation of America's military history. Most importantly, they provide comfort and assistance to all Veterans and their families, especially those requiring claims assistance with the VA, those who are homeless, and those requiring employment assistance. MOPH volunteers through the VAVS program, provide assistance to hospitalized veterans at VA sites and State Veterans Homes.

For further information contact:
National Public Relations Director, John Bircher, 352-753-5535
Email: PublicRelations@Purpleheart.org
Web: www.purpleheart.org

MOPH, Alaska; Our top 5 Legislative priorities for the 2010 legislative session.

1. Purple Heart Day established in perpetuity on August 7th. It was on August 7th, 1782 that General George Washington created the Badge of Military Merit. This award later became the Purple Heart Medal through action taken by General Macarthur. Currently other states have passed legislation that establishes August 7th as Purple Heart day in perpetuity. We do not ask for any special favors beyond the Purple Heart Day permanent recognition and we do not think it should be viewed as another paid holiday. We simply seek a day of honorary recognition as other states have already done. "***UPDATE***", action has been initiated on this bill in the 2010 legislature and the bill has been pre-filed. Several co-sponsors have already signed on in support of this. We kindly ask for unanimous support from the legislature members in this endeavor.
2. Adequate Funding for a Fairbanks Veterans Cemetery. The northern regions of our State are witnessing an ever increasing number of Alaska residents many of whom are military veterans. Currently many of these deceased northern region veterans are transferred and buried at the FT Richardson National cemetery near Anchorage. This lengthy distance creates an almost impossibility for the elderly spouse living in the Fairbanks area to even visit their loved ones grave site. We ask the legislature to appropriate sufficient funds to get a Veterans Cemetery established in the Fairbanks region.
3. Give full honor to Master Sergeant James Bondsteel by renaming the Sergeant Jim Bondsteel bridge across the Matanuska River. During the 22nd Alaska State Legislative session SB269 was passed naming bridge 1121 the "James Bondsteel Bridge of Honor". The original intent of this legislation was highly honorable but in reality it created a vague impression on those who travel over the bridge. It does not indicate that Sergeant James Bondsteel was in the military. It gives an incorrect rank, while he was a Staff Sergeant when the MOH was awarded his actual rank at discharge was MSG (Master Sergeant). MSG is three ranks higher than Sergeant. The term *BRIDGE OF HONOR* is misunderstood even to the frequent Alaska traveler. It should openly indicate "*MEDAL OF HONOR*" We contend that the legislation was well intended but in reality it disrespects the prestige of the Medal of Honor, his true service rank, and the fact that he was a military member of the US Army. We suggest that SB269 (22nd session) be amended as follows>>
"1st line "MEDAL OF HONOR BRIDGE", 2nd line "IN HONOR OF", 3rd line "MASTER SERGEANT (MSG) JAMES BONDSTEEL" , bottom line "US ARMY-VIETNAM-1968". We would also request that Alaska DOT create and install appropriate signs that would be placed at both ends of the bridge.
4. Increase the funding level for the work that Veterans Organization Service Officers do for all Alaska Veterans. This state funding should be distributed fairly but only go to those Service Officers who are fully accredited at the VA level to care for the needs of Alaska veterans.
5. Provide additional state assistance that would provide for the placement of accredited Veteran Service Officers in major communities where no such Service Officer currently exists. This would cover such major cities as Juneau, Valdez, Bethel, Ketchikan, Sitka, Nome, Barrow, Dillingham, Kodiak, etc. We fully realize that placing Service Officers in every Alaska community is totally unrealistic. We maintain that VA accredited Service Officers located in strategic Alaska vicinities can absorb the needs of veterans living in and near those locations.
We would also like to take this opportunity to again thank our elected officials for your past and continuing support in caring for the needs of all veterans. Your efforts are proof that Alaska truly cares about its military veterans.

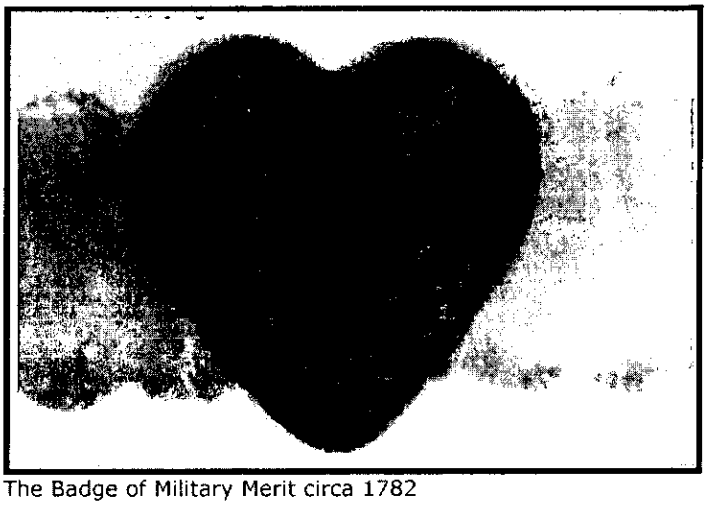
Ron Siebels

Ron Siebels
MOPH, National Americanism Officer
MOPH, National Purple Heart Trail coordinator
MOPH, Department Commander, Alaska

THE NATIONAL PURPLE HEART HALL OF HONOR

NATIONAL PURPLE HEART HALL OF HO

History



The Badge of Military Merit circa 1782

The award known as the Purple Heart has a history that reaches back to the waning days of the American Revolution. The Continental Congress had forbidden General George Washington from granting commissions and promotions in rank to recognize merit. Yet Washington wanted to honor merit, particularly among the enlisted soldiers. On August 7, 1782, his general orders established the Badge of Military Merit:

> "... The General ever desirous to cherish virtuous ambition in his soldiers, as well as to foster and encourage every species of Military merit directs whenever any singularly meritorious action is performed, the author of it shall be permitted to wear on his facings, over his left breast, the figure of a heart in purple cloth or silk edged with narrow lace or binding."

This award was open only to enlisted men and granted them the distinction of being permitted to pass all guards and sentinels as could commissioned-officers. The names of the recipients were to have been kept in a "Book of Merit" (which has never been recovered). At the present time there are three known recipients of the Badge of Military Merit: Sergeant Elijah Churchill, 2nd Continental Dragoons; Sergeant William Brown, 5th and Sergeant Daniel Bissel, 2nd Connecticut Continental Line Infantry.

Washington stated that the award was to be a permanent one, but once the Revolution ended, the Badge of Merit was all but forgotten until the 20th century.

General John J. "Blackjack" Pershing suggested a need for an award for merit in 1918, but it was not until 1932 that the Purple Heart was created in recognition of Washington's ideals and for the bicentennial of his birth. General Order No.3 announced the establishment of the award:

> "...By order of the President of the United States, the Purple Heart, established by General George Washington at Newburgh, August 7, 1782, during the War of the Revolution is hereby revived out of respect to his memory and military achievements.
>
> By order of the Secretary of War:
> Douglas MacArthur
> General, Chief of Staff

On May 28, 1932, 138 World War I veterans were conferred their Purple Hearts at Temple Hill, in New Windsor, NY. Temple Hill was the site of the New Windsor

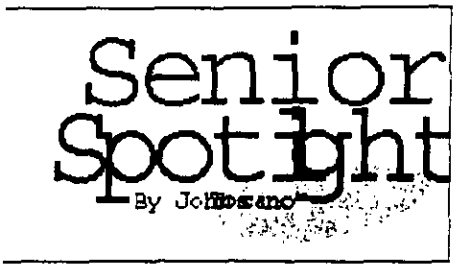
Cantonment, which was the final encampment of the Continental Army in the winter of 1782-1783. Today, the National Purple Heart continues the tradition begun here in 1932, of honoring veterans who have earned the Purple Heart.

The Purple Heart has undergone many changes with respect to the criteria for being awarded. At first, the Purple Heart was exclusively awarded to Army and Army Air Corps personnel and could not be awarded posthumously to the next of kin. In 1942, President Franklin Roosevelt signed an executive order allowing the Navy to award the Purple Heart to Sailors, Marines, and Coast Guard personnel. Also in that year, the Purple Heart was made available for posthumous award to any member of the military killed on or after December 7, 1941.

Originally the Purple Heart was awarded for meritorious service. Being wounded was one portion of consideration for merit. With the creation of the Legion of Merit in 1942, the award of the Purple Heart for meritorious service became unnecessary and was therefore discontinued. The Purple Heart, per regulation is awarded in the name of the President of the United States to any member of the Armed Forces of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after April 5, 1917 has been wounded, killed, or has died after being wounded.

PurpleHeartDayClintonHagel

Clinton Bill Would Establish Day To Honor Purple Heart Medal Recipients



Every member of the United States armed services who ever won a Purple Heart, the oldest military decoration in this country, would be acknowledged in a National Purple Heart Recognition Day proposed by U.S. Senators Hillary Rodham Clinton (D–NY) and Chuck Hagel (R–Nebraska).

Clinton, in announcing the Senate had passed the resolution recently, declared:

"Right now, American troops bravely serving their nation in Iraq, Afghanistan and elsewhere are close to our hearts and this legislation would be a fitting tribute to them. The sacrifices they are making on our behalf follow in the long line of courageous service by previous generations of Americans who risked or gave their lives for the freedom we all enjoy today.

"A presidential proclamation asking Americans to honor the bravery and sacrifice of the more than 1.5 million veterans who have been awarded this prestigious medal will help pay proper tribute to those extraordinary men and women, and also remind us of the valor and service of all our veterans."

The senators' legislation encourages all Americans to learn about the history of the Order of the Purple Heart for Military Merit, which was established 222 years ago on Aug. 7, 1782 by General George Washington during the Revolutionary War. It was then called the Honorary Badge of Distinction, or the Badge of Military Merit or the Decoration of the Purple Heart, Clinton said.

The bill, beside encouraging all Americans to learn about the decoration, also requests that the president issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities and programs to demonstrate support for people who have been awarded the Purple Heart.

Clinton explained that the Purple Heart is awarded by the president of the United States to members of the armed forces who are wounded in conflict with an enemy force, or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force, or who die of a wound received in conflict with an enemy force.

She said there are more than 1,535,000 recipients of the Purple Heart Medal, approximately 550,000 of whom are still living.

Previously, the Senate passed legislation sponsored by Clinton and Hagel designating August 7, 2003 as National Purple Heart Recognition Day. Clinton has also proposed that the U.S. Postal Service issue a commemorative stamp to pay tribute to Purple Heart recipients.

MILITARY ORDER OF THE PURPLE HEART

The Military Order of the Purple Heart is a non-profit congressionally chartered organization made up of Recipients of the Purple Heart. The nationwide MOPH members consist of both former and active duty military members from all branches of the service.

Alaska currently has over 200 members who have signed up as MOPH members but Alaska has many more Purple Heart recipients who are not MOPH members. Alaska currently has 4 active MOPH Chapters. We have members who are located from Fairbanks to Juneau and even beyond. Alaska even has members who reside in other states but retained their membership here. We encourage all Purple Heart recipients to join the MOPH.

The MOPH in Alaska currently has 2 nationally accredited service officers who can and do provide assistance to ALL veterans who seek help in processing claims with the VA. We also provide assistance to the families of Purple Heart recipients.

The MOPH in Alaska is not a large organization but it is the only organization consisting entirely of those who have been wounded or injured in actual combat in defense of our nation.

-- Ron Siebels, Department Commander, Alaska

HB

284

ALASKA STATE LEGISLATURE

REPRESENTATIVE NANCY DAHLSTROM
REPRESENTATIVE LES GARA
REPRESENTATIVE BOB HERRON

House Bill 284

"An Act requiring the Department of Health and Social Services to accept federal prescription drug benefits or to provide comparable benefits for residents of the Alaska Pioneers' Home, including residents eligible for discount or free benefits from the United States Department of Veterans Affairs or the Indian Health Service of the United States Department of Health and Human Services."

In April of this past year, Veterans residing at Pioneer Homes across Alaska were caught in the middle of a bureaucratic dispute. Officials at the Pioneer Homes could not accept prescription drugs from the Veterans Administration because of safety concerns with how those drugs were delivered. The VA refused to change how they sent drugs to the Pioneer Homes. Veterans who were unable to self-administer drugs had to pay the Pioneer Homes' pharmacy out-of-pocket for drugs they needed, prescriptions that they would otherwise receive for free from the VA.

A joint effort between the Department of Health and Social Services, the Department of Military and Veterans Affairs, local public veterans' advocates and legislative involvement appear to have fixed the problem at the policy level with the Dept. of HSS. State administrators found a solution to safely administer prescription drugs from the VA and veterans began to receive their free drugs once again.

House Bill 284 would stop this from happening again. Administrators could only prevent residents from receiving Federal prescription drug benefits if there was a safety concern. If they did prevent residents from receiving those drug benefits, the Pioneer Homes would step in to cover the value of the denied benefit.

This bill would protect not only Veteran residents, but all Pioneer Home residents receiving Federal prescription drug benefits, including benefits from Indian Health Services. The Pioneer Homes have always worked with residents eligible for IHS benefits to receive their prescription drugs. However, if something changes in the future with the distribution of IHS drugs, the Homes could stop accepting them but would need to cover the cost to affected residents.

With the passage of House Bill 284 veterans and other groups who have earned Federal drug benefits will no longer have to worry about not receiving their much needed prescription medications because bureaucrats are unable reach, what should be, a simple agreement.

ALASKA STATE LEGISLATURE

REPRESENTATIVE NANCY DAHLSTROM
REPRESENTATIVE LES GARA
REPRESENTATIVE BOB HERRON

HB 284

Sectional Analysis

Section 1: Amends AS 47.55.010(c), maintenance and operation of Alaska Pioneers' Home and Alaska Veterans' Home, to require the Department of Health and Social Services to accept Federal prescription drug benefits due to Pioneers' Home residents.

Section 2: Adds a new subsection to AS 47.55.020, admission to home, to provide the Department of Health and Social Services the option of providing Federal prescription drug benefits due to Pioneer Homes residents or provide comparable prescription drug benefits to pioneers and veterans.

ALASKA STATE LEGISLATURE

REPRESENTATIVE LES GARA
SENATOR BILL WIELECHOWSKI
REPRESENTATIVE NANCY DAHLSTROM

October 16, 2009

David Cote, Director
Alaska Pioneer Homes
Central Office, P.O. 110690
Juneau, AK 99811-0690

Re: Veterans at the Pioneer Homes Who Cannot Receive Their Free VA Prescription Drug Benefit

Dear Mr. Cote:

We are writing to recommend a solution to the problem facing disabled Veterans at Alaska's Pioneer Homes. As you know from work with our offices, we are concerned that the Pioneer Homes will not administer prescription drugs veterans receive for free from the Veterans Administration. As a result, Veterans entitled to no-cost prescription medicine have to purchase it from the Pioneer Homes pharmacy. So far in correspondence, and work on the matter, we have not found a solution that is acceptable to the Pioneer Homes. However, we are writing because we do believe a solution can be achieved, and will present some recommendations. Our hope is that you will agree to support one or more of them, and we would like to work with you on what you determine is the best solution to this problem.

We've attached the correspondence, and legal memoranda between the Pioneer Homes and Rep. Gara's Office, as it may help you. And we do respect the difficulties the Homes face, including the lack of cooperation from physicians and staff in the VA system that Pioneer Homes staff have experienced (sometimes physicians do not accept concerns from Pioneer Homes Staff about the appropriateness of prescriptions; the VA won't send prescriptions in blister packages).

The basic problem is that the Pioneer Homes like to administer all a patient's medicines in a blister package, rather than from prescription bottles. The Pioneer Homes like to do this for safety reasons, and current law does not let the Pioneer Homes repackage bottled drugs into a blister package. Here are some proposed solutions. We will work with you to implement one, or accept a separate proposal from the Pioneer Homes. But the current status – that veterans who are entitled to free prescription medicine are not allowed to use that benefit – begs a solution.

1. Change in the law. We will write the Board of Pharmacy to change the regulations to allow the Pioneers Homes to repackage medicine into blister packages. If they decide not to allow this, we will write legislation to achieve this.

2. Alternatively, under current law, the Pioneer Homes may re-package medicine if it receives a "manufacturers license". We would ask that the Pioneer Homes look into determining whether achieving this license is feasible.

3. Alternatively, the Pioneer Homes could ask for the staff you have advised us you would need to safely administer prescription medicine in the form it comes in from the Veterans Administration. That is, the Homes have a safety concern about administering medicine from drug canisters. While nursing staff are certainly qualified to administer medicine from a bottle, you have advised us you may need additional staff to make sure this can be done safely, and that you are too short on staff to do this safely with current personnel. If this is the approach you would like to take, let us know.

4. Finally, it just might be less expensive, given the small number of affected patients, to adopt a policy as follows, that would require no change in staff or packaging: To provide free prescription medicines to any Pioneer Home resident who qualifies for free medicines that the Pioneers Home decides it cannot administer. That is, if you do not accept medicines from another institution that are provided to the resident for free, then the Pioneer Homes would have to supply that resident free medicine at cost to the Pioneer Home.

5. We will consider legislation that allows Pioneer Home repackaging, and that allows the Pioneer Homes to choose the most acceptable method for providing free prescription medicine to those who would otherwise qualify for it.

Thank you for working with us. So far we have not been able to find a solution that is acceptable to you. This letter expresses our intention that we continue to work to find one that will work as soon as practicable. We look forward to your response.

Best Regards,

Rep. Les Gara | Sen. Bill Wielechowski | Rep. Nancy Dahlstrom

Cc: Governor Parnell
Comm. Hogan
Alaska Board of Pharmacy
Alaska Veterans Advisory Council

adn.com
Anchorage Daily News

Print Page | Close Window

Veterans in Pioneer Homes will get their medicines from VA

FREE OR LOW COST: Issue of distribution safety resolved.

By ROSEMARY SHINOHARA
rshinohara@adn.com

(11/14/09 02:47:41)

The state announced Friday that it has found a solution that will allow veterans who live in state-run Alaska Pioneer Homes to get the free or low-cost medicines they are entitled to from the VA, but have been denied in recent months.

The state will also refund the money the affected veterans had to pay to fill prescriptions through the Pioneer Homes pharmacy, according to officials from the state Department of Health and Social Services.

The Pioneer Homes quit accepting medicine from the VA last April for veterans who need help from staff to take their pills. The decision affected about a dozen veterans in the Anchorage Pioneers' Home, and perhaps a couple of veterans at the Palmer home.

Pioneer Homes director Dave Cote said the VA medicine wasn't packaged in the right kind of packs to make sure staff could safely distribute it. The Pioneer Homes wanted the medicine to come in blister packs labeled with the patient's name, with foil on one side and plastic on the other and each pill ready to be popped out individually. That way it would be easy to tell if the pill had been administered.

But Cote said after a high-level meeting with Veterans Administration last week, it became clear "they could not be flexible. ... There was not anything they were going to do on their side of things."

Ken Strum, pharmacy chief for the Veterans Administration in Anchorage, said the VA doesn't have equipment needed to package medicine in blister packs as the Pioneer Homes wanted. And, Strum said, it would be against state regulation for the Pioneer Homes pharmacy to repackage in blister packs medicine it receives from the VA pharmacy.

So Cote and the Pioneer Homes nurses instead figured out the safest way to distribute VA medicine from the bottles it comes in, Cote said. Basically, they're going to be more careful.

The Pioneer Homes nursing staff will keep the pills in the original bottles, instead of transferring all of a veteran's pills into a pill box where all meds to be taken at a time would be mixed together. That's to prevent a problem in case certain prescriptions are discontinued, which happens often with older folks, Cote said.

Also, instead of allowing aides to dispense VA pills, nurses will do it, he said.

The dispute between the VA and the Pioneer Homes gained attention this fall after Bea Combs, stepdaughter of Pioneers Homes veteran Melvin Ertwine, went to a legislator's office seeking to get the free or low-cost medicines reinstated.

State Reps. Les Gara of Anchorage and Nancy Dahlstrom of Eagle River and Sen. Bill Wielechowski of Anchorage began sending letters and meeting with state administrators about it.

"I think it's a great solution," Wielechowski said Friday. "It was sort of two large bureaucracies clashing with each other. Somebody had to give."

The state was able to be "a little more nimble," he said. "One reason we were able to do it is it's a small number of people."

Find Rosemary Shinohara online at adn.com/contact/rshinohara or call her at 257-4340.

Print Page | Close Window

Copyright © Wed Jan 27 10:37:08 UTC-0900 20101900 The Anchorage Daily News (www.adn.com)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SSHB 284
(H) Publish Date: 3/17/10

Identifier (file name): HB284-DHSS-PH-03-05-10
Dept. Affected: Health & Social Services

Title: Pioneers Home RX Drug Benefit
RDU: Alaska Pioneer Homes
Component: Pioneer Homes

Sponsor: Gara

Requester: House HSS
Component Number: 2671

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

HB 284 ensures that eligible Pioneer Home residents will continue to have access to federal prescripton drug benefits available from the Veterans Administration or Indian Health Services. There is no fiscal impact to this bill as the Pioneer Homes are already allowing residents to access their federal prescription benefits.

Prepared by: Dave Cote, Director
Phone 465-5737
Division: Alaska Pioneer Homes
Date/Time 1/21/10 12:00 AM

Approved by: Alison Elgee, Assistant Commissioner
Date 3/5/2010
DHSS Finance & Management Services

(Revised 11/6/2009 OMB)

HB

288

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

TO: Representative Bob Lynn

FROM: Representative Max Gruenberg

DATE: January 28, 2010

RE: HB 288: An Act relating to bilingual voting; and relating to the definition of 'political party.'"

Please consider this memorandum as a request for the House State Affairs Committee to schedule a hearing on HB 288. Accompanying this memo are the following documents:

- HB 288 – 26-LS1303\S
- Sponsor Statement & Sectional Analysis
- Supporting Materials
  - U.S. Code Collection on bilingual voting materials
  - Correspondence with the leaders of other political parties

Thank you for considering my request for a hearing on HB 288. If you have any questions please contact my staffer, Ted Madsen, at 465-2840.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

Sponsor Statement and Sectional Analysis for HB 288
By: Representative Max F. Gruenberg, Jr.

Title: "An Act relating to bilingual voting; and relating to the definition of 'political party.'"

This bill does two things relating to voting. Section one of this bill would allow for the printing of ballots and other voting materials, in another language, for individuals in an election district in which at least 20 percent of the voting-age citizens speak a single common language other than English.

Section two of this bill also changes the definition of political party, AS 15.60.010 (25), which requires obtaining three (3) percent of the statewide vote total for either a gubernatorial, senatorial, or congressional race. This three percent currently mandates that a political party have over 9,000 registered voters. The new threshold would require that a political party have 2,500 registered voters. This will make it easier for minor political parties to place their candidates on the ballot.

Cornell University Law School

Search Law School Search Cornell

LII / Legal Information Institute

please fax to:
Rep. Gruenberg ((4 pages))
3+1
Alpheus

U.S. Code collection

TITLE 42 > CHAPTER 20 > SUBCHAPTER I-B > § 1973aa-1a

§ 1973aa-1a. Bilingual election requirements

(a) Congressional findings and declaration of policy

The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Bilingual voting materials requirement

(1) Generally

Before August 6, 2032, no covered State or political subdivision shall provide voting materials only in the English language.

(2) Covered States and political subdivisions

(A) Generally

A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on the 2010 American Community Survey census data and subsequent American Community Survey data in 5-year increments, or comparable census data, that—

(i)

(I) more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

(II) more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or

(III) in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

(ii) the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

(B) Exception

The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

(3) Definitions

As used in this section—

(A) the term "voting materials" means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots;

(B) the term "limited-English proficient" means unable to speak or understand English adequately enough to participate in the electoral process;

(C) the term "Indian reservation" means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

(D) the term "citizens" means citizens of the United States; and

(E) the term "illiteracy" means the failure to complete the 5th primary grade.

(4) Special rule

The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Requirement of voting notices, forms, instructions, assistance, or other materials and ballots in minority language

Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: Provided, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Action for declaratory judgment permitting English-only materials

Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to

or less than the national illiteracy rate.

(e) Definitions

For purposes of this section, the term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

LII has no control over and does not endorse any external Internet site that contains links to or references LII.

4

...03. The states and political ...sions obligated to comply with ...quirements are listed in the ...chment.

Section 203 also provides that "determinations of the Director of the Census under this subsection shall be effective upon publication in the **Federal Register** and shall not be subject to review in any court." Therefore, as of this date, those jurisdictions that are listed as covered by Section 203 have a legal obligation to provide the minority language assistance prescribed by Section 203 of the Act. In the cases where a state is identified as covered, those counties or county equivalents not displayed in the attachment are exempt from the obligation. Those jurisdictions subject to Section 203 of the Act previously, but not included on the list below, are no longer obligated to comply with Section 203. The previous determinations under Section 4(f)(4) of the Voting Rights Act remain in effect and are unaffected by this determination. (*See* Title 28, Code of Federal Regulations, Part 55, Appendix.)

Dated: July 22, 2002.

Charles Louis Kincannon,

Director, Bureau of the Census.

COVERED AREAS FOR VOTING RIGHTS BILINGUAL ELECTION MATERIALS—2000

State and political subdivision	Group
Alaska:	
Aleutians West Census Area	Aleut.
Bethel Census Area	Eskimo.
Bethel Census Area	American Indian (Tribe not specified).
Bethel Census Area	American Indian (Other Tribe specified).
Denali Borough	Athabascan.
Dillingham Census Area	Eskimo.
Dillingham Census Area	American Indian (Other Tribe specified).
Dillingham Census Area	Native (Other Group specified).
Kenai Peninsula Borough	American Indian (Tribe not specified).
Kenai Peninsula Borough	Aleut.
Kodiak Island Borough	Filipino.
Lake and Peninsula Borough	Athabascan.
Lake and Peninsula Borough	Aleut.
Lake and Peninsula Borough	Eskimo.
Nome Census Area	Eskimo.
North Slope Borough	American Indian (Tribe not specified).
North Slope Borough	Eskimo.
Northwest Arctic Borough	Eskimo.
Northwest Arctic Borough	Alaska Native (Other Group specified).
Southeast Fairbanks Census Area	Athabascan.
Southeast Fairbanks Census Area	Native (Other Group specified).
Valdez-Cordova Census Area	Athabascan.
Wade Hampton Census Area	Eskimo.
Wade Hampton Census Area	American Indian (Chickasaw).
Wade Hampton Census Area	American Indian (Tribe not specified).
Yukon-Koyukuk Census Area	Athabascan.
Yukon-Koyukuk Census Area	Eskimo.
Yukon-Koyukuk Census Area	American Indian (Other Tribe specified).
Arizona:	
Apache County	American Indian (Apache).
Apache County	American Indian (Navajo).
Apache County	American Indian (Pueblo).
Cochise County	Hispanic.
Coconino County	American Indian (Navajo).
Coconino County	American Indian (Pueblo).
Gila County	American Indian (Apache).
Graham County	American Indian (Apache).
Greenlee County	Hispanic.
Maricopa County	Hispanic.
Maricopa County	American Indian (Tohono O'Odham).
Navajo County	American Indian (Apache).
Navajo County	American Indian (Navajo).
Navajo County	American Indian (Pueblo).
Pima County	Hispanic.
Pima County	American Indian (Tohono O'Odham).
Pima County	American Indian (Yaqui).
Pinal County	American Indian (Apache).
Pinal County	American Indian (Tohono O'Odham).
Santa Cruz County	Hispanic.
Yuma County	Hispanic.
Yuma County	American Indian (Yuman).
California:	
State Coverage	Hispanic.
Alameda County	Hispanic.
Alameda County	Chinese.
Colusa County	Hispanic.
Contra Costa County	Hispanic.
Fresno County	Hispanic.

please note.

Ted Madsen

From: Rep. Max Gruenberg
Sent: Wednesday, January 20, 2010 9:59 AM
To: 'scott@draftresistance.org'
Subject: RE: HB 288 relating to the definition of political party

Scott,
Thanks!
-Max

-----Original Message-----
From: scott@draftresistance.org [mailto:scott@draftresistance.org]
Sent: Tuesday, January 19, 2010 3:36 PM
To: Rep. Max Gruenberg
Cc: shadouts@gmail.com; attymerrill@anchoragelawyer.us; lpalaska@gmail.com; robclift@ptialaska.net; edmarshburn@yahoo.com; ban@richardwinger.com
Subject: Re: HB 288 relating to the definition of political party

Quoting "Rep. Max Gruenberg" <Representative Max Gruenberg@legis.state.ak.us>:

> Dear Scott,
> Enclosed please find a copy of HB 288, which I have pre-filed to
> change the definition of political party to one that has "at least
> 2500 registered voters in the state." As you can also see section
> one will also make it easier for bilingual voters to cast ballots.
> The support of your party for this bill would be greatly appreciated.
> I hope you will continue to keep in touch. I appreciate your advice
> on this and other issues of mutual concern.
> Cordially,
> Representative Max F. Gruenberg, Jr.
>

Dear Max,
Thanks! I am sending this to the ALP executive committee so they are aware of this important bill. Richard Winger as well. The ALP will do everything we can to help. It may take many years to build the support we need to pass this. I know I speak for the ALP when I say that we appreciate your leadership on this vital piece of legislation. Please let me know if you see opportunities where we may assist.

HB 288!!! I am very excited.

Scott Kohlhaas

Lisa Valenta

From: Judith Moss [judithmossak@gmail.com]
Sent: Tuesday, October 27, 2009 12:37 PM
To: Rep. Max Gruenberg
Subject: Third party status

Rep. Max Gruenberg
Sir,
This letter is to inform you that the Green Party of Alaska is very interested and is soliciting your assistance and support, in legislation that would restore the requirement of registered voters needed to qualify as a Third Party to a more just number of 2500.
If we might help in any way please feel free to contact us.
Thank you for your time and energy on behalf of the Green Party and all Third Political Parties.

Respectfully,

Judith Moss - Treasurer, Green Party of Alaska
Soren Wuerth - Co-Chair Green Party of Alaska
Tom Macchia - Co-Chair Green Party of Alaska

--
Reduce, reuse, recycle

Get election bills - bill was put in the 25th Leg.

1362

HB

289

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 19, 2010

FURTHER REFERRALS: Judiciary Finance

Date of Committee Action: 2-25-10

The STATE AFFAIRS Committee considered: **HB 289**

HOUSE BILL NO. 289

"An Act authorizing state agencies to pay private legal fees and costs incurred by persons exonerated of alleged Alaska Executive Branch Ethics Act violations; allowing certain public officers and former public officers to accept state payments to offset private legal fees and costs related to defending against an Alaska Executive Branch Ethics Act complaint; and creating certain exceptions to Alaska Executive Branch Ethics Act limitations on the use of state resources to provide or pay for transportation of spouses and children of the governor and the lieutenant governor."

HB 289 EXEC ETHICS: LEGAL FEES/FAMILY TRAVEL

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 289 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
OOG			X	

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			Y	
Paul Seaton	SEATON	X			
Kyle Kruemberg	Gruenberg	–			
Pete Peterson	PETERSEN	X			
Chair: Bob L	LYNN	X			
Chair:					

26-LS1304\C.1
Wayne
2/24/10

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 289( ), Draft Version "C"

Page 3, line 16:

Delete "official"

Insert "officially designated"

1365

26-LS1304\C.2
Wayne
2/24/10

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 289( ), Draft Version "C"

Page 3, line 14:

Delete "is"

Insert "has been"

Page 3, line 15, following "customary":

Insert "at similar events"

Page 3, line 19:

Delete "are customary"

Insert "have been customary at similar events"

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 3

Re DRAFT FINAL CS HB 289 VERSION S

February 25, 2010

HB 289 moved from House State Affairs Committee this morning amended. Please draft a final CS with the following amendments:

Amendment #1
26-LS1304\C.1

Amendment #2
26-LS1304\C.2

Amendment 1 to Amendment #2
Page 3, line 19 after the word "customary" *delete* "at" *insert* **for**
(so that line will read: "have been customary for similar events")

26-LS1304\C.1
Wayne
2/24/10

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 289( ), Draft Version "C"

Page 3, line 16:

Delete "official"

Insert "officially designated"

26-LS1304\C.2
Wayne
2/24/10

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 289( ), Draft Version "C"

Page 3, line 14:

Delete "is"

Insert "has been"

Page 3, line 15, following "customary":

Insert "at similar events"

Page 3, line 19:

Delete "are customary"

Insert "have been customary at similar events"

1369

26-LS1304\C
Wayne
2/22/10

CS FOR HOUSE BILL NO. 289( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE GRUENBERG

A BILL

FOR AN ACT ENTITLED

"An Act authorizing state agencies to pay private legal fees and costs incurred by persons exonerated of alleged Alaska Executive Branch Ethics Act violations; allowing certain public officers and former public officers to accept state payments to offset private legal fees and costs related to defending against an Alaska Executive Branch Ethics Act complaint; and creating certain exceptions to Alaska Executive Branch Ethics Act limitations on the use of state resources to provide or pay for transportation of spouses and children of the governor and the lieutenant governor."

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

*** Section 1.** AS 39.52.120(b) is amended to read:

(b) A public officer may not

(1) seek other employment or contracts through the use or attempted use of official position;

(2) accept, receive, or solicit compensation for the performance of

official duties or responsibilities from a person other than the state;

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time; or

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for **a** partisan political **purpose** [PURPOSES]; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor's residence so long as there is no charge to the state for the use [; IN THIS PARAGRAPH, "FOR PARTISAN POLITICAL PURPOSES"

(A) MEANS HAVING THE INTENT TO DIFFERENTIALLY BENEFIT OR HARM A

(i) CANDIDATE OR POTENTIAL CANDIDATE FOR ELECTIVE OFFICE; OR

(ii) POLITICAL PARTY OR GROUP;

(B) BUT DOES NOT INCLUDE HAVING THE INTENT TO BENEFIT THE PUBLIC INTEREST AT LARGE THROUGH THE NORMAL PERFORMANCE OF OFFICIAL DUTIES].

*** Sec. 2.** AS 39.52.120(f) is amended to read:

(f) Use of state aircraft for **a** partisan political **purpose** [PURPOSES] is permitted under (b) of this section only when the use is collateral or incidental to the normal performance of official duties and does not exceed 10 percent of the total of the use of the aircraft for official purposes and partisan political purposes, combined, on a single trip. A public officer who authorizes or makes any partisan political use of a state aircraft under (b) of this section shall disclose the authorization and use under AS 39.52.210 or 39.52.220 for each trip, and the person who uses the aircraft shall

reimburse the state for the proportionate share of the actual cost of the use.

*** Sec. 3.** AS 39.52.120 is amended by adding new subsections to read:

(g) Notwithstanding (a) and (b)(1) - (5) of this section, the use of state resources to transport or pay the cost of transporting a person who is the spouse or child of the governor or lieutenant governor to an event other than an event that has a partisan political purpose is permitted if

(1) the person is transported with the governor or lieutenant governor and the state is reimbursed for the actual cost or, if the actual cost is not reasonably calculable, the fair market value of the person's transportation; or

(2) the person's attendance is a benefit to the state; under this paragraph, a benefit to the state is presumed when

(A) the person's attendance at the event is required for official action of the state;

(B) the event is state-sponsored and the person's attendance is customary;

(C) the person is attending as an official representative of the state; or

(D) the person is invited by the event's sponsor before the transportation occurs, the invitation and the person's attendance are customary, the event is related to issues important to the state, and the governor or lieutenant governor attend.

(h) In this section, "partisan political purpose"

(1) means a purpose intended to differentially benefit or harm a

(A) candidate or potential candidate for elective office; or

(B) political party or group;

(2) does not include a purpose intended to benefit the public interest at large through the normal performance of official duties.

*** Sec. 4.** AS 39.52 is amended by adding a new section to article 5 to read:

Sec. 39.52.470. Legal fees and costs. (a) Notwithstanding AS 39.52.120, a state agency may pay the fees and costs of private legal representation that are incurred by a person who is a public officer or a former public officer while defending

against a complaint initiated or filed under AS 39.52.310 concerning conduct by the person during a period when the person was serving or employed as a public officer, if the person has been exonerated. When a complaint has alleged more than one violation against a public officer or a former public officer, payments shall be apportioned by alleged violation.

(b) Notwithstanding AS 39.52.120, a public officer or former public officer who is the subject of a complaint may accept a payment under (a) of this section.

(c) A public officer may not act for the state in the matter of a payment under this section if the payment is to the public officer or an immediate family member of the public officer.

(d) In this section,

(1) "exoneration" or "exonerated" means that an allegation of a violation of AS 39.52 (Alaska Executive Branch Ethics Act) is

(A) dismissed under AS 39.52.310(d), 39.52.320, or 39.52.370(d);

(B) dismissed after an appeal under AS 39.52.370(f); or

(C) resolved solely with a recommendation for preventive action under AS 39.52.330;

(2) "fees and costs of private legal representation" means reasonable fees and related costs of legal representation that are necessarily incurred in defense against the allegations in the complaint and may include fees for services customarily performed by an attorney but delegated to and performed by a person working under the supervision of an attorney licensed to practice in the state.

*** Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 39.52.470, enacted by sec. 4 of this Act, applies only to complaints under AS 39.52.310 - 39.52.390 that are initiated or filed on or after the effective date of this Act.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature
House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

EXPLANATION OF CHANGES

Changes between HB 289 and proposed CSHB 289 ( ) (26-LS1304\C):

- On page 4, line 2 after "officer," the phrase "if the person is exonerated" is added to make clear that only public officers who are exonerated may receive reimbursement from the state for reasonable legal fees incurred in defending against an alleged ethics violation.

- Under section 4 (a) of the proposed CS to HB 289 (page 3, line 29 to page 4, line 5), a public officer may only receive reimbursement for legal expenses *after* receiving a favorable judgment, rather than at any time after the complaint has been filed, as was provided in the original version of HB 289 (page 3, line 29 to page 4, line 9).

- Page 4, lines 12-16 of HB 289 were deleted to conform to the changes made above.

- A stylistic change was made on page 4, line 29 of HB 289 (page 4, line 20 of the CS), replacing the phrase "necessary to expend" with "necessarily incurred."

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 289
() Publish Date:

Identifier (file name): HB289-GOV-EO-02-19-10
Dept. Affected: OOG
Title: An Act relating to Executive Branch Ethics: legal fees; and limitations on state paid family travel
RDU: Executive Operations
Component: Executive Office
Sponsor: Representative Gruenberg
Requester: (H) State Affairs
Component Number: 6

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

SB 289 has an indeterminate fiscal impact on the Office of the Governor.

Prepared by: Linda Perez, Director — Phone 465-3876
Division: Administrative Services — Date/Time 2/19/10 2:00 PM
Approved by: Linda Perez, Administrative Director — Date 2/19/2010
Office of the Governor

(Revised 11/6/2009 OMB)

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

SPONSOR STATEMENT
HB 289 - EXECUTIVE ETHICS: LEGAL FEES/FAMILY TRAVEL

HB 289 sets forth in statute the substance of the Attorney General's proposed regulations establishing standards for (1) reimbursement of legal fees and costs for any executive branch employees accused of ethical violations, and (2) payment of travel expenses for the families of only the governor and lieutenant governor. It also cures several potential problems in the proposed regulations to (1) require that the employee be *exonerated* of the charges to attain reimbursement, (2) limit reimbursement to charges filed *after* the effective date of the Act (to clarify that reimbursement cannot be claimed by officials charged before this Act passed), and (3) require that the attorneys fees be reasonable in amount and reasonably incurred. The rules are carefully drafted to limit the circumstances under which family members of the governor and lieutenant governor can recover their travel costs.

Any questions? Please contact my legislative aide, Gretchen Staft, at 465-4940.

Thank you for your consideration of HB 289.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

SECTIONAL ANALYSIS
HB 289 - EXECUTIVE ETHICS: LEGAL FEES/FAMILY TRAVEL

Sec. 1. Deletes definition of "for partisan political purposes." This definition section is moved to section 3 on page 3, lines 22-27.

Sec. 2. Conforming amendment.

Sec. 3. Adds new subsections. Proposed subsection (g) sets forth the rules covering the payment of travel costs for spouses and children of the governor and lieutenant governor. First, it may not be for a partisan political purpose. Second, the state must be repaid the actual costs of transportation or the reasonable cost if the actual cost cannot be determined. The state need not be reimbursed if:

(a) the family member's presence is required for official state action, or
(b) the event is state-sponsored and the person's attendance is customary, or
(c) the family member is attending as an official representative of the state, or
(d) the family member is invited by the event sponsor before they receive transportation, the invitation and the person's attendance are customary, the event is related to important state issues, and the governor or lieutenant governor attend.

Proposed subsection (h), discussed above, defines the term "partisan political purpose."

Sec. 4. Creates an exception to AS 39.52.120 by *allowing* (but not requiring) a state agency to pay the reasonable costs of private legal representation relating to the defense of an ethics complaint by a person accused of an ethics violation while employed with the state. Payment by the state is contingent upon exoneration, which is defined as either dismissed of the complaint or resolved solely by preventative action to avoid future violations. Reasonable fees are defined to require that they be reasonably incurred to defend against the charges.

Sec. 5. Makes Sec. 4 of the bill applicable only to ethics complaints filed on or after the effective date of the bill.

LEGAL SERVICES

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

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

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

MEMORANDUM February 12, 2010

SUBJECT: Are ethics regulations proposed December 8, 2009, within the scope of the Department of Law's regulation-making authority? (Work Order No. 26-LS1493)

TO: Representative David Guttenberg

FROM: Dan Wayne
Legislative Counsel

You have asked if the Executive Branch Ethics Act regulations proposed by the Department of Law on December 8, 2009, are within the department's regulation-making authority or if the changes proposed would first require a change in statute by the legislature.

The Administrative Procedure Act says, at AS 44.62.020:

> Except for the authority conferred upon the lieutenant governor in AS 44.62.130 - 44.62.170, AS 44.62.010 - 44.62.320 do not confer authority upon or augment the authority of a state agency to adopt, administer, or enforce a regulation. To be effective, each regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

In this instance, the department's regulation-making authority comes from AS 39.52.950, which says:

> The attorney general may adopt regulations under the Administrative Procedure Act necessary to interpret and implement this chapter.

I see two places where this limited authority may be exceeded by the proposed regulations. Proposed 9 AAC 52.045 would allow the state to pay the transportation expenses of family members of the governor and lieutenant governor, even though the Act, at AS 39.52.120, prohibits that type of payment. The attorney general has previously covered this in a September 30, 2004, opinion, that said:

> For purposes of the Ethics Act, it is irrelevant that it does not cost the state more to fly the King Air with more of its seats occupied. The focus of the Ethics Act is on the benefit being conferred on the administration official

> who would not have to pay the cost of a commercial air ticket to fly his or her spouse to a location, not the cost to the state.
>
> Therefore, under current law, the Ethics Act precludes the spouses of administration officials from flying on the King Air unless the official reimburses the state the cost of a coach fare ticket for the spouse.
>
> . . .
>
> An amendment to the Ethics Act would be required to enable the Governor to allow spouses of administration officials to accompany the official on King Air flights free of charge.

Op. Attn'y Gen. (September 30, 2004); *redated for publication March 9, 2007*; 2007 Alas. AG LEXIS 5. Under the facts of this opinion there was no additional cost to the state in transporting the accompanying spouse. The 2004 opinion did not address the proposition, which the proposed 9 AAC 52.045 seems to rest upon, that the offices of governor and lieutenant governor should be considered apart from other administrative offices, as a matter of public policy, for the purpose of determining whether the state receives a benefit from the governor and lieutenant governor being accompanied by their spouses or children when traveling on state business.

The 2004 opinion said that AS 39.52.120 prohibits a public officer from securing or granting an unwarranted benefit for a spouse. "Unwarranted benefits" have been defined in existing regulations, at 9 AAC 52.040, as benefits that deviate from normal procedure and are improperly motivated. "Improper motivation" means, as defined by 9 AAC 52.990(b)(4), giving primary consideration to a person's relationship with a public officer. The 2004 A.G. Opinion reasoned that if a spouse of an administration official accompanies the official on a state trip without having to pay, there is a benefit to the spouse, and "[t]he primary consideration in granting the benefit would be the spouse's relationship with the administration official and the official's relationship with the Governor -- precisely the type of motivations that are prohibited by the Ethics Act."

In proposed 9 AAC 52.045, the accompanying spouse or child would have to demonstrate that the spouse's or child's transportation is of benefit to the state. However, as can be seen from existing regulations already adopted by the department, the department's past interpretation of AS 39.52.120 regarding state payment of family transportation costs does not, on balance, support a "benefits the state" exception to the prohibition. In fact, 9 AAC 52.040(b), which is not being amended by the proposed regulations, says that a public officer may not grant an unwarranted benefit "regardless of whether the result is in the best interest of the state." Although the proposed 9 AAC 52.045 appears to be in conflict with existing 9 AAC 52.040(b), that does not mean that a court would invalidate the proposed regulation. A court may or may not determine that a "benefits the state" exception allowing spouses and children of the governor and lieutenant governor to be transported with the governor without

reimbursement of transportation costs, exceeds the scope of AS 39.52.120; I am not able to predict which way the court would go on that question.

The proposed regulations would allow an exception to the prohibition for a spouse or child if the presence of the spouse or child is required for state business or if the purpose of transportation of the spouse or child is performance of a customary or ceremonial duty as an "official representative of the state." There is no legal authority to suggest that a person who is not a public employee or public official can be an "official representative" of the state. Being the spouse or child of a public officer does not legally confer official representative status on a person, and it follows from this that if the governor's or lieutenant governor's family member does serve the state it is in an unofficial role. I would note, nonetheless, that the governor's and lieutenant governor's families do serve a ceremonial role that is much more significant than the role served by the families of other administrative officials. The proposed regulations could be upheld on this basis if challenged.

The proposed regulations would also provide for reimbursement of private legal expenses incurred by public officers who are exonerated of allegations in an ethics complaint. The Executive Branch Ethics Act is silent with respect to legal representation of a public officer by private counsel during a complaint proceeding. The attorney general acknowledged the Act's silence on this point but argued, in a recent opinion, that public officers exonerated in ethics complaint proceedings should be reimbursed for private legal expenses incurred because it is consistent with the public's best interest and consistent with the state's general policy of paying legal expenses for public officers who defend against civil or criminal allegations arising from their service to the state.[1] A court might agree with this policy argument and still find that the legal expense reimbursement provisions of the proposed regulations go beyond the scope of the authority, granted to the Department of Law by AS 39.52.950 to adopt regulations "necessary to interpret and implement this chapter."

The legislature might appropriately choose to consider the public policy issues presented by these regulations and attempt to resolve them with legislation. Please let me know if you would like a bill drafted.

DCW:ljw
10-086.ljw

[1] Op. Attn'y Gen. file no. AN2009102807 (August 5, 2009); 2009 Alas. AG LEXIS 8.

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE DEPARTMENT OF LAW

The Department of Law proposes to adopt regulation changes in Title 9 of the Alaska Administrative Code, dealing with the Alaska Executive Branch Ethics Act, (AS 39.52), including the following:

(1) 9 AAC 52.035 is a proposed new section to be added to establish the standards for the term "personal gain" as used in AS 39.52.120(a) to conform to statutes and to add clarifying language. The existing definition of "personal gain" at 9 AAC 52.990(b)(6) would be repealed.

(2) 9 AAC 52.040 is proposed to be changed by adding new provisions establishing standards for the conditions when the acceptance or approval of state money to pay on behalf of, or reimburse a public officer for, expenses incurred for professional legal services to defend against a complaint brought under the Alaska Executive Branch Ethics Act (AS 39.52) may occur, including when the public officer is exonerated of any violation of the Act.

(3) 9 AAC 52.045 is a proposed new section to be added to establish standards for determining when the use or authorization of state money or other state resources for transportation of family members of the governor or lieutenant governor does not result in personal gain or unwarranted benefits under the Act.

(4) 9 AAC 52.050 is proposed to be changed to recognize that misuse of state resources may result in personal gain to a public officer or another person as well as benefit to an officer's personal interests or financial interests as those terms are defined in the Act. The regulation is also proposed to be changed to include standards for determining when a public officer's incidental use of state equipment, such as cell phones, personal digital assistants, and portable computers, is presumed insignificant.

(5) 9 AAC 52.060 is proposed to be changed to clarify the application of AS 39.52.130, addressing gifts to a public officer. 9 AAC 52.060(b) currently permits agency heads to determine that a gift of travel received by an employee traveling on state business is a gift to the state, not a personal gift to the employee. The proposed amendment would clarify that the individual employee does not have to submit a disclosure for pre-approved state travel relating to offers by others made in advance to pay travel expenses of a state employee to facilitate state business.

(6) 9 AAC 52.070 is proposed to be changed to update the description of information considered to be publicly disseminated for purposes of AS 39.52.140. That provision prohibits public officers from using information acquired during their jobs for personal benefit, unless it has been publicly disseminated. The proposed regulation change would, among other matters, establish that information posted for public consumption on a state website has been publicly disseminated.

(7) 9 AAC 52.130(a) is proposed to be changed to change the deadline for ethics supervisors to submit quarterly reports to the attorney general from 45 to 30 days following the end of the quarter. The change would permit more timely review of the matters addressed by designated ethics supervisors during the quarter and earlier preparation of the public summary and report to the Personnel Board.

1381

(8) 9 AAC 52.135 is a proposed new section to provide guidance to designated ethics supervisors when review of an ethics disclosure reveals a violation of the Act.

(9) 9 AAC 52.140 is proposed to be changed to clarify that the attorney general may separately address multiple alleged violations stated in one complaint.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Assistant Attorney General Judy Bockmon at the Department of Law, 1031 W. 4th Avenue, Ste. 200, Anchorage, Alaska 99501 or by email to judy.bockmon@alaska.gov. The comments must be received no later than 4:30 p.m. on January 22, 2010.

Oral or written comments also may be submitted at a hearing to be held on January 6, 2010, in the Fifth Floor Conference Room, Department of Law, 1031 W. 4th Avenue, Anchorage, Alaska. The hearing will be held from 10:00 a.m. to 12:00 p.m. and might be extended to accommodate those present before 10:00 a.m. who did not have an opportunity to comment.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Kamie Willis at (907) 269-5100 at least seven days before the special accommodation is needed to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Kamie Willis at the Department of Law, 1031 W. 4th Avenue, Ste. 200, Anchorage, Alaska or (907) 269-5100 or go to www.law.state.ak.us/doclibrary/ethics.html.

After the public comment period ends, the Department of Law will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.

Statutory Authority: AS 39.52.950
Statutes Being Implemented, Interpreted, or Made Specific: AS 39.52.110 - 39.52.140; AS 39.52.210; AS 39.52.220; AS 39.52.260; AS 39.52.310; AS 39.52.410; AS 39.52.420; AS 39.52.950; AS 39.52.960
Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: December 5, 2009

/s/
Daniel S. Sullivan
Attorney General
Department of Law

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Law
2. General subject of regulation: Changes to Alaska Executive Branch Ethics Act Regulations
3. Citation of regulation: 9 AAC 52.035 - 9 AAC 52.070; 9 AAC 52.130; 9 AAC 52.135; 9 AAC 52.140; 9 AAC 52.990
4. Reason for the proposed action:
   ( ) compliance with federal law
   ( ) compliance with new or changed state statute
   ( ) compliance with court order
   (x) development of program standards
   ( ) other: (please list)_____
5. RDU/component affected: Civil Division/Opinions, Appeals, and Ethics

6. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2010	Subsequent Years
Operating Cost	$ 0	$ 0
Capital Cost	$ 0	$ 0
Federal receipts	$ 0	$ 0
General fund match	$ 0	$ 0
General fund	$ 0	$ 0
General fund/ program receipts	$ 0	$ 0
General fund/ mental health	$ 0	$ 0
Other funds (specify)	$ 0	$ 0

7. The name of the contact person for the regulations:
   Name Judy Bockmon
   Title Assistant Attorney General
   Address 1031 W. 4th Ave. Suite 200
   Anchorage, AK 99501
   Telephone 907-269-5100
   E-mail address judy.bockmon@alaska.gov

8. The origin of the proposed action:

   __x__ staff of state agency
   _____ federal government
   __x__ general public
   _____ petition for regulation change
   __x__ other (please list): Request from Department of Administration

9. Date: December 7, 2009

Prepared by: _____/s/_____
[signature]
Name (typed) Judy Bockmon
Title (typed) Assistant Attorney General
Telephone: 907-269-5100

9 AAC 52 is amended by adding a new section to read:

9 AAC 52.035. Personal gain. For purposes of AS 39.52.120(a), gain is personal gain if it is

(1) a benefit to the public officer's personal interest or financial interest; or

(2) actual or anticipated gain, benefit, profit, or compensation to the public officer or the officer's immediate family member. (Eff. ___/___/____, Register ____)

Authority: AS 39.52.120 AS 39.52.950

9 AAC 52.040(c) is amended by adding a new paragraph to read:

(3) accepting money to reimburse the public officer for expenses incurred for professional legal services to defend against a complaint brought under AS 39.52.310 - 39.52.390, approving money to reimburse another public officer for those expenses, entering into an agreement to pay those expenses on behalf of another public officer, or authorizing payment to secure those professional legal services on behalf of another public officer, if

(A) the public officer to be reimbursed, or on whose behalf payment is to be made, is exonerated of a violation of the Ethics Act or other law for which reimbursement or payment is to be made, or agrees to repay the money or payment if the public officer is not exonerated of the violation;

(B) the complaint concerns conduct that occurred during the public officer's employment or service as a public officer;

(C) the expenses reimbursed or paid are reasonable; and

(D) the reimbursement or payment is made by a state agency that has money appropriated that may be lawfully used for the purpose of paying the expenses.

9 AAC 52.040 is amended by adding a new subsection to read:

(d) For purposes of (c)(3) of this section,

(1) exoneration of a violation of the Ethics Act

(A) occurs when an allegation in a complaint brought against a public officer under AS 39.52.310 - 39.52.390 is

(i) dismissed under AS 39.52.310(d), 39.52.320, or 39.52.370(d);

(ii) resolved with only preventive action recommended under AS 39.52.330 to avoid a potential violation; or

(iii) dismissed after appeal under AS 39.52.370(f); and

(B) does not include the dismissal or resolution of an allegation in a complaint when corrective action is required under AS 39.52.330;

(2) expenses are reasonable if they were necessarily incurred to defend against an allegation in a complaint brought under AS 39.52.310 - 39.52.390; those expenses may

(A) include attorney's fees and fees incurred for professional legal services customarily performed by an attorney but delegated to and performed by an investigator, paralegal, or law clerk; and

(B) be apportioned by alleged violation if a complaint alleges more than one violation, but only if the public officer provides clear documentation that the expenses paid or to be reimbursed were limited to the alleged violation for which the public officer is exonerated; and

(3) payment or reimbursement under this section may be made to or on behalf of a current or former public officer. (Eff. 4/24/94, Register 130; am ___/___/____, Register ____)

Register ___, _____ 2010 LAW

Authority: AS 39.52.120 AS 39.52.950

9 AAC 52 is amended by adding a new section to read:

9 AAC 52.045. Transportation of family members of governor and lieutenant governor. (a) The use or authorization of use of state money or other state resources for transportation of a family member of the governor or lieutenant governor does not violate AS 39.52.120(a) or (b)(3) if transportation is provided to an event at which the family member's presence benefits the state. The presence of a family member of the governor or lieutenant governor benefits the state if the family member's presence

(1) is required for state business; or

(2) has a public purpose related to the governor's or lieutenant governor's official duties, including

(A) attending a state-sponsored event that the family of the governor or lieutenant governor customarily attends;

(B) attending an event at which the family member serves as an official representative of the state; and

(C) accompanying, as an invited guest, the governor or lieutenant governor to an event related to issues important to the state when the family member's attendance is appropriate for the event, such as youth or family related events.

(b) For purposes of AS 39.52.120(a) and (b)(3) and (a) of this section, transportation of a family member to attend a political or campaign event held for partisan political purposes does not benefit the state.

(c) For purposes of AS 39.52.120(a) and (b)(3), the use or authorization of use of state money or other state resources for transportation of a family member that does not benefit the state is presumed insignificant if the governor or lieutenant governor pays the state the cost of the family member's transportation. Except for transportation by state aircraft for partisan political purposes under AS 39.52.120(f), the agency that authorized or paid for the travel shall determine the cost of the transportation based on either

(1) the actual fare paid; or

(2) the fare for an equivalent commercial flight, if the travel was by state aircraft.

(d) In this section,

(1) "child" has the meaning given in AS 39.52.960;

(2) "family member" means a spouse or minor child of the governor or lieutenant governor;

(3) "for partisan political purposes" has the meaning given in AS 39.52.120(b)(6). (Eff. ___/___/____, Register ____)

Authority: AS 39.52.120 AS 39.52.950

9 AAC 52.050 is repealed and readopted to read:

9 AAC 52.050. Use of state time, property, equipment, or other facilities. (a) Unless the attorney general has issued a general opinion against the use or advised the public officer against the use, a public officer who uses state time, property, equipment, or other facilities to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person does not violate AS 39.52.120(a) or (b)(3) if the officer's designated supervisor determines that the use is insignificant.

(b) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a state cellular telephone to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if

(1) the cellular telephone service plan provides, for a set monthly fee, an allowance of usable minutes or an unlimited number of usable minutes;

(2) the use does not exceed

(A) the greater of 30 minutes or five percent of the allowed minutes under the applicable service plan per month, for a plan that provides an allowance of usable minutes;

(B) the greater of 30 minutes or five percent of the total minutes used in a month under the applicable service plan, for a plan that provides an unlimited number of usable minutes; and

(3) the public officer reimburses the state in full for use that results in a separate charge; charges for minutes exceeding an allowance of usable minutes are presumed to have been incurred to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person.

(c) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a portable state computer to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if the use

(1) is for electronic mail communications, Internet access, or entertainment;

(2) does not occur during duty hours; and

(3) occurs at no cost to the state.

(d) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a state personal digital assistant to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if, when the device is used as a

(1) cellular telephone, the use complies with (b) of this section;

(2) computer, the use complies with (c) of this section.

(e) Nothing in this section exempts a public officer from compliance with other state requirements applicable to state computing and information technology resources. (Eff. 4/24/94, Register 130; ___/___/____, Register ____)

Authority: AS 39.52.110 AS 39.52.120 AS 39.52.950

9 AAC 52.060 is amended by adding a new subsection to read:

(c) An offer to a state agency by a person or governmental agency other than the state to pay or reimburse travel expenses for one or more public officers to carry out official responsibilities does not result in a gift to the individual traveling public officer within the meaning of AS 39.52.130 if an authorized supervising public officer approves acceptance of the offer in advance. An approving public officer may not participate in that travel without advance approval of acceptance of the offer by the head of the agency. In this subsection, "travel expenses" means the costs of transportation, lodging, or meals comparable to what the state would pay for travel expenses for the traveling public officer to carry out the associated official responsibilities. (Eff. 4/24/94, Register 130; am ___/___/____, Register ____)

Authority: AS 39.52.130 AS 39.52.950

9 AAC 52.070 is amended to read:

9 AAC 52.070. Information disseminated to the public. (a) For purposes of AS 39.52.140, information has been disseminated to the public if it has been **distributed to the public** [PUBLISHED] through

(1) a newspaper **or other printed** publication;

(2) broadcast media;

(3) a press release;

(4) a newsletter;

(5) a legal notice;

(6) a nonconfidential court filing;

(7) a published report;

(8) an agency's website;

(9) posting on the Alaska Online Public Notice System established under AS 44.62.175;

(10) a public speech; or

(11) public testimony before the legislature [, A BOARD,] or **an agency** [A COMMISSION].

(b) Information that is available to the public but that has not been **distributed** [PUBLISHED] as described in (a) of this section has not been disseminated to the public. (Eff. 4/24/94, Register 130; am ___/___/____, Register ____)

Authority: AS 39.52.140 AS 39.52.950

9 AAC 52.130(a) is amended to read:

(a) A designated supervisor shall submit the quarterly report described in AS 39.52.260 during the **30** [45] days following the end of each calendar quarter.

(Eff. 4/24/94, Register 130; am ___/___/____, Register ____)

Authority: AS 39.52.260 AS 39.52.950

9 AAC 52 is amended by adding a new section to read:

9 AAC 52.135. Designated supervisor's determination of violation. If, upon review of an ethics disclosure, a designated supervisor determines that a violation of AS 39.52.110 - 39.52.190 may have or has occurred, the designated supervisor shall

(1) in the case of a public employee, refer the matter for investigation and appropriate disciplinary action in accordance with AS 39.52.420 and, following any disciplinary action, to the attorney general for review under AS 39.52.310, unless the significance of the identified violation warrants immediate review by the attorney general; and

(2) in the case of a board or commission member, refer the matter to the attorney general for review under AS 39.52.310. (Eff. ___/___/____, Register ____)

Authority: AS 39.52.210 AS 39.52.310 AS 39.52.950
AS 39.52.220 AS 39.52.420

9 AAC 52.140 is amended by adding a new subsection to read:

(e) If a complaint against a public officer alleges more than one violation of the Ethics Act, the attorney general may take action under AS 39.52.310, 39.52.320, 39.52.330, and

39.52.350 regarding each alleged violation separately. (Eff. 4/24/94, Register 130; am ___/___/____, Register ___)

Authority: AS 39.52.310 **AS 39.52.330** AS 39.52.950
AS 39.52.320 **AS 39.52.350**

9 AAC 52.990(b)(6) is repealed:

(6) repealed ___/___/____;

(Eff. 4/24/94, Register 130; am ___/___/____, Register ____)

Authority: **AS 39.52.120** AS 39.52.410 AS 39.52.960
[AS 39.52.120(a)] AS 39.52.950

HB

291

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 5, 2010 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2-23-10

The STATE AFFAIRS Committee considered: **HB 291**

HOUSE BILL NO. 291
"An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation to finance mortgages for qualifying veterans; and providing for an effective date."
HB 291-GUARANTEED REVENUE BONDS FOR VETERANS

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

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent _____ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Revenue	2	X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
OOG	1	X		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Paul R Seaton	SEATON	X			
[illegible]	Gruenberg	-			
Peggy Wilson	WILSON				X
Pete Peterson	PETERSEN	X			
Chair: [illegible]	LYNN	X			
Chair:					

Nancy Manly

From: Bryan Butcher [bbutcher@ahfc.state.ak.us]
Sent: Tuesday, February 23, 2010 8:08 AM
To: Nancy Manly
Subject: Fw: Vet Definition

From: Laurie Holte
To: Bryan Butcher
Sent: Tue Feb 23 08:05:57 2010
Subject: Vet Definition

Qualified Veterans

A "qualified veteran" must meet the following criteria.

1. The veteran has not been discharged from active duty for more than **25** years prior to the date of submission to AHFC for loan commitment.

2. If retired, discharged, or released from duty, separation must have been under conditions other than dishonorable.

3. If not retired, discharged, or released from active duty, has completed his or her initial period of duty and would have been entitled to a discharge or release under conditions other than dishonorable at the end of his or her initial period of duty.

B. Active Duty

1. Duty in Armed Forces

Full time duty, **other than for training**, in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or in a reserve component of the United States Army, Navy, Marine Corps, Air Force or Coast Guard.

Note: "Full time" duty for a reservist should not be confused with weekend duty."Full time" duty means reporting for regular, full time employment that constitutes the individuals "primary" employment. Upon discharge from "full time" duty, the soldier receives a Form DD-214. "Weekend" duty is considered active duty for training and the individual normally has other "primary" employment. Upon discharge from "weekend" duty, which does not meet the eligibility criteria, the soldier is issued a Form NGB-22.

2. Duty in Public Health Service

Full time duty, **other than for training**, as a Commissioned Officer of the Public Health Service, or of the Reserve Corps of the Public Health Service, on or after July 29, 1945, or, if the duty occurred prior to that date, under circumstances affording entitlement to full military benefits. The corporation will seek the

assistance of the VA in determining whether an individuals service before July 29, 1945, in the Public Health Service was under circumstances affording entitlement to full military benefits.

3. Duty in National Oceanic and Atmospheric Administration or in Coast and Geodetic Survey

Full time duty as a Commissioned Officer of the National Oceanic and Atmospheric Administration or of the Coast and Geodetic Survey on or after July 29, 1945, or, if the duty occurred prior to that date; the person was on transfer to the United States Army, Navy, Marine Corps, Air Force, or Coast Guard; or if during time of war or national emergency declared by the President, the person was assigned to duty on a project for the US Army, Navy, Marine Corps, Air Force or Coast Guard in an area determined by the Secretary of Defense to be of immediate military hazard; or the person served continuously in the Philippine Islands from December 7, 1941 to July 28, 1945.

4. Duty in United States Military, Air Force, Coast Guard or Naval Academy

Service as a cadet at the US Military, Air Force, or Coast Guard Academy or as a midshipman at the US Naval Academy.

From: Bryan Butcher
Sent: Monday, February 22, 2010 1:26 PM
To: Laurie Holte
Subject: RE: Next week

877-763-5073 Ask for the House State Affairs Committee. If they ask for a bill number, it's HB 291.

From: Laurie Holte
Sent: Monday, February 22, 2010 1:21 PM
To: Bryan Butcher
Subject: RE: Next week

Bryan,

Do you have the call-in number?

Laurie

From: Bryan Butcher
Sent: Thursday, February 18, 2010 8:12 PM
To: Paul Kapansky; Laurie Holte
Subject: Next week

Paul and Laurie,

Here are two bills that are up next week that it would be great if you could call in for:

Tuesday, 8:00 AM House State Affairs Committee HB 291 Vets Bonds

Tuesday 3:00 PM Senate Energy Committee HB 296 Energy Efficiency Revolving Loan Fund/Bonds

Let me know if you can call in.

Thanks,
Bryan

Alaska Housing
FINANCE CORPORATION

Headquarters
4300 Boniface Parkway
Anchorage, Alaska 99504
(907) 338-6100

Mailing Address
P.O. Box 101020
Anchorage, AK 99510-1020

Internet Web Site
http://www.ahfc.state.ak.us

HB 291 AHFC Vets Bonds
Sponsor Statement

House Bill 291 will place a question on the ballot for the general election of 2010 asking voters to approve an additional $600 million of state guaranteed bonds to be issued by the Alaska Housing Finance Corporation for the purchase of mortgage loans made to qualifying veterans. The Veterans Mortgage Loan Program allows the Alaska Housing Finance Corporation to sell tax-exempt bonds to fund the program. Because of this, the Veterans Mortgage Loan Program generally offers a lower interest rate than the conventional single family mortgage loan program. As of December 23, 2009, the Veterans program interest rate was 3/8 of a percent below the Corporation's conventional taxable mortgage loan program.

To qualify, veterans must apply to AHFC within 25 years of his/her date of discharge from "active duty service." (Active duty service is full-time duty, other than for training.) Active duty service in the US Armed Forces, US Armed Forces Reserves, Public Health Service, NOAA, or service as a cadet at the US Military, Air Force, Coast Guard or Naval Academy may meet requirements.

Qualified veterans may be retired or active duty personnel. If retired, discharged, or released from active duty, separation must have been under conditions other than dishonorable. Active duty personnel must have completed their initial military obligation.

The last time veterans bonds were on the general election ballot was 2002, when Alaskans approved the bonds by over seventy percent. As a result of recent passed legislation in Congress, Alaska along with the states of California, Oregon, Texas and Wisconsin have been able to offer more loans to veterans through the program than the previous years. Because of this, it is estimated that the Corporation could run out of bond authorization for the veterans loan program some time in 2011. This is the reason for the urgency of getting the issue to the ballot in 2010.

House Bill 291 Sectional Analysis

Section 1 -

Section 1 adds the unconditional guarantee of the state of Alaska to bonds issued by the Alaska Housing Finance Corporation for the purchase of mortgage loans made to qualifying veterans. The principal amount of the bonds shall not exceed $600 million.

Section 2 -

Section 2 gives the Alaska Housing Finance Corporation the authorization to sell bonds guaranteed under Section 1 of the bill, pending the approval of the voters of Alaska.

Section 3 -

Section 3 changes the definition of 'qualifying veteran' in state statute to conform to the federal definition that was changed effective May 30, 2006. The federal definition for eligibility changed from a veteran having served in the military prior to January 1, 1977 and not having been out of the service more than 30 years to the new definition of a veteran not having been out of the military more than 25 years with no specific dates during which he/she must have served.

Section 4 -

Section 4 adds the language that will be included on the general election ballot in 2010.

Section 5 -

Section 5 provides for an immediate effective date.

Alaska Housing
FINANCE CORPORATION

Headquarters
4300 Boniface Parkway
Anchorage, Alaska 99504
(907) 338-6100

Mailing Address
P.O. Box 101020
Anchorage, AK 99510-1020

Internet Web Site
http://www.ahfc.state.ak.us

ALASKA HOUSING FINANCE CORPORATION
VETERANS MORTGAGE LOAN PROGRAM ACTIVITY
FISCAL YEAR 1994-2010

Fiscal Year	Number Of Loans	Loan Total
2010	27	$8,045,305
2009	305	$86,179,506
2008	495	$139,253,152
2007	419	$114,744,164
2006	44	$11,549,485
2005	57	$12,260,899
2004	125	$25,472,549
2003	187	$38,782,068
2002	315	$59,339,089
2001	430	$73,184,764
2000	496	$85,877,200
1999	540	$91,249,038
1998	597	$93,885,910
1997	340	$52,161,904
1996	246	$35,650,186
1995	482	$68,947,388
1994	177	$24,435,920
Total	**4758**	**$834,117,886**

On January 25, 2010, Standard and Poor's looked at the delinquency rates of the loan portfolios of 34 state Housing Finance Agency bond programs. Of those, the Alaska Housing Finance Corporation's Veterans Mortgage Loan program had the LOWEST delinquency rate of any other state program at 1.28 percent.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 291
(H) Publish Date: 1/19/10

Identifier (file name): 0879-OOG-DOE-12-18-09
Dept. Affected: OOG
Title "An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation..."
RDU Elections
Component Elections
Sponsor Rules Committee
Requester Governor Sean Parnell
Component Number 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual		1.5					
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF		1.5					
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The passage of this legislation would require the bonding proposition to appear on the 2010 general election ballot. The cost of providing information about the bonding proposition in the Official Election Pamphlet, as required by AS 15.58 is $1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to $22.0.

Prepared by: Gail Fenumiai, Director
Phone 465-2644
Division Elections
Date/Time 12/18/2009, 1:42pm
Approved by: Linda Perez, Director
Date
Administrative Services Division

(Revised 11/6/2009 OMB)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version:
() Publish Date:

Identifier (file name): HB291-DOR-AHFC-12-17-09
Dept. Affected: Revenue
Title: AHFC Veterans Housing Loan Bonds
RDU: Alaska Housing Finance Corp.
Component: Operations
Sponsor: Rules Committee
Requester: Governor
Component Number: 110

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual	150.0						
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**150.0**	**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							
AHFC Receipts	150.0						
TOTAL	**150.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill authorizes a statewide public vote on $600 million in revenue bonds to finance the Veterans Mortgage Program. Alaska is one of five states in the nation that established this program under the federal tax code. AHFC administers the program on behalf of the State.

Costs associated with the issuance of these bonds are anticipated to be covered with annual operating budget authorizations. Anticipated costs related to voter information education and dissemination about the bonds and the program will be approximately $150,000.

If approved by voters, bond issuances in the future will be done based on loan demand.

Prepared by: Bryan Butcher, Director, Gov't Relations/Public Affairs
Phone 330-8445
Division: Alaska Housing Finance Corporation
Date/Time 2/10/09 12:00 AM
Approved by:
Date

(Revised 11/6/2009 OMB)

HB

292

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 5, 2010 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2-18-10

The STATE AFFAIRS Committee considered: **HB 292**

HOUSE BILL NO. 292
"An Act relating to grants to victims of a disaster in this state; and providing for an effective date."
HB 292-GRANTS TO DISASTER VICTIMS

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
~~DMVA~~	+	X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
DMVA	1	X		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Carl Gatto	Gatto			X	
Jay Brunkhorst	Brunkhorst	~			
Gary Wilson	WILSON	↘			
Pete Petersen	PETERSEN	X			
Paul R Seaton	Seaton	X			
Chair: Bon	LYNN	X			
Chair:					

STATE OF ALASKA

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

OFFICE OF THE COMMISSIONER

Sean Parnell, GOVERNOR

P. O. BOX 5800
Ft Richardson, ALASKA 99505-5800
PHONE: (907) 428-6003
FAX: (907) 428-6019

February 5, 2010

Rep. Bob Lynn:

I respectfully request that you hold a hearing and move forward House Bill 292 regarding Disaster Assistance Grants. After the devastating year of 2009, where we had two separate Presidential Disaster Declarations, it has been made painfully obvious that Alaska's Individual and Family Grant program is out of date and must be made relevant.

The critical piece of this legislation is the connection to the Federal Individual Assistance Grant Award and the Consumer Price Index. Alaska's Individual and Family Grant program was first put on the books in 1977 at the current maximum level of payment, which is $5000.00. By connecting the grant maximum to half of the Federal Individual Assistance maximum grant amount identified in 42 U.S.C. 5174(h) which fluxuates based upon the Consumer Price Index, we will ensure that the original intent of the legislation will remain relevant to the economy and not require future statutory change.

I appreciate your willingness to hear this piece of legislation and I will be available to testify at your request. Thank you for your support.

Sincerely,

Thomas H. Katkus

Brigadier General Thomas H. Katkus
Commissioner

STATE OF ALASKA

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

OFFICE OF THE COMMISSIONER

Sean Parnell, GOVERNOR

P. O. BOX 5800
Ft Richardson, ALASKA 99505-5800
PHONE: (907) 428-6003
FAX: (907) 428-6019

January 26, 2010

HB 292 primary staff contacts:

McHugh Pierre
Deputy Commissioner
907-428-6003

Mike O'Hare
Deputy Director, Division of Homeland Security and Emergency Management
907-428-7066

STATE CAPITOL
PO Box 110001
Juneau, Alaska 99811-0001
907-465-3500
fax: 907-465-3532



550 West 7th Avenue #1700
Anchorage, Alaska 99501
907-269-7450
fax 907-269-7463
www.gov.alaska.gov
Governor@alaska.gov

Governor Sean Parnell
STATE OF ALASKA

January 8, 2010

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

Dear Speaker Chenault,

Under the authority of Art. III, Sec. 18, of the Alaska Constitution, I am transmitting a bill that increases the existing limit on State grants for major disaster victims in the State of Alaska.

This bill would change an existing limitation on the Governor's authority to issue assistance grants to victims of a major disaster in this state, which has not been updated for nearly 20 years. Under current law, when the Governor declares a disaster emergency, a grant can only be provided to a victim of the disaster in this state in an amount not to exceed $5,000. After witnessing the widespread disaster of the 2009 spring floods, it has become obvious that the maximum amount of $5,000 per household is not enough to cover incurred costs from damages in today's economy. It is clearly time to revise the limit and give the State the ability to provide improved relief to victims of major disasters in this state.

This proposed legislation increases the maximum amount that can be granted to a household in 2010 to $14,950 for a State-declared disaster. This is calculated by setting it at half of the amount of a federally declared disaster. The amount will be adjusted each year based upon the consumer price index.

I urge your prompt and favorable action on this bill.

Sincerely,

Sean Parnell
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 292
(H) Publish Date: 1/19/10

Identifier (file name): LL0854 Disaster Relief
Dept. Affected: DMVA
Title: An Act relating to grants to victims of a disaster in this state; and providing for an effective date
RDU: Fund Transfers (52)
Component: Disaster Relief Fund
Sponsor: Rules Committee
Requester: Governor
Component Number: 2497

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims	595.5	300.0	895.5	895.5	895.5	895.5	895.5
Miscellaneous							
TOTAL OPERATING	**595.5**	**300.0**	**895.5**	**895.5**	**895.5**	**895.5**	**895.5**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	595.5	300.0	895.5	895.5	895.5	895.5	895.5
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**595.5**	**300.0**	**895.5**	**895.5**	**895.5**	**895.5**	**895.5**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Part-time	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Temporary	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

ANALYSIS: *(Attach a separate page if necessary)*

Please see attached

Prepared by: McHugh Pierre, Deputy Commissioner/Legislative Liaison
Phone 907-428-6003
Division: Commissioner's Office
Date/Time 12/11/09 @ 11:00 am
Approved by: Thomas Katkus, Commissioner
Date 12/11/2009
Department of Military and Veterans Affairs

(Revised 11/6/2009 OMB)

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. HB 292

ANALYSIS CONTINUATION

Funding for this legislation is authorized under the Alaska Disaster Act 26.23 and provided through fund transfers to the Disaster Relief Fund (DRF). In recent years, the Legislature has provided an annual appropriation to the DRF ensuring funds are quickly available once a disaster declaration is made and legislative concurrence is obtained, when required. Therefore, determining an annual amount for a fiscal note is dependent upon the number of disasters we incur that affect individuals and families. This cannot be predicted but historial references are provided for analysis and we made the assumption that there may be 2 events per year that qualify for this benefit.

2009 Spring Flood Disaster is used as an example - a large portion of this disaster was approved for a Presidential Disaster Declaration and there the State Individual Assistance Program was only enacted for a total of 30 eligible applicants. If all applicants had major damages, they would be eligible for the maximum current grant of $5,000 for a total of $150,000. Under proposed legislative language change, each applicant would be eligible for $14,950 (one half of the maximum grant amount established under Section 1 of the bill) if their damages equaled this amount under the State Individual Assistance Plan. The total maximum grant funds for the 30 applicants would have totaled $448,500, an increase in State Disaster Relief Funding requirements of $298,500 for this disaster.

In order to provide an average, we have the following statistics. Since 2002, we have had 10 disasters where we implemented the State Individual Assistance Program with an average of 133 applicants. under our current legislation, the maximum total grant funds per disaster would have been an average of $665,000. With the implementation of new legislation, the increase would have been an average of over $1.3 million per event. These are only estimates and would depend on levels of damages incurred by each individual applicant.

STATE INDIVIDUAL and FAMILY GRANT PROGRAM (IFG)

History of State IFG Program:

Authority: **Alaska Statute 26.23.090**

Enacted in: 1977

Amended in 1990

$5,000 limit dates back to original date statute was enacted (1977)

Regulations: **06 Alaska Administrative Codes (AAC) 94.200 – 94.280**

Adopted in: 2000

Individual Assistance Task Force:

- **The Individual Assistance Task Force convened January 2008 to examine Individual Assistance programs and current program capacity to provide prompt and effective relief to individuals and families affected by disasters.**
- **Agencies involved in review of IFG program:**
  - **Division of Homeland Security and Emergency Management, Department of Commerce, Community, and Economic Development, Department of Health and Social Services, Alaska Housing Finance Corporation, Alaska VOAD, American Red Cross of Alaska, and USDA Rural Development**
- **Agencies met 10 times over a six month period**
- **Task Force recommended that maximum awards increase and that funding levels be tied to an annual figure such as the FEMA Individual and Households Program award or the Consumer Price Index.**

IFG Program Requirements:

- **AS 26.23.090**
  - **Governor authorized to make grants to individuals and families to meet disaster related expenses or serious needs that cannot be met from other means of assistance.**
  - **Current funding limits:**
    - **State Disaster Limit - $5,000**
    - **Legislative Recommendation – One-Half of Federal IA Program (based on CPI)**
- **06 AAC 94.200 – 94.280**
  - **Must incur a necessary expense or serious need in the declared disaster area as a result of the disaster, and be unable to meet that expense or need**
  - **Grants may be given to meet necessary expenses or serious needs by providing essential items or services in the following categories: housing; housing repair; personal property, transportation; medical or dental expenses; expenses related to funerals, burials, and cremations.**

- Disaster victims' needs will be identified on the Disaster Assistance Application and confirmed by verifications. Verifications can be accomplished by on-site visits, photographs, Loss Verification Statement forms, and other documentation deemed appropriate by the IA Officer.
- Applicants will be denied eligibility for a current disaster claims if they have not complied with requirements on previous disasters. Therefore, applicants will be cross-referenced for any past disaster non-compliance.
- If the grantee is in a Special Flood Hazard Area, as determined by the National Flood Insurance Program (NFIP), and the grantee is a homeowner, flood insurance coverage must be maintained on the residence at the flood-damaged property address for as long as the grantee owns the structure, in order for the grantee to be eligible for a future grant for acquisition and construction purposes. If the grantee is a renter, flood insurance required under this section must be maintained on the contents of the rental unit for as long as the grantee resides at the flood-damaged property address.

HB

336

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: March 10, 2010 **FURTHER REFERRALS:**

Date of Committee Action: 3-11-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 336**

"An Act relating to electronic voting procedures for electric and telephone cooperatives; and providing for an effective date."

HB 336-ELECTRIC & TELEPHONE COOPERATIVES' VOTING

Recommends it be replaced with [ ] HCS *or* **[X] CS** *for* HB336 (STA)
*For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR*_____ [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW **FISCAL NOTES** *Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
~~DCCED~~				X

PREVIOUS **FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
DCCED				X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			X	
Carl Gatto	Gatto			X	
Lesil Seaton	Seaton	X			
Bob Peterson	PeTerseN	X			
Tom Wilson	WILSON	X			
Max Gruenberg	Gruenberg	~			
Chair: Bob Lynn	LYNN	X			
Chair:					

CS FOR HOUSE BILL NO. 336(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to electronic voting procedures for electric and telephone cooperatives; and providing for an effective date."

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

*** Section 1.** AS 10.25.120 is amended to read:

Sec. 10.25.120. Voting. Each member is entitled to one vote on each matter submitted to a vote of the membership. Each member of a district is entitled to one vote on each matter submitted to a vote at a district meeting. A member may not vote by proxy but may vote, if the bylaws so provide, by mail **or electronic transmission, as specified by the cooperative, except that electronic transmission may not be the only allowed option for voting**.

*** Sec. 2.** AS 10.25.125 is amended to read:

Sec. 10.25.125. Record date. To determine the members entitled to notice of a meeting of the members or to vote on a matter that is to be submitted to a vote of the members, or for any other proper purpose, the board of directors may fix a date that

occurs **not** [NO] more than 30 days before the date of notice or distribution of mail **or electronic** ballots as the record date for the determination. If a record date is not fixed for the determination of members entitled to notice of a meeting or to vote on a matter, the date on which notice of the meeting or of mail **or electronic** voting is first **distributed** [MAILED] is the record date. When a determination of members entitled to vote at a meeting is made, the determination applies until the meeting is adjourned sine die.

*** Sec. 3.** AS 10.25.190 is amended to read:

Sec. 10.25.190. Districts. The bylaws may provide for the division of the territory served or to be served by a cooperative into two or more districts for any purpose, including, without limitation, the nomination and election of directors and the election and functioning of district delegates. These delegates, who shall be members, may nominate and elect directors. The bylaws shall prescribe the boundaries of the districts, or the manner of establishing the boundaries, and the manner of changing the boundaries, and the manner in which the districts function. **A** [NO] member at any district meeting and **a** [NO] district delegate at any meeting may **not** vote by proxy**,** [OR] by mail**, or by electronic transmission**. However, the election of directors shall be by mail **or, if the bylaws so provide, by electronic transmission, as specified by the cooperative, except that electronic transmission may not be the only allowed option for voting** [UNLESS THE BYLAWS PROVIDE OTHERWISE].

*** Sec. 4.** AS 10.25.210 is amended to read:

Sec. 10.25.210. Amendment of articles of incorporation. A cooperative may amend its articles of incorporation as follows, except that it may change the location of its principal office in the manner set out in AS 10.25.230:

(1) the proposed amendment shall be presented to the members or district delegates at a meeting or by written notice; if the proposed amendment is presented at a meeting, the notice of the meeting must set out or have attached to it the proposed amendment;

(2) if the proposed amendment, with any changes, is approved by the affirmative vote of not less than two-thirds of those members or district delegates voting on it, the presiding officer of the board of directors shall execute and

acknowledge articles of amendment on behalf of the cooperative and the officer designated by the board shall affix and attest to the seal of the cooperative; if the cooperative accepts ballots both at a meeting and by mail **or by electronic transmission**, a member may vote by mail**, by electronic transmission,** or at the meeting**, as specified by the cooperative, except that electronic transmission may not be the only allowed option for voting**.

*** Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

prohibition against inducing a person to vote for or refrain from voting for a person and was not a corrupt practice under this section. Dansereau v. Ulmer, 903 P.2d 555 (Alaska 1995).

Offer of chance drawing accompanied by nonneutral message. — A postcard mailed to shareholders of a native regional corporation that offered entry in a $1,000 cash prize drawing to those who submitted a ballot stub, or a similarly sized piece of paper, and stated that the Alaska Federation of Natives endorsed a certain candidate for governor potentially violated this section because of the accompanying nonneutral message. Dansereau v. Ulmer, 903 P.2d 555 (Alaska 1995).

Sec. 15.56.035. Unlawful interference with voting in the second degree. (a) A person commits the crime of unlawful interference with voting in the second degree if the person

(1) has an official ballot in possession outside of the voting room unless the person is an election official or other person authorized by law or local ordinance, or by the director or chief municipal elections official in a local election;

(2) makes, or knowingly has in possession, a counterfeit of an official election ballot;

(3) knowingly solicits or encourages, directly or indirectly, a registered voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

(4) as a registration official

(A) knowingly refuses to register a person who is entitled to register under AS 15.07.030; or

(B) accepts a fee from an applicant applying for registration;

(5) violates AS 15.20.081(a) by knowingly supplying or encouraging or assisting another person to supply to a voter an absentee ballot application form with a political party or group affiliation indicated if the voter is not already registered as affiliated with that political party or group;

(6) knowingly designs, marks, or encourages or assists another person to design or mark an absentee ballot application in a manner that suggests choice of one ballot over another as prohibited by AS 15.20.081(a); or

(7) knowingly submits or encourages or assists another person to submit an absentee ballot application to an intermediary who could control or delay the submission of the application to the division of elections or who could gather data from the application form as prohibited by AS 15.20.081(a).

(b) Violation of (a)(3) of this section is a corrupt practice.

(c) Unlawful interference with voting in the second degree is a class A misdemeanor. (§ 205 ch 100 SLA 1980; am § 5 ch 4 SLA 2006)

Revisor's notes. — Enacted as AS 15.56.036. Renumbered in 1980.

Effect of amendments. — The 2006 amendment, effective June 4, 2006, added paragraphs (5) through (7) of subsection (a), and made minor stylistic changes in paragraphs (3) and (4).

Sec. 15.56.040. Voter misconduct in the first degree. (a) A person commits the crime of voter misconduct in the first degree if the person

(1) votes or attempts to vote in the name of another person or in a name other than the person's own;

(2) votes or attempts to vote more than once at the same election with the intent that the person's vote be counted more than once;

(3) intentionally makes a false affidavit, swears falsely, or falsely affirms under an oath required by this title;

(4) knowingly votes or solicits a person to vote after the polls are closed with the intent that the vote be counted.

(b) Voter misconduct in the first degree is a class C felony. (§ 205 ch 100 SLA 1980)

Revisor's notes. — Enacted as AS 15.56.041. Renumbered in 1980.

Sec. 15.56.050. Voter misconduct in the second degree. (a) A person commits the crime of voter misconduct in the second degree if the person

(1) registers to vote without being entitled to register under AS 15.07.030;

(2) knowingly makes a material false statement while applying for voter registration or reregistration; or

(3) votes or attempts to vote in an election after being disqualified under AS 15.05.030.

(b) Voter misconduct in the second degree is a class A misdemeanor. (§ 205 ch 100 SLA 1980)

Revisor's notes. — Enacted as AS 15.56.051. Renumbered in 1980.

Sec. 15.56.060. Unlawful interference with an election. (a) A person commits the crime of unlawful interference with an election if the person

(1) induces or attempts to induce an election official to fail in the official's duty by force, threat, intimidation, or offers of reward;

(2) intentionally changes, attempts to change, or causes to be changed an official election document including ballots, tallies, and returns;

(3) intentionally delays, attempts to delay, or causes to be delayed the sending of the certificate, register, ballots, or other materials whether original or duplicate, required to be sent by AS 15.15.370; or

(4) is contracted or employed by the state to print or reproduce in any manner an official ballot, and the person knowingly

(A) personally appropriates, or gives or delivers to, or permits to be taken by anyone other than a person authorized by the director, official ballots; or

(B) prints or reproduces or has printed or reproduced official ballots in a form or with a content other than that prescribed by law or as directed by the director.

(b) Unlawful interference with an election is a class C felony. (§ 205 ch 100 SLA 1980)

Revisor's notes. — Enacted as AS 15.56.061. Renumbered in 1980.

Sec. 15.56.070. Election official misconduct in the first degree. (a) A person commits the crime of election official misconduct in the first degree if while an election official, the person

(1) intentionally fails to perform an election duty or knowingly does an unauthorized act with the intent to affect an election or its results;

(2) knowingly permits or makes or attempts to make a false count of election returns; or

(3) intentionally conceals, withholds, destroys, or attempts to conceal, withhold, or destroy election returns.

(b) Election official misconduct in the first degree is a class C felony. (§ 205 ch 100 SLA 1980)

Revisor's notes. — Enacted as AS 15.56.071. Renumbered in 1980.

Sec. 15.56.080. Election official misconduct in the second degree. (a) A person commits the crime of election official misconduct in the second degree if while an election official, and while the polls are open, the person

(1) opens a ballot received from a voter at an election, unless permitted by ordinance in a local election;

(2) marks a ballot by folding or otherwise so as to be able to recognize it;

(3) otherwise attempts to learn how a voter marked a ballot; or

(4) allows a person to do one of the acts prescribed by (1), (2), or (3) of this subsection.

(b) Election official misconduct in the second degree is a class A misdemeanor. (§ 205 ch 100 SLA 1980)

Revisor's notes. — E
numbered in 1980.

Sec. 15.56.090. I
crime of improper su
(1) signs a name
referendum, recall, o
(2) knowingly sign
one election;
(3) signs a petition
candidate for state or
(4) solicits, accepts,
signing or refraining f
"other valuable thing"
(b) Improper subscr
1980; am § 6 ch 80 SL

Revisor's notes. — Enact
numbered in 1980.
Cross references. — For
relating to the 1998 amendme
§ 8(d), ch. 80, SLA 1998 in th
Special Acts.

Sec. 15.56.100. Refu
the offense of refusal to
employee time off for the
deducts the time from the
(b) An employee who h
opening of the polls and th
the end of that regular w
sufficient time outside of
(c) Refusal to allow emp

Revisor's notes. — Enacted a
numbered in 1980.

Sec. 15.56.110. Effect
state legislature or to mu
whose campaign treasurer
practice is voidable under t
(b) If a successful candi
treasurer of a successful can
or borough assembly or for
this chapter as a corrupt pr
office to which elected shall
(1) a member of the legisl
(2) a member of the borou
(3) a borough mayor unde
(4) a member of the city c
(5) a city mayor under AS
SLA 1985)

Revisor's notes. — Enacted as A
numbered in 1980.
In 1988, the phrase "borough or c

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

HB 336
Sponsor Statement

House Bill 336 puts in statute the ability for telephone or electric cooperatives to allow members to vote by electronic transmission as specified by the coop's by-laws. The bill was filed at the urging of coops around the state.

Currently, coop members may only vote in person or via the postal service. This method, however, is outdated and could be having a negative impact on member participation in elections and other important matters.

By allowing telephone and electric coops to permit voting via electronic transmission approved in its by-laws, the Legislature will make it so common 21st century practices may be applied to important public involvement matters.

Coops in every corner of Alaska will be enthused the Legislature has had the foresight to pass legislation important to their public process. This bill does not make electronic transmission voting mandatory, and cooperatives choose whether they want to partake or not.

Already, however, Matanuska Telephone Association (MTA) members have voted to adopt a new bylaw allowing electronic transmission voting. All MTA, and other coops, need is for the Legislature amends the statute to allow these coops to do so.

Please help me in facilitating the quick passage of HB 336.

Homer Electric Association, Inc.

Corporate Office
3977 Lake Street
Homer, Alaska 99603-7680
Phone (907) 235-8551
FAX (907) 235-3313

Central Peninsula Service Center
280 Airport Way
Kenai, Alaska 99611-5280
Phone (907) 283-5831
FAX (907) 283-7122

February 22, 2010

Representative Bob Lynn
Alaska State Legislature
State Capitol, Room 104
Juneau, Alaska 99801

RE: Support for HB 336 – Permitting Electronic Voting for Cooperatives

Honorable Representative Lynn:

Homer Electric Association, Inc. (HEA) would like to join several other cooperatives in support of HB 336. The ability for cooperatives to use the Internet to improve member participation is a worthwhile goal.

HEA appreciates that the language in HB 336 is not mandatory, but rather provides the option to institute electronic voting should our members decide to move in that direction. Member participation is crucial to the success of our cooperative and it is possible that allowing electronic voting will improve the ability of our members to cast their vote during elections.

I urge support of this bill and its passage from your committee at the earliest time.

If you have any questions, please feel free to contact me at any time.

Sincerely,

Bradley P. Janorschke
General Manager

GVEA
Golden Valley Electric Association
PO Box 71249, Fairbanks, AK 99707-1249 • (907) 452-1151 • www.gvea.com
Your Touchstone Energy® Cooperative

February 23, 2010

The Honorable Bob Lynn
Alaska State Legislature
State Capitol, Room 104
Juneau, Alaska 99801-1182

Subject: Support for HB 336 – permitting electronic voting for cooperatives

Dear Representative Lynn:

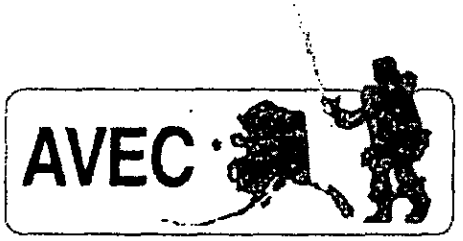
Golden Valley Electric Association, Inc. supports House Bill 336. Golden Valley is in favor of AS 10.25 being changed to allow cooperatives the option of electronic voting in their co-op elections.

Currently, Golden Valley is in the process of conducting a membership bylaw election which will amend our bylaws to permit electronic voting. Allowing this option acknowledges that the Internet has become a universal platform for sharing information. It offers co-op members a choice in submitting their ballot. Electronic submission will also save on cooperative mailing & handling costs.

Using the Internet as a universal medium to conduct business does not preclude our traditional means of operating and communicating with our members, but offers an additional option. I look forward to your support of this bill and its passage from your committee. If you have any questions, please feel free to contact me.

Sincerely,

Brian Newton
President and CEO



February 22, 2010

Representative Bob Lynn
State Capitol, Room 104
Juneau, AK 99801-1182

Re: Support for HB 336 – Permitting Electronic Voting for Cooperatives

Honorable Representative Lynn,

Please convey to the House State Affairs Committee Alaska Village Electric Cooperative's strongest support for HB 336.

The language in HB 336 is not mandatory, but rather permissive, allowing cooperatives that have been so directed by their members, through their bylaws, to institute electronic voting on matters that may come before the membership.

In this modern age, where communication via the postal service has become almost archaic, it is only logical that the communication channels that are most used by most individuals should be permitted for the conduct of commerce. Indeed, it is now impossible to deal with some state agencies, such as APOC, by any other method, since it is simply not allowed!

I urge support of this bill and its passage from your committee at the earliest time.

Yours sincerely,

Meera Kohler
President and CEO

4831 EAGLE STREET * ANCHORAGE, ALASKA * PHONE (907) 561-1818 * FAX (907) 562-4086

Sent Via Email: nancy_manly@legis.state.ak.us

February 22, 2010

Honorable Bob Lynn
Alaska State Capitol, Room #104
Juneau, AK 99801-1182

RE: HB 336 – Electronic Voting for Telephone Cooperatives

Dear Representative Lynn:

I'm writing to ask for your support on HB 336 "An Act relating to electronic voting procedures for electric and telephone cooperatives; and providing for an effective date".

As you know, the internet has changed forever the way we communicate and do business. Alaskans have more than embraced this new world and currently lead the country as the most Internet-connected state in America. Matanuska Telephone Association (MTA) is very proud of the work we have done, to bring the future to those we serve, by building a state-of-the-art telecommunications network capable of providing a high speed broadband connection to 98% of our member/owners.

Given this connectivity and the efficiency and effectiveness it can bring, MTA proactively presented to its membership in 2007 a proposed bylaw change to allow electronic voting and to send and receive documents electronically. In the balloting process, we explained that before implementation could take place, the Alaska Legislature would need to amend State cooperative law to allow for electronic voting. Our membership voted overwhelmingly to adopt the new bylaw allowing electronic voting, as determined by MTA's Board of Directors.

It goes without saying that electronic voting can be faster and more efficient for MTA and its members. It will also save considerable postage costs, make counting votes in our elections more efficient and help reduce wasted paper. But, more importantly, MTA believes this method of balloting promotes members ability to have every option available to them to participate in their cooperative elections.

On behalf of MTA's membership and our Board, I ask for your support of the House Bill 336 to allow electronic voting for our members.

Thank you for your consideration.

Sincerely,

Greg Berberich
Chief Executive Officer

CHUGACH
POWERING ALASKA'S FUTURE

February 22, 2010

Representative Bob Lynn, Chair
House State Affairs Committee
State Capitol, Room 104
Juneau, Alaska 99801

Dear Representative Lynn:

I am writing to express Chugach Electric Association's support for HB 336. Chugach is very much in favor of AS 10.25 being changed to allow cooperatives the option of electronic voting in their co-op elections.

As drafted, HB 336 makes electronic transmission of a ballot optional for those cooperatives whose members vote to change their bylaws to permit it. Chugach agrees making this voting method optional and member driven is the right approach. It is also important to note the bill allows each cooperative to determine voting procedures that are appropriate for their organization, thereby providing the flexibility for each co-op to decide how best to implement electronic voting. Once again, we think that is the right way to proceed. We understand that not all cooperatives might want to offer electronic voting, and those that do might want to limit the means of transmission in order to ensure a secure and efficient election process.

Electronic voting is a choice that we believe many members will appreciate. Chugach members already voted several years ago to change the bylaws to permit electronic voting when state law is changed.

Chugach urges legislative support of HB 336.

Sincerely,

Bradley W. Evans
Chief Executive Officer

Chugach Electric Association, Inc.
5601 Electron Drive, P.O. Box 196300, Anchorage, Alaska 99519-6300 • (907) 563-7494 Fax (907) 562-0027 • (800) 478-7494
www.chugachelectric.com • info@chugachelectric.com

Alaska Power Association
703 West Tudor Road, Suite 200
Anchorage, Alaska 99503-6650
907-561-6103
Fax: 907-561-5547
www.alaskapower.org

February 19, 2010

Representative Bob Lynn, Chair
House State Affairs Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, Alaska 99801-1182

Re: Support for HB 336: Permitting Electronic Voting for Cooperatives

Dear Representative Lynn:

Alaska Power Association supports House Bill 336, electronic voting for electric and telephone cooperatives. Alaska Power Association is the statewide trade association for the electric utilities that supply power to more than a half-million Alaskans in communities from Barrow to Unalaska and down the Inside Passage.

Member representation through the exercise of voting rights is a cornerstone of the principles of cooperatives. Voting is permitted under the cooperative statute in person and by U.S. mail if the cooperative's bylaws allow it. The Internet has made it possible for secure and private activity to be conducted via electronic means.

Alaska Power Association urges and supports amendments to the Alaska Statutes that would allow cooperative members to exercise their voting rights via the Internet if their bylaws so allow.

We urge support of this bill and its passage from your committee at the earliest time.

Sincerely,

Marilyn Leland
Executive Director

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 336**
() Publish Date:

Identifier (file name): HB336-CED-RCA-3-3-10
Dept. Affected: DCCED
Title: Electric & Telephone Cooperatives' Voting
RDU: Regulatory Commission of Alaska (399)
Component: Regulatory Commission of Alaska
Sponsor: House State Affairs
Requester: House Community and Regional Affairs
Component Number: 2417

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0
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 Interagency Receipts							
TOTAL	**0.0**		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This proposed legislation would amend voting procedures in AS 10.25 for electric and telephone cooperatives to authorize electronic voting.

(ANALYSIS CONTINUED)

Prepared by: Robert M. Pickett, Chairman
Phone 907.276.6222
Division: Regulatory Commission of Alaska
Date/Time 2/26/10 12:30 p.m.
Approved by: Emil R. Notti, Commissioner
Commerce, Community, and Economic Development
Date 3/3/2010

(Revised 11/6/2009 OMB)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. ~~SB 260~~ HB336

ANALYSIS CONTINUATION

The Regulatory Commission of Alaska (RCA) has limited jurisdiction that includes regulating the rates and services of non-exempt electric and telephone cooperatives. *See* AS 42.05.141. With the exception of deregulation elections governed by AS 42.05.712, RCA jurisdiction does not extend to membership voting procedures. Members of electric and telephone cooperatives seeking to enforce the electronic voting procedures proposed by this legislation would need to pursue judicial recourse rather than RCA intervention.

Since the RCA will not be involved in enforcing the amended voting procedures, it will not experience any increase in workload based on the passage of HB 336.

HB

348

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 17, 2010 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-16-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 348**

"An Act relating to the membership of the state personnel board."

HB 348-PERSONNEL BOARD MEMBERSHIP

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 348 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	**Printed Last Name**	**DP**	**DNP**	**NR**	**AM**
Gail Gatto	Gatto			X	
Pete Petersen	PETERSEN	X			
Paul Seaton	SEATON	X			
Hugh Gruenberg	Gruenberg				-
Peggy Wilson	WILSON				N
Chair: Bob	LYNN	X			
Chair:					

LEGAL SERVICES

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

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

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

MEMORANDUM March 16, 2010

SUBJECT: Reference to Political Party, Political Committee, and Political Group (CSHB 348(STA); Work Order No. 26-LS1360\E)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM: Gerald P. Luckhaupt
Legislative Counsel

Enclosed is the final CS(STA) you requested. I have one comment. In sec. 3, reference is made to "political party, political committee, or political group." These terms are not defined in AS 39.25, although it appears that it might have been intended to reference similar terms that are defined in AS 15.13. In this regard, you may want to contact Alpheus Bullard to clarify this ambiguity.

GPL:ljw
10-187.ljw

Enclosure

L

Sec. 15.13.400. Definitions.

In this chapter,

(8) "group" means

(A) every state and regional executive committee of a political party; and

(B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070 , whether or not control of the group has been disclaimed by the candidate;

&58 A
"Gruenberg says "ms Mauldin makes sure..."
make sure what

Conceptual

AMENDMENT #1

Withdrawn

OFFERED IN THE HOUSE
TO: HB 348

Seaton Objects

BY REPRESENTATIVE
Gruenberg

Page 1, Line 5 after the word "and"

Delete: the rest of line 5 through the word "nominations" on line 8

Insert: "ratified by two-thirds of the full membership of the senate and two-thirds of the full membership of the house."

page 3 line 9
delete "chief justice of the Alaska Supreme Court
insert "governor"

page 3 line 9
delete "governor"
insert "legislature"

Conceptual

AMENDMENT #2

OFFERED IN THE HOUSE
TO: HB 348

BY REPRESENTATIVE
Gruenberg

Delete 5 through
Page 1, Line ~~4 after the word "members"~~

~~Delete: the rest of line 4 through the word~~ "nominations." on line 8

Insert: "who are selected by the ~~C~~chief ~~J~~ustice of the Alaska Supreme Court and who are ratified by two-thirds of the full membership of the senate and two-thirds of the full membership of the house."

page 1 line 9
delete "governor"
insert "chief justice"

page 2 line 1
delete "governor"
insert "chief justice"

page 3 line 9
delete "governor"
insert "legislature"

page 3 line 10
delete "governor"
insert "chief justice"

page 3 line 11
delete "governor"
insert "chief justice"

not offered

R

AMENDMENT #2

OFFERED IN THE HOUSE
TO: HB 348

BY REPRESENTATIVE
Gruenberg

Page 1, Line 5 after the word "and"

Delete: the rest of line 5 through the word "nominations" on line 8

Insert: "ratified by two-thirds of the full membership of the senate and two-thirds of the full membership of the house."

page 3 line 9
delete "chief justice of the Alaska Supreme Court
insert "governor"

page 3 line 9
delete "governor"
insert "legislature"

AMENDMENT #1

OFFERED IN THE HOUSE
TO: HB 348

BY REPRESENTATIVE
Gruenberg

Delete 5 through
Page 1, Line ~~4 after the word "members"~~

~~Delete: the rest of line 4 through the word~~ "nominations." on line 8

Insert: "who are selected by the Chief Justice of the Alaska Supreme Court and who are ratified by two-thirds of the full membership of the senate and two-thirds of the full membership of the house."

page 1 line 9
~~the~~ delete "governor"
insert "chief justice"

page 2 line 1
delete "governor"
insert "chief justice"

page 3 line 9
delete "governor"
insert "legislature"

page 3 line 10
delete "governor"
insert "chief justice"

page 3 line 11
delete "governor"
insert "chief justice"

according to the legislative drafting manual. The enrolling secretary is authorized to correct form and manifest errors which are clerical, typographical, or errors in spelling or errors by way of additions or omissions. The enrolling secretary is required to report errors by way of addition or omission and deficiencies when the bill is returned to the house of origin. When an error or deficiency has been reported, the clerk or secretary shall advise the presiding officers of both houses before the bill is signed and transmitted to the governor.

(b) Bills consisting of several pages need not be formally enrolled if the presiding officer announces that, for reasons of economy and time, formal enrollment is being waived. If enrollment is waived, and the presiding officer of the other house consents, the first page and signatory pages of the bill will be enrolled and then affixed to the engrossed bill along with any certified amendments and when signed by the officers of both houses will be transmitted to the governor with a letter noting that enrollment was waived. Engrossment of such bills may also be waived in the same manner.

TIME LIMIT ON INTRODUCTION

Rule 44. Time Limit on Introduction. No bill or resolution other than one sponsored by a standing committee may be introduced after the thirty-fifth day of the second regular session of the legislature.

VETOED BILLS

Rule 45. Vetoed Bills. The governor may veto a bill or by veto strike or reduce an item in an appropriation bill. The governor shall return the vetoed bill or the bill in which an appropriation item was stricken or reduced with a statement of objections to the house of origin. The receipt of the bill and veto statement are noted in the journal, and the other house is promptly requested to meet in joint session to reconsider passage of the vetoed bill or item. The vote on reconsideration of a vetoed bill or item is entered in the journal of both houses. Bills to raise revenue and appropriation bills or items, although vetoed, become law upon reconsideration by the affirmative vote of three-fourths of the full membership of the legislature sitting in joint session as one body. Other vetoed bills become law upon reconsideration by the affirmative vote of two-thirds of the full membership of the legislature sitting in joint session as one body. (Secs. 15 and 16, Art. II, State Constitution.) Bills vetoed after adjournment of any regular session shall be returned with a statement of the governor's objections to the Legislative Affairs Agency and may be reconsidered by the full membership of the legislature sitting as one body not later than the fifth day after the next regular session or any intervening special session convenes during that legislature.

CONFIRMATION OF APPOINTMENTS

Rule 46. Confirmation of Appointments. Appointments by the

governor are made pursuant to AS 39.05.080. Such appointments are subject to confirmation by a majority vote of the full membership of the legislature in joint session. (Secs. 25 and 26, Art. III, State Constitution.)

BILLS AND RESOLUTIONS CARRY OVER

Rule 47. Bills and Resolutions Carry Over. Bills and resolutions introduced in the first regular session of a legislature which are not passed or not withdrawn, defeated, vetoed, or indefinitely postponed, carry over into the second regular session of the same legislature in the same reading or status they were in at the time of adjournment.

DISCHARGE OF BILLS FROM COMMITTEE

Rule 48. Discharge of Bills from Committee. (a) If the majority of the full membership of a standing, special, or joint committee desire that any legislation pending before the committee be considered, they may present the request, in writing, to the presiding officer. The presiding officer shall sign the request and this action shall be noted in the journal. The committee chair affected shall schedule the specified legislation for consideration within three days after transmittal of the request by the presiding officer to the committee chair.

(b) If the chair does not adhere to the provisions of (a) of this rule, the particular legislation to be scheduled shall automatically be referred to the next committee of reference on the fourth day following the transmittal of the request to the chair.

(c) Bills in the Rules Committee of each house shall be placed on the daily calendar in second reading within three days after receipt of a request signed by a majority of the full membership of the committee and the presiding officer following the procedure provided in (a) of this rule to place a particular item of legislation on the calendar.

(d) Nothing in this rule prevents an oral motion to discharge a bill from committee by any member of the body at any time.

RESOLUTIONS

Rule 49. Resolutions. (a) The only type of instrument other than a bill or citation authorized under these Uniform Rules is a resolution. The types and uses of resolutions are as follows:

(1) A simple resolution is a formalized motion passed by one house only and bearing the heading "House Resolution" or "Senate Resolution". It may be used to express the will, wish, view, opinion, sympathy, or request of the house adopting it. The simple resolution shall be used to establish a special

26-LS1360\R.1
Bullard
3/12/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: HB 348

Page 2, line 15:

Delete ", employ, or assist"

Insert "or directly employ"

1437

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sponsor Statement for HB 348 (Version R)

"An Act relating to membership of the state personnel board."

By Representative Bob Lynn

HB 348 brings a broader representation to the Personnel Board so it can operate, or at least appear to operate, with greater independence when addressing complaints, and carrying out its other powers and duties under AS 39.52 Alaska Executive Branch Ethics Act.

The bill increases board membership from three to five members, allowing the governor to make an appointment from a list of at least three nominees selected by the Chief Justice of the Alaska Supreme Court, subject to the right of the governor to request additional nominations. It also ensures that the board has at least one member of the two parties that received the most votes in a recent election.

The Personnel Board, as currently constructed, lends itself to criticism that it's a creature of the governor rather than an independent body when it comes to investigating Executive Branch ethics complaints. As we know, perception can be the same as reality in the public eye.

HB 348 also prohibits certain conduct by board members and board employees and contractors that can lead to conflicts of interest or at least an appearance of conflict, such as campaigning for elective office; being an officer of a political party, political committee, or group; or lobbying, employing, or assisting a lobbyist.

Like other ethics-related measures, the purpose of this bill is to build a better foundation of trust between the people of Alaska and those they elect to public office.

Contact: Mike Sica, 465-4965

Revised: March 9, 2010

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sectional Analysis for HB 348 (Version R)

"An Act relating to membership of the state personnel board."

Section 1. Amends AS 39.25.060(a) to increase the membership on the Personnel Board from three to five members. The governor may make an appointment from a list of at least three nominees selected by the chief justice of the Alaska Supreme Court, subject to the right of the governor to request additional nominations. It ensures that the board has at least one member of the two parties that received the most votes in a recent election. It also requires that a member remains in office after expiration of term until a successor is confirmed.

Section 2. Amends AS 39.25.060(b) to increase the number of board members who can be of the same political party from two to three of the five-member board.

Section 3. Adds new section AS 39.25.064 that prohibits board members and board employees and contractors from certain activities that that relate to possible conflicts of interest or at least an appearance of conflict.

Section 4. Amends AS 39.25.070 to add conforming language stating that three members constitute a quorum and three affirmative votes are required for final action on matter.

Section 5. Amends the uncodified law by adding a new section stating that a member of the personnel board serving on the effective date of this Act remains in office for the duration of the term which appointed and confirmed. Within 60 days of the effective date, the chief justice of the Alaska Supreme Court shall submit to the governor a list of at last six nominees for the two additional seats on the personnel board. The governor shall appoint one member to a five-year term and one member to a six-year term.

Contact: Mike Sica, 465-4965 **Revised: March 9, 2010**

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 348**
() Publish Date:

Identifier (file name): HB348-DOA-DOPLR-03-08-10
Dept. Affected: Administration
Title "An Act relating to the membership of the state personnel board."
RDU Central Administrative Services
Component Personnel
Sponsor Representative Lynn
Requester (H)STA
Component Number 56

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill will have no fiscal impact on the Division of Personnel and Labor Relations.

Prepared by: Nicki Neal, Director
Phone 465-4429
Division Division of Personnel and Labor Relations
Date/Time 3/8/10 12:00 PM
Approved by: Kevin Brooks, Deputy Commissioner
Date 3/8/2010
Department of Administration

(Revised 11/6/2009 OMB)

LEGAL SERVICES

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

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

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

MEMORANDUM February 8, 2010

SUBJECT: Membership of the State Personnel Board
(Work Order No. 26-LS1360\A)

TO: Representative Bob Lynn
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

This memorandum accompanies the work order described above.

You asked for a bill that would make the appointment of Personnel Board (board) members under AS 39.25.060(a) similar to the manner in which public members are appointed to the Select Committee on Legislative Ethics under AS 24.60.130(b). You asked that the bill also include provisions addressing (1) the removal of board members, (2) the filling of vacancies and unexpired terms, (3) conflicts of interest, and (4) alternate members. I have a few comments.

Board members; increased membership and a constitutional concern relating to member appointment

The draft increases the number of board members (from three) to five,[1] making the membership of the board more difficult to "capture," and provides that the governor would be required to appoint nominees from a list of at least three qualified persons submitted by the chief justice of the Alaska Supreme Court. Note that this requirement that the governor appoint board members from a list of persons selected by the chief justice, subject to the right of the governor to request additional nominations, raises a constitutional question as to whether the legislature may so constrain the governor's ability to choose whom to appoint to an executive board.

[1] Mike Sica of your staff clarified that the intent of the legislation related to making sure that the board did not operate, or appear to operate, as a rubber stamp in investigating and addressing complaints concerning the governor. More members makes it less likely that (1) a majority of the board would be appointed by a sitting governor and (2) that the membership of the board would be of a single mind in any board proceeding. Because I increased the number of board members, I did not include a provision for alternate members.

The power to appoint members of state boards, commissions, and councils is an executive function to be exercised by the governor. In Bradner v. Hammond, 553 P.2d 1, 5 - 6 (Alaska 1976), the Alaska Supreme Court recognized that the Alaska constitution envisioned a strong executive and "that the appointment of executive officers is an executive function. . . ." The legislature may prescribe qualifications for the members of boards and commissions that are reasonably related to either the position or to the aim of the legislation and do not interfere with the governor's appointment power or with qualifications set out in the constitution. Various state courts have reached this same conclusion and have upheld legislative designations of qualifications for public offices, such as memberships on a board or commission. See, e.g., State v. Matassarin, 217 P. 930 (Kansas 1923); State v. Eischen, 76 N.W.2d 385 (Minn. 1956); Humane Society of the United States v. New Jersey Fish and Game Council, 362 A.2d 20 (1976); Hurd v. Freeland, 442 P.2d 344 (Okla. 1966); State v. Wells, 112 N.W.2d 601 (S.D. 1961); State v. Millsap, 605 S.W.2d 366 (Tex. App. 1980).

However, the Department of Law, which has generally taken a position very protective of the governor's prerogatives, has asserted that the legislature may not restrict the governor's appointment powers, such as by requiring the governor to select from a list of names provided by particular groups. The Department of Law has repeatedly argued that such limitations on the governor's appointment power are unconstitutional infringements upon the governor's authority. Letter to Walter J. Hickel, Governor, from Charles E. Cole, Attorney General, June 11, 1991 (file no. 883-91-0071); 1981 Inf. Alaska Atty. Gen. Op. (file no. J-66-698-81), April 23; 1980 Inf. Alaska Atty. Gen. Op. (file no. J-66-164-80), September 17.

Nonetheless, at least three Alaska attorney general opinions or letters of advice have accepted that the legislature may prescribe reasonable qualifications for gubernatorial appointments to boards or commissions. 1981 Inf. Alaska Atty. Gen. Op. (file no. J-66-698-81), April 23; Memorandum to Governor Hammond from R. Pegues, August 13, 1979; 1988 Inf. Alaska Atty. Gen. Op. (file no. 883-88-0079), May 24.

In this instance, I cannot say how a court would interpret the reasonableness of a statutory requirement that the governor appoint members of the board from lists of nominees chosen by the chief justice of the Alaska Supreme Court.

Quick notes
I included a provision, sec. 3 of the draft bill (prohibited conduct by board members and board employees and contractors), that relates to possible conflicts of interest and appearances of a conflict of interest. Is this what you had in mind? Please advise.

I did not prohibit a member appointed by the governor from participating in a proceeding that involved that same governor. Such a provision seemed unnecessary given that members are appointed from lists submitted by the chief justice.

I hope that this draft bill is consistent with your intent. If you have questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:ljw
10-062.ljw

Enclosure

adn.com
Anchorage Daily News

Print Page | Close Window

Palin critics question ethics rules proposals

PALIN ERA: New regulations would address traveling on the state's dime, paying legal bills.

By LISA DEMER
ldemer@adn.com
(02/08/10 22:44:25)

JUNEAU -- A legislative committee on Monday took up ethics issues that erupted during the Palin administration, but it's not clear whether the panel intends to take any action.

Attorney General Dan Sullivan has proposed state rules establishing when it's appropriate for the state to pay for the travel of family members of the governor or lieutenant governor. Another proposal sets out when the state should pay legal bills for state officials defending against ethics complaints.

Former Gov. Sarah Palin was hit with numerous ethics complaints during her 2 1/2 years in office. She said she quit in part because of what she called frivolous ethics complaints and personal legal bills amounting to an estimated $600,000.

Most of the ethics complaints against Palin were dismissed. But she settled one by reimbursing the state more than $8,000 for her children's air travel.

Some parts of the package Sullivan is proposing go beyond the Palin-era controversies. For instance, another proposed rule change would do away with a requirement for state officials to disclose as gifts any travel for state business paid by others. But they still would have to file travel reports, which would be public.

Sullivan is trying to make the changes through new state regulations, which don't need legislative approval.

Oversight comes from the joint House-Senate Administrative Regulation Review Committee, which examines regulations to make sure they are allowed under state law.

The panel agreed to hold a public hearing on the ethics measures after being pushed by Palin critic Andree McLeod. House leaders also requested it, said state Rep. Wes Keller, R-Wasilla, who is the committee chairman.

LEGAL FEES, FAMILY TRAVEL

Under the proposed rules, the state could cover the costs of defending a public official against ethics complaints if the official were exonerated, Assistant Attorney General Judy Bockmon told the committee.

Travel would be covered if the presence of a family member is required for state business or has a public purpose. The proposal says that would include a state-sponsored event that the family of the governor or lieutenant governor usually attends, or an event in which the family member is representing the state.

State Rep. David Guttenberg, D-Fairbanks, asked Bockmon whether state law gives any guidance on paying for family travel.

It doesn't, she said.

In that case, why try to decide when it's appropriate -- maybe it shouldn't be permitted at all, Guttenberg responded.

That's up to the Legislature, Bockmon said. There might be value to the state for the family to attend. It depends on the nature of the event.

State Rep. Carl Gatto, R-Palmer, said it might just save worry and time for a governor with young children to bring them along.

CRITICS TESTIFY

McLeod, who filed a number of ethics complaints against Palin and her staff, urged the committee to reject the changes.

"Are these changes valid? Do they improve the standards of public service? Do they promote the faith and confidence of the people in this state in their public officers? I submit that they do not," McLeod told the legislative committee.

McLeod said private citizens with questions about whether a public official has crossed a legal or ethical line can't get ethics opinions the way state employees can. So the public has no recourse except filing complaints to get answers, she said.

The Executive Branch Ethics Act is important, and the attorney general shouldn't be trying to change the law, another Palin critic, Zane Henning, told the committee. The Legislature should make any needed changes, he said.

"I object to the entire process that is being pushed through here," Henning said.

The ethics law needs reform, but not in the way the attorney general wants, Henning said. Elected officials, not the governor-appointed Personnel Board, should oversee ethics complaints against state officials, he said.

Both of his complaints against Palin were dismissed. One involved an interview about the vice presidential campaign that she gave to Fox News in her state office; the other concerned the fact she collected state expense payments while living in her own home in Wasilla.

ARM'S-LENGTH INVESTIGATORS

Henning's concerns about the Personnel Board seemed to resonate with legislators.

"I'm just wondering is there maybe too close of a relationship there," state Sen. Kevin Meyer, R-Anchorage, asked during the hearing.

Bockmon told the committee an independent counsel investigates ethics complaints against the governor, lieutenant governor or attorney general in an effort to separate the Personnel Board from those high-level officials.

The committee can't halt the regulations from taking effect during the annual legislative session,

but can express disapproval and propose new laws to override any objectionable regulations.

The Department of Law has solicited public comment and held a hearing on the ethics changes, Bockmon said. The period for comment has ended and the department must now decide what to do. It could adopt the provisions as is or with minor changes, or let the matter drop with no action.

The committee hasn't yet decided how to proceed, Keller said.

Print Page | Close Window

Copyright © Tue Feb 9 10:13:15 UTC-0900 20101900 The Anchorage Daily News (www.adn.com)

adn.com
Anchorage Daily News

Costs of dismissed Palin ethics complaints pile up

Personnel board member says tab is "close to about a third of a million dollars."

By SEAN COCKERHAM
scockerham@adn.com

(05/27/09 21:57:12)

The Alaska Personnel Board, clearly frustrated with the pile of ethics complaints filed against Gov. Sarah Palin, wants to publicize the cost of dealing with them.

The personnel board members decided at a Wednesday meeting to work with the attorney general's office on how to make public the cost of addressing each ethics complaint, without violating the board's confidentiality rules.

"We've spent pretty close to about a third of a million dollars, and it's getting to be really expensive," said Al Tamagni, a member of the board.

Also Wednesday, the three-member board dismissed another complaint, this one involving Palin and her political action committee, and heard testimony from a woman who asserted fear of retaliation has prevented her from filing a complaint against the governor.

The governor's office said it is the 13th ethics complaint against Palin or her staff that has been resolved without finding of an executive ethics act violation. But Palin has agreed to reimburse the state in order to settle an ethics complaint over 10 state-paid trips taken by her children. A "few more" complaints are pending a decision by the personnel board, the governor's office said.

Andree McLeod, an Anchorage activist who has filed multiple ethics complaints against Palin and her staff, said after the meeting that the board is trying to squash accountability by saying it costs too much.

"The whole way to mitigate all this is for Palin to behave ethically," said McLeod, who filed the complaint that was dismissed by the board on Wednesday.

Valerie Henning told the board that fear of a backlash has prevented her from filing a complaint against the governor's practice of collecting per diem for time spent at her home in Wasilla. Henning's husband, Zane, earlier had an ethics complaint dismissed by the board. His complaint alleged Palin violated ethics law by holding national television interviews concerning her run for vice president from the governor's office.

Valerie Henning brought up to the board the statement that Palin's chief of staff, Mike Nizich, made on April 22 after the filing of an ethics complaint against Palin that was released to the press.

"I hope that the publicity-seekers will face a backlash from Alaskans who have a sense of fair play and proportion. I served six previous governors, and I've never seen anything like the attacks against governor Palin," Nizich said in a press release distributed by the governor's office.

Valerie Henning tried to get board members to suggest some alternative to making the ethics complaint, saying "I'm afraid of retaliation, basically."

Palin spokesman Bill McAllister said Nizich was simply asking that Alaskans who have a "sense of fair play and proportion" speak up about what's going on.

"I don't know what she means by retaliation, but certainly some people have been raising their voices in protest of this abuse of the ethics act," McAllister said. "People make these allegations against the governor and they keep getting dismissed and dismissed and dismissed, and some people are saying 'What's going on here?' "

Pro-Palin bloggers have assailed "ankle biter" ethics complainants in writing and KBYR talk radio host Eddie Burke has gone after McLeod on his show, saying he was going to hunt down evidence she was motivated by not getting a state job.

One of the personnel board members, Tamagni, last fall asked a state attorney if the board could charge attorney fees for Alaskans who file "a frivolous or meritless" ethics complaint. It's not clear how the state would judge a complaint frivolous, but charging for them would require changing the law.

Personnel board members spoke Wednesday about possibly pursuing changes in the law regarding their ethics complaint procedures -- such as changing the "thresholds for investigations."

Ethics complainants in the audience asked board chair Debra English for detail after the meeting, but she curtly brushed them off, saying the meeting was over and she wasn't going to say more.

English also refused to answer when a Daily News reporter asked what the board had in mind. She said the reporter should have come before the board and given public testimony in order to get any questions answered from its members.

Members of the personnel board are volunteers appointed by the governor, although all three of the current members were in place when Palin took office in 2006. Palin last year reappointed English to a six-year term but hasn't had a role yet in either of the two other positions, which have terms expiring in 2010 and 2012.

The governor also has the power to remove members of the personnel board, but only for cause.

Find Sean Cockerham online at adn.com/contact/scockerham or call him at 257-4344.

Print Page Close Window

Copyright © Wed Feb 10 2010 22:05:46 GMT-0900 (AKST)1900 The Anchorage Daily News (www.adn.com)

Sec. 39.25.060. Personnel board.

(a) The personnel board is composed of three members appointed by the governor and confirmed by the legislature meeting in joint session. The term of office of a member is six years. A vacancy in an unexpired term shall be filled by appointment by the governor for the remainder of the term. The appointment is subject to confirmation in the same manner as a full-term appointment.

(b) Members of the board may not be employees of the state. Not more than two members of the board may be members of the same political party.

(c) A board member may be removed by the governor only for cause.

(d) A member of the board may receive a per diem allowance and transportation expenses incurred in carrying out the member's duties.

Sec. 39.25.070. Powers and duties of personnel board.

In addition to the other duties imposed by this chapter, the personnel board shall

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 ;

(2) consider and act upon recommendations for the extension of the partially exempt service and the classified service as provided in AS 39.25.130;

(3) hear and determine appeals by employees in the classified service as provided in AS 39.25.170 ;

(4) establish its own rules of procedure; two members constitute a quorum for the transaction of business and two affirmative votes are required for final action on matters acted upon by the board;

(5) elect a chair from its membership;

(6) have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to a hearing authorized by this chapter;

(7) employ staff members, who shall be in the classified service;

(8) carry out its powers and duties under AS 39.52.

Sec. 39.25.080. Personnel records confidential; exceptions.

(a) State personnel records, including employment applications and examination and other assessment materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee;

(6) the compensation authorized for a state employee; and

(7) whether a state employee has been dismissed or disciplined for a violation of AS 39.25.160 (l) (interference or failure to cooperate with the Legislative Budget and Audit Committee).

(c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

(e) In addition to any access to state personnel records authorized under (b) of this section, state personnel records shall promptly be made available to the child support services agency created in AS 25.27.010 or the child support enforcement agency of another state. If the record is prepared or maintained in an electronic data base, it may be supplied by providing the requesting agency with access to the data base or a copy of the information in the data base and a statement certifying its contents. The agency receiving information under this subsection may use the information only for child support purposes authorized under law.

Article 04. COMPLAINTS; HEARING PROCEDURES

Sec. 39.52.310. Complaints.

(a) The attorney general may initiate a complaint, or elect to treat as a complaint, any matter disclosed under AS 39.52.210 , 39.52.220, 39.52.250, or 39.52.260. The attorney general may not, during a campaign period, initiate a complaint concerning the conduct of the governor or lieutenant governor who is a candidate for election to state office.

(b) A person may file a complaint with the attorney general regarding the conduct of a current or former public officer. A complaint must be in writing, be signed under oath, and contain a clear statement of the details of the alleged violation.

(c) If a complaint alleges a violation of AS 39.52.110 - 39.52.190 by the governor, lieutenant governor, or the attorney general, the matter shall be referred to the personnel board. The personnel board shall return a complaint concerning the conduct of the governor or lieutenant governor who is a candidate for election to state office as provided in (j) of this section if the complaint is initiated during a campaign period. The personnel board shall retain independent counsel who shall act in the place of the attorney general under (d) - (i) of this section, AS 39.52.320 - 39.52.350, and 39.52.360(c) and (d). Notwithstanding AS 36.30.015 (d), the personnel board may contract for or hire independent counsel under this subsection without notifying or securing the approval of the Department of Law.

(d) The attorney general shall review each complaint filed, to determine whether it is properly completed and contains allegations which, if true, would constitute conduct in violation of this chapter. The attorney general may require the complainant to provide additional information before accepting the complaint. If the attorney general determines that the allegations in the complaint do not warrant an investigation, the attorney general shall dismiss the complaint with notice to the complainant and the subject of the complaint.

(e) The attorney general may refer a complaint to the subject's designated supervisor for resolution under AS 39.52.210 or 39.52.220.

(f) If the attorney general accepts a complaint for investigation, the attorney general shall serve a copy of the complaint upon the subject of the complaint, for a response. The attorney general may require the subject to provide, within 20 days after service, full and fair disclosure in writing of all facts and circumstances pertaining to the alleged violation. Misrepresentation of a material fact in a response to the attorney general is a violation of this chapter. Failure to answer within the prescribed time, or within any additional time

period that may be granted in writing by the attorney general, may be considered an admission of the allegations in the complaint.

(g) If a complaint is accepted under (f) of this section, the attorney general shall investigate to determine whether a violation of this chapter has occurred. At any stage of an investigation or review, the attorney general may issue a subpoena under AS 39.52.380 .

(h) A violation of this chapter may be investigated within two years after discovery of the alleged violation.

(i) The unwillingness of a complainant to assist in an investigation, the withdrawal of a complaint, or restitution by the subject of the complaint may, but need not in and of itself, justify termination of an investigation or proceeding.

(j) The personnel board shall return a complaint concerning the conduct of the governor or lieutenant governor who is a candidate for state office received during a campaign period to the complainant unless the governor or lieutenant governor, as appropriate, permits the personnel board to assume jurisdiction under this subsection. If the personnel board receives a complaint concerning the conduct of the governor or lieutenant governor who is a candidate during the campaign period, the personnel board shall immediately notify the subject of the complaint of the receipt of the complaint, of the suspension of the personnel board's jurisdiction during the campaign period, and of the candidate's right to waive the suspension of jurisdiction under this subsection. The candidate may, within 11 days after the personnel board mails or otherwise sends notice of the complaint to the candidate, notify the personnel board that the candidate chooses to have the personnel board proceed with the complaint under this section. If the candidate does not act within that time or if the candidate notifies the personnel board that the candidate is not waiving the suspension of jurisdiction, the personnel board shall return the complaint to the complainant with notice of the suspension of jurisdiction under this subsection and of the right of the complainant to file the complaint after the end of the campaign period.

(k) A campaign period under this section begins on the later of 45 days before a primary election in which the governor or lieutenant governor is a candidate for state office or the day on which the individual files as a candidate for state office and ends at the close of election day for the general or special election in which the individual is a candidate or on the day that the candidate withdraws from the election, if earlier. For a candidate who loses in the primary election, the campaign period ends on the day that results of the primary election showing that another individual won the election are certified.

Sec. 39.52.320. Dismissal before formal proceedings.

If, after investigation, it appears that there is no probable cause to believe that a violation of this chapter has occurred, the attorney general shall dismiss the complaint. The attorney general shall communicate disposition of the matter promptly to the complainant under AS 39.52.335 (c) and to the subject of the complaint.

Sec. 39.52.330. Corrective or preventive action.

After determining that the conduct of the subject of a complaint does not warrant a hearing under AS 39.52.360 , the attorney general shall recommend action to correct or prevent a violation of this chapter. The attorney general shall communicate the recommended action to the complainant and the subject of the complaint. The subject of the complaint shall comply with the attorney general's recommendation.

Sec. 39.52.335. Summary of disposition of complaints and review by personnel board.

(a) When the attorney general initiates or receives a complaint under AS 39.52.310 , the attorney general shall immediately forward a copy of the complaint to the personnel board.

(b) Each month, the attorney general shall file a report with the personnel board concerning the status of each pending complaint and the resolution of complaints that have been closed since the previous report.

(c) If a complaint is dismissed under AS 39.52.320 or resolved under AS 39.52.330 , the attorney general shall promptly prepare a summary of the matter and provide a copy of the summary to the personnel board and the complainant. The summary is confidential unless the

(1) dismissal or resolution agreed to under AS 39.52.320 or 39.52.330 is public; or

(2) superior court makes the matter public under (h) of this section.

(d) Within 15 days after receipt of a summary under this section, a complainant may file comments with the personnel board regarding the disposition of the complaint.

(e) At its next regular meeting that begins more than 15 days after receipt of a summary under this section, the personnel board shall review the summary and comments, if any, filed by the complainant. The personnel board may compel the attendance of the subject of the complaint or the complainant at the meeting and may compel the production of documents. Attendance may be by teleconference. The attorney general or the attorney general's designee

shall be available to respond to questions from the personnel board concerning the disposition of the complaint.

(f) After review of the summary, the personnel board may issue a report on the disposition of the complaint. If the matter is confidential and the board determines that publication of the name of the subject is in the public interest, the report may include a recommendation that the matter be made public.

(g) If the summary is confidential under (c) of this section,

(1) comments filed by the complainant, if any, are confidential;

(2) the personnel board shall conduct the review of the summary in executive session; and

(3) the personnel board report, if any, is confidential; the personnel board shall make available to the public an expurgated copy of a confidential report with sufficient deletions and editing to prevent disclosure of the identity of the persons involved in the matter.

(h) If the disposition of a complaint is not made public and the personnel board report under (f) of this section includes a recommendation that the matter be made public, an interested party may file an action against the state in superior court requesting that the court make public the complaint, the attorney general's disposition of the complaint, and the personnel board report. The court may order the matter or portions of the matter made public if the court determines that

(1) the dismissal or resolution of the complaint was clearly contrary to the requirements of this chapter;

(2) one or more of the allegations in the information to be released is supported by substantial evidence;

(3) the matter concerns the public interest; and

(4) release of the information will not infringe on any protected rights or liberties of the subject.

Sec. 39.52.340. Confidentiality.

(a) Except as provided in AS 39.52.335, before the initiation of formal proceedings under AS 39.52.350, the complaint and all other documents and information regarding an investigation conducted under this chapter or obtained by the attorney general during the investigation are confidential and not subject to inspection by the public. In the case of a complaint concerning

the governor, lieutenant governor, or attorney general, all meetings of the personnel board concerning the complaint and investigation before the determination of probable cause are closed to the public. If, in the course of an investigation or probable cause determination, the attorney general finds evidence of probable criminal activity, the attorney general shall transmit a statement and factual findings limited to that activity to the appropriate law enforcement agency. If the attorney general finds evidence of a probable violation of AS 15.13, the attorney general shall transmit a statement to that effect and factual findings limited to the probable violation to the Alaska Public Offices Commission. The attorney general and all persons contacted during the course of an investigation shall maintain confidentiality regarding the existence of the investigation.

(b) It is not a violation of this section for a person to contact an attorney or to participate in a criminal investigation.

(c) The subject of the complaint may, in writing, waive the confidentiality protection of this section.

Sec. 39.52.350. Probable cause for hearing.

(a) If the attorney general determines that there is probable cause to believe that a knowing violation of this chapter or a violation that cannot be corrected under AS 39.52.330 has occurred, or that the subject of a complaint failed to comply with a recommendation for corrective or preventive action, the attorney general shall initiate formal proceedings by serving a copy of an accusation upon the subject of the accusation. The accusation shall specifically set out the alleged violation. After service, the accusation is a public document open to inspection. Except as provided in AS 39.52.370 (c), all subsequent proceedings are open to the public.

(b) The subject of the accusation shall file an answer with the attorney general within 20 days after service of the accusation, or at a later time specified by the attorney general. If the subject of the accusation fails to timely answer, the allegations are considered admitted.

(c) If the subject of the accusation denies that a violation of this chapter has occurred, the attorney general shall refer the matter to the personnel board, which shall notify the chief administrative law judge (AS 44.64.010), who shall appoint an administrative law judge to serve as a hearing officer to conduct a hearing.

(d) If the subject of the accusation admits a violation of this chapter, the attorney general shall refer the matter to the personnel board to impose penalties under AS 39.52.410 , 39.52.440, and 39.52.450, as appropriate.

Sec. 39.52.360. Hearings.

(a) The hearing officer may convene a prehearing conference to set a time and place for the hearing, and for stipulation as to matters of fact and to simplify issues, identify and schedule prehearing matters, and resolve other similar matters before the hearing.

(b) The hearing officer may administer oaths, hold hearings, and take testimony. Upon application by a party to the hearing, the hearing officer may issue subpoenas under AS 39.52.380 .

(c) The attorney general shall present the charges before the hearing officer. At a hearing, the attorney general has the burden of demonstrating by a preponderance of the evidence that the subject of the accusation has, by act or omission, violated this chapter.

(d) The parties to a hearing are the attorney general and the subject of the accusation. The subject of an accusation may be represented by counsel. Each party has an opportunity to be heard and cross-examine witnesses, who shall testify under oath.

(e) The Administrative Procedure Act does not apply to hearings under this section, except as provided in AS 39.52.380 .

(f) Technical rules of evidence do not apply, but the hearing officer's findings must be based upon reliable and relevant evidence. All testimony and other evidence taken at the hearing must be recorded and the evidence maintained. Copies of transcripts of the hearing record are available to the subject of the accusation at the subject's expense; however, upon request, a copy of the recording of the hearing must be furnished without charge to the subject of the accusation.

(g) At the conclusion of the formal hearing, the hearing officer may direct either or both parties to submit proposed findings of fact, conclusions of law, and recommendation to be filed within 10 days after the conclusion of the hearing.

(h) Within 30 days after the conclusion of a formal hearing, the hearing officer shall serve a written report on the personnel board and the parties, unless the personnel board grants an extension of time. The report must contain the officer's findings of fact, conclusions of law, and recommendation. The hearing officer shall submit the record to the personnel board.

Sec. 39.52.370. Personnel board action.

(a) Within 10 days after receipt of the hearing officer's report, either party may protest the officer's findings of fact, conclusions of law, and recommendation, and, if a protest is filed, shall serve a copy on the other party. Oral argument before the personnel board must be provided only if requested by either party. The board chair shall set the deadline for submission of requests for oral argument, and set the dates for submission of briefs and oral argument before the board, if requested.

(b) The board may issue subpoenas under AS 39.52.380, and may, for good cause shown, augment the hearing record, in whole or in part, or hold a hearing de novo.

(c) The personnel board shall review each report submitted by a hearing officer and shall either adopt or amend the findings of fact, conclusions of law, and recommendation of the officer. Deliberations of the personnel board must be conducted in sessions not open to the public.

(d) If the personnel board determines that a violation occurred, it may impose the penalties in AS 39.52.410, 39.52.440, and 39.52.450, as appropriate. If the board determines that no violation occurred, the board shall issue a written order of dismissal.

(e) The personnel board secretary shall promptly notify the parties and the public officer's designated supervisor of the board's action.

(f) The subject of the accusation may appeal the personnel board's decision by filing an appeal in the superior court as provided in the Alaska Rules of Appellate Procedure.

Sec. 39.52.380. Subpoenas.

(a) As provided in AS 39.52.310 (g), 39.52.360(b), and 39.52.370(b), the attorney general, independent counsel retained under AS 39.52.310 (c), a hearing officer, the subject of an accusation, and the personnel board may summon witnesses and require the production of records, books, and papers by the issuance of subpoenas.

(b) Subpoenas must be served in the manner prescribed by AS 44.62.430 and Rule 45 of the Alaska Rules of Civil Procedure. Failure or refusal to obey a subpoena issued under this chapter is punishable as contempt in the manner provided by law and court rule. The superior court may compel obedience to the subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

Sec. 39.52.390. Service.

Service of an accusation must be accomplished in accordance with Rule 4 of the Alaska Rules of Civil Procedure. Service of any other pleading, motion, or other document must be accomplished in accordance with Rule 5 of the Alaska Rules of Civil Procedure.

Article 05. ENFORCEMENT; REMEDIES

Sec. 39.52.410. Violations; penalties for misconduct.

(a) If the personnel board determines that a public employee has violated this chapter, it

(1) shall order the employee to stop engaging in any official action related to the violation;

(2) may order divestiture, establishment of a blind trust, restitution, or forfeiture; and

(3) may recommend that the employee's agency take disciplinary action, including dismissal.

(b) If the personnel board determines that a nonsalaried member of a board or commission has violated this chapter, it (1) shall order the member to refrain from voting, deliberating, or participating in the matter; (2) may order restitution; and (3) may recommend to the appropriate appointing authority that the member be removed from the board or commission. A violation of this chapter is grounds for removal of a board or commission member for cause. If the personnel board recommends that a board or commission member be removed from office, the appointing authority shall immediately act to remove the member from office.

(c) If the personnel board determines that a former public officer has violated this chapter, it shall

(1) issue a public statement of its findings, conclusions, and recommendation; and

(2) request the attorney general to exercise all legal and equitable remedies available to the state to seek whatever relief is appropriate.

(d) If the personnel board finds a violation of this chapter by a public officer removable from office only by impeachment, it shall file a report with the president of the Senate, with its finding. The report must contain a statement of the facts alleged to constitute the violation.

Sec. 39.52.420. Disciplinary action for violation.

(a) In addition to any other cause an agency may have to discipline a public employee, an agency may reprimand, demote, suspend, discharge, or otherwise subject an employee to agency disciplinary action commensurate with the violations of this chapter. This section does not prohibit the review of a disciplinary action in the manner prescribed by an applicable collective bargaining agreement or personnel statute or rule.

(b) An agency may initiate appropriate disciplinary action in the absence of an accusation under this chapter or during the pendency of a hearing or personnel board action.

Sec. 39.52.430. Actions voidable.

(a) In addition to any other penalty provided by law, a state grant, contract, or lease entered into in violation of this chapter is voidable by the state. In a determination under this section of whether to void a grant, contract, or lease, the interests of third parties who could be damaged may be taken into account. The attorney general shall give notice of intent to void a state grant, contract, or lease under this section no later than 30 days after the personnel board's determination of a violation under this chapter.

(b) In addition to any other penalty provided for by law, the state may require a state loan received in violation of this chapter to become immediately payable.

(c) Any state action taken in violation of this chapter is voidable, except that the interests of third parties and the nature of the violation may be taken into account. The attorney general may pursue any other available legal and equitable remedies.

(d) The attorney general may recover any fee, compensation, gift, or benefit received by a person as a result of a violation of this chapter by a current or former public officer. Action to recover under this subsection must be brought within two years after discovery of the violation.

Sec. 39.52.440. Civil penalties.

The personnel board may impose on a current or former public officer civil penalties not to exceed $5,000 for a violation of this chapter. A penalty imposed under this section is in addition to and not instead of any other penalty that may be imposed according to law.

Sec. 39.52.450. Payment of twice the financial benefit.

The personnel board may, in addition to the civil penalties described in this chapter, require a current or former public officer who has financially benefited

a person in violation of this chapter to pay to the state up to twice the amount that the person realized from the violation.

Sec. 39.52.460. Criminal sanctions additional.

To the extent that violations under this chapter are punishable in a criminal action, that sanction is in addition to the civil remedies set out in this chapter.

HB 349

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 17, 2010 **FURTHER REFERRALS:**

Date of Committee Action: 3-11-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 349**

"An Act relating to the Statewide Suicide Prevention Council."
HB 349-SUICIDE PREVENTION COUNCIL MEETINGS

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW **FISCAL NOTES** *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
H&SS				X

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Cathy Gatto	Gatto	X			
Kurt Gruenberg	Gruenberg	✓			
Pete Peterson	Peterson	X			
Chair: Bob Lynn	LYNN	X			
Chair:					

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Bill 349

"An Act Statewide Suicide Prevention Council"

House Bill 349 allows the Suicide Prevention Council to participate in a meeting either in person or by teleconference. Suicide is a very serious public health concern in Alaska, particularly among young males and the Alaska native population. Extension of the Statewide Suicide Prevention Council is important in curtailing this avoidable loss of life. The mission of the Statewide Suicide Prevention Council is to advise the governor and the legislature on issues relating to suicide. In collaboration with communities, faith-based organizations, and public-private entities, the Council works to improve the health and wellness of Alaskans by reducing suicide and its effect on individuals and communities.

The council serves in an advisory capacity to the Legislature and governor with respect to what actions can and should be taken to improve health and wellness throughout the state by reducing suicide and its effect on individuals, families and communities; broaden the public's awareness of suicide and the risk factors related to suicide; enhance suicide prevention services and programs throughout the state; develop healthy communities through comprehensive, collaborative, community-based approaches; develop and implement a statewide suicide prevention plan; and strengthen existing and build new partnerships between public and private entities that will advance suicide prevention efforts in the state.

Thank you for your consideration and I urge your support on the passage of legislation.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

SUICIDE PREVENTION COUNCIL

SEAN PARNELL, GOVERNOR

350 Main Street, Suite 214
PO Box 110620
Juneau, AK 99811-0620
PHONE: (907) 465-8536
FAX: (907) 465-1189
TOLL FREE: (877) 393-2287

Date: February 19, 2010

Dear Representative Anna Fairclough,

Re: HB 349

At our last meeting on January 13, the Statewide Suicide Prevention Council had reviewed its By-laws, which dually requires Council members to be present at meetings but also allows telephonic representation in order to be counted for a quorum. Due to the history of the Council attendance at meetings as indicated during the last legislative audit, it is the intent of the Council to allow for more flexibility in assembling a quorum. Therefore, we support amending the language in AS 4429.340 to allow a broader interpretation as it is written in the By-laws to include telephonic representation at our meetings.

We respectfully request that the Legislature agrees with the Council's desire to hold telephonic conferencing as an avenue to conduct the State's business as it relates to the important issue of suicide.

Sincerely,

Brenda Moore

Brenda Moore
Statewide Suicide Prevention Council, Chair

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB349
() Publish Date:

Identifier (file name): HB349-DHSS-SPC-03-08-10
Dept. Affected: Health & Social Services

Title: Suicide Prevention Council Meetings
RDU: Behavioral Health
Component: Suicide Prevention Council

Sponsor: Fairclough

Requester: House STA
Component Number: 2651

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS							
Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation would not have a fiscal impact on the Division of Behavioral Health. The proposed legislation would allow Council members participating by teleconference to count towards the required quorum.

Prepared by: Melissa Stone, Director
Division: Behavioral Health
Phone (907) 269-3410
Date/Time 3/3/10 5:00pm

Approved by: Alison Elgee, Assistant Commissioner
DHSS Finance & Management Services
Date 3/8/2010

(Revised 11/6/2009 OMB)

HB

353

Session:
State Capitol
Juneau, Alaska 99801
(907) 465-4457 Office
(907) 465-3519 Fax
(800) 928-4457 Toll Free

Alaska House of Representatives
David Guttenberg

Interim:
1292 Sadler Way
Suite 304
Fairbanks, Alaska 99701-3171
(907) 456-8172
(907) 456-2490 Fax

District 8

Date: February 23, 2010

To: Representative Bob Lynn

From: Representative David Guttenberg

Re: Hearing request for HB 353, An Act amending the Alaska Executive Branch Ethics Act to permit limited state-sponsored travel by the spouse or children of the governor or lieutenant governor; and providing for an effective date.

I respectfully request that HB 353 be scheduled for a hearing in the House State Affairs Committee consideration at your earliest convenience.

Included you will find:

- The current version of HB 353
- Sponsor statement
- Sectional Analysis (requested from legal, will be delivered upon completion)
- Settlement agreement for past executive travel controversy
- Legal opinion of Birch, Horton, Bittner and Cherot regarding a past executive travel controversy

I look forward to discussing the merits of this bill in the House State Affairs Committee. My staff, Amy Hundertmark, is assigned to this legislation if there are any questions, 465-4457. Any additional materials we wish to place before the committee will be submitted no later than 24 hours prior to the scheduled hearing.

Anderson • Cantwell • Chena • Denali Park • Ester • Geist • Goldstream • Healy • Pike
University Campus • University Hills • University West
Representative_David_Guttenberg@legis.state.ak.us

ALASKA STATE LEGISLATURE

Sponsor Statement

SESSION:
Alaska State Capitol, Room 418
Juneau, AK 99801
(907) 465-4457 Office
(907) 465-3519 Fax
(800) 928-4457 Toll Free

INTERIM:
1292 Sadler Way, Suite 304
Fairbanks, AK 99701
Office (907) 456-8172
Fax (907) 456-2490

Representative David Guttenberg

"An Act amending the Alaska Executive Branch Ethics Act to permit limited state-sponsored travel by the spouse or children of the Governor or the Lieutenant Governor."

The current rules regarding travel for the families of the Governor or Lt. Governor are unclear. Over the past few years it has become clear that the state is in serious need of clear statutory language in defining acceptable, legitimate state expenses.

HB 353 determines that the state of Alaska does not pay for the travel of the Governor's or Lt. Governor's spouse or children. Should the Governor or Lt. Governor wish to have a family member travel with them on state business, they will be responsible for reimbursing the state for the cost of that travel.

It is reasonable for the Governor and Lt. Governor to want to travel with their families, but the state shouldn't be footing the bill. Now is the time to address this issue so there will be no future controversies about executive branch travel.

I urge you to support HB 353.

Representative.David.Guttenberg@legis.state.ak.us
http://guttenberg.akdemocrats.org

LEGAL SERVICES

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

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

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

MEMORANDUM March 23, 2010

SUBJECT: Sectional Summary of HB 353 (Work Order No. 26-LS1474\R)

TO: Representative David Guttenberg
Attn: Amy Hundertmark

FROM: Dan Wayne
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1, the bill's sole section, amends AS 39.52.120 of the Executive Branch Ethics Act, to allow the use of state resources to transport the spouses and children of the governor and the lieutenant governor to and from events that do not have a partisan political purpose, as long as the state is reimbursed for either the actual cost or the fair market value of the transportation.

Currently, AS 39.52.120 reads:

> **Sec. 39.52.120. Misuse of official position.**
> (a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.
> (b) A public officer may not
> (1) seek other employment or contracts through the use or attempted use of official position;
> (2) accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the state;
> (3) use state time, property, equipment, or other facilities to benefit personal or financial interests;
> (4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time; or

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor's residence so long as there is no charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

(c) In addition to other provisions of this section, a public officer who is a member of the Board of Fisheries or the Board of Game may not act on a matter before the board if the public officer has not disclosed in the manner set out in AS 39.52.220 all personal or financial interests in a business or organization relating to fish or game resources.

(d) In this section, when determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days, engages in political campaign activities other than minor, inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning.

(e) Except for supplying information requested by the hearing officer or the entity with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a public officer may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer or individual, board, or commission with authority to make the final decision in the case assigned to the hearing officer unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or

(2) fact and substance of the contact is promptly disclosed by the public officer to all parties to the hearing and the contact is made a part of the record.

(f) Use of state aircraft for partisan political purposes is permitted under (b) of this section only when the use is collateral or incidental to the normal performance of official duties and does not exceed 10 percent of

the total of the use of the aircraft for official purposes and partisan political purposes, combined, on a single trip. A public officer who authorizes or makes any partisan political use of a state aircraft under (b) of this section shall disclose the authorization and use under AS 39.52.210 or 39.52.220 for each trip, and the person who uses the aircraft shall reimburse the state for the proportionate share of the actual cost of the use.

DCW:med
10-054.med

BEFORE THE ALASKA PERSONNEL BOARD

In Re October 24, 2008 Ethics Complaint

SETTLEMENT AGREEMENT

This settlement agreement is entered into between Governor Sarah Palin ("Governor") and the Alaska Personnel Board through its Independent Counsel ("Independent Counsel"). This settlement resolves the above described Complaint. The Complaint alleges that certain travel for Governor Palin's children was taken at State expense and in violation of the Alaska Executive Branch Ethics Act, AS 39.52.120(a) and (b)(3). The trips that are the subject of this Settlement Agreement are those described in Exhibit A. Exhibit A is specifically incorporated into the terms of this settlement agreement.

WHEREAS the parties agree that there is presently little statutory or regulatory guidance under the Alaska Executive Branch Ethics Act to determine the ethical standards for travel by the Governor's immediate family (referred to as Protocol Travel)[1] and, more specifically, to determine the circumstances under which (i) State reimbursement for travel by the Governor's children is ethically prohibited and (ii) when the Governor must reimburse the state for travel by her children on state transportation equipment;

WHEREAS the parties understand that AS 39.52.120(a)'s prohibition on unwarranted benefits or treatment is the most pertinent provision addressing

[1] As used herein, "Protocol Travel" is travel involving the First Family to events, ceremonies and other public appearances attended by the Governor.

travel by the Governor's immediate family as described in Exhibit A, that such provision is further defined by regulation, but that such regulation does not provide sufficiently clear standards for determining when travel as described in Exhibit A constitutes an unwarranted State reimbursed travel and therefore an ethical violation;

WHEREAS Independent Counsel has interpreted the Alaska Executive Branch Ethics Act, in the absence of specific regulation on the topic of first family travel, to require that state reimbursed travel for the first family should not occur at State expense unless the presence of the First Family serves an important state interest and that some of the travel raised by the Complaint does not meet this standard;

WHEREAS the Governor maintains that she adhered to Protocol Travel standards historically allowed to prior administrations, abided by the recommendations of state personnel, and has done nothing to violate the Act, but further agrees that written Protocol Travel guidelines would benefit her administration and all future administrations;

WHEREAS, as to the existing Complaint, the Governor wants to exceed minimum legal standards, and therefore wishes to respect and adhere to the determination made by Independent Counsel and does not wish to contest the standard being applied or the application of this standard to the Complaint in the interest of the State and the public;

WHEREAS the parties have agreed to mutually address and resolve the issues raised by the Complaint voluntarily, cooperatively and in the best interests of the State;

IT IS AGREED THAT:

1. The Governor shall reimburse the State within 120 days for payments for travel made as described in Exhibit A.

2. No other trips that could be the subject of the Complaint, through to the date of this agreement require reimbursement.

3. Independent Counsel shall refer this matter to the Department of Law for the purpose of promulgating additional regulations to clarify Protocol Travel by addressing more clearly what constitutes Protocol Travel that is warranted under the Alaska Executive Branch Ethics Act and therefore subject to State reimbursement. The Governor agrees to reimburse the State for any trip billed to the State for her children that are submitted in the future that does not comply with the regulation or regulations that are later promulgated.

4. It is expressly agreed that the terms of this agreement shall be made public, that the Governor waives her right to confidentiality regarding this agreement, and that Independent Counsel and the Governor shall be authorized to communicate the terms of this agreement to the public and to the Attorney General for purposes of seeking clarifying regulations. Independent Counsel, the Governor and her staff, and members of the Department of Administration

charged with arranging Protocol Travel shall be free to participate in the regulatory process as they choose or as they may be called upon.

5. Nothing in this agreement constitutes an admission of wrongdoing, and none has been found, nor may any inference of wrongdoing be inferred by virtue of the execution of this agreement in any other proceeding.

DATED this 23rd day of February, 2009

Governor Sarah Palin

Timothy J. Petumenos, Independent Counsel
Alaska Personnel Board

Approved as to form and content:

2-23-09

Thomas Van Flein, Attorney for Governor Palin

TA #	DATES	EVENT DESCRIPTION	COST DESCRIPTION	
01-1624	1/25 - 1/30/07	First Family attended Alaska Native Heritage Center First Family event in Anchorage (n/a); Bristol later attended opening night of Beauty and the Beast at Valley Performing Arts Center.	Additional cost to State for attending Beauty and the Beast to be reimbursed.	
01-1901	4/18 - 4/22/07	First Family attended Elders and Community dinner in Glennallen (n/a); attended Alaska Prudential Student Recognition ceremony (n/a); attended Alaska Moose Federation banquet with Governor.	Trip to be prorated between three events, with Moose Federation to be reimbursed for marginal cost.	
01-1857 01-1858 01-1859	5/6 - 5/8/07	First Family attended family dinner at the Outpost and attended the Skagway Community Reception for Palin family.	Family traveled via Ferry and DPS King Air.	
01-1876 01-1877	5/9 - 5/10/07	Governor, Willow and Piper attend Cordova Shorebird Festival and documentary. Governor spoke to Cordova Chamber of Commerce.	Family traveled via DPS King Air. Two round trip tickets for Willow and Piper.	
01-2134	10/7 - 10/11/07	Governor and Bristol attend Newsweek's Third Annual Women and Leadership Conference.	Airfare and one meal.	
01-2335 01-2336	1/12/2008	Willow and Piper returned to Juneau to State of the State Address.	Willow and Piper traveled with Governor on DPS King Air.	
01-2381	2/8 - 2/10/08	Start of the Iron Dog and Alaska Outdoor Council Banquet.	Piper traveled with Governor on DPS King Air.	
01-2519	4/10/08	Curves Ribbon Cutting Ceremony, and bill signing for recycled eyeglasses during the Lions Club of Alaska and Yukon Territory Annual Convention.	Juneau to Anchorage	
01-3151 01-3152	7/9 - 7/15/08	National Governor's Association Annual Summer Meeting.	Airfare and hotel	

LAW OFFICES
BIRCH, HORTON, BITTNER AND CHEROT A PROFESSIONAL CORPORATION
1127 WEST SEVENTH AVENUE • ANCHORAGE, ALASKA 99501-3301 • TELEPHONE (907) 276-1550 • (800) 478 1550 • FACSIMILE (907) 276-3680

[redacted] HORTON (1944 - 1998)

RONALD G. BIRCH**
WILLIAM H. BITTNER
KATHRYN A. BLACK
SUZANNE CHEROT
ADAM W. COOK
JON M. DEVORE**
CHARLES R. EBERLET*
GREGORY S. FISHER
JOSEPH H. FLACK
DOUGLAS S. FULLER*
MAX D. GARNER
DAVID KARL GROSS
LINA M. GROVER
WILLIAM P. HORN*
STEPHEN H. HUTCHINGS
DANIEL C. KENT
THOMAS F. KLINKNER
DAVID E. LAMPPS
STANLEY T. LEWIS
JAMES H. LISTER**
GREGORY A. MILLER
JENNIFER L. OWENS, Ph.D.
MICHAEL J. PARISE
TIMOTHY J. PETUMENOS
ELISABETH H. ROSS**
HOLLY C. SUOZZO

OF COUNSEL
JENNIFER C. ALEXANDER
KENNETH E. VASSAR

1155 CONNECTICUT AVE. N.W.
SUITE 1200
WASHINGTON D.C. 20036
(202) 659-5800
FACSIMILE (202) 659-1027

* D.C. BAR
** D.C. AND ALASKA BAR
† MARYLAND BAR
‡ VIRGINIA BAR
ALL OTHERS ALASKA BAR

[redacted]

FEB 25 2009

Attorney Generals Office
Juneau

February 24, 2009

RECEIVED
FEB 25 2009
Executive AGO Juneau

Via Email and First Class Mail

Richard Svobodny, Acting Attorney General
P.O. Box 110300
Juneau, AK 99811
richard.svobodny@alaska.gov

Re: In re Ethics Complaint of October 24, 2008
Our File No. 506,751.3

Dear Mr. Svobodny:

I have been appointed Independent Counsel by the Alaska Personnel Board in connection with a complaint filed against Governor Palin under the Alaska Executive Ethics Act regarding travel by the Governor's children at State expense. After conducting legal research and an investigation into the facts of the matter, the Governor and the Personnel Board, through Independent Counsel, have entered into a Settlement Agreement which I have enclosed and which is to be released to the public. I write to you because the Department of Law has jurisdiction over the promulgation of regulations under the Alaska Executive Ethics Act.

I have come to the conclusion, and the Governor concurs, that the Ethics Act, and its clarifying regulations, gives insufficient guidance to an independent counsel, or a governor's office, as to what state reimbursed travel is appropriate for members of the first family. As a result, we have agreed in the settlement agreement to refer this matter to the Department of Law, in the public interest, so that more specific guidance and clarification be provided to this and future governors whose families may be called upon to travel on behalf of the State.

I have also come to the conclusion that the process of promulgating regulations is a far better way to address this issue than litigation following the filing of an adversarial accusation under these circumstances. The regulatory process provides for public comment and input as to what is an appropriate use of state funds for first family travel whereas litigation of the matter directly under the Act does not. The Governor's Office, in turn, is looking for more of a bright line set of rules to follow in scheduling travel that is simpler to apply than the current regulations.

The operative statute is AS 39.52.120 which prohibits a state official from using state resources to obtain a personal benefit. A personal benefit conferred upon an official's immediate family, such as travel at State expense, is clearly covered by the Act's definition of personal benefit. An ambiguity arises, however, in AS 39.52.120(a) which provides that the benefit that is conferred must be an "unwarranted" benefit. The statute does not provide further definition. The Governor's Office has historically responded to numerous requests for what it terms "protocol" trips at which the Governor appears at events to lend the State's support and backing to such matters as a charitable organizations, business ventures benefiting the State or for the attendance at professional conferences where policy is discussed. Often the first family is invited to attend such events, but those making the invitation are almost always not offering to pay for the travel. The issue raised, therefore, is when is first family travel sufficiently in the State's interest ("warranted") to support the expenditure of public funds.

There are two regulations that address what is to be considered an unwarranted benefit. Section (a) of 9 AAC 52.040 provides that an unwarranted benefit is one that is conferred as a "deviation from normal procedures for the award of a benefit..." if the deviation is based upon an "improper motivation." In turn 9 AAC 52.990 provides that an "improper motivation" is one that is not related to the "best interests of the State." But 9 AAC 52.540(b) states, somewhat mystifyingly, that in considering whether the benefit is unwarranted, it does not matter whether the ultimate result is determined to be in the best interest of the State.

In addition to the fact that the regulations can be read to be internally inconsistent, there is the additional problem is that there is no real established procedure against which to measure first family travel. The complaint currently before the Personnel Board could be read to challenge travel by the Governor's children with respect to over 40 such trips. Our investigation reveals that there was no precedent against which to measure whether the procedures employed by the Governor's Office were or were not a deviation from "normal" procedures. Governor Murkowski had no minor children but announced a policy of travelling with his spouse on all gubernatorial trips because his spouse was his advisor. This was never challenged under the Act. Governor Knowles generally did not charge the State for travel for minor children, although staff at the Governor's office reports that family would travel on the state plane from time to time when the Governor travelled on it, a practice that was addressed after Governor Knowles left office in an opinion by the Attorney General in 2004 which suggests that this practice would not be in compliance with the Ethics Act, at least unless there was State business directly involving the passengers that caused the trip to be taken. Prior to the Knowles administration, the Ethics Act was not in existence.

The Settlement Agreement that was reached between the Personnel Board and the Governor refers the matter of first family travel to the Department of Law for regulatory clarification so that some further guidance, other than the "motivation" of the Governor, on a trip by trip basis, can be used to guide the decision makers. The Governor has agreed, retroactively, to reimburse the State for any ongoing or future travel should a clarification or standard set by a new regulation require it whether the travel preceded the new regulation or not. In the interim,

the standard used in the Settlement Agreement will guide the travel decisions by the Governor's Office.

It has been my endeavor to not only resolve this complaint, but attempt to recommend that a process be put into place that would make it unnecessary for gubernatorial related travel to become the subject of future request for scrutiny under the Ethics Act by making the standards clearer and easier for the Governor's Office to apply. Thank you for your consideration of this matter.

Very truly yours,

BIRCH HORTON BITTNER AND CHEROT

Timothy J. Petumenos
Independent Counsel

Cc: Thomas Van Flein, Counsel to Governor Palin (via email)
Alaska Personnel Board (via email)

HB

358

Representative Scott Jiu Wo Kawasaki

Alaska State Legislature — District 9 Fairbanks

MEMORANDUM

Date: Friday, February 26, 2010

To: Representative Bob Lynn, Chair of State Affairs Committee

From: Scott Kawasaki
Representative District 9

RE: House Bill 358

I respectfully request that you schedule a hearing in the House State Affairs Committee for HB 358, "Campaign expenditures"

A copy of the bill, a sponsor statement, sectional, and additional support material are attached.

There are several people who wish to testify from various locations around the state. Please provide teleconferencing capabilities in Fairbanks and Anchorage Legislative Information Offices.

If you have any questions or need additional information, please call Ben Molnia at 465-6890.

In Juneau ○ State Capitol Juneau, Alaska 99801
In Fairbanks ○ 1292 Sadler Way Fairbanks, Alaska 99701
Juneau ○ (907) 465-3466 ○ Fax (907) 465-2937 ○ **Fairbanks** ○ (907) 456-7423 ○ Fax (907) 451-9293
Email: Representative_Scott_Kawasaki@legis.state.ak.us

Representative Scott Jiu Wo Kawasaki
Alaska State Legislature District 9 Fairbanks

HB 358: Corporate Campaign Disclosures and Disclaimers Sponsor Statement

HB 358 is an attempt to address the recent Supreme Court's 5-4 decision in Citizens United vs. FEC. The bill updates state statutes that deal with any kind of expenditure that is made by a corporation or union subject to full disclosure. The bill asks for the largest 5 contributors of any mailing, literature, advertisement or other communication that is sent.

HB 358 amends state election laws to clarify that corporations are covered by all applicable reporting requirements. Absent a change to state law, provisions could be declared unconstitutional. It expands communication identification requirements to require the approval of the content by the principal officer of the corporation and to require statements in each communication that its content has not been authorized or approved by the candidate. It also speeds reporting requirements for communications expenditures in the last nine days of the election so that expenditures over $250 must be reported within 24 hours.

Elections are at the core of our democracy and opening the floodgates to new corporate or union spending for or against a candidate is objectionable. Whether we agree or disagree with the ruling, Alaska must comply with the Supreme Court ruling. While doing so, I hope the legislature will consider boundaries to protect the free speech of Alaska citizens as was intended by the Alaska Constitution.

Thank you for taking the time to consider HB 358.

In Juneau ○ State Capitol Juneau, Alaska 99801
In Fairbanks ○ 1292 Sadler Way Fairbanks, Alaska 99701
Juneau ○ (907) 465-3466 ○ Fax (907) 465-2937 ○ **Fairbanks** ○ (907) 456-7423 ○ Fax (907) 451-9293
Email: Representative_Scott_Kawasaki@legis.state.ak.us

LEGAL SERVICES

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

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

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

MEMORANDUM February 22, 2010

SUBJECT: Sectional summary of House Bill No. 358 (Work Order No. 26-LS1369\R

TO: Representative Scott Kawasaki
Attn: Brodie Anderson

FROM: Alpheus Bullard
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends language relating to the applicability of AS 15.13 (state election campaigns) to clarify that the chapter applies to all contributions, expenditures, and communications made for the purpose of influencing the outcome of an election covered by the chapter.

Section 2. Amends language relating to the duties of the Alaska Public Offices Commission (APOC) to clarify that the commission will assist all persons to comply with the requirements of AS 15.13.

Section 3. Amends AS 15.13.040(d) to clarify that every person making an expenditure must report to the commission unless the person is exempted from reporting by another provision of the chapter.

Section 4. Adds new requirements to the expenditure report required under AS 15.13.040(d) and specifies that the report must be filed in accordance with AS 15.13.110(g).

Section 5. Amends language in AS 15.13.040(h) to clarify that the reporting requirements of AS 15.13.040(d) do not apply to an expenditure made by certain individuals acting independently of any other person.

Section 6. Amends AS 15.13.040(p) to clarify that a person who is required to disclose contributions received by that person in an expenditure report under AS 15.13.040(d) must report the true source of the contributions as the "contributor."

Section 7. Amends AS 15.13.067 to allow any person who has registered under AS 15.13.050 to make an expenditure in a state election for public office.

Section 8. Provides that no person, other an individual exempt from reporting under AS 15.13.040(h), may make an expenditure unless the source of the expenditure has been disclosed.

Section 9. Amends language in AS 15.13.084 to clarify that a person may not make an expenditure anonymously unless it is made (1) for certain communications, (2) in connection with a ballot proposition as that term is defined by AS 15.13.065(c), and (3) by an individual acting independently of any other person.

Section 10. Amends language in AS 15.13.086 to conform with changes made by sec. 7 of the bill.

Section 11. Expands the communication identification requirements of AS 15.13.090 to apply to communications made by all persons, and additionally requires a person other than a candidate, individual, or a political party to (1) identify the person's principal officer, (2) include a statement from that officer approving the communication, (3) provide the address of the person's principal place of business, (4) identify the person's five largest contributors, and (5) in an election for elective office, state that the communication is not authorized or approved by a candidate.

Section 12. Requires expenditure reports filed under AS 15.13.040(e) to be filed within 10 days of the expenditure being made, except for an expenditure that exceeds $250 and that is made within nine days of an election must be reported to APOC within 24 hours of the expenditure being made.

Section 13. Amends the language of AS 15.13. 111(a) to oblige all persons who are required to report under AS 15.13 to preserve certain records for a period of six years.

Section 14. Removes language from AS 15.13.135 that permitted only individuals, groups, or nongroup entities to make independent expenditures in support or in opposition to a candidate for public office. Adds language requiring all persons making certain independent expenditures to comply with AS 15.13.090.

Section 15. Repeals AS 15.13.140(a), a provision that provided that AS 15.13 should not be interpreted to prohibit a person from making independent expenditures in support or in opposition to a ballot proposition or question. As the chapter now reads, there is no ambiguity as to whether the chapter prohibits persons from making independent expenditures relating to a ballot proposition or question.

Section 16. Gives the Act an immediate effective date.

TLAB:med
10-025.med

LEGAL SERVICES

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

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

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

MEMORANDUM January 25, 2010

SUBJECT: Citizens United v. Federal Election Commission
(Work Order No. 26-LS1366)

TO: Representative Scott Kawasaki
Attn: Brodie Anderson

FROM: Alpheus Bullard TAB
Legislative Counsel

You requested a legal analysis of the United States Supreme Court's ruling in Citizens United v. Federal Election Commission, No. 08-205, 558 U.S. ___ (January 21, 2010), and its effect on Alaska law.

WHAT IS MOST SIGNIFICANT

The Court held that the government cannot suppress political speech on the basis of the speaker's corporate identity.

WHAT THE DECISION DOES NOT DO

This is a case about independent election campaign expenditures made by corporations. Because one of the statutes involved in this case and considered by the Court concerned labor unions, it also, arguably, is a case about independent election campaign expenditures made by labor unions, though that is not made explicit in the opinion. Laws regulating corporate and union contributions to candidates, party committees, and political action committees, whether direct or in-kind, are not directly affected by the ruling. Disclosure and disclaimer requirements for communications relating to elections for public office and laws requiring corporations and unions to identify the sources of money for their political activities are also unaffected.

FACTS AND PROCEDURAL POSTURE

The case involved a documentary critical of the then potential presidential candidacy of Hillary Clinton. The documentary, "Hillary: The Movie," was produced by Citizens United, a nonprofit corporation. Anticipating that it would make the documentary available within a time period prohibited under the Bipartisan Campaign Reform Act of 2002 (BCRA),[1] Citizens United sought declaratory and injunctive relief in the United States District Court for the District of Columbia seeking to prevent the Federal Election

[1] 2 U.S.C. § 431 *et seq.* (also known as the McCain-Feingold Act (Pub. L. No. 107-155, 116 Stat. 81)).

Commission (FEC) from enforcing provisions of the BCRA.[2] Citizens United argued that § 203 of the BCRA[3] violated the First Amendment on its face and as applied to the documentary and its related advertisements, and that §§ 201[4] and 311[5] of the Act, relating to disclosure, disclaimer, and reporting requirements were, as applied to the documentary, also unconstitutional.

The United States District Court denied the injunction, holding that under § 203 of the BCRA the documentary could not be shown on television in the 30 day period preceding the 2008 Democratic primaries. The court held that the BCRA prohibitions against corporate independent expenditures were constitutional, reasoning that the question had been answered by the Supreme Court in McConnell v. Federal Election Commission, 540 U.S. 93 (2003).[6] The United States District Court held that the documentary had no other purpose than to discredit Hillary Clinton and inform viewers that she was unfit for public office, and thus the provision of the BCRA relating to electioneering communications was not unconstitutionally applied. Lastly, the court ruled that the Act's disclosure, disclaimer, and reporting requirements were not unconstitutional as applied to the documentary or its advertisements.

---

[2] Citizens United v. Fed. Election Commission, 530 F. Supp. 2d 274 (D.D.C. 2008).

[3] Section 203 of the BCRA regulates "electioneering communications." Generally, these are broadcast, cable, or satellite communications made within 60 days of a general election or 30 days of a primary election. 2 U.S.C. § 434(f)(3)(A)(i). Section 203 restricts corporations (other than media corporations) and labor organizations from funding electioneering communications from their general funds except under certain specific circumstances, e.g., get-out-the-vote campaigns. 2 U.S.C. § 441b(b)(2).

[4] Under § 201 of the BCRA, persons who disburse an aggregate of $10,000 or more a year for the production and airing of electioneering communications are required to file a statement with the Federal Election Commission (FEC) that includes the names and addresses of persons who have contributed in excess of $1,000 to accounts funding the communication. See 2 U.S.C. § 434(f)(1) and (2).

[5] Under the BCRA's § 311, the entity paying for a communication that is not authorized by a candidate or the candidate's political committee, must include in the communication a statement that the organization "is responsible for the content of this advertising." See 2 U.S.C. § 441d.

[6] In McConnell, the United States Supreme Court upheld § 203 as facially constitutional, reasoning that the justifications for regulating independent corporate expenditures constituting express advocacy "apply equally" to ads that are "the functional equivalent of express advocacy." Id. at 206. The Court held that the regulation of such independent expenditures was acceptable because the government has a compelling interest in countering the kind of "corrosive and distorting effect" identified in Austin. Id. at 205.

Citizens United appealed the decision and the Supreme Court docketed the case on August 18, 2008,[7] hearing oral arguments on March 24, 2009. However, on June 29, 2009, the Supreme Court ordered the parties to reargue the case on September 9 after submitting briefs on the larger questions of whether the Court should overrule Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990),[8] that portion of McConnell 540 U.S. 93 (2003) that found § 203 of the BCRA to be facially valid, or both.

ANALYSIS

In Citizens United, 558 U.S. ___ (January 21, 2010), the Supreme Court considered (1) the validity of § 203 of the BCRA, which prohibits corporations and unions from using their general treasury funds to make independent expenditures for speech that is an "electioneering communication"; (2) the Court's prior holding in Austin that political speech may be banned based on the speaker's corporate identity; and (3) whether §§ 201 and 311 of the BCRA, which mandate disclaimer and disclosure requirements for Citizens United's ads, were constitutionally invalid.

Prohibitions on Independent Expenditures

The Court held that § 203 of the BCRA, which prohibits certain corporations and unions from using funds from their general treasuries[9] for certain independent expenditures made to influence the outcomes of elections for federal public office, was unconstitutional.[10] It determined that prohibitions on corporate independent expenditures are an impermissible "ban on speech," id. at 22, and that political speech does not lose First Amendment protection "simply because its source is a corporation," id. at 26.[11]

---

[7] Under § 403(a)(3) of the BCRA, the final decision of the district court in this case is "reviewable only by appeal directly to the Supreme Court of the United States."

[8] In Austin, the Court upheld a Michigan law that barred corporations from using their general treasury funds to support or oppose any state candidate, even though the spending occurred independently of that candidate's campaign operation.

[9] Prior to the ruling, to spend money on "electioneering communications" under federal law, corporations and unions were required to establish political action committees (PACS) that had a separate legal identity from the corporation or union. PACS could receive limited donations from employees, shareholders, or organization members. Now, after the Citizens United decision, corporations and unions may spend money directly from their treasuries on independent expenditures to influence elections for public office.

[10] While § 203 of the BCRA applied equally to corporations and unions, independent expenditures made by unions were not an issue before the Court, and it is not explicit in the ruling that the BCRA's independent expenditure prohibition is lifted for unions.

[11] Of less immediate consequence, in the absence of acknowledgement by the Court of any permissible First Amendment distinctions between corporate and natural persons, the case raises questions relating to whether corporations' newly realized equality under the First Amendment will affect (1) the constitutionality of existing prohibitions against

The Court held that the case could not be decided in an examination of the relevant provisions of the BCRA alone, because the fundamental legal rationale underlying the challenged provisions of the Act was itself unjustified by a sufficient governmental interest.[12] The Court held that this rationale, identified in Austin, the prevention of "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form that have little or no correlation to the public's support for the corporation's political ideas," id. at 660, is inconsistent with the protections offered speech and speakers by the First Amendment.[13]

Precedent Overturned

The Court overruled Austin, and those portions of McConnell that upheld the BCRA's restrictions on independent expenditures made by corporations and labor organizations. It did so holding that "no sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations[,]" and "[g]overnment may not suppress political speech on the basis of the speaker's corporate identity." Citizens United, 558 U.S. at 50.[14]

Disclosure and Disclaimer Requirements

The Court upheld the BCRA's disclosure and disclaimer requirements which were applied to the documentary (§§ 201 and 311 of the Act), holding that such requirements "may burden the ability to speak, but they 'impose no ceiling on campaign-related

---

corporate contributions to candidates in elections for public office and (2) other corporate related constitutional jurisprudence. These remain for future litigation.

[12] "When constitutional questions are 'indispensably necessary' to resolving the case at hand, 'the court must meet and decide them.'" Citizens United v. Federal Election Commission, 558 U.S. at 4 of Roberts, C.J. (concurring opinion), quoting Ex parte Randolph, 20 F. Cas. 242, 254 (No. 11, 558) (CC Va. 1833) (Marshall, C.J.).

[13] The First Amendment to the United States Constitution provides that "Congress shall make no law . . . abridging the freedom of speech . . . ."

Given the Court's interpretation of the requirements of the First Amendment, existing distinctions between "express advocacy" versus "issue advocacy" and "independent expenditures" versus contributions to candidates are less clear. Citizens United does not address these distinctions, but the logic underlying the decision suggests that they may soon be revisited.

[14] In addition to overturning Austin, the Court dismissed arguments that independent corporate expenditures in elections for federal office give rise to corruption or its appearance (Citizens United at 41 - 45) and that the government has a compelling interest in regulating corporations' independent expenditures to protect dissenting shareholders from being compelled to fund corporate political speech. (Citizens United at 46 - 47).

activities,' [Buckley v. Valeo, 424 U.S. 1, 64 (1976)] and 'do not prevent anyone from speaking,' McConnell, [540 U.S.] at 201." Citizens United, 558 U.S. at 51. Citing Buckley and McConnell, the Court held that these requirements bear a substantial relation to the government's interest in ensuring that the electorate is able to evaluate the arguments to which it is being subjected, and that Citizens United did not demonstrate that the requirements imposed a chill on the organization's (or the organization's members') speech or expression. Id. at 51 - 56.

EFFECT ON ALASKA LAW

1. Under existing AS 15.13.067 (who may make expenditures in an election for candidates for elective office) and AS 15.13.135 (independent expenditures for or against candidates), only individuals, groups, and nongroup entities, as these terms are defined under AS 15.13.400, are permitted to make independent expenditures supporting or opposing candidates in elections under AS 15.13.[15] The terms "individual," "group," and "nongroup entity" are defined at AS 15.13.400. Together, these provisions effectively prohibit independent expenditures by for-profit corporations, and are likely to be interpreted by a court as unconstitutional in light of this decision.[16]

2. For-profit corporations are currently prohibited from making independent expenditures for or against candidates in elections under AS 15.13. Because of that, existing state statutes relating to (1) disclosure of expenditures, (2) limitations on expenditures, (3) identification of communications, and (4) filing of reports[17] under AS 15.13 do not currently account for independent expenditures and communications by for-profit corporations. Given the silence of our state statutes, and the likelihood that our existing statutes will not be enforced following the Court's holding in Citizens United, there are now no limits on independent expenditures made by for-profit corporations and no statutory disclosure, identification, or reporting requirements for these expenditures.

At your request, I am currently preparing a bill (Work Order No. 26-LS1369\A) relating to changes to AS 15.13's disclosure and communication identification requirements in light of this decision. If I may be of further assistance, please advise.

TLAB:med
10-003.med

---

[15] Under AS 15.13.010(a), AS 15.13 applies to elections for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, and a judge seeking judicial retention, and to elections for municipal office in municipalities with a population of more than 1,000 inhabitants unless the municipality has exempted itself from the provisions of the chapter.

[16] These statutes remain the law for the State of Alaska. If left unchanged, will they be enforced? The state could attempt to enforce them; however, enforcement would likely be quickly curtailed once the aggrieved party petitioned the state's courts.

[17] See AS 15.13.040, AS 15.13.082, AS 15.13.090, and AS 15.13.110.

January 22, 2010

Public Agrees With Court: Campaign Money Is "Free Speech"

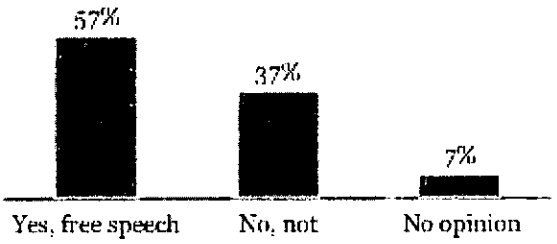
But have mixed views on other issues at heart of new Supreme Court ruling

by Lydia Saad

PRINCETON, NJ -- Americans' broad views about corporate spending in elections generally accord with the Supreme Court's decision Thursday that abolished some decades-old restrictions on corporate political activity. Fifty-seven percent of Americans consider campaign donations to be a protected form of free speech, and 55% say corporate and union donations should be treated the same way under the law as donations from individuals are. At the same time, the majority think it is more important to limit campaign donations than to protect this free-speech right.

Is Campaign Giving "Free Speech"?

Do you consider money given to political candidates to be a form of free speech protected by the First Amendment to the Constitution, or not?

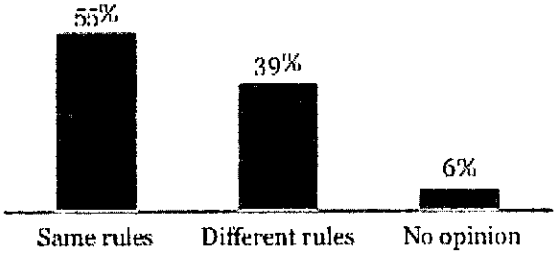


Gallup/First Amendment Center, Oct. 1-2, 2009

GALLUP'

Preference for Campaign Finance Laws

Should same rules apply to corporations, unions, and individuals or should different rules apply to corporations and unions?

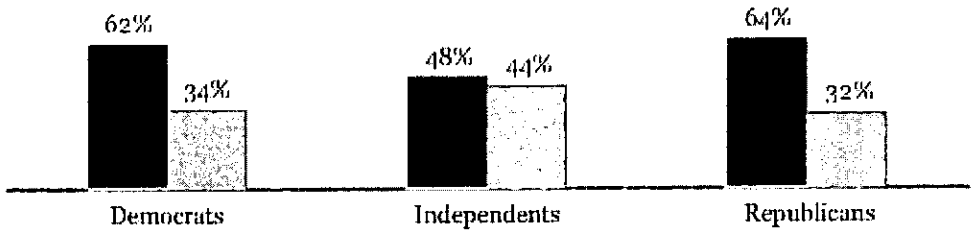


Gallup/First Amendment Center, Oct. 1-2, 2009

GALLUP'

The free-speech question elicits uncommon agreement across party lines. More than 6 in 10 Republicans and Democrats believe campaign donations are a protected form of free speech, but fewer than half of independents (48%) agree.

Opinions on Whether Campaign Contibutions Are Free Speech, by Party ID



Gallup/First Amendment Center, Oct. 1-2, 2009

GALLUP'

Public attitudes about the issues involved in the court's Citizens United v. Federal Election Commission decision come from a nationwide Gallup survey sponsored by the nonpartisan First Amendment Center. The poll was conducted Oct. 1-2, 2009, shortly after the high court heard concluding arguments in the case.

Americans Favor Limits on Contributions

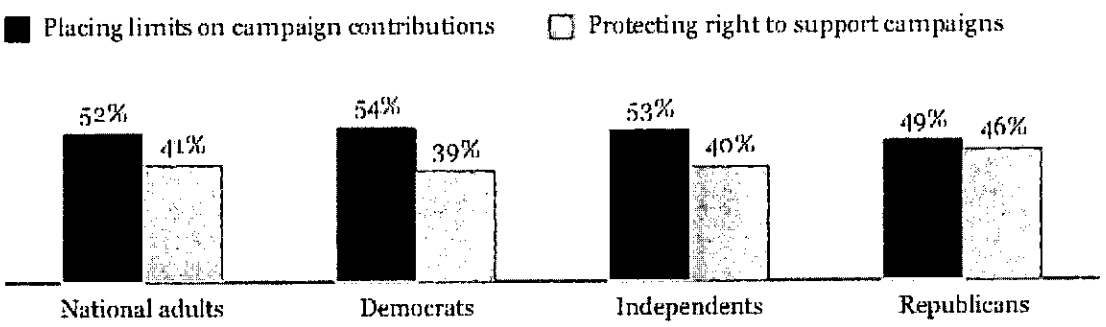
While corporations and unions are still barred under a 1907 law from making donations directly to federal candidates, the court's decision Thursday allows organizations to run ads in direct support of or opposition to specific candidates; it also overturns 2002 McCain-Feingold restrictions on how close to elections corporate-sponsored ads can run.

The 5-4 decision in the *Citizens United* case underscores the tension between protecting free speech and giving certain groups or individuals undue influence over election campaigns. Another poll question asked Americans to weigh the two considerations and say which is the greater priority for them: placing limits on how much individuals, corporations, and unions can contribute to campaigns or protecting the rights of these groups to freely support political campaigns. By 52% to 41%, Americans say placing limits on contributions is paramount for them.

"More specifically, 61% of Americans think the government should be able to limit the amount of money individuals can contribute to candidates and 76% think it should be able to limit the amount corporations or unions can give."

Prioritizing Limits on Campaign Contributions vs. Free Speech

Thinking about political campaign contributions and free speech, which is the greater priority for you, personally -- [placing limits on how much individuals, corporations, or unions can contribute to political campaigns (or) protecting individuals', corporations', or unions' rights to freely support political campaigns]?



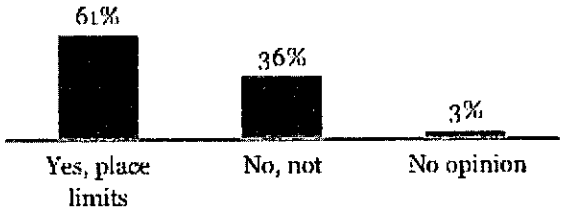
Gallup/First Amendment Center; Oct. 1-2, 2009

GALLUP'

More specifically, 61% of Americans think the government should be able to limit the amount of money individuals can contribute to candidates and 76% think it should be able to limit the amount corporations or unions can give.

Campaign Finance Limits on Individuals

Do you think the government should or should not be able to place limits on how much money individuals can give to a political candidate?

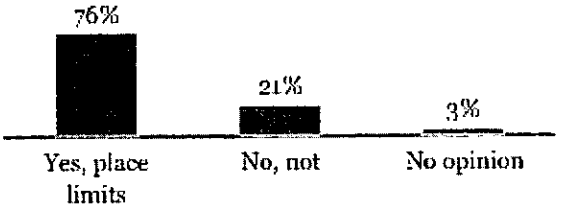


Gallup/First Amendment Center, Oct. 1-2, 2009
Based on Form C half sample

GALLUP'

Campaign Finance Limits on Groups

Do you think the government should or should not be able to place limits on how much money corporations or unions can give to a political candidate?



Gallup/First Amendment Center, Oct. 1-2, 2009
Based on Form D half sample

GALLUP'

Thus, it would appear that, regardless of Americans' support for the principle that campaign donations are a form of political speech, and that corporations and unions should get the same treatment as individuals, they are likely to have significant concerns about the practical effect of the court's ruling, that is, more corporate and union money being poured into elections.

Bottom Line

Prior to now, while corporations and unions could run issue-based ads, they could not spend a penny on candidates, except through political action committees. Now that they can run such ads, the country could be in store for major changes in the way campaigns are conducted. Does the ruling square with Americans' views on campaign contribution limits? In some respects, yes. In others, it depends on whether Americans decide that independent expenditures are tantamount to political "contributions" or are merely free speech.

Survey Methods

Results are based on telephone interviews with 1,023 national adults, aged 18 and older, conducted Oct. 1-2, 2009, as part of Gallup Daily tracking. For results based on the total sample of national adults, one can say with 95% confidence that the maximum margin of sampling error is ±4 percentage points.

For results for the sample based on 535 national adults in Form C and 488 national adults in Form D, the margin of error is ±5 percentage points.

Interviews are conducted with respondents on land-line telephones and cellular phones.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

Sign up for Gallup e-mail alerts or RSS feeds

Get Gallup news on Facebook and Twitter

Copyright © 2010 Gallup, Inc. All rights reserved.
Gallup®, A8™, Business Impact Analysis™, CE11®, Clifton StrengthsFinder®, the 34 Clifton StrengthsFinder theme names, Customer Engagement Index™, Drop Club®, Emotional Economy™, Employee Engagement Index™, Employee Outlook Index™, Follow This Path™, Gallup Brain®, Gallup Consulting®, Gallup Management Journal®, GMJ®, Gallup Press®, Gallup Publishing™, Gallup Tuesday Briefing®, Gallup University®, HumanSigma®, I10™, L3™, PrincipalInsight™, Q12®, SE25™, SF34®, SRI®, Strengths Spotlight™, Strengths-Based Selling™, StrengthsCoach™, StrengthsFinder®, StrengthsQuest™, TeacherInsight™, The Gallup Path®, and The Gallup Poll® are trademarks of Gallup, Inc. All other trademarks are the property of their respective owners. These materials are provided for noncommercial, personal use only. Reproduction prohibited without the express permission of Gallup, Inc.

HB 359

ALASKA STATE LEGISLATURE

REPRESENTATIVE LES GARA

MEMORANDUM

DATE: March 4, 2010

TO: Representative Bob Lynn, Chair
House State Affairs Committee

FROM: Representative Les Gara

RE: House Bill 359

I respectfully request that you schedule a hearing in the House State Affairs Committee for HB 359, an act prohibiting corporations and Limited Liability Corporations from being classified as persons for election purposes.

A copy of the bill, a sponsor statement, a sectional summary and additional background material are attached.

There may be several people who wish to testify via teleconference. I do not anticipate the need to have audio / visual equipment available. If you have any questions or need additional information, please call David Theriault at 465-6591.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 359
Corporations Not Persons for Election Purposes

"An Act providing that for-profit corporations and limited liability companies organized in this state are not persons for purposes of influencing the outcomes of public office elections, initiatives, referendums, or recalls."

House Bill 359 places in statute the assertion that corporations should not be considered "persons" for the purposes of influencing elections. Large corporations with similarly large financial resources can disproportionately affect elections by saturating media with advertisements for candidates and ballot questions that support their business position. To prevent corporations from unduly affecting elections, Alaska state law should prohibit corporations from being considered persons for purposes of elections.

In a 5-4 decision announced on January 21st, the U.S. Supreme Court ruled that corporations have the same rights as "people" to "influence" elections. That ruling reversed decades of settled Supreme Court precedent saying states could limit the election spending of corporations.

Recent polls show that a large majority of Americans oppose the Supreme Court ruling. Passage of similar legislation by a majority of states could strengthen a future challenge to the Supreme Court's decision that corporation are "persons" under election financing laws.

HB 359 leaves corporations with all other rights to conduct business in Alaska, and only states that corporations cannot be regarded by the courts as persons for purposes of campaign contributions.

Only actual individuals and groups of actual individuals would be able to make contributions with the passage of HB 359, preventing corporations from influencing elections for their business purposes.

January-May: State Capitol • Juneau, AK 99801-1182 • (907) 465-2647 • Fax (907) 465-3518
June-December: 716 W. 4th Avenue • Anchorage, AK 99501• (907) 269-0106• Fax (907) 269-0109
Representative_Les_Gara@legis.state.ak.us

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 359

Sectional Analysis

Section 1: Amends AS 6.05.301, applicability of corporations code, to conform with the new subsection added to AS 10.06.010 in Section 2.

Section 2: Amends AS 10.06.010, general powers of corporations, to prohibit corporations from being defined as persons for election purposes.

Section 3: Adds a new subsection to AS 10.50, Alaska Revised Limited Liability Company Act, to prohibit Limited Liability Companies from being defined as persons for election purposes.

January-May: State Capitol • Juneau, AK 99801-1182 • (907) 465-2647 • Fax (907) 465-3518
June-December: 716 W. 4th Avenue • Anchorage, AK 99501• (907) 269-0106• Fax (907) 269-0109
Representative_Les_Gara@legis.state.ak.us

HB 394

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 23, 2010 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-18-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 394**

"An Act relating to the data processing and telecommunications activities of the state; relating to the security of certain data processing records of the executive branch and making the Department of Administration responsible for the security of those records; and making the commissioner of administration the chief information officer."

HB 394-EXECUTIVE BRANCH RECORDS SECURITY

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 394 (STA)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Admin				X
LWF			X	
EED			X	

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			X	
[signature]	Gatto			X	
Paul Seaton	Seaton				X
[signature]	Gruenberg	✓			
Pete Peterson	Peterson				X
Chair: [signature]	LYNN	X			
Chair:					

LEGAL SERVICES

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

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

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

MEMORANDUM March 18, 2010

SUBJECT: CSHB 394(STA), a bill relating to the data processing and telecommunications activities of the state
(Work Order No. 26-LS1542\E)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM: Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

CSHB 394(STA) does not contain a section that establishes when the first report under sec. 44.21.165(e) is due from the department. It is not clear now when the legislature wants the first report to be due. Even if the five-year delay was not what you wanted, I recommend reinserting a similar section that establishes clearly when you want the first report to be due.

Since this bill has passed out of your committee, please pass this memo on to the next committee of referral. Thank you.

If I may be of further assistance, please advise.

TLB:plm
10-154.plm

Enclosure

CS FOR HOUSE BILL NO. 394(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KELLER

A BILL

FOR AN ACT ENTITLED

"An Act relating to the data processing and telecommunications activities of the state; relating to the security of certain data processing records of the executive branch and making the Department of Administration responsible for the security of those records; and making the commissioner of administration the chief information officer."

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

*** Section 1.** AS 40.21.030(b) is amended to read:

(b) In order to carry out the records management program, the state archivist shall

(1) analyze, develop, and coordinate the standards and procedures for record making and current record keeping;

(2) ensure the maintenance and security of records**, subject to AS 44.21.165**;

(3) initiate action to recover state records removed without authorization;

(4) establish and operate state records centers for the purposes of accepting, servicing, storing, and protecting state records that must be preserved for varying periods of time but **that** [WHICH] are not needed for the transaction of current business;

(5) transfer records considered to have permanent value to the state archives;

(6) institute and maintain a training and information program in all phases of the management of current records for all state agencies**, subject to AS 44.21.165**;

(7) make continuing surveys of paperwork operations and recommend improvements in current records management practices, including the use of space, equipment, and supplies;

(8) initiate programs for improving the management of correspondence, forms, reports, and directives as integral parts of the overall records management program;

(9) provide centralized microfilm service for state agencies as determined to be necessary by the department;

(10) establish standards for the preparation of records retention schedules providing for the retention of state records of permanent value and for the prompt and orderly disposition of state records no longer possessing administrative, legal, or historical value to warrant their retention;

(11) receive records retention schedules from the agencies and submit them to the attorney general for review and approval;

(12) obtain from agencies reports that are required for the administration of the program.

* **Sec. 2.** AS 40.21.060 is amended to read:

Sec. 40.21.060. Duties of chief executive officers of state agencies. Subject to AS 44.21.165, the [THE] chief executive officer of each state agency shall

(1) make and preserve public records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency, and designed to furnish the information necessary

to protect the legal and financial rights of the state and of persons directly affected by the agency's activities;

(2) establish and maintain an active, continuing program for the efficient management of the records of the agency under the procedures prescribed by the department, including effective controls over the creation, maintenance, and use of records in the conduct of current business;

(3) submit to the department, in accordance with the standards established by it, records retention schedules proposing the length of time **that** [WHICH] records having administrative, legal, or historical value shall be retained;

(4) apply the provisions of approved records retention schedules to ensure the orderly disposition of state records including transfer to a state records center;

(5) identify, segregate, and protect records vital to the continuing operation of an agency in the event of natural, man-made, or war-caused disaster;

(6) cooperate with the department in conducting surveys made by it under the provisions of this chapter;

(7) establish safeguards against unauthorized or unlawful removal or loss of state records;

(8) comply with the regulations, standards, and procedures relating to records management and archives established by the department;

(9) appoint a records officer who shall act as a liaison between the department and the agency on all matters relating to the records management program.

*** Sec. 3.** AS 44.21.010 is amended by adding a new subsection to read:

(b) The commissioner of administration is the chief information officer in the executive branch of the state. The chief information officer carries out the duties and powers of the commissioner of administration and the Department of Administration under AS 44.21.150 - 44.21.170 and 44.21.305 - 44.21.330.

*** Sec. 4.** AS 44.21 is amended by adding a new section to read:

Sec. 44.21.165. Security of records. (a) As the department responsible for the operation and management of automatic data processing resources and activities of the executive branch under AS 44.21.150, the department is the state agency responsible

for ensuring the security of the nonarchived records produced or maintained by the automatic data processing resources and activities of state agencies through the development and adoption of standards, policies, and procedures.

(b) The department shall

(1) develop, implement, and maintain policies to ensure that data processing records are secure from unlawful release;

(2) define the responsibilities for the security of the data processing records of each state agency, communicate the responsibilities to the state agency, and coordinate the responsibilities among state agencies; and

(3) establish procedures for maintaining the security of the data processing records and provide training for state agency personnel to implement the procedures.

(c) The state information systems plan adopted by the commissioner must satisfy the security requirements of this section.

(d) The department shall adopt regulations to implement this section.

(e) On or before January 1 every two years, the department shall submit to the legislature a report that evaluates, for the two years since the period covered by the previous report under this subsection, the effectiveness of the department's implementation of this section in maintaining the security of data processing records.

(f) In this section,

(1) "data processing records" means the records that are produced or maintained by the automatic data processing resources and activities of a state agency and that are not being held by the Alaska State Archives;

(2) "records" includes personally identifiable information in a record;

(3) "state agency" means an agency of the executive branch.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re CS for HB 394 Version R

3/18/10

HB 394 Version R moved from the House State Affairs Committee this morning. Please draft a final CS to incorporate the following amendment:

Amendment #1 (Gruenberg)
Withdrawn

Amendment #2 (Gruenberg)
Delete all of Section 5 which is on page 4 lines 26-30

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 394**
() Publish Date:

Identifier (file name): HB394-DOLWD-CO-03-17-10
Title: Executive Branch Records Security
Sponsor: Representative Keller
Requester: (H) STA

Dept. Affected: Labor and Workforce Development
RDU: Office of the Commissioner
Component: Commissioner's Office
Component Number: 340

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	***	**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 Interagency Receipts							
TOTAL	***	**0.0**	***	***	***	***	***

Estimate of any current year (FY2010) cost: None

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation places overall authority for state data processing record security policy in the Department of Administration. The Department of Labor and Workforce Development has numerous data collecting and sharing agreements with state and federal agencies, and private employers, which could be impacted by this bill. Data sharing permitted by these agreements is necessary to perform our basic functions, including unemployment insurance collection and benefit payment, basic economic research, vocational rehabilitation services, Social Security disability benefit determination, benefits fraud detection, and training program outcome measurement. The cost to the department's business units of complying with any new policies derived as a result of this legislation is indeterminate.

Prepared by: Guy Bell, Assistant Commissioner — Phone 465-2700
Division: Office of the Commissioner — Date/Time 3/17/10 8:17 AM
Approved by: Click Bishop, Commissioner — Date 3/17/10
Agency: Department of Labor and Workforce Development

(Revised 11/6/2009 OMB)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB394
() Publish Date:

Identifier (file name): HB394-EED-ESS-3-17-10
Dept. Affected: Education & Early Develo
Title "An Act relating to data processing and telecommunications activities of the state; relating to the securtiy of certain..."
RDU Education Support Services
Component Information Services
Sponsor Representative Keller
Requester House State Affairs
Component Number 2148

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: ***

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill allows the Dept. of Admin (DOA) to create regulations and develop, implement and maintain policies about electronic information on behalf of each agency; will direct each agency how to secure department data, and coordinate that effort between all the departments. As more regulations and policies are required, there will be a resulting indeterminate financial and personal servcies increase. We expect DOA will charge back departments for oversight and administration of the coordination between agencies, and EED will see an increase in technical and administrative tasks to accommodate this regulatory proposal. Additionally, with the Commissioner of Administration fullfilling the role of Enterprise CIO, each agency head will lose the critical and important responsibility for department data storage, security, and protocols .

Prepared by: Anna Kim, Director
Phone 465-2875
Division Administrative Services
Date/Time 3/17/10 12:00 AM
Approved by: Larry LeDoux
Date 3/17/2010
Commissioner

(Revised 10/13/2009 OMB)

ALASKA STATE LEGISLATURE

Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729

Session:
State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER
DISTRICT 14

Sponsor Statement
HB 394

"An Act relating to the data processing and telecommunications activities of the state; relating to the security of certain data processing records of the executive branch and making the Department of Administration responsible for the security of those records; and making the commissioner of administration the chief information officer."

"Compatibility", is a word that has become common in technology. It is the challenge of the sharing of any information electronically. The State of Alaska, like other governments depend on electronic communications for the vast majority of the work load. Compatibility becomes an expensive goal when any given entity unilaterally selects the software and standards for electronic data transfer.

House Bill 394 looks to the future of increasing technology. Over the 50 years of Alaska statehood valuable and historical documents have been maintained on paper which is slowly being converted to a digital format. The 'magic' of this information age is the growing insignificance of digital storage, distance, and time compared to warehouses of documents, travel costs and time, and scheduling in convenience.

The goal of HB 394 is to allow for the security, storage, and access of public information. Without HB 394, information is handled very differently in various jurisdictions within the state-- a situation that is costing us extra right now and will cost us much more in the future.

To accomplish this HB 394 assigns the Department of Administration to establish standards related to security, software, archiving, access, and hardware. The task will be one of coordination and consideration of a broad scope of needs so we can improve from where we are today. The Department of Administration is the logical government agency to do this coordination.

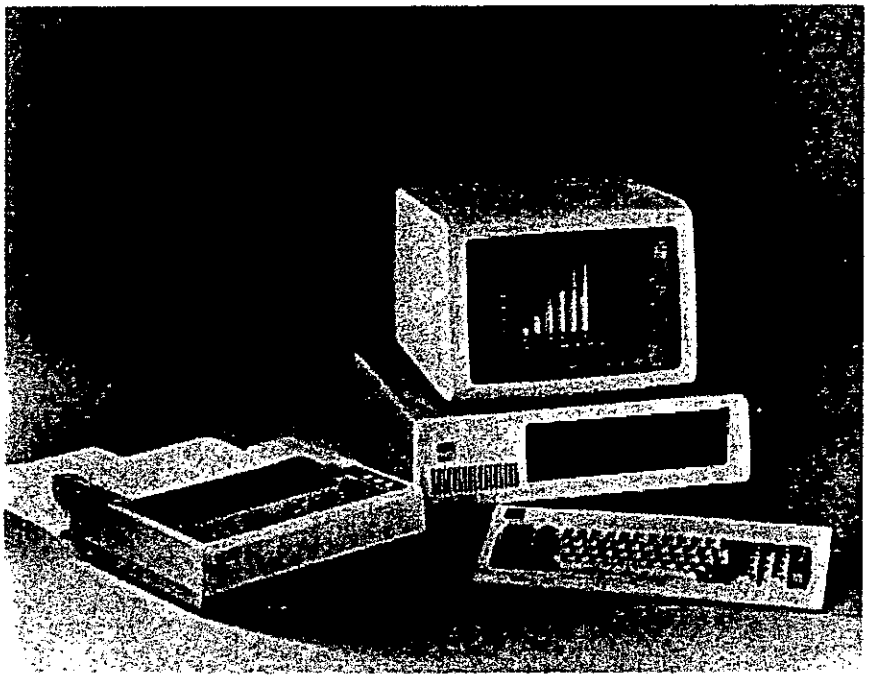
HB 394 allows Alaska to make the best of technological innovations that have and will continue to appear. It also looks to the need to protect, and the need to be efficient in storage of public information, some of which is presumably meant to be maintained until the end of time.

E-Mail: Representative_Wes_Keller@legis.state.ak.us
Call Juneau Toll free: (800) 468-2186
Website: www.akrepublicans.org/keller/

IBM Personal Computer

Before the beginning: Ancestors of the IBM Personal Computer

In the beginning, there was the IBM Personal Computer.



Well, not really.

Although IBM's launch of the Personal Computer (IBM 5150) in 1981 set the industry standard for personal computing, IBM had introduced a variety of small computers for individual users several years before that. So while now is certainly an appropriate moment to salute the legendary IBM PC on its 20th birthday, it's also a good time to take a brief look back at some of the pioneering IBM products that immediately preceded it.

One of the earliest IBM attempts to move computing into the hands of single users was the "SCAMP" project in 1973. This six-month development effort by the company's General Systems Division (GSD) produced a prototype device dubbed "Special Computer, APL Machine Portable" (SCAMP) that *PC Magazine* in 1983 called a "revolutionary concept" and "the world's first personal computer." To build the prototype in the short half-year allowed, its creators acquired off-the-shelf materials for major components. SCAMP could be used as a desktop calculator, an interactive APL programming device and as a "dispenser" of canned applications. The successful demonstration of the prototype in 1973 led to the launch of the IBM 5100 Portable Computer two years later.

Archive file

From Wikipedia, the free encyclopedia

An **archive file** is a file that is composed of one or more files along with metadata that can include source volume and medium information, file directory structure, error detection and recovery information, file comments, and usually employs some form of lossless compression. Archive files may also be encrypted in part or as a whole. Archive files are used to collect multiple data files together into a single file for easier portability and storage.

Computer archive files are created by file archiver software, optical disc authoring software, or disk image software that uses an archive format determined by that software. The file extension or file header of the archive file are indicators of the file format used.

Archive files are sometimes accompanied by separate parity archive (PAR) files that allow for additional error detection and recovery, particularly in recovery of missing package files in a multi-file archive.

Archives can have extensions like `.zip`, `.rar`, `.7z`, `.tar`, etc. (note: of these, .tar is the only one that does not include compression).

Archive files were originally used to store important files on alternate media (such as tapes) for preservation and recoverability. Archive files are now commonly used for transferring files and for software distribution and installation. A hard drive volume, RAID, and shadow copy/snapshot can also be considered archive files. The operating system would be the file archiver.

File archiver

From Wikipedia, the free encyclopedia

A **file archiver** is a computer program that combines a number of files together into one archive file, or a series of archive files, for easier transportation or storage. Many file archivers employ Archive formats that provide lossless data compression to reduce the size of the archive which is often useful for transferring a large number of individual files over a high latency network like the Internet.

The most basic archivers just take a list of files and concatenate their contents sequentially into the archive. In addition the archive must also contain some information about at least the names and lengths of the originals, so that proper reconstruction is possible. Most archivers also store metadata about a file that the operating system provides, such as timestamps, ownership and access control.

The process of making an archive file is called *archiving* or *packing*. Reconstructing the original files from the archive is termed *unarchiving*, *unpacking* or *extracting*.

Unix Archiver Tools

Unlike integrated archival and compression tools like PKZIP, Winzip, and WinRAR, the Unix tools **ar**, tar, **cpio** (for "archiver", "tape archiver" and "copy in/out" respectively) act as archivers but not compressors. Users of the Unix tools typically add compression by compressing the result of packing (and uncompressing before unpacking), most often using the gzip or bzip2 programs. Modern tar programs can automatically invoke a (de)compression program, giving the appearance that tar itself handles compression and decompression.

This approach has two advantages:

- It follows the Unix toolbox concept that each program should accomplish a single, well-done task, as opposed to attempting to accomplish everything with one tool. As compression technology progresses, users may use different compression programs without having to modify or abandon their archiver.
- The archival program can potentially detect redundancy across two or more archived files, and need not store redundant data. An archiver compressing each archived file in isolation usually cannot exploit inter-file redundancies, because compression tends to hide redundancy.

In practice, compression with tar is usually done on the entire archive, and the second advantage listed above is not obtained. This type of compression - compressing the archive itself - has three disadvantages as compared with compressing within the archive:

- Extracting one file requires decompressing all the files that are before the file in the archive. This may take many minutes for a large archive.
- Modification is even more inconvenient than extraction - just changing a single character of one of the archived files will typically require that the entire archive be uncompressed, updated, and then recompressed.
- It's impossible or more difficult to take advantage of inter-file redundancy.

Archive format

From Wikipedia, the free encyclopedia

Jump to: navigation, search

An **archive format** is the file format of an archive file. The archive format is determined by the file archiver. Some archive formats are well-defined by their authors and have become conventions supported by multiple vendors and/or open-source communities.

Archive formats support features such as file concatenation, data compression, encryption, file spanning, parity/Cyclic redundancy check, checksum, self-extraction, self-installation, volume and directory structure information, package notes/description, and other meta-data.

Types of Archive Formats

- **Archiving only** formats only concatenate files.
- **Compression only** formats only compress files.
- **Multi-function** formats can concatenate, compress, encrypt, create error detection and recovery information, and repackage the archive into self-extracting/self-expanding files.
- **Software Packaging** formats are used to create software packages that may be self-installing files.
- **Disk Image** formats are used to create disk images or optical disk images of mass storage volumes.

Examples

Note: a comprehensive List of archive formats and Comparison of archive formats is available.

By Type

v · d · e [hide]

Archive formats (comparison by type)

Archiving only	ar · cpio · shar · tar · LBR
Compression only	bzip2 · gzip · xz · LZMA · SQ · compress
Archiving and compression	7z · ACE · AFA · ARC · Cabinet · cpt · DGCA · .dmg · GCA · kgb · LHA · LZX · RAR · qda · sit · SQX · zoo · ZIP · lzop · UDA
Software packaging and distribution	deb · pkg · RPM · RUNZ · MSI · JAR (WAR · RAR (Java) · EAR)
Document packaging and distribution	OEB Package Format · OEBPS Container Format · Open Packaging Conventions · PAQ

By Operating System

Unix operating systems utilize the tar file format, ar, and shar To concatenate files. These archive formats can then be compressed into gzip format.

On Windows platforms, the most widely-used archive format is ZIP; other formats are CAB, RAR (file format), and ACE. Windows Installer is a high-level archive format for distribution of software.

On Amiga computers the standard archive format is LHA.

on Apple Macintosh computers ZIP is now natively used in recent Mac OS X (10.3+), though StuffIt used to be the most common.

Linux often uses TAR, gz, and RPM package manager, a Package management system for distribution of software.

History

Origins

Ubiquitous amongst Unix and Unix-like operating systems is the tar file format ("**tape archive**"). Originally intended for transferring files to and from tape, it is still used on disk-based storage to combine files before they are compressed.

Development

Historically, every major computer platform, every operating system, and every vendor had its own preferred archive format. Some formats became more commonly used because of licensing, feasibility, and popularity. Today the most common formats are supported by many platforms and vendors. New technologies continue to introduce new formats.

Web

Show options...

Results **1** - **10** of about **156,000,000** for **Computer Archive software**. (**0.35** seconds)

Sponsored Links

1. **Archive Software**
www.hp.com/StorageSftware HP StorageWorks **Software** - Protect, Manage & Optimize Your Data.
2. **Archive Software**
www.emc.com Streamlined Integrated **Archiving** Free ESG **Archiving** Analyst Report

Search Results

1. 7-Zip
7-Zip is open source **software**. Most of the source code is under the GNU LGPL ... You can use 7-Zip on any **computer**, including a **computer** in a commercial ...
www.7-zip.org/ - Cached - Similar
2. Free **Software** and Shareware Downloads - Tucows
The original **software** download site, Tucows hosts more than 40000 virus and spyware free **software** titles.

Show stock quote for TCX
www.tucows.com/ - Cached - Similar
3. Your free **software** downloads **archive** - FileCluster
Your free **software** downloads **archive**. Download latest **software**, drivers and games ... helps realize the full potential of your CRT or LCD **computer** monitor. ...
www.filecluster.com/ - 27 minutes ago - Cached - Similar
4. Download3K - Free **software** downloads for Windows
ZWCAD 2009-Efficient CAD **software**! License: Shareware, Size: 67.01 MB Download (75), Dacris Benchmarks 8.0. Test and optimize your **computer** ...
www.download3k.com/ - Cached - Similar
5. The Easter Egg **Archive**
Posted Monday, February 22 in **Software** > Video Games > Ratchet and Clank Future: Tools of Destruction. 1. Go to the snowy level. The one with the **computer** ...
www.eeggs.com/ - 11 hours ago - Cached - Similar
6. Jumbo: Free & Shareware MP3 files, Games, Screen Savers & **Computer** ...
Mar 1, 2010 ... Jumbo is the source for free MP3 files, games, desktop themes, screen savers and the latest **computer software**.
www.jumbo.com/ - Cached - Similar

7. Free **Software** Downloads - Simtel.net
Simtel is one of the largest **software** download sites, featuring free downloads ... any unknown video to your familiar format that can play in your **computer**. ...
www.simtel.net/ - Cached - Similar

8. AtariArchives.org - **archiving** vintage **computer** books, information ...
Full text of Atari **computer** Books; Atari Program Exchange **software**; other classic computing information. ... Old Hackers Atari User Group Newsletter **Archive** ...
*www.atari**archives**.org/* - Cached - Similar

9. SoftArchive
VirtualDubMod is a unification of several popular modifications of the famous video editing **software** VirtualDub. Unification of three projects, ...
*soft**archive**.net/* - Cached - Similar

10. SDA: Survey Documentation and Analysis
SDA is developed and maintained by the **Computer**-assisted Survey Methods Program (CSM) at ... To see how it all works, test-drive SDA at our demonstration SDA **Archive**. ... You can also look at some other archives that use SDA **software**. ...
sda.berkeley.edu/ - Cached - Similar

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB394
() Publish Date:

Identifier (file name): HB394-DOA-ETS-03-15-10
Dept. Affected: Administration
Title "An Act relating to the data processing and telecommunications activities of the state..."
RDU Enterprise Technology Services
Component Enterprise Technology Services
Sponsor Rep. Keller
Requester (H) STA
Component Number 20823

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Additional work for Enterprise Technology Services (ETS) resulting from this bill could be managed by existing staff. The agency therefore submits a zero fiscal note.

Prepared by: Jim Kohler
Phone 907-723-9686
Division Enterprise Technology Services
Date/Time 3/15/10 12:00 PM
Approved by: Rachael Petro, Deputy Commissioner
Date 3/15/2010
Department of Administration

(Revised 11/6/2009 OMB)

HB 400

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 23, 2010 **FURTHER REFERRALS: Finance**

Date of Committee Action: 3-11-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 400**

"An Act relating to emergency compensation from the Violent Crimes Compensation Board."
HB 400-VIOLENT CRIMES EMERGENCY COMPENSATION

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson	X			
	Gatto	X			
	SEATON	X			
	Gruenberg	-			
	WILSON	V			
	PETERSEN	X			
Chair:	LYNN	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

HB 400

An Act relating to emergency compensation from the Violent Crimes Compensation Board

Sponsor Statement

The Victims of Violent Crimes Compensation Board (VCCB) was created in 1972 in an attempt to mitigate the financial hardships suffered by victims of violent crimes. This board is able to support these victims and their dependents with up to $40,000 and $1,500 in immediate emergency compensation.

HB 400 proposes to increase the limit for emergency compensation to $3,500.

The allowable amount for emergency compensation has not been increased since 1975 and is limited to verifiable lost wages, counseling, security measures and relocation costs. The most pressing need for emergency compensation is to cover relocation costs when a victim is in immediate danger at their current location.

The costs for these emergency expenses have increased substantially over the years, and $1,500 is unable to cover deposit and first and last month rents, especially when a family or dependents are involved. Emergency awards are necessary because the Board only meets approximately five times per year, and it can be several weeks or months before a claim is considered.

In Fiscal Year 2009 there was $25,547.80 given in emergency compensation for 22 claims. 12 of these were made at the maximum amount of $1,500. So far in FY2010, $29,699.17 has been awarded by way of emergency awards for 24 claims. The crime victim compensation fund receives approximately 70% of its appropriations from the state in the form of felon's garnished Permanent Fund Dividends and 30% from federal funds. This type of compensation is deducted from the final amount given to the victim and any excess award must be repaid to the Board.

I urge you to join me in assisting Alaska's victims of violent crimes when their need is greatest and support HB 400.

Revised 2/26/10 Staff Contact: Nancy Manly 465-2794

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 400**
() Publish Date:

Identifier (file name): HB400-DOA-DAS-03-05-10
Dept. Affected: Administration
Title "An Act relating to emergency compensation from the Violent Crimes Compensation Board."
RDU VCCB
Component VCCB
Sponsor (H) STA
Requester (H) STA
Component Number 2694

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0
Travel	0.0		0.0	0.0	0.0	0.0	0.0
Contractual	0.0		0.0	0.0	0.0	0.0	0.0
Supplies	0.0		0.0	0.0	0.0	0.0	0.0
Equipment	0.0		0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0		0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0		0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0		0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill will have no fiscal impact on the Violent Crimes Compensation Board.

Prepared by: Kate Hudson
Phone 465-5525
Division Violent Crimes Compensation Board
Date/Time 3/5/10 5:00 PM
Approved by: Kevin Brooks, Deputy Commissioner
Department of Administration
Date 3/5/2010

(Revised 11/6/2009 OMB)

Sample of Emergency Awards from Fiscal Year 2009

#34183 The claimant, a female, filed as a victim of sexual assault and the Board previously awarded an emergency award in the amount of $700 for Other-replace clothing and CITA. The Board determined the claimant to be an innocent victim of a violent crime under AS 18.67. It was the decision of the Board to award the requested compensation under AS 18.67.110(a)(4). All Board members concurred with the decision.
AWARDED: $0

#34583 The claimant, a female, filed as a victim of sexual assault. The Board determined the claimant to be an innocent victim of a violent crime under AS 18.67. It was the decision of the Board to award emergency relocation under AS 18.67.(a)(1). All Board members concurred with the decision.
AWARDED: $1,500 Relocation

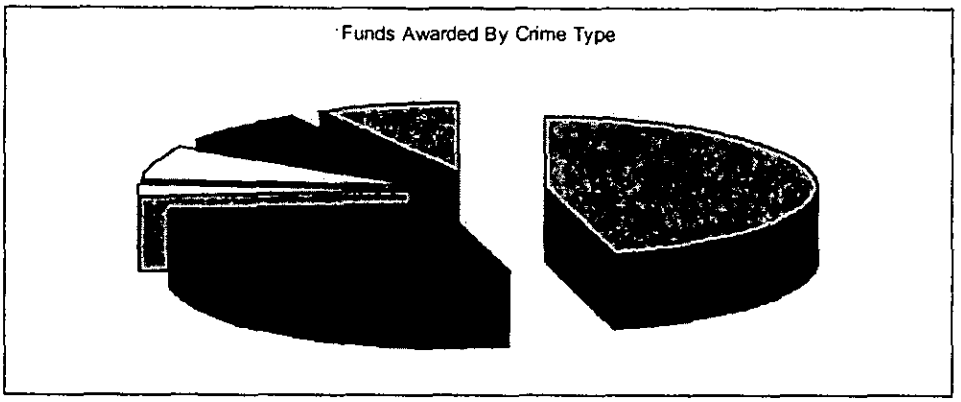
#34551, 673-4 The claimant, a female, was a victim of a domestic assault and the Board previously awarded an emergency award in the amount of $1,500 for airfare, food, glasses, CITA housing expenses. The Board determined the claimant to be an innocent victim of a violent crime under AS 18.67, and awarded relocation expenses. It was the decision of the Board to award the requested compensation under AS 18.67.110(a)(1)(4). All Board members concurred with the decision.
AWARDED: $0
Pre-approve up to $2,600 MHT
Pre-approve up to $1,200 MHT
Pre-approve up to $1,200 MHT
Pre-approve up to $3,736.90 Relocation

#34584 The claimant, a female, was a victim of human trafficking and the Board previously awarded an emergency award in the amount of $1,500.00 for relocation. The Board determined the claimant to be an innocent victim of a violent crime under AS 18.67, and awarded relocation. It was the decision of the Board to award the requested compensation under AS 18.67.110(a)(1)(4). All Board members concurred with the decision.
AWARDED: $1,444.70 Relocation
Pre-approve up to $2,600.00 MHT
Pre-approve up to $300.00 Mileage
Pre-approve up to $2,055.30 Relocation
Pre-approve up to $600.00 CITA

#34583 The claimant, a female, was a victim of sexual assault and the Board previously awarded an emergency award in the amount of $1,500 for relocation. The Board determined the claimant to be an innocent victim of a violent crime under AS 18.67, and awarded relocation expenses. It was the decision of the Board to award the requested compensation under AS 18.67.110(a)(1)(4). All Board members concurred with the decision.
AWARDED: $2,128.22 Relocation
Pre-approve up to $2,600.00 MHT
Pre-approve up to $1,609.78 Relocation
Pre-approve up to $2,500.00 Re-establishment

VIOLENT CRIMES COMPENSATION BOARD AWARDS – 2009

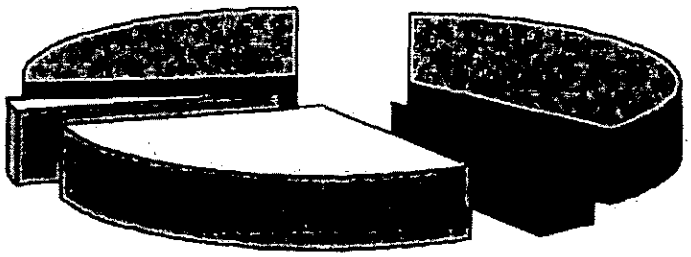
Funds Awarded By Crime Type



Note: "Awarded claims" include reconsiderations of pre-existing claims and new claims

Assault	$782,077.17
Homicide	$460,268.65
	$50,486.61
Child Physical and Sexual Abuse	$130,492.70
DUI/DWI	$131,898.22
Other: robbery, arson, kidnapping, trafficking, other vehicular	$146,572.08

Awards by Type of Service



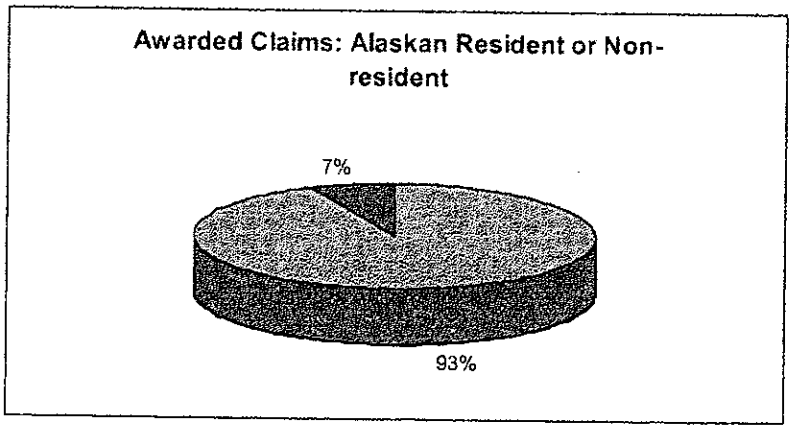
Note: "Awarded claims" include reconsiderations of pre-existing claims and new claims

Medical/Dental	$625,823.45
Counseling	$70,082.29
	$504,079.36
Funeral	$46,165.48
Crime Scene Cleanup	$3,036.36
Other (e.g. relocation)	$452,608.50

In 2009, the total amount paid out was $1,701,795.

VIOLENT CRIMES COMPENSATION BOARD AWARDS – 2009

The following chart shows how funds were paid out during this reporting period by resident and non-resident:

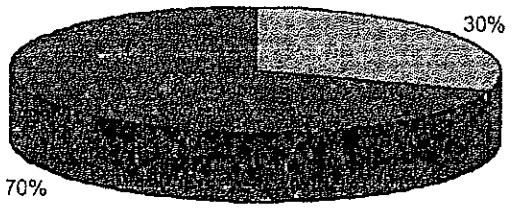


Note: "Awarded claims" include reconsiderations of pre-existing claims and new claims

Residents 93% **Non-residents 13%**

The following charts shows how funds were paid out during this reporting period by the victim's age, type of crime and type of service.

Awarded Claims by Age of Victim



Note: "Awarded claims" include reconsiderations of pre-existing claims and new claims

30% of Claims Approved Involved Victims Age 17 and under
70% of Claims Approved Involved Victims Age 17 and Over

The Board receives applications for compensation from all regions of the state. The following table shows the number of new applications received during the reporting period by location:

VIOLENT CRIMES COMPENSATION BOARD
NEW CLAIMS RECEIVED BY LOCATION OF CRIME

SFY2009

Community		Community		Community	
Akiachak	3	Fairbanks	47	Nikiski	3
Afognak	1	Fort Wainwright	1	Ninilchik	1
Alakanuk	1	Fort Greely	1	Nondalton	1
Anchorage	269	Girdwood	1	Noorvik	1
Anderson	1	Grayling	2	Nome	10
Angoon	5	Haines	2	North Pole	13
Aniak	1	Houston	3	Palmer	20
Barrow	7	Homer	9	Perryville	1
Bethel	12	Hoonah	1	Point Hope	2
Big Lake	2	Hooper Bay	4	Petersburg	13
Birch Creek	1	Iliamna	1	Port Alexander	2
Chefornak	2	Juneau	48	Quinhagak	1
Chevak	4	Kasilof	2	Russian Mission	4
Chickaloon	1	Kasigluk	1	Razdolna	1
Chuathbaluk	1	Kenai	21	Seward	6
Chugiak	1	Ketchikan	11	Sitka	9
Craig	1	Kiana	1	Soldotna	17
Cordova	1	Kivalina	2	Shageluk	1
Copper Center	2	Knik Knik River	1	Selawik	1
Crooked Creek	1	Koyukuk	2	Stebbins	1
Delta Junction	1	Kodiak	15	St Mary's	1
Dillingham	7	Kotlik	4	Tuntutliak	2
Eagle River	3	Kotzebue	10	Talkeetna	1
Eielson AFB	1	Lower Kalskag	1	Valdez	2
Emmonak	9	Metlakatla	1	Willow	2
Elmendorf	2	Mountain Village	5	Wasilla	46
		Total Alaska	**703**		
		Out of State	**7**		
		TOTAL	**710**		

Board Awards

Quick Links
Forms
Policies

Emergency Awards

Short Description

If a claim appears to be eligible for compensation and a claimant would suffer undue hardship if assistance were not provided, the Board may award up to $1,500 in emergency assistance.

Policy

Adopted 9-27-06

Utilizing statutory discretion, if it appears to the Board, prior to taking action on an application, that the claim is one for which compensation is likely, and undue hardship would result to the applicant if immediate payment is not made, the Board may make an emergency award of compensation to the applicant and/or their service provider pending a final decision. However, the amount of the emergency compensation may not exceed $1,500.00 per applicant. The amount of the emergency compensation shall be deducted from the final compensation made to the applicant and the excess of the amount of the emergency compensation over the final amount awarded shall be repaid by the applicant to the Board.

Emergency awards shall be limited to verifiable lost wages, counseling only when payments are made directly to the service provider, relocation costs, and security measures if/when relocation assistance is not requested. The Board will not consider awarding medical costs through emergency awards.

PO Box 110230, Juneau, AK 99811
10th Fl., State Office Building, 333 Willoughby Ave., Juneau, Alaska
Email VCCB | Fax: (907) 465-2379 | Phone: (907) 465-3040
State of Alaska | Webmaster

VIOLENT CRIMES COMPENSATION BOARD

EMERGENCY AWARDS

The State's violent crimes compensation program is funded through both state and federal funds. Approximately 70% of the amount awarded annually in compensation comes from a legislative appropriation of state funds, and 30% comes from federal funds in the form of an annual federal grant.

In FY2009 the VCCB received authorization by the legislature to spend $510,100 in federal funds, and $1,233,300 from PFD criminal receipts on awards to victims of crime. (Note these figures exclude monies for the program's operating expenses)

In FY2009 the total amount paid to victims = $1,701,795, including $25,547.80 awarded by way of emergency awards.

In FY2010 to date the Board has awarded $29,699.17 by way of emergency awards.

Note: amounts awarded as emergency funds are deducted from the amount of the final award made to the victim. Should the claim be deemed ineligible, the emergency funds would be required to be repaid. This does not happen in practice since it is only those claims where eligibility already appears to be established where emergency awards can be considered (see Board policy)

Emergency awards are necessary because the Board only meets approximately 5 times a year. Therefore, it can be several weeks or even months before a claim is considered for award. The Board exercises its discretion in determining whether it believes an emergency award is justified, which awards are limited to lost wages, counseling, relocation or security measures.

In FY 2009 emergency awards were made on 22 claims. 10 were for lost wages; 5 for counseling; 6 for relocation and 1 for both lost wages and counseling. The average amount awarded was $1,161.26, but 12 awards were made at the maximum $1,500 level.

The maximum amount that may be awarded as an emergency award has not increased since 1975. The main reason for requesting the increase is that rental costs have increased significantly over the years. If someone needs to find a new place to live urgently, whether as a matter of security or for their emotional wellbeing, $1,500 does not go very far, particularly where a family is involved. Raising the emergency award amount to $3,500 will enable the board to sufficiently provide for emergency situations.

E.g. we recently relocated a family where the 13 year old daughter had been raped in her bed by a family acquaintance. The family was being harassed by the family of the perpetrator. The Board awarded $1,500 in emergency funds so that they could relocate as soon as possible for safety and because the little girl was extremely traumatized. The funds paid for the security deposit ($1,000) and part of one month's rent ($1,600). At the next Board meeting additional funds were awarded to this family for relocation costs as well as funds for counseling.

HB

401

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 401**
() Publish Date:

Identifier (file name) HB401-DOA-APOC-03-01-10
Title "An Act relating to state election campaigns..."
Sponsor Reps. SEATON, Lynn
Requester (H) STA

Dept. Affected: Administration
RDU AK Public Offices Commission
Component AK Public Offices Commission
Component Number 70

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services	78.7		78.7	78.7	78.7	78.7	78.7
Travel							
Contractual	50.0						
Supplies							
Equipment	2.5						
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**131.2**	**0.0**	**78.7**	**78.7**	**78.7**	**78.7**	**78.7**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	131.2		78.7	78.7	78.7	78.7	78.7
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**131.2**	**0.0**	**78.7**	**78.7**	**78.7**	**78.7**	**78.7**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time	1		1	1	1	1	1
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill would impact the Alaska Public Offices Commission (APOC) through changes to regulations and changes to the electronic filing program, currently in development. As the bill requires more reporting, it will require additional staff time in assisting the filers; preparing manuals, performing training; and tracking and auditing reports. Changes to regulations will require an amendment to an existing contract estimated at $25.0 and $25.0 is included to analyze programming changes and capital funds necessary for the electronic filing program to accommodate the new reports. This increment includes 1 FT employee (range 16, Paralegal II) with computer and furniture.

Prepared by: Holly Hill, Director
Division Alaska Public Office Commission
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone (907) 334-1726
Date/Time 3/1/10 11:00 AM
Date 3/1/2010

(Revised 11/6/2009 OMB)

HB

409

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 26, 2010 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-9-10

The STATE AFFAIRS Committee considered: **HOUSE BILL NO. 409**

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; and providing for an effective date."

HB 409-CAMPAIGN EXPENDITURES

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 409 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Admin		X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson				X
[illegible]	Gatto				X
Paul Seaton	SEATON	X			
[illegible]	Gruenberg	✓			
Peggy Wilson	WILSON				X
Pete Petersen	PETERSEN	X			
Chair: Bob L	LYNN	X			
Chair:					

LEGAL SERVICES

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

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

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

MEMORANDUM March 10, 2010

SUBJECT: Constitutional Issues in CSHB 409(STA)
(Work Order No. 26-LS1495\S)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

This memorandum accompanies the draft committee substitute you requested. I have some concerns about the constitutionality of some of its provisions.

1. Bill Section 8 (expenditures and contributions by foreign nationals).
The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating, or spending funds in connection with any federal, state, or local election in the United States, either directly or indirectly.[1] Whether the state may regulate contributions and expenditures from foreign nationals in campaigns for state office is not clear. Because 2 U.S.C. 441e already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge. To the extent a court might find that the federal law governing contributions and expenditures by foreign nationals is so comprehensive and complete as to "occupy the field," it could invalidate state law attempting to cover the same ground.

2. Bill Section 10 (anonymous expenditures).
Conceptual amendment number 9 deleted a portion of AS 15.13.084 that permits an individual, acting independently of any other person, to make an anonymous expenditure to influence the outcome of a ballot proposition, if the expenditure is made for a (1) billboard, (2) sign, or (3) printed material, other than an advertisement in a newspaper or other periodical. In McIntyre v. Ohio Elections Commission, 514 U.S. 334 (1995), the United States Supreme Court recognized an individual's First Amendment right to anonymous speech. A statute that prohibits an individual from making any anonymous expenditure, no matter how small, in connection with a state election is unlikely to survive scrutiny under the First Amendment or art. I, sec. 5 of the state constitution.[2]

---

[1] See 2 U.S.C. § 441e, 22 U.S.C. § 611(b), and 11 C.F.R. 110.4.

[2] Note that the freedom of speech provision in article I, section 5 of the Constitution of the State of Alaska is more protective of speech than the United States' Constitution's

3. Bill Section 12 (precertification).
Subsection 15.13.090(c) requires the principal officer of a person (other than a candidate, individual, or political party) making a communication under AS 15.13.090 to certify to the Alaska Public Offices Commission that the officer has reviewed the communication and, based on the officer's knowledge, the communication is not defamatory and does not contain defamatory statements. This requirement burdens speech and may violate the First Amendment. Candidates, individuals, and political parties would not be required to provide these certifications, which creates a possible equal protection issue.

4. Bill Section 12 (identification of foreign ownership).
Subsection 15.13.090(e) requires a corporation or other person in which a foreign government holds a 10 percent ownership interest or more to identify the foreign government's ownership interest (in the person) in any communication under AS 15.13.090 paid for by that person. The regulation of foreign governments' involvement in state elections may be preempted by federal law (see 1., above). Requiring identification of a foreign government's ownership interest of 10 percent or more in a person paying for a communication under AS 15.13.090 also raises equal protection and First Amendment associational rights issues.

5. Bill Section 17 (severability).
This version of CSHB 409(STA) includes a severability provision. There is a general severability provision in the Alaska statutes (AS 01.10.030). Usually a severability clause is not included in a bill unless it is necessary to specify more details than are provided in AS 01.10.030.

Please note the changes to the title due to the inclusion of the adopted amendments.

The conceptual amendment to amendment #5 (26-LS1495\E.3) is located in a new subsection (f) to AS 15.13.090, found in sec. 12 of this draft.

Since the bill has passed out of your committee, please share the constitutional concerns identified in this memorandum with the next committee of referral. If you have any questions, please do not hesitate to contact me.

TLAB:ljw
10-148.ljw

Enclosure

First Amendment. Mickens v. City of Kodiak, 640 P. 2d 818, 820 (Alaska 1982); Messerli v. State, 626 P.2d at 83 (Alaska 1980). Additionally, the federal First Amendment right to anonymous speech may extend beyond individuals to encompass groups of individuals and organizations see American Civil Liberties Union of Nevada v. Heller, 378 F.3d 979, 989 - 991 (9th Cir. 2004).

LEGAL SERVICES

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

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

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

MEMORANDUM March 8, 2010

SUBJECT: Federal Preemption and audio identification requirements (CSHB 409(STA), Draft Version "E", Am. E.3)

TO: Representative Max Gruenberg

FROM: Kathryn L. Kurtz KK
Assistant Revisor

You have asked whether there is a federal preemption problem with the requirement in amendment E.3 that the person making an independent expenditure, and that person's top contributors, be audibly identified in an advertisement.

The answer is no.

The state clearly does not have authority to regulate independent expenditures in campaigns for federal office; that has been expressly preempted by federal law. 2 U.S.C. 453 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office"); *see also* 11 C.F.R. 108.7. An attempt to impose the requirements of amendment E.3 on independent expenditures relating to candidates for federal office would likely be preempted under 2 U.S.C. 453.

However, the enclosed amendment does not attempt to regulate independent expenditures in campaigns for federal office.[1] Rather, it is consistent with the scope of AS 15.13, which applies to elections for state office, some elections for municipal office, and state ballot measures. AS 15.13.010(a). AS 15.13 does not purport to control campaign finance in elections for federal office, and neither does amendment E.3.

KLK:med
10-034.med

[1] The federal identification requirement is found in 2 U.S.C. 441d, which requires identification of the person who pays for an independent expenditure. However, it uses the term "candidate," which is defined in 2 U.S.C. 431(2) as a candidate for federal office. It does not mention state or local elections, and it does not appear to apply to state and local elections. The fact that the federal identification requirement is different than that proposed in E.3 does not invalidate E.3.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794 nm
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 2

Re DRAFT CS for HB 409 Version E

3/9/10 HB 409 Version E passed out of the House State Affairs Committee this morning amended. Please draft a CS with the following amendments. We request that this be in draft form only at this time so we can review amendments before ordering a final.

Conceptual Amendment #1 (Seaton) (this was the tabled R.3b amendment and it is a conceptual amendment because we are amending from the R version to the E version) Page 6 Line 13 after the word "made." *Delete* the rest of **Line 13 thru 17.**

Amendment #2 (Lynn)
26-LS1495\E.1

Amendment #3 (Lynn)
26-LS1495\E.2

Amendment #4 (Lynn)
26-LS1495\E.3
Withdrawn

3/09/10 Fax to Legal
Draft new HSTA CS to HB 409 Version E

Amendment #5 as amended (Gruenberg)
26-LS1495\E.3

Conceptual Amendment #1 to Amendment #5 (Gruenberg)
Line 17 after the word "person's" use the short version of the corporate name
Line 19 after the word "top" *add* **"3"**

amendment only Speaks to the audio portion of the bill

Conforming Conceptual Amendment #6 (Seaton)
identifying the top **3** as opposed to "5" top contributors under the disclaimer section

Amendment #7 as amended (Petersen)
26-LS1495\E.5

Amendment #1 to Amendment #7 (Gruenberg)
Page 1 Line 10 after the word "person" *delete* the rest of **line 10 up to and including the word "person." on line 13.**

Amendment #8 (Petersen)
26-LS1495\E.6
Withdrawn

Conceptual Amendment #9 (Johnson)
Page 4 of the CS Version E Line 18 after the word "(1) anonymously," *delete* the rest of **Line 18 thru Line 27**

Friendly Amendment #1 to Conceptual Amendment #9 (Gruenberg)
Add a severability clause to every portion of the bill. That if any provision in the bill is declared unconstitutional that it will not affect the rest of the bill.

LEGAL SERVICES

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

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

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

MEMORANDUM March 8, 2010

SUBJECT: Section 11 of CSHB 409(STA), Draft Version "E"
(Work Order No. 26-LS1495\E)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

You asked that I review section 11 of CSHB 409(STA). This section adds a new subsection "(c)" to AS 15.13.090 (as that section is modified by sec. 10 of the bill). The subsection would require the principal officer of a person (other than a candidate, individual, or political party) making a communication under AS 15.13.090 to certify to the Alaska Public Offices Commission (APOC) that the officer has reviewed the communication, and based on the officer's knowledge, that the communication is not defamatory and does not contain defamatory statements. This requirement burdens speech and may violate the First Amendment. Candidates, individuals, and political parties would not be required to similarly certify their own communications made under AS 15.13.090. This creates a possible equal protection issue.

ANALYSIS

Defamation and Public Figures

In New York Times v. Sullivan, the Supreme Court held that the First and Fourteenth Amendments to the United States Constitution guaranteeing freedom of speech and press prohibited a public official from recovering damages for a defamatory falsehood relating to his official conduct unless the official proved that the statement was made with "actual malice," "that is, with knowledge that it was false or with reckless disregard of whether it was false or not." Id. at 280. This standard operates as a constitutional check on defamation law, limiting a public figure's right to recover for defamation. So, as extended by later decisions of the United States Supreme Court,[1] a candidate for office, as

[1] The New York Times rationale was extended by the United States Supreme Court to cover new causes of action, Garrison v. Louisiana, 379 U.S. 64 (1964) (actual malice standard applicable to criminal libel laws), Time, Inc. v. Hill, 385 U.S. 734 (1967) (standard applicable in false light privacy actions) and Hustler Magazine v. Falwell, 485 U.S. 46 (1988) (standard applicable to litigation claiming intentional infliction of

a public figure, who believes that he or she has suffered a false attack would be barred from recovering damages unless the candidate could clearly prove that the person making the communication consciously knew the statement was false or acted with reckless disregard for the statement's truth.

Although the Supreme Court has recognized a legitimate government interest in compensating victims of defamation, it has never recognized a legitimate interest in protecting candidates for political office from criticism. Rickert v. Public Disclosure Commission, 168 P.3d 826, 830 (Wash. 2007) (state Supreme Court struck down a statute prohibiting a person from sponsoring, with actual malice, a political advertisement containing a false statement of material fact about a candidate for public office) (citing Gertz, 418 U.S. at 348). In fact, the First Amendment has the opposite effect, recognizing a "profound national commitment" to protecting the people's right to criticize candidates for public office. New York Times v. Sullivan, 376 U.S. at 270.

Proposed Sec. 15.13.090(c) and the First Amendment

Under sec. 11 of CSHB 409(STA), a communication may not be made unless the principal officer (of the person making the communication) first certifies to APOC that the communication is not defamatory, and does not contain defamatory statements. This could be interpreted as a prior restraint on political speech, which may prove very difficult to defend in court. The Alaska Supreme Court has defined the term "prior restraint":

> "A prior restraint is an official restriction imposed upon speech or other forms of expression in advance of actual publication. Emerson, The Doctrine of Prior Restraint, 20 Law & Contemp. Probs. 648 (1955). This is in contrast to a subsequent punishment, which is a penalty imposed after the communication has been made. Id."

State v. Haley, 687 P.2d 305, 315 (Alaska 1984). The court went on to explain why prior restraints on speech are problematic:

> "Any system of prior restraints of expression comes to [a court] bearing a heavy presumption against its constitutional validity." Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 70, 9 L. Ed. 2d 584, 593, 83 S. Ct. 631 (1963). One reason why a system of prior restraints holds such disfavor is that it "subjects to government scrutiny and approval *all* expression in the area controlled -- the innocent and borderline as well as the offensive. . . ."

---

emotional distress), and to a broader range of plaintiffs, Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967) ("public figures" must prove actual malice before collecting damages for defamation), Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974) (a person may become a public figure for a limited range of issues, and such "'limited purpose' public figures" must demonstrate actual malice).

> Emerson, supra at 656. Another reason is that, while subsequent punishment does not prevent dissemination of the speech in question, a prior restraint, by its very nature, seeks absolutely to exclude the speech from "the market place of ideas." Id. at 657. These considerations and others have resulted in a bar to systems of prior restraints unless there is compelling proof that a prior restraint is essential to a vital governmental interest. See New York Times Co. v. United States, 403 U.S. 713, 726-27, 29 L. Ed. 2d 822, 832, 91 S. Ct. 2140 (1971) (Brennan, J., concurring) ("Only governmental allegation and proof that publication must inevitably, directly, and immediately cause the occurrence of an event kindred to imperiling the safety of a transport already at sea can support even the issuance of an interim restraining order.").

Id.

If a court viewed AS 15.13.090(c) as a prior restraint on speech, it would apply strict scrutiny, and might well find that the certification requirement in AS 15.13.090(c) is not supported by a compelling state interest.

In addition, AS 15.13.090(c) could be viewed as a content-based restriction on political speech, which would also be subject to strict scrutiny.[2] The U.S. Supreme Court has cautioned that any claim by a state that it is "'enhancing the ability of its citizenry to make wise decisions by restricting the flow of information to them must be viewed with some skepticism.'" Eu, 489 U.S. at 228 (quoting Tashjian v. Republican Party of Conn., 479 U.S. 208, 221, (1986)). Furthermore, despite the lack of "constitutional value in false statements of fact," the First Amendment requires protecting "some falsehood in order to protect speech that matters." Gertz, 418 U.S. at 340-41.

Again, strict scrutiny requires that a restriction on political speech be narrowly tailored to serve a compelling state interest. Alaska Right to Life Committee v. Miles, 441 F.3d 773 (9th Cir. 2006). Requiring a principal officer of a person to certify that a statement is not defamatory is a burden on that person's speech that does not directly inform the electorate, deter corruption or the appearance of corruption, or allow the state to gather data necessary to enforce more substantive electioneering restrictions. Unless a compelling rationale for the restriction could be found, the proposed sec. 15.13.090(d) is vulnerable on this ground as well.

---

[2] "'[T]he First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office.'" Burson v. Freeman, 504 U.S. 191, 196 (1992) (plurality opinion) (internal quotation marks omitted) (quoting Eu v. S.F. County Democratic Cent. Comm., 489 U.S. 214, 223 (1989)). A content-based restriction on speech or association is subject to strict scrutiny. Mickens v. City of Kodiak, 640 P.2d 818, 821 (Alaska 1982) ("laws prohibiting free expression, based on the content of the expression, are sustainable only for the most compelling of reasons.")

Note also that some statutes that have attempted to directly prohibit false statements made in political advertisements have been struck down on First Amendment grounds. See State ex rel. Public Disclosure Comm'n v. 119 Vote No! Comm., 957 P.2d 691 (Wash. 1998) (state court struck down statute that prohibited any person from sponsoring, with actual malice, a political advertisement containing a false statement of material fact) and Rickert, 168 P.3d at 827 (Wash. 2007).

Proposed Sec. 15.13.090(c) and equal protection

Alaska evaluates equal protection claims using a sliding scale.[3] There are several steps involved. First, the court determines the importance of the interest impaired by the challenged statute. Then the court looks at the purposes served by the statute. Finally, the court looks at how well the statutory means fits the purpose. "The common question in addressing equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment."[4] In order for a classification to be valid under the state's equal protection test, it must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective. Wilson v. Municipality of Anchorage, 669 P.2d 569, 572 (Alaska 1983).

It is not clear to me what state interest would justify requiring only persons making communications under AS 15.13.090 that are not candidates, individuals, or political parties to have a principal officer certify that the communication is not defamatory and does not contain defamatory statements.

EFFECTS

Penalties

AS 15.56.014(a)(3) already provides that a person commits the crime of campaign misconduct in the second degree if the person knowingly makes a communication that (1) contains false factual information relating to a candidate for an election; (2) the person knows it to be false; and (3) would provoke a reasonable person under the circumstances to a breach of the peace or that a reasonable person would construe as damaging to the candidate's reputation for honesty or integrity, or to the candidate's qualifications to serve if elected to office. Violation of AS 15.56.014 is a class B misdemeanor.[5]

New subsection "(c)" added by sec. 11 of CSHB 409(STA) would impose a different standard for a principal officer reviewing a potential communication to be made in a state

---

[3] Matanuska-Susitna Borough School v. State, 931 P.2d 391, 396 (Alaska 1997).

[4] Anderson v. State, 78 P.3d 710, 718 (Alaska 2003).

[5] Note that this statute may be unconstitutional. See Rickert, 168 P.3d 826.

election campaign. If a principal officer under proposed 15.13.090(c) certified to APOC that a communication was not defamatory, when the officer knew that it was in fact defamatory under Alaska law, the officer would be liable for civil penalties under AS 15.13.390(a)[6] and could be subject to prosecution under AS 15.13.012.[7] Under AS 15.13.018,[8] if the person was found to have violated AS 15.13.012, an Alaska court could be required to suspend, for a period of one year, any license held by the defendant that allows the defendant to do business in the state.

---

[6] AS 15.13.390(a) provides: [a] person who fails to register when required by AS 15.13.050(a) or who fails to file a properly completed and certified report within the time required by AS 15.13.040, 15.13.060(b) - (d), 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of not more than $50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than $500 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who violates a provision of this chapter, except a provision requiring registration or filing of a report within a time required as otherwise specified in this section, is subject to a civil penalty of not more than $50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.380 does not excuse that person from registering or filing reports required by this chapter.

[7] AS 15.56.012 provides:

> **Sec. 15.56.012. Campaign misconduct in the first degree.** (a) Except as provided in AS 15.56.014 and 15.56.016, a person commits the crime of campaign misconduct in the first degree if the person knowingly engages in conduct that violates a provision of AS 15.13 or a regulation adopted under authority of AS 15.13.
>
> (b) Violation of this section is a corrupt practice.
>
> (c) Campaign misconduct in the first degree is a class A misdemeanor.

[8] AS 15.56.018 provides:

> **Sec. 15.56.018. Applicability of campaign misconduct provisions.**
>
> (a) For purposes of AS 15.56.012(a) and 15.56.016(a)(1), each day a violation continues constitutes a separate offense.
>
> (b) When a person is convicted of violating AS 15.56.012, in addition to imposition of a sentence as authorized by AS 12.55.015, notwithstanding AS 12.55.015(c), **the court shall order suspension, for a period of one year, of any license held by the defendant that allows the defendant to do business in the state** (emphasis added).

If you have further questions, please do not hesitate to contact me.

TLAB:med
10-035.med

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 409**
() Publish Date:

Indentifier (file name) HB409-DOA-APOC-03-01-10
Title "An Act relating to state election campaigns..."

Dept. Affected: Administration
RDU AK Public Offices Commission
Component AK Public Offices Commission

Sponsor (H)STA
Requester (H) STA

Component Number 70

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services	78.7		78.7	78.7	78.7	78.7	78.7
Travel							
Contractual	50.0						
Supplies							
Equipment	2.5						
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**131.2**	**0.0**	**78.7**	**78.7**	**78.7**	**78.7**	**78.7**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	131.2		78.7	78.7	78.7	78.7	78.7
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**131.2**	**0.0**	**78.7**	**78.7**	**78.7**	**78.7**	**78.7**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time	1		1	1	1	1	1
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill would impact the Alaska Public Offices Commission (APOC) by allowing coporations and labor unions to make independent expenditures to comport with a recent U.S. Supreme Court decision. The bill will require changes to regulations and changes to APOC's electronic filing program, currently in development. The bill increases the number of allowable filers and requires additional reporting. This will require additional staff time in assisting the filers; preparing manuals, performing training; and tracking and auditing reports. Changes to regulations will require an amendment to an existing contract estimated at $25.0 and $25.0 is included to analyze programming changes and capital funds necessary for the electronic filing program to accommodate the new reports. This increment includes 1 FT employee (range 16, Paralegal II) with computer and furniture.

Prepared by: Holly Hill, Director — Phone (907) 334-1726
Division Alaska Public Office Commission — Date/Time 3/1/10 12:00 PM
Approved by: Rachael Petro, Deputy Commissioner — Date 3/1/2010
Department of Administration

(Revised 11/6/2009 OMB)

Seaton

26-LS1495\B.3
Bullard
3/1/10

Conceptual
AMENDMENT #1

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 6, line 12:

Delete "three days" 3A Passed

Insert "24 hours"

13-17
Page 6, lines 12 - 16: 3B ~~Conceptual Amendment #4~~

Delete "An expenditure report filed under this subsection must include any expenditure not yet reported that was made before the filing of the report. However, an expenditure that exceeds $250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made."

Conceptual amend 3B Passed

Passed

Tabled

pg 6 after the word "made" delete the rest of line 13 — 17 Line

8:50 am ish
8:57 am ish

There is an amend to the amend (Concep 2)

26-LS1495\E.1
Bullard
3/3/10

AMENDMENT #2 Passed as is adopted

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: CSHB 409(STA), Draft Version "E"

Page 4, following line 9:

Insert a new bill section to read:

"*** Sec. 7.** AS 15.13.067 is amended to read:

Sec. 15.13.067. Who may make expenditures. Only the following may make an expenditure **that is not an independent expenditure** in an election for candidates for elective office:

(1) the candidate;

(2) an individual;

(3) a group that has registered under AS 15.13.050; and

(4) a nongroup entity that has registered under AS 15.13.050."

Renumber the following bill sections accordingly.

Gruenberg Amend Seaton objects
Concep Amend 2 to Amend 2 Withdrawn

Page 4, line 29, through page 5, line 6:

Delete all material.

Gruenberg

Lines 14 & 15 delete
Leave rest of sec 9

Renumber the following bill sections accordingly.

Page 7, line 13:

Delete "AS 15.13.067 and 15.13.140(a) are"

Insert "AS 15.13.140(a) is"

Gruenberg
Concep Amend 2 to amend 2 — failed
? ~~delete line 14 & 15~~ of amend #2
amend sec 9 of the bill
changing "in" to "ON"
line 5 "in" to "ON"
retaining 15.13.067 (3)
not to repeal H.
Seaton objects
Johnson N
Gatto Y
Gruen Y
Peter Y
Sea N
Wil N
Lyn N

Amend failed

LEGAL SERVICES

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

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

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

MEMORANDUM March 5, 2010

SUBJECT: Expenditures, independent expenditures, and the effect of amendment 26-LS1495\E.1 to CSHB 409(STA)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

This memorandum accompanies the amendment described above.

If the purpose of the draft House Committee Substitute is to conform Alaska statutes with the decision of the United States Supreme Court in Citizens United v. Federal Election Commission, No. 08-205, 558 U.S. ___ (January 21, 2010) (a case about independent election campaign expenditures made by corporations),[1] this amendment would make explicit that the only expenditures that CSHB 409(STA) permits, beyond those that are currently allowed, are the independent expenditures that the Court held could not be prohibited under the First Amendment.

The United States Supreme Court's Citizens United decision spoke in terms of permissive "independent expenditures" in the course of an election campaign. Since the legal distinction between an "expenditure" on behalf of a candidate made by a corporation or labor union and a "contribution" from that corporation or labor union to the candidate is not entirely clear,[2] it seems best to follow the court's lead and to make explicit in the bill

---

[1] Because one of the statutes involved in this case and considered by the Court concerned labor unions, it also, arguably, is a case about independent election campaign expenditures made by labor unions, though that is not made explicit in the U. S. Supreme Court opinion.

[2] See definitions for "contribution" and "expenditure" at AS 15.13.400:

> (4) "contribution"
>
> (A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a

that the only expenditures that may be made under AS 15.13 by a person that is not a candidate, individual, group, or nongroup entity, are independent expenditures.

---

ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party; . . .

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

As a drafting mater, bill section 7, to be added as part of amendment E.1, proposes to modify existing AS 15.13.067 to clarify that the only persons permitted to make an expenditure that is not an independent expenditure in a state election are those persons who are currently permitted to do so under state law. Because, as a drafting choice, I have opted to retain (and modify) AS 15.13.067, the last entry in amendment E.1 deletes "AS 15.13.067" from the list of sections proposed to be repealed. And, because AS 15.13.067 is to be retained (and modified), I saw no need to repeal the reference to that section that appears in bill section 9; since the remainder of the amendment proposed in bill section 9 constitutes technical changes, the second entry in amendment E.1 eliminates bill section 9 in its entirety.

If you have any questions, please do not hesitate to contact me.

TLAB:plm
10-125.plm

Enclosure

26-LS1495\E.2
Bullard
3/8/10

AMENDMENT #3 passed

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: CSHB 409(STA), Draft Version "E"

Page 4, following line 9:

Insert a new bill section to read:

"* **Sec. 7.** AS 15.13 is amended by adding a new section to read:

Sec. 15.13.068. Expenditures and contributions by foreign nationals. (a) A foreign national may not, directly or indirectly, in connection with an election under this chapter, make a contribution or expenditure or make an express or implied promise to make a contribution or expenditure.

(b) In this section, "foreign national" includes

(1) a foreign government, every political subdivision of a foreign government, every official, agent, or representative of a foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of a foreign government;

(2) a person outside of the United States, unless it is established that the person is an individual and a citizen of and domiciled in the United States, or that the person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business in the United States;

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; or

(4) a domestic subsidiary of an entity described in (1) - (3) of this subsection or a domestic corporation controlled by an entity described in (1) - (3) of this subsection, if that entity finances, participates in, or selects a person who

participates in the making of a contribution or an expenditure of the domestic subsidiary or domestic corporation.

(c) The provisions of this section apply only to the extent permitted by federal law."

Renumber the following bill sections accordingly.

LEGAL SERVICES

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

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

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

MEMORANDUM March 8, 2010

SUBJECT: Prohibiting foreign nationals from making contributions or expenditures in connection with a state election
(Work Order No. 26-LS1495\E.2, amendment to CSHB 409(STA))

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

You requested a legal opinion as to whether, under federal law, the state could regulate contributions and expenditures by foreign nationals made in connection with a state election, and if it were permissible under federal law, an amendment prohibiting all contributions and expenditures by foreign nationals.

A foreign national is not permitted under federal law to directly or indirectly, make a contribution or expenditure in connection with a federal, state, or local election. 2 U.S.C. § 441e. The Federal Election Commission (FEC) has interpreted this prohibition broadly. See 11 C.F.R. 110.4(a)(3) (clarifying that a foreign national cannot participate, even indirectly, in election related decisions).

Federal Preemption

Because 2 U.S.C. 441e already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge.

The Supremacy Clause, Art. VI, cl. 2 of the Constitution of the United States, provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Alaska Supreme Court has noted that "[u]nder the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid." Allen v. State,

203 P.3d 1155, 1161, n. 12 (Alaska 2009), quoting State v. Dupier, 118 P.3d 1039, 1049 (Alaska 2005). The court recently summarized federal preemption law as follows:

> There is a presumption against federal preemption of state law, and preemption doctrine "enjoin[s] seeking out conflicts between state and federal regulation where none clearly exists." Additionally, "[w]here co-ordinate state and federal efforts exist within a complementary administrative framework, and in the pursuit of common purposes," . . . "the case for federal pre-emption becomes a less persuasive one." But where state law comes into conflict with federal law, the Supremacy Clause of the United States Constitution dictates that state law must always yield.
>
> There are three major types of federal preemption of state law: "express," "field," and "conflict" preemption. Express preemption occurs when Congress explicitly declares an intent to preempt state law in a particular area. . . .
>
> Field preemption is the term used when the federal law governing a particular area is so comprehensive and so complete that Congress is said to have completely occupied a field, leaving no room for state law. We "will not infer an intent to occupy the field where Congress has left some room for state involvement." . . .
>
> Conflict preemption occurs when a state law and a federal law are in conflict, either because compliance with both state and federal law is impossible or because the state law "stands as an obstacle to accomplishment and execution of the full purposes and objectives of Congress." . . .

Allen v. State, 203 P.3d 1155, 1160 - 1161 (Alaska 2009) (citations and footnotes omitted).

The state clearly does not have authority to regulate contributions and expenditures in campaigns for federal office; that has been expressly preempted by federal law. 2 U.S.C. 453 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office."); 11 C.F.R. 108.7(b)(3) (federal law "supersedes state law concerning the . . . [l]imitation on contributions and expenditures regarding Federal candidates and political committees.")

Whether the state may regulate contributions and expenditures in campaigns for state office is less clear. I am not aware of any federal statute or regulation which expressly preempts state regulation of foreign contributions and expenditures in campaigns for state office. However, field preemption may come into play here. To the extent a court found that the federal law governing contributions and expenditures by foreign nationals is so

comprehensive and complete as to "occupy the field", it could invalidate state law attempting to cover the same ground. To the extent that the state and federal laws conflict, conflict preemption is also a possibility.

Drafting Approach

The accompanying amendment, in a manner consistent with federal law,[1] prohibits foreign nationals from making contributions and expenditures in state elections. The amendment is drafted to avoid the issue of whether federal law could be interpreted to preempt all state laws relating to campaign contributions and expenditures by foreign nationals, by providing that the state's prohibition applies "only to the extent permitted by federal law."

I hope that the amendment is consistent with your intent. I will look forward to your further direction in this matter.

TLAB:med:ljw
10-033.med

Enclosure

[1] See 2 U.S.C 411e, 22 U.S.C. 611(b), and 11 C.F.R. 110.4.

26-LS1495\E.3
Bullard
3/8/10

Lynn offered Seaton objects

AMENDMENT #4

OFFERED IN THE HOUSE

TO: CSHB 409(STA), Draft Version "E"

Withdrawn

Page 5, line 22, following "**the**":

Insert "**name and city and state of residence or principal place of business, as applicable, of each of the**"

Page 5, line 24:

Delete "**, with the words "top five contributors."**[.]"

Insert "."

Page 6, following line 9:

Insert a new subsection to read:

"(d) To satisfy the requirements of (a)(2)(C) of this section and, if applicable, (a)(2)(D) of this section, the following statement or statements must be read, in a manner that is easily heard, or placed in the communication so as to be easily discernable, or, in a communication that is transmitted by a method that includes both audio and video components, be read in a manner that is easily heard and placed in the communication so as to be easily discernable:

This communication was paid for by (person's name and city and state of principal place of business).

The top 3 contributors of (person's name) are (the name and city and state of residence or principal place of business, as applicable, of the largest contributors to the person under AS 15.13.090(a)(2)(D))."

Johnson
Gara
Seaton
Lynn
Gruenberg
Wilson
Petersen

C

Amend #5 as amended — Passed

same as amend #4

E.3 Johnson objects

Gruenberg

Johnson N
Gatto Y
Seaton y
Gruenberg y
Petersen y
Wilson N
Lynn N

Amendment Only Speaks to the Audio portion of the Bill

915 A

Gruenberg Johnson objects — Passed

Concept Amend 1 to Amend 5 does (2) things

Line 19 after pg 1 Line 17

top 3 contributors

Johnson N
Gatto y
Seaton y
Gruen y
Peters y
Wilson y
Lynn N

925 a

Concept

Conforming amendment #6 Seaton

Identifying to 3 top

on the disclaimer

Identif top 3 three contrib

Clarification

Not identif 5 ~~Largest~~ to 3 Largest Contrib.

This is only the ~~Audio~~ portion

Marshall

Mon, March 8, 2010

CSHB 409 Version E, amendments, opinions – Checklist:

New CS Version E memo ✓

New CS Version E bill ✓

Memo for E.1 on independent expenditures and effect of E.1 amendment on CSHB 409 (STA)

Amendment E.1 for CSHB 409 Version E

Memo for E.2 prohibiting foreign nationals from making state contributions and expenditures

Amendment E.2 prohibiting foreign contributions and expenditures

Amendment E.3 for both audio and video components for identification of communications

~~Legal Memo to Rep. Gruenberg on federal pre-emption~~ ? memo on amend R.5 & R.6

Tues, March 2, 2010 State Affairs Meeting

Amendment R.1 passed ✓

~~Amendment R.2 withdrawn~~ ✓

Amendment R.3A passed ✓

Amendment R.3B tabled ✓

Amendment R.7 passed ✓

Amendment R.5 not offered yet ✓

Amendment R.6 not offered yet ✓

Check w/ Senate on
any other amendments

26-LS1495\E.5
Wayne/Bullard
3/8/10

as amended passed

AMENDMENT #7

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

Seaton objects removed

TO: CSHB 409(STA), Draft Version "E"

Page 6, line 4:

Delete "a new subsection"

Insert "new subsections"

Page 6, following line 9:

Insert a new subsection to read:

"(d) If a foreign government holds more than a 10 percent ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as a partial owner of the person. If a foreign government holds more than 50 percent of the ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as the majority owner and controlling interest holder of the person. A foreign government identified in a communication under this subsection must be identified by the foreign government's common or usual name. In this subsection, "foreign government" includes every political subdivision of the foreign government, every official, agent, or representative of the foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of the foreign government."

amend #1 to amend #7 delete

Gruenberg passed
Amend #1 to Amend #7
delete sentance
line 10 to line 13

Johnson
Gallo
Seaton
Gruenberg
Petersen
Wilson
Lynn

26-LS1495\E.6
Wayne/Bullard
3/8/10

AMENDMENT ~~# 8~~ Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

TO: CSHB 409(STA), Draft Version "E"

Sealon objects

Page 3, line 27, following "**contributor**":

Insert "**;**

(6) for a person that is a for-profit entity, the address used by the person for federal income tax purposes, if different than the address provided under (1) of this subsection"

Page 5, line 21, following "**business**":

Insert "**if the person is a nonprofit entity, or the address used by the person for federal income tax purposes if the person is a for-profit entity**"

Concep amend # 9 Johnson – passed
delete Pg 4 Line 18 after word anonymously,
delete everything thru Line 27

Conceptually amend # 1 to amend # 9 (Gruenberg) – passed
Severability Clause
to every portion of the bill

Memo to be forward along w/ Bill to next Committee of referral

LEGAL SERVICES

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

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

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

MEMORANDUM March 8, 2010

SUBJECT: Questions relating to proposed amendments 26-LS1295\R.5 and R.6 to HB 409

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

You asked that I review amendments 26-LS1495\R.5 and R.6, which were drafted to amend House Bill 409 (HB 409).

26-LS1495\R.5

This amendment amends sec. 11 of HB 409 by adding a new subsection to AS 15.13.090 that requires a corporation or other person in which a foreign government[1] holds a 10 percent ownership interest or more to identify the foreign government's ownership interest (in the person) in any communication under AS 15.13.090 paid for by that person. The amendment additionally requires that if a foreign government holds more than a 50 percent ownership interest in the person, the person must identify that a foreign government is "the majority owner and controlling interest holder of the person" in a communication under AS 15.13.090.

This amendment could be interpreted to raise constitutional and legal issues. The regulation of foreign governments' involvement in state elections may be preempted by federal law. Requiring identification of a foreign government's ownership interest of 10 percent of more in a person paying for a communication under AS 15.13.090 may also raise constitutional issues of equal protection and First Amendment associational rights.

1. Preemption. The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating, or spending funds in connection with any federal,

[1] The amendment defined "foreign government" to include every political subdivision of the foreign government, every official, agent, or representative of the foreign government, and every, agency, corporation, or instrumentality of the foreign government or of a political subdivision of the foreign government.

state, or local election in the United States, either directly or indirectly.[2] Because 2 U.S.C. 441e already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge.

The Supremacy Clause, Art. VI, cl. 2 of the Constitution of the United States, provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Alaska Supreme Court has noted that "[u]nder the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid." Allen v. State, 203 P.3d 1155, 1161, n. 12 (Alaska 2009), quoting State v. Dupier, 118 P.3d 1039, 1049 (Alaska 2005). The court recently summarized federal preemption law as follows:

> There is a presumption against federal preemption of state law, and preemption doctrine "enjoin[s] seeking out conflicts between state and federal regulation where none clearly exists." Additionally, "[w]here co-ordinate state and federal efforts exist within a complementary administrative framework, and in the pursuit of common purposes," . . . "the case for federal pre-emption becomes a less persuasive one." But where state law comes into conflict with federal law, the Supremacy Clause of the United States Constitution dictates that state law must always yield.
>
> There are three major types of federal preemption of state law: "express," "field," and "conflict" preemption. Express preemption occurs when Congress explicitly declares an intent to preempt state law in a particular area. . . .
>
> Field preemption is the term used when the federal law governing a particular area is so comprehensive and so complete that Congress is said to have completely occupied a field, leaving no room for state law. We "will not infer an intent to occupy the field where Congress has left some room for state involvement." . . .
>
> Conflict preemption occurs when a state law and a federal law are in conflict, either because compliance with both state and federal law is impossible or because the state law "stands as an obstacle to

[2] See 2 U.S.C. § 441e, 22 U.S.C. § 611(b), and 11 C.F.R. 110.4.

> accomplishment and execution of the full purposes and objectives of Congress." . . .

Allen v. State, 203 P.3d 1155, 1160 - 1161 (Alaska 2009) (citations and footnotes omitted).

The state clearly does not have authority to regulate contributions and expenditures in campaigns for federal office; that has been expressly preempted by federal law. 2 U.S.C. 453 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office."); 11 C.F.R. 108.7(b)(3) (federal law "supersedes state law concerning the . . . [l]imitation on contributions and expenditures regarding Federal candidates and political committees.").

Whether the state may regulate contributions and expenditures from foreign nationals in campaigns for state office is less clear. I am not aware of any federal statute or regulation which expressly preempts state regulation of foreign contributions and expenditures in campaigns for state office. However, field preemption may come into play here. To the extent a court found that the federal law governing contributions and expenditures by foreign nationals is so comprehensive and complete as to "occupy the field," it could invalidate state law attempting to cover the same ground. To the extent that the state and federal laws conflict, conflict preemption is also a possibility.

2. Equal protection. Because the amendment's additional identification requirements apply only to persons that have a 10 percent or greater foreign government ownership interest, and not to other persons, the amendment could prompt an equal protection challenge. Alaska evaluates equal protection claims using a sliding scale.[3] There are several steps involved. First, the court determines the importance of the interest impaired by the challenged statute. Then the court looks at the purposes served by the statute. Finally, the court looks at how well the statutory means fits the purpose. "The common question in addressing equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment."[4] In order for a classification to be valid under the state's equal protection test, it must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective. Wilson v. Municipality of Anchorage, 669 P.2d 569, 572 (Alaska 1983).

Because federal law prohibits foreign nations from making contributions or expenditures, directly or indirectly, in connection with a state election, it is not clear to me what state purpose the amendment serves. Consequently, I do not know how a court would evaluate the state's interest in requiring persons, of which a foreign government owns 10 percent

---

[3] Matanuska-Susitna Borough School v. State, 931 P.2d 391, 396 (Alaska 1997).

[4] Anderson v. State, 78 P.3d 710, 718 (Alaska 2003).

or more or, of which a foreign government owns 50 percent or more, to identify the foreign government's ownership interest in any communication made by the person under AS 15.13.090.

3. Freedom of speech and association. The amendment requires a person, in which a foreign government owns a 10 percent or greater interest to identify the foreign government's ownership interest (in the person) in any communication under AS 15.13.090 funded by that person. In deciding whether a state election law violates a person's rights under the Federal Constitution's First and Fourteenth Amendments and the state constitution's art I, secs. 5 and 6, a court will (1) weigh the character and magnitude of the burden that the state's rule imposes on the person's rights against the interests that are contended by the state to justify that burden, and (2) consider the extent to which the state's concerns make the burden necessary.

Election related laws and regulations that impose a severe burden on associational rights must be narrowly tailored and advance a compelling state interest. A statute or regulation that imposes a lesser burdens triggers less exacting review, and a state's important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions. However, no bright line separates permissible election-related regulation from unconstitutional infringements on First Amendment freedoms.[5]

In the recent Citizens United v. Federal Election Commission case, the court wrote:

> Disclaimer and disclosure requirements may burden the ability to speak, but they "impose no ceiling on campaign-related activities," *Buckley*, 424 U.S., at 64, 96 S. Ct. 612, 46 L. Ed. 2d 659, and "do not prevent

---

[5] In Timmons v. Twin Cities Area New Party, 520 U.S. 351 (1997), the Supreme Court established the relevant framework for a court to employ in resolving these competing interests:

> When deciding whether a state election law violates First and Fourteenth Amendment associational rights, we weigh the character and magnitude of the burden the State's rule imposes on those rights against the interests the State contends justify that burden, and consider the extent to which the State's concerns make the burden necessary. Regulations imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a State's important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions. No bright line separates permissible election-related regulation from unconstitutional infringements on First Amendment freedoms.

Id. at 358 - 359 (internal quotation marks and citations omitted).

> anyone from speaking," *McConnell, supra,* at 201, 124 S. Ct. 619, 157 L. Ed. 2d 491 (internal quotation marks and brackets omitted). The Court has subjected these requirements to "exacting scrutiny," which requires a "substantial relation" between the disclosure requirement and a "sufficiently important" governmental interest. *Buckley, supra,* at 64, 66, 96 S. Ct. 612, 46 L. Ed. 2d 659 (internal quotation marks omitted); see *McConnell, supra,* at 231-232, 124 S. Ct. 619, 157 L. Ed. 2d 491.

Citizens United v. Federal Election Commission, 558 U.S. ___ (2010), slip. op at 51; 175 L. Ed. 2d 753, 799; 130 S. Ct. 876, 914. At a minimum, the state would have to demonstrate an important regulatory interest in requiring persons that have a foreign government ownership interest of 10 percent or more to identify the foreign government's ownership interest.

26-LS1495\R.6
This amendment modifies secs. 4 and 10 of HB 409. a provision amending AS 15.13.040(e) (expenditure reports). It requires for-profit entities to disclose the address used by the entity for federal income tax purposes in an expenditure report, if that address was different from the address provided for the individual filing the report under the bill's sec. 15.13.040(e)(1). The amendment also requires a for-profit entity to identify the address used by the entity for federal-tax purposes (instead of the entity's principal place of business) in a communication made under AS 15.13.090(a).

It was my understanding that this amendment was requested in order that for-profit entities that take advantage of foreign jurisdictions for tax purposes be identified. However, under federal law,[6] a for-profit entity that is located outside the United States may not legally make direct or indirect contributions or expenditures in a federal, state, or local election.

TLAB:ljw
10-139.ljw

[6] See id.

For Tues., March 9, 2010

CSHB 409 Version E, amendments, opinions ... Checklist:

New CS Version E bill

New CS Version E memo (see Tabled Amendment R.3B)

Amendment E.1 for CSHB 409 Version E

Memo for E.1 on independent expenditures and effect of E.1 amendment on CSHB 409 (STA)

Amendment E.2 prohibiting foreign contributions and expenditures

Memo for E.2 prohibiting foreign nationals from making state contributions and expenditures

Amendment E.3 for both audio and video components for identification of communications

Amendment R. 3B *tabled* at March 2, 2010 meeting

Amendment E.5 (formerly R.5) *not offered yet*

Amendment E.6 (formerly R.6) *not offered yet*

Memo for Rep. Petersen Amendments R.5 and R.6

Tues, March 2, 2010 State Affairs Meeting

Amendment R.1 *passed*

Amendment R.2 *withdrawn*

Amendment R.3A *passed*

Amendment R.3B *tabled*

Amendment R.7 *passed*

Verbal requests of John Ptacin, Dept. of Law

Opinion on nationality

Opinion on true source of funds, certification of by CEO and others, conspiracy

26-LS1495\E
Bullard
3/2/10

CS FOR HOUSE BILL NO. 409(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; and providing for an effective date."

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

*** Section 1.** AS 15.13.010(b) is amended to read:

(b) Except as otherwise provided, this chapter applies to contributions, expenditures, and communications made [BY A CANDIDATE, GROUP, NONGROUP ENTITY, MUNICIPALITY OR INDIVIDUAL] for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

*** Sec. 2.** AS 15.13.030 is amended to read:

Sec. 15.13.030. Duties of the commission. The commission shall

(1) develop and provide all forms for the reports and statements

required to be made under this chapter, AS 24.45, and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist **all persons** [CANDIDATES, GROUPS, AND INDIVIDUALS] in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) examine, investigate, and compare all reports, statements, and actions required by this chapter, AS 24.45, and AS 39.50;

(8) prepare and publish a biennial report concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change; the commission shall notify the legislature that the report is available;

(9) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50, and this chapter, subject to the provisions of AS 44.62 (Administrative Procedure Act); [AND]

(10) consider a written request for an advisory opinion concerning the application of this chapter, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50**; and**

(11) make available to the public information contained in a report filed under AS 15.13.040(e) within 24 hours after the filing of the report with the commission.

*** Sec. 3.** AS 15.13.040(d) is amended to read:

(d) Every [INDIVIDUAL,] person [, NONGROUP ENTITY, OR GROUP] making an **independent** expenditure shall make a full report of expenditures, upon a

form prescribed by the commission, unless exempt from reporting.

* **Sec. 4.** AS 15.13.040(e) is amended to read:

(e) **Each person** [THE REPORT] required **to report** under (d) of this section **shall file a full report in accordance with AS 15.13.110(g) on a form prescribed by the commission. If the report is filed by a person that is not an individual, the report must be certified as correct by the treasurer or fiscal officer of the person. The report** must contain

(1) the name, address, principal occupation, and employer of the individual filing the report**;**

(2) [, AND] an itemized list of **all expenditures made, incurred, or authorized by the person;**

(3) the name of the candidate or the title of the ballot proposition or question supported or opposed by each expenditure and whether the expenditure is made to support or oppose the candidate or ballot proposition or question;

(4) the name, address, and nationality of each officer and director of the person, when applicable;

(5) the aggregate amount of all contributions made to the person, if any, for the purpose of influencing the outcome of an election; for all contributions to the person that exceed $100 in the aggregate in a year, the date of the contribution and amount contributed by each contributor; and for a contributor

(A) who is an individual, the name, address, principal occupation, and employer of the contributor; or

(B) that is not an individual, the name and address of the contributor and the name, address, and nationality of each officer and director of the contributor [EXPENDITURES. THE REPORT SHALL BE FILED WITH THE COMMISSION NO LATER THAN 10 DAYS AFTER THE EXPENDITURE IS MADE].

* **Sec. 5.** AS 15.13.040(h) is amended to read:

(h) The provisions of (d) of this section do not apply to one or more

expenditures made by an individual acting independently of any **other person** [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER INDIVIDUAL] if the expenditures

(1) cumulatively do not exceed $500 during a calendar year; and

(2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

*** Sec. 6.** AS 15.13.040(p) is amended to read:

(p) For purposes of (b), **(e),** and (j) of this section, "contributor" means the true source of the funds, property, or services being contributed.

*** Sec. 7.** AS 15.13.082(b) is amended to read:

(b) A **person, other than an individual exempt from reporting under AS 15.13.040(h),** [CANDIDATE, GROUP, OR NONGROUP ENTITY] may not make an expenditure unless the source of the expenditure has been disclosed as required by this chapter.

*** Sec. 8.** AS 15.13.084 is amended to read:

Sec. 15.13.084. Prohibited expenditures. A person may not make an expenditure

(1) anonymously, unless the expenditure is

(A) paid for by an individual acting independently of any **person** [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER INDIVIDUAL];

(B) made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

(C) made for

(i) a billboard or sign; or

(ii) printed material, other than an advertisement made in a newspaper or other periodical;

(2) using a fictitious name or using the name of another.

*** Sec. 9.** AS 15.13.086 is amended to read:

Sec. 15.13.086. Authorized makers of expenditures. An expenditure

(1) authorized by or **on** [IN] behalf of a candidate may be made only

by

(A) the candidate; or

(B) the candidate's campaign treasurer or a deputy campaign treasurer;

(2) authorized [BY AS 15.13.067(3)] by or **on** [IN] behalf of a group may be made only by the group's campaign treasurer.

*** Sec. 10.** AS 15.13.090 is amended to read:

Sec. 15.13.090. Identification of communication. (a) All communications shall be clearly identified by the words "paid for by" followed by the name and address of the **person** [CANDIDATE, GROUP, NONGROUP ENTITY, OR INDIVIDUAL] paying for the communication. In addition,

(1) candidates and groups may identify the name of their campaign chairperson**; and**

(2) a person other than a candidate, an individual, or a political party shall clearly

(A) identify the person's principal officer and the officer's title;

(B) include a statement from the principal officer approving the communication;

(C) provide the address of the person's principal place of business; and

(D) identify the person's five largest contributors under AS 15.13.040(e)(5), if any, during the 12-month period before the date of the communication, with the words "top five contributors."[.]

(b) The provisions of (a) of this section do not apply when the communication

(1) is paid for by an individual acting independently of any **other person** [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER INDIVIDUAL];

(2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

(3) is made for

(A) a billboard or sign; or

(B) printed material other than an advertisement made in a newspaper or other periodical.

*** Sec. 11.** AS 15.13.090 is amended by adding a new subsection to read:

(c) A person other than a candidate, individual, or political party may not make a communication under (a) of this section unless the person's principal officer has certified to the commission in writing that the officer has reviewed the communication, and, based on the officer's knowledge, the communication is not defamatory and does not contain any defamatory statements.

*** Sec. 12.** AS 15.13.110 is amended by adding a new subsection to read:

(g) An independent expenditure report required under AS 15.13.040(e) shall be filed with the commission not later than 24 hours after an expenditure has been made. An independent expenditure report filed under this subsection must include any expenditure not yet reported that was made before the filing of the report. However, an independent expenditure that exceeds $250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made.

*** Sec. 13.** AS 15.13.111(a) is amended to read:

(a) Each [CANDIDATE, GROUP, NONGROUP ENTITY, OR] person required to report under this chapter shall preserve all records necessary to substantiate information required to be reported under this chapter for a period of six years from the date of the election for which the information was required to be reported, unless the records have been submitted to the commission under (c) of this section.

*** Sec. 14.** AS 15.13.135 is amended to read:

Sec. 15.13.135. Independent expenditures for or against candidates. (a) [ONLY AN INDIVIDUAL, GROUP, OR NONGROUP ENTITY MAY MAKE AN INDEPENDENT EXPENDITURE SUPPORTING OR OPPOSING A CANDIDATE FOR ELECTION TO PUBLIC OFFICE.] An independent expenditure supporting or opposing a candidate for election to public office, except an independent expenditure made by a nongroup entity with an annual operating budget of $250 or less, shall be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other

requirements of this chapter.

(b) **A person** [AN INDIVIDUAL, GROUP, OR NONGROUP ENTITY] who makes independent expenditures for a mass mailing, for distribution of campaign literature of any sort, for a television, radio, newspaper, or magazine advertisement, or any other communication that supports or opposes a candidate for election to public office

(1) shall comply with AS 15.13.090; and

(2) shall place the following statement in the mailing, literature, advertisement, or other communication so that it is readily and easily discernible:

This NOTICE TO VOTERS is required by Alaska law. (I/we) certify that this (mailing/literature/advertisement) is not authorized, paid for, or approved by the candidate.

*** Sec. 15.** AS 15.13.067 and 15.13.140(a) are repealed.

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

LEGAL SERVICES

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

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

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

MEMORANDUM March 3, 2010

SUBJECT: Committee Substitute for House Bill 409 (STA)
(Work Order No. 26-LS1495\E)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

This memorandum accompanies the above-described Committee Substitute that is amended by amendments 26-LS1495\R.1, 26-LS1495\R.7, and half of 26-LS1495\R.3. I have one comment.

The committee tabled a portion of amendment 26-LS1495\R.3. As a result, sec. 12 of CSHB 409(STA) now reads:

> (g) An independent expenditure report required under AS 15.13.040(e) shall be filed with the commission not later than 24 hours after an expenditure has been made. *An independent expenditure report filed under this subsection must include any expenditure not yet reported that was made before the filing of the report. However, an independent expenditure that exceeds $250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made* (emphasis added).

The provision would have the same substantive effect if the tabled portion of the amendment were included, resulting in a subsection that would read:

> (g) An independent expenditure report required under AS 15.13.040(e) shall be filed with the commission not later than 24 hours after an expenditure has been made.

The language in sec. 12 of CSHB 409(STA) italicized above, requires independent expenditures of over $250 made within nine days of an election to be reported to the Alaska Public Offices Commission within 24 hours. The first sentence of the subsection now requires that all independent expenditures be reported within 24 hours. The first sentence of the subsection makes the final sentence of CSHB 409(STA) unnecessary.

Similarly, if all independent expenditures must be reported to the Alaska Public Offices Commission within 24 hours of being made, there is no need to require an independent expenditure report to include expenditures "not yet reported that [were] made before the filing of the report." This sentence was included in HB 409 (26-LS1495\R) to ensure against the possibility that, in the sentence's absence, the statute could be interpreted to permit expenditures that are made 10 days before an election to not be reported until the day following the election, where an expenditure made within nine days of an election would have to be reported within 24 hours of the expenditure being made. If all independent expenditures must be disclosed within 24 hours, this sentence is no longer necessary for the purposes for which it was originally included, is redundant, and should be removed from the bill.

If you have any questions, please do not hesitate to contact me.

TLAB:plm
10-124.plm

Enclosure

26-LS1495\E.1
Bullard
3/3/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: CSHB 409(STA), Draft Version "E"

Page 4, following line 9:

Insert a new bill section to read:

"* **Sec. 7.** AS 15.13.067 is amended to read:

Sec. 15.13.067. Who may make expenditures. Only the following may make an expenditure **that is not an independent expenditure** in an election for candidates for elective office:

(1) the candidate;

(2) an individual;

(3) a group that has registered under AS 15.13.050; and

(4) a nongroup entity that has registered under AS 15.13.050."

Renumber the following bill sections accordingly.

Page 4, line 29, through page 5, line 6:

Delete all material.

Renumber the following bill sections accordingly.

Page 7, line 13:

Delete "AS 15.13.067 and 15.13.140(a) are"

Insert "AS 15.13.140(a) is"

LEGAL SERVICES

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

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

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

MEMORANDUM March 5, 2010

SUBJECT: Expenditures, independent expenditures, and the effect of amendment 26-LS1495\E.1 to CSHB 409(STA)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

This memorandum accompanies the amendment described above.

If the purpose of the draft House Committee Substitute is to conform Alaska statutes with the decision of the United States Supreme Court in Citizens United v. Federal Election Commission, No. 08-205, 558 U.S. ___ (January 21, 2010) (a case about independent election campaign expenditures made by corporations),[1] this amendment would make explicit that the only expenditures that CSHB 409(STA) permits, beyond those that are currently allowed, are the independent expenditures that the Court held could not be prohibited under the First Amendment.

The United States Supreme Court's Citizens United decision spoke in terms of permissive "independent expenditures" in the course of an election campaign. Since the legal distinction between an "expenditure" on behalf of a candidate made by a corporation or labor union and a "contribution" from that corporation or labor union to the candidate is not entirely clear,[2] it seems best to follow the court's lead and to make explicit in the bill

---

[1] Because one of the statutes involved in this case and considered by the Court concerned labor unions, it also, arguably, is a case about independent election campaign expenditures made by labor unions, though that is not made explicit in the U. S. Supreme Court opinion.

[2] See definitions for "contribution" and "expenditure" at AS 15.13.400:

> (4) "contribution"
>
> (A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a

that the only expenditures that may be made under AS 15.13 by a person that is not a candidate, individual, group, or nongroup entity, are independent expenditures.

---

ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party; . . .

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

As a drafting mater, bill section 7, to be added as part of amendment E.1, proposes to modify existing AS 15.13.067 to clarify that the only persons permitted to make an expenditure that is not an independent expenditure in a state election are those persons who are currently permitted to do so under state law. Because, as a drafting choice, I have opted to retain (and modify) AS 15.13.067, the last entry in amendment E.1 deletes "AS 15.13.067" from the list of sections proposed to be repealed. And, because AS 15.13.067 is to be retained (and modified), I saw no need to repeal the reference to that section that appears in bill section 9; since the remainder of the amendment proposed in bill section 9 constitutes technical changes, the second entry in amendment E.1 eliminates bill section 9 in its entirety.

If you have any questions, please do not hesitate to contact me.

TLAB:plm
10-125.plm

Enclosure

26-LS1495\E.2
Bullard
3/8/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE LYNN

TO: CSHB 409(STA), Draft Version "E"

Page 4, following line 9:

Insert a new bill section to read:

"* **Sec. 7.** AS 15.13 is amended by adding a new section to read:

Sec. 15.13.068. Expenditures and contributions by foreign nationals. (a) A foreign national may not, directly or indirectly, in connection with an election under this chapter, make a contribution or expenditure or make an express or implied promise to make a contribution or expenditure.

(b) In this section, "foreign national" includes

(1) a foreign government, every political subdivision of a foreign government, every official, agent, or representative of a foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of a foreign government;

(2) a person outside of the United States, unless it is established that the person is an individual and a citizen of and domiciled in the United States, or that the person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business in the United States;

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; or

(4) a domestic subsidiary of an entity described in (1) - (3) of this subsection or a domestic corporation controlled by an entity described in (1) - (3) of this subsection, if that entity finances, participates in, or selects a person who

participates in the making of a contribution or an expenditure of the domestic subsidiary or domestic corporation.

(c) The provisions of this section apply only to the extent permitted by federal law."

Renumber the following bill sections accordingly.

LEGAL SERVICES

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

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

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

MEMORANDUM March 8, 2010

SUBJECT: Prohibiting foreign nationals from making contributions or expenditures in connection with a state election
(Work Order No. 26-LS1495\E.2, amendment to CSHB 409(STA))

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

You requested a legal opinion as to whether, under federal law, the state could regulate contributions and expenditures by foreign nationals made in connection with a state election, and if it were permissible under federal law, an amendment prohibiting all contributions and expenditures by foreign nationals.

A foreign national is not permitted under federal law to directly or indirectly, make a contribution or expenditure in connection with a federal, state, or local election. 2 U.S.C. § 441e. The Federal Election Commission (FEC) has interpreted this prohibition broadly. See 11 C.F.R. 110.4(a)(3) (clarifying that a foreign national cannot participate, even indirectly, in election related decisions).

Federal Preemption

Because 2 U.S.C. 441e already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge.

The Supremacy Clause, Art. VI, cl. 2 of the Constitution of the United States, provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Alaska Supreme Court has noted that "[u]nder the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid." Allen v. State,

203 P.3d 1155, 1161, n. 12 (Alaska 2009), quoting State v. Dupier, 118 P.3d 1039, 1049 (Alaska 2005). The court recently summarized federal preemption law as follows:

> There is a presumption against federal preemption of state law, and preemption doctrine "enjoin[s] seeking out conflicts between state and federal regulation where none clearly exists." Additionally, "[w]here co-ordinate state and federal efforts exist within a complementary administrative framework, and in the pursuit of common purposes," . . . "the case for federal pre-emption becomes a less persuasive one." But where state law comes into conflict with federal law, the Supremacy Clause of the United States Constitution dictates that state law must always yield.
>
> There are three major types of federal preemption of state law: "express," "field," and "conflict" preemption. Express preemption occurs when Congress explicitly declares an intent to preempt state law in a particular area. . . .
>
> Field preemption is the term used when the federal law governing a particular area is so comprehensive and so complete that Congress is said to have completely occupied a field, leaving no room for state law. We "will not infer an intent to occupy the field where Congress has left some room for state involvement." . . .
>
> Conflict preemption occurs when a state law and a federal law are in conflict, either because compliance with both state and federal law is impossible or because the state law "stands as an obstacle to accomplishment and execution of the full purposes and objectives of Congress." . . .

Allen v. State, 203 P.3d 1155, 1160 - 1161 (Alaska 2009) (citations and footnotes omitted).

The state clearly does not have authority to regulate contributions and expenditures in campaigns for federal office; that has been expressly preempted by federal law. 2 U.S.C. 453 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office."); 11 C.F.R. 108.7(b)(3) (federal law "supersedes state law concerning the . . . [l]imitation on contributions and expenditures regarding Federal candidates and political committees.")

Whether the state may regulate contributions and expenditures in campaigns for state office is less clear. I am not aware of any federal statute or regulation which expressly preempts state regulation of foreign contributions and expenditures in campaigns for state office. However, field preemption may come into play here. To the extent a court found that the federal law governing contributions and expenditures by foreign nationals is so

comprehensive and complete as to "occupy the field", it could invalidate state law attempting to cover the same ground. To the extent that the state and federal laws conflict, conflict preemption is also a possibility.

Drafting Approach

The accompanying amendment, in a manner consistent with federal law,[1] prohibits foreign nationals from making contributions and expenditures in state elections. The amendment is drafted to avoid the issue of whether federal law could be interpreted to preempt all state laws relating to campaign contributions and expenditures by foreign nationals, by providing that the state's prohibition applies "only to the extent permitted by federal law."

I hope that the amendment is consistent with your intent. I will look forward to your further direction in this matter.

TLAB:med:ljw
10-033.med

Enclosure

[1] See 2 U.S.C 441e, 22 U.S.C. 611(b), and 11 C.F.R. 110.4.

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 409(STA), Draft Version "E"

Page 5, line 22, following "**the**":

Insert "**name and city and state of residence or principal place of business, as applicable, of each of the**"

Page 5, line 24:

Delete "**, with the words "top five contributors."**[.]"

Insert "."

Page 6, following line 9:

Insert a new subsection to read:

"(d) To satisfy the requirements of (a)(2)(C) of this section and, if applicable, (a)(2)(D) of this section, the following statement or statements must be read, in a manner that is easily heard, or placed in the communication so as to be easily discernable, or, in a communication that is transmitted by a method that includes both audio and video components, be read in a manner that is easily heard and placed in the communication so as to be easily discernable:

This communication was paid for by (person's name and city and state of principal place of business).

The top contributors of (person's name) are (the name and city and state of residence or principal place of business, as applicable, of the largest contributors to the person under AS 15.13.090(a)(2)(D))."

26-LS1495\E.5
Wayne/Bullard
3/8/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

TO: CSHB 409(STA), Draft Version "E"

Page 6, line 4:

Delete "a new subsection"

Insert "new subsections"

Page 6, following line 9:

Insert a new subsection to read:

"(d) If a foreign government holds more than a 10 percent ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as a partial owner of the person. If a foreign government holds more than 50 percent of the ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as the majority owner and controlling interest holder of the person. A foreign government identified in a communication under this subsection must be identified by the foreign government's common or usual name. In this subsection, "foreign government" includes every political subdivision of the foreign government, every official, agent, or representative of the foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of the foreign government."

26-LS1495\E.6
Wayne/Bullard
3/8/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

TO: CSHB 409(STA), Draft Version "E"

Page 3, line 27, following "**contributor**":

Insert "**;**

(6) for a person that is a for-profit entity, the address used by the person for federal income tax purposes, if different than the address provided under (1) of this subsection"

Page 5, line 21, following "**business**":

Insert "**if the person is a nonprofit entity, or the address used by the person for federal income tax purposes if the person is a for-profit entity**"

LEGAL SERVICES

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

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

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

MEMORANDUM March 8, 2010

SUBJECT: Questions relating to proposed amendments 26-LS1295\R.5 and R.6 to HB 409

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Alpheus Bullard
Legislative Counsel

You asked that I review amendments 26-LS1495\R.5 and R.6, which were drafted to amend House Bill 409 (HB 409).

26-LS1495\R.5
This amendment amends sec. 11 of HB 409 by adding a new subsection to AS 15.13.090 that requires a corporation or other person in which a foreign government[1] holds a 10 percent ownership interest or more to identify the foreign government's ownership interest (in the person) in any communication under AS 15.13.090 paid for by that person. The amendment additionally requires that if a foreign government holds more than a 50 percent ownership interest in the person, the person must identify that a foreign government is "the majority owner and controlling interest holder of the person" in a communication under AS 15.13.090.

This amendment could be interpreted to raise constitutional and legal issues. The regulation of foreign governments' involvement in state elections may be preempted by federal law. Requiring identification of a foreign government's ownership interest of 10 percent of more in a person paying for a communication under AS 15.13.090 may also raise constitutional issues of equal protection and First Amendment associational rights.

1. Preemption. The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating, or spending funds in connection with any federal,

[1] The amendment defined "foreign government" to include every political subdivision of the foreign government, every official, agent, or representative of the foreign government, and every, agency, corporation, or instrumentality of the foreign government or of a political subdivision of the foreign government.

state, or local election in the United States, either directly or indirectly.[2] Because 2 U.S.C. 441e already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge.

The Supremacy Clause, Art. VI, cl. 2 of the Constitution of the United States, provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Alaska Supreme Court has noted that "[u]nder the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid." Allen v. State, 203 P.3d 1155, 1161, n. 12 (Alaska 2009), quoting State v. Dupier, 118 P.3d 1039, 1049 (Alaska 2005). The court recently summarized federal preemption law as follows:

> There is a presumption against federal preemption of state law, and preemption doctrine "enjoin[s] seeking out conflicts between state and federal regulation where none clearly exists." Additionally, "[w]here co-ordinate state and federal efforts exist within a complementary administrative framework, and in the pursuit of common purposes," . . . "the case for federal pre-emption becomes a less persuasive one." But where state law comes into conflict with federal law, the Supremacy Clause of the United States Constitution dictates that state law must always yield.
>
> There are three major types of federal preemption of state law: "express," "field," and "conflict" preemption. Express preemption occurs when Congress explicitly declares an intent to preempt state law in a particular area. . . .
>
> Field preemption is the term used when the federal law governing a particular area is so comprehensive and so complete that Congress is said to have completely occupied a field, leaving no room for state law. We "will not infer an intent to occupy the field where Congress has left some room for state involvement." . . .
>
> Conflict preemption occurs when a state law and a federal law are in conflict, either because compliance with both state and federal law is impossible or because the state law "stands as an obstacle to

[2] See 2 U.S.C. § 441e, 22 U.S.C. § 611(b), and 11 C.F.R. 110.4.

> accomplishment and execution of the full purposes and objectives of Congress." . . .

Allen v. State, 203 P.3d 1155, 1160 - 1161 (Alaska 2009) (citations and footnotes omitted).

The state clearly does not have authority to regulate contributions and expenditures in campaigns for federal office; that has been expressly preempted by federal law. 2 U.S.C. 453 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office."); 11 C.F.R. 108.7(b)(3) (federal law "supersedes state law concerning the . . . [l]imitation on contributions and expenditures regarding Federal candidates and political committees.").

Whether the state may regulate contributions and expenditures from foreign nationals in campaigns for state office is less clear. I am not aware of any federal statute or regulation which expressly preempts state regulation of foreign contributions and expenditures in campaigns for state office. However, field preemption may come into play here. To the extent a court found that the federal law governing contributions and expenditures by foreign nationals is so comprehensive and complete as to "occupy the field," it could invalidate state law attempting to cover the same ground. To the extent that the state and federal laws conflict, conflict preemption is also a possibility.

2. Equal protection. Because the amendment's additional identification requirements apply only to persons that have a 10 percent or greater foreign government ownership interest, and not to other persons, the amendment could prompt an equal protection challenge. Alaska evaluates equal protection claims using a sliding scale.[3] There are several steps involved. First, the court determines the importance of the interest impaired by the challenged statute. Then the court looks at the purposes served by the statute. Finally, the court looks at how well the statutory means fits the purpose. "The common question in addressing equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment."[4] In order for a classification to be valid under the state's equal protection test, it must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective. Wilson v. Municipality of Anchorage, 669 P.2d 569, 572 (Alaska 1983).

Because federal law prohibits foreign nations from making contributions or expenditures, directly or indirectly, in connection with a state election, it is not clear to me what state purpose the amendment serves. Consequently, I do not know how a court would evaluate the state's interest in requiring persons, of which a foreign government owns 10 percent

[3] Matanuska-Susitna Borough School v. State, 931 P.2d 391, 396 (Alaska 1997).

[4] Anderson v. State, 78 P.3d 710, 718 (Alaska 2003).

or more or, of which a foreign government owns 50 percent or more, to identify the foreign government's ownership interest in any communication made by the person under AS 15.13.090.

3. Freedom of speech and association. The amendment requires a person, in which a foreign government owns a 10 percent or greater interest to identify the foreign government's ownership interest (in the person) in any communication under AS 15.13.090 funded by that person. In deciding whether a state election law violates a person's rights under the Federal Constitution's First and Fourteenth Amendments and the state constitution's art I, secs. 5 and 6, a court will (1) weigh the character and magnitude of the burden that the state's rule imposes on the person's rights against the interests that are contended by the state to justify that burden, and (2) consider the extent to which the state's concerns make the burden necessary.

Election related laws and regulations that impose a severe burden on associational rights must be narrowly tailored and advance a compelling state interest. A statute or regulation that imposes a lesser burdens triggers less exacting review, and a state's important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions. However, no bright line separates permissible election-related regulation from unconstitutional infringements on First Amendment freedoms.[5]

In the recent Citizens United v. Federal Election Commission case, the court wrote:

> Disclaimer and disclosure requirements may burden the ability to speak, but they "impose no ceiling on campaign-related activities," *Buckley,* 424 U.S., at 64, 96 S. Ct. 612, 46 L. Ed. 2d 659, and "do not prevent

---

[5] In Timmons v. Twin Cities Area New Party, 520 U.S. 351 (1997), the Supreme Court established the relevant framework for a court to employ in resolving these competing interests:

> When deciding whether a state election law violates First and Fourteenth Amendment associational rights, we weigh the character and magnitude of the burden the State's rule imposes on those rights against the interests the State contends justify that burden, and consider the extent to which the State's concerns make the burden necessary. Regulations imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a State's important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions. No bright line separates permissible election-related regulation from unconstitutional infringements on First Amendment freedoms.

Id. at 358 - 359 (internal quotation marks and citations omitted).

> anyone from speaking," *McConnell, supra*, at 201, 124 S. Ct. 619, 157 L. Ed. 2d 491 (internal quotation marks and brackets omitted). The Court has subjected these requirements to "exacting scrutiny," which requires a "substantial relation" between the disclosure requirement and a "sufficiently important" governmental interest. *Buckley, supra,* at 64, 66, 96 S. Ct. 612, 46 L. Ed. 2d 659 (internal quotation marks omitted); see *McConnell, supra,* at 231-232, 124 S. Ct. 619, 157 L. Ed. 2d 491.

Citizens United v. Federal Election Commission, 558 U.S. ___ (2010), slip. op at 51; 175 L. Ed. 2d 753, 799; 130 S. Ct. 876, 914. At a minimum, the state would have to demonstrate an important regulatory interest in requiring persons that have a foreign government ownership interest of 10 percent or more to identify the foreign government's ownership interest.

26-LS1495\R.6
This amendment modifies secs. 4 and 10 of HB 409. a provision amending AS 15.13.040(e) (expenditure reports). It requires for-profit entities to disclose the address used by the entity for federal income tax purposes in an expenditure report, if that address was different from the address provided for the individual filing the report under the bill's sec. 15.13.040(e)(1). The amendment also requires a for-profit entity to identify the address used by the entity for federal-tax purposes (instead of the entity's principal place of business) in a communication made under AS 15.13.090(a).

It was my understanding that this amendment was requested in order that for-profit entities that take advantage of foreign jurisdictions for tax purposes be identified. However, under federal law,[6] a for-profit entity that is located outside the United States may not legally make direct or indirect contributions or expenditures in a federal, state, or local election.

TLAB:ljw
10-139.ljw

[6] See id.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 4

Re Draft CS for HB 409 Version R

March 2, 2010

Alpheus - As you know HB 409 Version R did not pass out of the HSTA Committee this morning but we did have a few amendments. Please draft a new STA CS for our next committee hearing.

Amendment#1 (Seaton)
26-LS1495\R.1

Conceptual Amendment #2 (Seaton)
26-LS1495\R.2 - Withdrawn

Amendment#3a (Seaton)
26-LS1495\R.3a
R.3 was divided into two amendments. R.3a lines 1-3 passed.

Amendment R.3b (Seaton)
26-LS1495\R.3b - Tabled

Amendment#4 (Seaton)
26-LS1495\R.7

26-LS1495\R.1
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 2, line 27:

Delete "**not less than 24 hours after the report is filed**"

Insert "**within 24 hours after the filing of the report**"

26-LS1495\R.3
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 6, line 12:

Delete "three days"

Insert "24 hours"

R.3a

Page 6, lines 12 - 16:

Delete "An expenditure report filed under this subsection must include any expenditure not yet reported that was made before the filing of the report. However, an expenditure that exceeds $250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made."

R.3b Tabled

26-LS1495\R.7
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 2, line 31, following "an":

Insert "**independent**"

Page 6, line 11, following "An":

Insert "independent"

Page 6, line 12, following "An":

Insert "independent"

Page 6, line 14, following "an":

Insert "independent"

1593

26-LS1495\R.5
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

TO: HB 409

Page 6, line 4:

Delete "a new subsection"

Insert "new subsections"

Page 6, following line 9:

Insert new subsections to read:

"(d) If a foreign government holds more than a 10 percent ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as a partial owner of the person. If a foreign government holds more than 50 percent of the ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as the majority owner and controlling interest holder of the person. A foreign government identified in a communication under this subsection must be identified by the foreign government's common or usual name.

(e) In this section, "foreign government" includes every political subdivision of the foreign government, every official, agent, or representative of the foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of the foreign government."

26-LS1495\R.6
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE PETERSEN

TO: HB 409

Page 3, line 27, following "**contributor**":

Insert "**;**

(6) for a person that is a for-profit entity, the address used by the person for federal income tax purposes, if different than the address provided under (1) of this subsection"

Page 5, line 21, following "**business**":

Insert "**if the person is a nonprofit entity, or the address used by the person for federal income tax purposes if the person is a for-profit entity**"

26-LS1495\R.1
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 2, line 27:

Delete "**not less than 24 hours after the report is filed**"

Insert "**within 24 hours after the filing of the report**"

26-LS1495\R.2
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 2, line 26, following "**public**":

Insert "**on the commission's Internet website**"

Page 2, line 27:

Delete "**not less than 24 hours**"

Insert "**within three days**"

1597

26-LS1495\R.3
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 6, line 12:

Delete "three days"

Insert "24 hours"

Page 6, lines 12 - 16:

Delete "An expenditure report filed under this subsection must include any expenditure not yet reported that was made before the filing of the report. However, an expenditure that exceeds $250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made."

26-LS1495\R.7
Bullard
3/1/10

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: HB 409

Page 2, line 31, following "an":
Insert "**independent**"

Page 6, line 11, following "An":
Insert "independent"

Page 6, line 12, following "An":
Insert "independent"

Page 6, line 14, following "an":
Insert "independent"

1599

HCR

8

L

Amendment to ECS HCR( ) "P" version
By Gruenberg

Page 3 line 11
After "sponsor" insert
"**joint prime sponsor or cosponsor"**
After "in" insert
"the"
Page 3 line 12
After "introduced." Insert
A member may move to withdraw the member's name as cross-co-sponsor of a measure when it is in the possession of the second house.

26-LS0366\P
Cook
1/28/10

CS FOR HOUSE CONCURRENT RESOLUTION NO. 8( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE GRUENBERG

A RESOLUTION

Proposing amendments to the Uniform Rules of the Alaska State Legislature relating to withdrawing measures, to sponsors of measures, to prefiling measures, and to three readings of bills.

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

*** Section 1.** Rule 27(b), Uniform Rules of the Alaska State Legislature, is amended to read:

(b) After a bill or resolution has been introduced, or a motion for the adoption of an amendment has been made, and is read by the clerk or secretary or stated by the presiding officer, it is deemed to be in possession of the house. **A measure in possession of the house of origin** [IT] may be withdrawn at any time **before it is first transmitted to the second house** [BY THE MEMBER INTRODUCING OR REPORTING IT] if consent is given by a majority vote of the full membership [OF THE HOUSE]. **Only the prime sponsor of the measure, a joint prime sponsor of the measure with agreement of all other joint prime sponsors, or the chair of the committee that introduced the measure may move to withdraw it.**

*** Sec. 2.** Rule 36, Uniform Rules of the Alaska State Legislature, is amended to read:

Rule 36. Prefiling of Measures [BILLS]. (a) **Drafts of** [BILLS OR] proposals for bills **or resolutions** may be **requested from** [PREFILED WITH THE EXECUTIVE DIRECTOR OF] the Legislative Affairs Agency at any time before January 1. All requests are confidential [AND ARE LIMITED TO BILLS AND THOSE JOINT RESOLUTIONS PROPOSING AMENDMENTS TO THE STATE OR FEDERAL CONSTITUTIONS]. **Each measure** [BILLS] given final approval by the **prime** sponsor **or all joint prime sponsors** will be assigned a number and duplicated **before or** during the week **before** [PRIOR TO] the convening date of the session and made available to the press and public. A member **or member elect** may request **as sole prime sponsor** no more than 10 **measures** [BILLS] for prefiling **and as joint prime sponsor up to an additional 20 measures for prefiling**. **A draft** [DRAFTS] of **a measure** [PREFILED BILLS] not receiving sponsor approval prior to the **agency deadline for numbering and printing the prefiled measures** [CONVENING DAY OF THE SESSION] will not be introduced as **a** prefiled **measure** [BILLS], but, at the direction of the **prime** sponsor **or of all joint prime sponsors**, will be prepared in final form by the agency staff, subject to the demands of assigned interim and pre-session work.

(b) Prefiled **measures** [BILLS] are submitted to each house for formal introduction and first reading at the commencement of the first regular session on the day when the house is organized to the point where it has committees to receive **measures** [BILLS], or on the first day of the second regular session. Prefiled **measures** [BILLS] are read and referred to committee in advance of other **measures** [BILLS].

*** Sec. 3.** Rule 37(a), Uniform Rules of the Alaska State Legislature, is amended to read:

(a) Any member, group of members, standing, special, or joint committee may introduce a **measure** [BILL], subject to the provisions of these Uniform Rules. **Measures introduced by members must have at least one prime sponsor or more than one joint prime sponsor, and may have cosponsors. After introduction, when the measure is in the possession of the house of origin and with approval of the prime sponsor or of all joint prime sponsors, additional members may be added as joint prime sponsors or as cosponsors. When the measure is in the**

possession of the second house, a member of that house may be added as cross cosponsor with the approval of the prime sponsor or of all joint prime sponsors. A **measure** [BILL] must be introduced, in proper form as approved by the enrolling secretary of the legislature, with the original and three copies delivered to the chief clerk or secretary. The **measure** [BILL] is then assigned a number, which it retains through subsequent changes and substitutions. The **measure** [BILL] is considered formally introduced when the clerk or secretary reads the heading and title aloud in open session (first reading). **Measures** [BILLS] may be introduced through the Rules Committees by the governor and the permanent interim committees pursuant to provisions of law. **A member may move to withdraw the member's name as sponsor of a measure when it is in possession of the house in which it was introduced.**

*** Sec. 4.** Rule 39(b), Uniform Rules of the Alaska State Legislature, is amended to read:

(b) First Reading. The first reading consists of a reading aloud by the clerk or secretary of the following information: [THE] house of origin, **heading and** [THE] bill number, **sponsorship** [THE SPONSOR], and [THE] title of the bill, e.g., "In the House, House Bill No. ..., by ..... and ...., A bill for an Act entitled, 'An Act relating to a code of ethics for state employees.'" **Notwithstanding the foregoing, the presiding officer may direct the clerk or secretary to dispense with the reading of the full title, in which case only the first phrase of the title shall be read or so much of it as is required by the presiding officer.** The bill is then referred by the presiding officer to one or more **standing or special** committees. The house may, by a majority vote of the full membership of the house, refer the bill to any other standing or special committee.

*** Sec. 5.** Rule 39(d), Uniform Rules of the Alaska State Legislature, is amended to read:

(d) Third Reading. On its third reading the bill is read by heading and title only. **The presiding officer may direct the clerk or secretary to dispense with the reading of the full title, in which case only the first phrase of the title shall be read or so much of it as is required by the presiding officer.** The question on third reading of a bill is upon its final passage and no amendments may be considered. No bill may become law without an affirmative vote of the majority of the membership of

each house. The yeas and nays on final passage, noting the name and vote of each member, shall be entered in the journal. The bill is then engrossed or enrolled, as appropriate, at the direction of the clerk or secretary.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

Sponsor Statement for HCR 8
HCR 8: Uniform Rules: Measure Sponsor/ Readings

"Proposing amendments to the Uniform Rules of Alaska State Legislature relating to withdrawing measures, to sponsors of measures, to prefiling measures, and to the three readings of bills."

This resolution updates the Uniform Rules of the Alaska State Legislature. It is important to update these rules to improve the functioning of the legislative body. It is the intent of this legislation to spark a conversation about how the legislature can operate more smoothly, efficiently, and fairly. This legislation touches upon a number of issues that are important to consider when updating the rules. These issues include the prefiling and joint prime sponsorship of measures, when a measure may be withdrawn and the reading of the full titles of measures on the floor. Thank you for considering this legislation and the future operation of the legislature. Please give us your thoughts, comments, and criticisms as this legislation is merely a vehicle for us all to help improve the rules. It is important that we have the best functioning legislature in the country.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

EXPLANATION OF CHANGES

Changes between HCR 8 and CS HCR 8:

- Drafting correction to last two sentences of Section 2; prefiled bills and prefiled resolutions are combined and referred to as "prefiled measures," rather than in separate sentences. (see page 2, lines 21-23 of HCR 8 and page 2, lines 19-21 of CS HCR 8)
- Drafting correction to again refer to "bills and resolutions" as "measures." (see page 3, line 8 of HCR 8 and page 3, line 6 of CS HCR 8)

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Transportation
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

Sectional Analysis for HCR 8
By: Representative Max F. Gruenberg, Jr.

A Resolution "Proposing amendments to the Uniform Rules of Alaska State Legislature relating to withdrawing measures, to sponsors of measures, to prefiling measures, and to the three readings of bills."

The measure deals with a number of amendments to the Uniform Rules of the Alaska State Legislature.

Section 1 concerns the withdrawing of measures and amends Rule 27 (b). It amends the rule to allow the withdrawal of a measure before it is transmitted to the second house. It also amends the rule to detail who may move to withdraw a measure.

Section 2 deals with the prefiling of measures and amends Rule 36. It amends the number of measures that a member or member-elect may prefile as either the sole prime sponsor or joint prime sponsor. According to the current rule a member may only be the prime or joint prime sponsor on a total of ten prefiled bills. Under the new rule a member may be the sole prime sponsor of ten prefiled measures, plus the joint prime sponsor of an additional 20 measures.

Section 3 relates to the sponsorship of measures and amends Rule 37 (a) and permits joint prime sponsorship of measures regardless of whether they are prefiled or introduced later. It allows for the cross-sponsorship of legislation. It amends the rule to allow a member to remove his or her name from the measure as long as it is in the possession of the house in which it was introduced.

Section 4 & Section 5 concern the first and third readings of a measure and amend Rule 39 (b) & (d). They allow the presiding officer to direct the clerk to dispense with the reading of the entire title of the measure and only read a portion of it on first and third reading.

AMENDMENT

OFFERED IN THE HOUSE

TO: HCR 8

Page 2, line 7:

Delete "**or all joint prime sponsors**"

Insert "**a joint prime sponsor**"

Page 2, lines 15 - 16:

Delete "**all joint prime sponsors**"

Insert "**a joint prime sponsor**"

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts
Law

Alaska State Legislature

House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

EXPLANATION OF CHANGES

Changes between HCR 8 and CS HCR 8:

- Title is shortened to reflect the removal of Sections 4 and 5 of HCR 8
- Drafting correction to last two sentences of Section 2; prefiled bills and prefiled resolutions are combined and referred to as "prefiled measures," rather than in separate sentences. (see page 2, lines 21-23 of HCR 8 and page 2, lines 19-21 of CS HCR 8)
- Drafting correction to again refer to "bills and resolutions" as "measures." (see page 3, line 8 of HCR 8 and page 3, line 6 of CS HCR 8)
- Sections 4 and 5 of HCR 8 were removed in their entirety in CS HCR 8.

26-LS0366\S
Cook
4/6/09

CS FOR HOUSE CONCURRENT RESOLUTION NO. 8( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE GRUENBERG

A RESOLUTION

Proposing amendments to the Uniform Rules of the Alaska State Legislature relating to withdrawing measures, to sponsors of measures, and to prefiling measures.

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

*** Section 1.** Rule 27(b), Uniform Rules of the Alaska State Legislature, is amended to read:

(b) After a bill or resolution has been introduced, or a motion for the adoption of an amendment has been made, and is read by the clerk or secretary or stated by the presiding officer, it is deemed to be in possession of the house. **A measure in possession of the house of origin** [IT] may be withdrawn at any time **before it is first transmitted to the second house** [BY THE MEMBER INTRODUCING OR REPORTING IT] if consent is given by a majority vote of the full membership [OF THE HOUSE]. **Only the prime sponsor of the measure, a joint prime sponsor of the measure with agreement of all other joint prime sponsors, or the chair of the committee that introduced the measure may move to withdraw it.**

*** Sec. 2.** Rule 36, Uniform Rules of the Alaska State Legislature, is amended to read:

Rule 36. Prefiling of Measures [BILLS]. (a) **Drafts of** [BILLS OR] proposals for bills **or resolutions** may be **requested from** [PREFILED WITH THE

EXECUTIVE DIRECTOR OF] the Legislative Affairs Agency at any time before January 1. All requests are confidential [AND ARE LIMITED TO BILLS AND THOSE JOINT RESOLUTIONS PROPOSING AMENDMENTS TO THE STATE OR FEDERAL CONSTITUTIONS]. **Each measure** [BILLS] given final approval by the **prime** sponsor **or all joint prime sponsors** will be assigned a number and duplicated **before or** during the week **before** [PRIOR TO] the convening date of the session and made available to the press and public. A member **or member elect** may request **as sole prime sponsor** no more than 10 **measures** [BILLS] for prefiling **and as joint prime sponsor up to an additional 20 measures for prefiling**. **A draft** [DRAFTS] of **a measure** [PREFILED BILLS] not receiving sponsor approval prior to the **agency deadline for numbering and printing the prefiled measures** [CONVENING DAY OF THE SESSION] will not be introduced as **a** prefiled **measure** [BILLS], but, at the direction of the **prime** sponsor **or of all joint prime sponsors**, will be prepared in final form by the agency staff, subject to the demands of assigned interim and pre-session work.

(b) Prefiled **measures** [BILLS] are submitted to each house for formal introduction and first reading at the commencement of the first regular session on the day when the house is organized to the point where it has committees to receive **measures** [BILLS], or on the first day of the second regular session. Prefiled **measures** [BILLS] are read and referred to committee in advance of other **measures** [BILLS].

*** Sec. 3.** Rule 37(a), Uniform Rules of the Alaska State Legislature, is amended to read:

(a) Any member, group of members, standing, special, or joint committee may introduce a **measure** [BILL], subject to the provisions of these Uniform Rules. **Measures introduced by members must have at least one prime sponsor or more than one joint prime sponsor, and may have cosponsors. After introduction, when the measure is in the possession of the house of origin and with approval of the prime sponsor or of all joint prime sponsors, additional members may be added as joint prime sponsors or as cosponsors. When the measure is in the possession of the second house, a member of that house may be added as cross cosponsor with the approval of the prime sponsor or of all joint prime sponsors.**

A **measure** [BILL] must be introduced, in proper form as approved by the enrolling secretary of the legislature, with the original and three copies delivered to the chief clerk or secretary. The **measure** [BILL] is then assigned a number, which it retains through subsequent changes and substitutions. The **measure** [BILL] is considered formally introduced when the clerk or secretary reads the heading and title aloud in open session (first reading). **Measures** [BILLS] may be introduced through the Rules Committees by the governor and the permanent interim committees pursuant to provisions of law. **A member may move to withdraw the member's name as sponsor of a measure when it is in possession of the house in which it was introduced.**

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts

Alaska State Legislature
House of Representatives

Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

SPONSOR STATEMENT & SECTIONAL ANALYSIS
HCR 8: UNIFORM RULES: MEASURE SPONSORS/READINGS

"Proposing amendments to the Uniform Rules of the Alaska State Legislature relating to withdrawing measures, to sponsors of measures, to prefiling measures, and to the three readings of bills.

HCR 8 proposes a number of technical changes to the Uniform Rules regarding withdrawing of measures, sponsorship of measures and prefiling of measures.

Sec. 1. Amends Rule 27(b); measures may be withdrawn while in the possession of the house of origin and prior to being transmitted to the second house. Only the prime sponsor, all joint prime sponsors in agreement, or the chair of the committee that introduced the measure may move to withdraw the measure. The existing rule does not address the issue of who may properly attempt to withdraw a measure introduced by more than one sponsor or by a committee

Sec. 2. Amends Rule 36; allows prefiling of all measures, the existing rule allows only prefiling of bills and resolutions proposing amendments to the constitution. All joint prime sponsors must approve a final. Section 2 also increases the number of measures a sponsor may prefile; sponsors may prefile 10 measures as sole prime sponsor and up to an additional 20 measures as joint prime sponsor.

Sec. 3. Amends Rule 37(a); joint prime sponsorship is permitted for any measure introduced by members, not just prefiled legislation. When the measure is in possession of the house of origin, joint prime sponsors may be added after a measure has been introduced, along with cosponsors. When the measure is in possession of the second house, a member of that house may be added as a cross cosponsor. The governor is specifically permitted to introduce all measures, nor just bills, through the Rules Committees.

Secs. 4 and 5. Amends Rule 39(b),(d); permits the presiding office to direct the clerk or secretary to dispense with the first and third reading of the full title of a bill; these sections have been removed in the CS before the committee.

Please contact Allison Laffen at 465-2840 with any questions.

Member

Standing Committees:
Judiciary
State Affairs
Transportation

Finance Subcommittees:
Administration
Courts
Law

Alaska State Legislature

House of Representatives



Representative Max F. Gruenberg, Jr.
House District 20
Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader

Interim:
716 W 4th Avenue, Rm 350
Anchorage, Alaska 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124

Session:
Alaska State Capitol, Rm 110
Juneau, Alaska 99801-1182
Phone: (907) 465-4940
Toll Free: (866) 465-4940
Fax: (907) 465-3766

Email:
Rep.Max.Gruenberg@legis.state.ak.us

TO: Representative Bob Lynn

FROM: Representative Max F. Gruenberg, Jr.

DATE: April 6, 2009

RE: HCR 8: UNIFORM RULES: MEASURE SPONSORS/READINGS

****

Please consider this memorandum as a request for the House State Affairs Committee to schedule a hearing on HCR 8. Accompanying this memo are the following documents:

- HCR 8 – 26-LS0366\E
- Sponsor Statement & Sectional Analysis

Thank you for considering my request for a hearing on HCR 8.

HCR

11

HOUSE COMMITTEE REPC__T

(7)
Date Referred to Committee: March 9, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 3-17-09

The STATE AFFAIRS Committee considered: **HOUSE CONCURRENT RESOLUTION NO. 11**

Proclaiming the month of April 2009 to be Sexual Assault Awareness Month.

HCR 11 SEXUAL ASSAULT AWARENESS MONTH

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Paul K Seaton	Gatto	✓			
Mark Gruenberg	SEATON	X			
Peggy Wilson	Gruenberg	—			
Pete Peterson	WILSON	N			
	PETERSEN	X			
Chair:	LYNN	X			
Chair:					

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Concurrent Resolution 11

Proclaiming the month of April 2009 to be Sexual Assault Awareness Month

House Concurrent Resolution 11 intends to encourage all Alaskans to speak out against sexual assault and let others know that it will not be tolerated.

In addition to trying to spread the message and reach out to Alaskans who've suffered to speak up and discourage the continuance of this crime, we also want to recognize the efforts of groups and people around the state who have committed their time, effort and lives to making sure victims have someone to talk to, a place to go and other services and avenues to help.

Currently, estimates from nonprofit groups and the government show that Alaska has 2.5 times the national average of reported sexual assault cases, the highest per capita occurrence in the entire nation.

I urge your support on this important piece of Legislation.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Concurrent Resolution 11

Proclaiming the month of April 2009 to be Sexual Assault Awareness Month

House Concurrent Resolution 11 intends to encourage all Alaskans to speak out against sexual assault and let others know that it will not be tolerated.

In addition to trying to spread the message and reach out to Alaskans who've suffered to speak up and discourage the continuance of this crime, we also want to recognize the efforts of groups and people around the state who have committed their time, effort and lives to making sure victims have someone to talk to, a place to go and other services and avenues to help.

Currently, estimates from nonprofit groups and the government show that Alaska has 2.5 times the national average of reported sexual assault cases, the highest per capita occurrence in the entire nation.

I urge your support on this important piece of Legislation.

They gave an updated
SS on 3-13-09

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

Alaska State Legislature

Representative Anna Fairclough – House District 17

MEMORANDUM

Date: March 12th, 2009

To: Representative Lynn
Chair

From: Representative Anna Fairclough

Re: HCR 11 "Proclaiming the month of April 2009 to be Sexual Assault Awareness Month."

I am requesting a hearing for HCR 11 "Proclaiming the month of April 2009 to be Sexual Assault Awareness Month." I have attached relevant materials and back-up for your committee.

Thank you in advance for your consideration.

Attachments:
I. Sponsor Statement
II. HCR 11
III. Backup Documentation (Forthcoming)

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

HCR

20

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 17, 2010 **FURTHER REFERRALS:**

Date of Committee Action: 3-9-10

The STATE AFFAIRS Committee considered: **HOUSE CONCURRENT RESOLUTION NO. 20**

Proclaiming the month of April 2010 to be Sexual Assault Awareness Month.
HCR 20-SEXUAL ASSAULT AWARENESS MONTH

Recommends it be replaced with [ ] HCS *or* [ ] CS *for* _____ (_____)
For Senate Bills with new title: [ ] Technical Title / [ ] New Title: HCR_____ **[ ] Same Title [ ] New Title**

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
LEGIS (Should be HSTA)	1			X

PREVIOUS FISCAL NOTES

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
[illegible]	Gatto	X			
Paul R. Seaton	Seaton	X			
[illegible]	Gruenberg	-			
Bill Peterson	Peterson	X			
Chair: [illegible]	LYNN	X			
Chair:					

Alaska State Legislature

Representative Anna Fairclough – House District 17

House Concurrent Resolution 20

Proclaiming the month of April 2010 to be Sexual Assault Awareness Month

House Concurrent Resolution 20 intends to encourage all Alaskans to speak out against sexual assault and let others know that it will not be tolerated.

In addition to trying to spread the message and reach out to Alaskans who've suffered to speak up and discourage the continuance of this crime, we also want to recognize the efforts of groups and people around the state who have committed their time, effort and lives to making sure victims have someone to talk to, a place to go and other services and avenues to help.

Currently, estimates from nonprofit groups and the government show that Alaska has 2.6 times the national average of reported sexual assault cases, the highest per capita occurrence in the entire nation.

I urge your support on this important piece of Legislation.

Session: Alaska State Capitol • Juneau, AK 99801 • 907-465-3777 • Fax 907-465-2819
Interim: 10928 Eagle River Road, Suite 238 • Eagle River, AK 99577 • 907-694-8944 • Fax 907-694-8945
Representative_Anna_Fairclough@legis.state.ak.us

- 1 out of every 6 American women have been the victims of an attempted or completed rape in their lifetime (14.8% completed rape; 2.8% attempted rape). *(National Institute of Justice & Centers for Disease Control & Prevention.* Prevalence, Incidence and Consequences of Violence Against Women Survey, *1998)*

- For nearly 30 years, Alaska has ranked among the top five states in the nation for forcible rape; in 2006 Alaska's rate was 76 per 100,000 – the next nearest state (Nevada) was 56 per 100,000 and the national average was 32.7. On average, Alaska has 2 ½ times the national average. *(FBI, Crime in the United States, 2006)*

- 9.2% of Alaska students in grades 9-12 report having been physically forced to have sexual intercourse when they did not want to; *(2007 Alaska Youth Risk Behavior Study)*

- In 2006, there were 509 forcible rapes reported in Alaska. The associated victim costs in 2006 totaled $49,691,634.

- Victims of sexual assault are:

    - 3 times more likely to suffer from depression
    - 6 times more likely to suffer for post-traumatic stress disorder
    - 13 times more likely to abuse alcohol
    - 26 times more likely to abuse drugs
    - 4 times more likely to contemplate suicide

  (World Health Organization, 2002)

HJR

2

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: January 20, 2009

FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 3-19-09

The STATE AFFAIRS Committee considered:

HOUSE JOINT RESOLUTION NO. 2

Proposing amendments to the Constitution of the State of Alaska to avoid the use of personal pronouns and similar references that denote masculine or feminine gender in that document.

HJR 2 CONST AM: GENDER-NEUTRAL REFERENCES

Recommends it be replaced with [ ] HCS *or* **[ ] CS** *for* _____ (_____)
*For Senate Bills with new title: [ ] Technical Title / [ ] New Title: HCR*_____ [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
Paul Seaton	Seaton	X			
	Gatto	X			
Mary Gruenberg	Gruenberg	-			
Peggy Wilson	WILSON	N			
Pete Peterson	Peterson	X			
Chair:					
Chair:					

1626

LEGAL SERVICES

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

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

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

MEMORANDUM February 19, 2009

SUBJECT: Combining proposed constitutional amendment HJR 2 (gender neutral pronouns) with HJR 13 (correcting obsolete references to secretary of state)

TO: Representative Max F. Gruenberg, Jr.

FROM: Tamara Brandt Cook
Director

You ask whether the legislature may combine HJR 2 with HJR 13 into a single proposition for constitutional amendments. The problem with this course of action is that the court has decided that each proposal for constitutional amendments must be confined to a single subject in Bess v. Ulmer, 985 P.2d 979 (Alaska 1999). While the court has upheld very broad subjects in cases construing the single-subject requirement that applies to bills changing statutes, there have been no other cases that shed light on the scope of a single subject for the purposes of proposed constitutional amendments. I think that there is a reasonably good chance that the court, if confronted with a constitutional amendment proposal consisting of the contents of both HJR 2 and HJR 13, would conclude that the proposal is encompassed in the single subject of technical, nonsubstantive amendments. Nonetheless, it is not certain that a court would agree for the reasons stated in a memorandum on this subject to you by Jack Chenoweth, Assistant Revisor, dated March 19, 2008, copy attached. Therefore, the safest course is for HJR 2 and HJR 13 to be offered to the people to consider as separate proposals.

TBC:med
09-010.med

Attachment

LEGAL SERVICES

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

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

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

COPY

MEMORANDUM March 19, 2008

SUBJECT: Consistent with the analytical principles set out in *Bess v. Ulmer*, may HJR 7 (proposing constitutional amendments substituting gender-neutral language for personal pronouns) and HJR 37 (proposing constitutional amendments to correct obsolete references to secretary of state) be combined?

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Assistant Revisor

As you and I have discussed, I am reluctant to endorse any proposal to combine the two joint resolutions identified in this memo's subject line into a committee substitute. I say this principally because of concerns arising out of the court's decision in *Bess v. Ulmer*, 985 P.2d 979 (Alaska 1999).

Under section 1 of article XIII, the legislature may initiate proposed constitutional amendments:

> **Amendments.** Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor.

By contrast, under section 4 of that article, constitutional revision is the prerogative of a constitutional convention:

> **Powers.** Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

The decision in *Bess* established that the legislature's power to propose a change in the text of the state constitution is limited to amendments that are "few, simple, independent,

and of comparatively small importance."[1] The legislature lacks authority, the court concluded, to propose changes to the document's "substance and integrity." Changes of that magnitude would have to be prepared and offered by a constitutional convention as revisions. The standard that the court fashioned relates that:

> . . . an enactment which is so extensive in its provisions as to change directly the "substantial entirety" of the constitution by the deletion or alteration of numerous existing provisions may well constitute a revision thereof [while] even a relatively simple enactment may accomplish such far reaching changes in the nature of our basic governmental plan as to amount to a revision also.
>
> The process of amendment, on the other hand, is proper for those changes which are "few, simple, independent, and of comparatively small importance." The core determination is always the same: whether the changes are so significant as to create a need to consider the constitution as an organic whole.

Bess, 985 P.2d at 987 (notes omitted).

The *Bess* standard spoke of evaluating an amendment's qualitative and quantitative effects.

HJR 7:

Quantitatively, the material in HJR 7 arguably fails at least part of the standard. The proposed changes are, admittedly, not clearly "few," nor, it may be contended, are they "independent." On the other hand, the material proposes changes that are "simple" -- the amendment is confined to a series of technical changes affecting singular masculine personal pronouns and a handful of gender-related terms. At least when compared to the much more significant questions of assigning powers among the branches of government, limiting the exercise of institutional authority, or providing protection of individual rights, cited as examples by the court in *Bess*, HJR 7 does not propose to make fundamental changes in the scheme or plan of operation of the state government. Indeed, in that context, the modifications proposed in HJR 7 are arguably of relative unimportance.

---

[1] The court prefaced its analysis by noting that, in its view, the framers' distinction between an amendment and a revision was intended to be substantive, and concluded that:

> a revision is a change which alters the substance and integrity of our Constitution in a manner measured both qualitatively and quantitatively.

Bess, 985 P.2d at 982.

Qualitatively, it is my observation that nothing in the resolution would "substantially alter the substance and integrity of the state Constitution as a document of independent force and effect." *Bess*, 985 P.2d at 987, quoting *Raven v. Deukmejian*, 801 P.2d 1077, 1087 (Cal. 1990) (note omitted). The material in the resolution is arguably wholly technical and not intended to make a substantive change in a matter of constitutional law.

On balance, I am satisfied that, if challenged, the court could conclude that the absence of qualitative change within the proposed amendments as set out and, despite the number of sections affected, the relatively insignificant incidental effect on the integrity of the document as a whole would allow the material in HJR 7 to be treated through the amendment process rather than as a revision.[2]

---

[2] When, in 1955-1956, the Alaska Constitution was deliberated, decades of territorial bill drafting practice reflected use of the masculine gender to reference to the feminine. See, for example, CLA 1913, § 2096 ("[t]hat words used in the masculine gender comprehend as well the feminine and the neuter"), CLA 1933, § 3274 (same), both part of the territorial compiled laws. The Constitutional Convention's Style and Drafting Committee prepared a "Drafting Suggestions" memo to guide its work; the document cited to Crawford, *Statutory Construction*, as a source, and that volume, at § 374, endorses the idea that "words importing the masculine gender may include the feminine and neuter." Indeed the Constitution itself relates (article XII, section 10) that "Personal pronouns used in this constitution shall be construed as including either sex," but the document makes no use of words imparting feminine gender. A later, 1981 edition of the *Merriam Webster Legal Secretaries Handbook* directs that:

> Notwithstanding recent concern about sexism in language, forms of the personal pronoun *he* and the indefinite pronoun *one* are still standard substitutes for antecedents whose genders are mixed or irrelevant:

Handbook, at page 247.

Times change. In 1981-1982, the Twelfth Legislature initiated a change to the state's bill drafting policy. The original form of the vehicle of change, SB 266, declared:

> POLICY. The constitution and laws of Alaska prohibit discrimination because of sex. In keeping with the spirit of those prohibitions the legislature now recognizes the inherent bias our laws occasioned by an official policy calling for the use of the masculine pronoun in the Alaska Statutes. The legislature finds that the interest of all Alaskans would be best served by eliminating all vestiges of sexual discrimination. The legislature declares a step in that endeavor by establishing in this Act the official policy of eliminating, whenever possible, the use of sexually explicit pronouns in the Alaska Statutes.

HJR 37:

My analysis of the resolution you introduced would proceed along the same lines. Suffice to say, a resolution that substitutes only references to "lieutenant governor" for the two obsolete references to "secretary of state" should easily meet the *Bess* criteria.

*

My doubts about the likelihood that a merger of these two measures would survive judicial scrutiny is based on two other elements of the *Bess* decision.

The court's preliminary opinion in the *Bess* matter looked at the qualitative standard from a different perspective, indicating that changes that are "few and simple and independent" are permissible amendments while "sweeping change" requires revision. In that preliminary opinion, the court identified four factors that suggest that a particular proposal is a valid amendment: it (1) "is simple to express and understand"; (2) "is complete within itself"; ***(3) "relates to only one subject";*** and (4) "does not substantially affect numerous other sections of the constitution. . . ." Preliminary Opinion and Order, at paragraphs 10 and 12 (emphasis added). The third of the four factors gives pause. It may be argued -- well argued, in my view -- that the reference puts the legislature on notice that the court is prepared to examine proposed constitutional amendments for compliance with a single subject requirement. A committee substitute joint resolution that combines arguably unrelated topics invites tougher scrutiny.

Any hesitation of that point should be resolved by the court's caution concerning joinder of marginally consistent subjects, as expressed within the *Bess* decision. Speaking of a proposed "amendment" to the California Constitution that ran to 228 subsections and more than 21,000 words, the court noted the California Supreme Court's rejection of the proposal as an "amendment":

> The proposal is offered as a single amendment but it obviously is multifarious. ***It does not give the people an opportunity to express approval or disapproval severally as to each major change suggested; rather does it, apparently, have the purpose of aggregating for the measure the favorable votes from electors of many suasions who, wanting strongly enough any one or more propositions offered, might grasp at that which they want, tacitly accepting the remainder.*** Minorities favoring each proposition severally might, thus aggregated,

---

While the bill's policy statement didn't survive the committee review process, the direction to the revisor of statutes to "edit and revise the laws enacted by the legislature, without changing the meaning of any law, so as to avoid the use of pronouns denoting masculine or feminine gender" has become part of the current statute law. AS 01.05.031(c).

> adopt all. Such an appeal might well be proper in voting on a revised constitution, proposed under the safeguards provided for such a procedure, but it goes beyond the legitimate scope of a single amendatory article. There is in the measure itself no attempt to enumerate the various and many articles and sections of our present Constitution which would be affected, altered, replaced or repealed.

Bess, 985 P.2d at 985, considering *McFadden v. Jordan*, 196 P.2d 787, 796 - 797 (Cal. 1948) (emphasis added). Neither of the changes you're contemplating by combining HJR 7 and HJR 37 is as lengthy or extensive as those alluded to by the Alaska court in its comments concerning *McFadden*. Still, our Supreme Court's reference does serve as a warning that it may consider as clearly distinct or separate the elements of the material presented within a modified House Joint Resolution proposing the amendment. Taken altogether, the court might be more disposed to view these separate elements as evidence of matter that should be treated as a revision for the public to consider through presentation by a constitutional convention rather than for the legislature to initiate.

The drafting manual relates that "[a] legal opinion [provided by this office] expresses a well-considered opinion that may or may not be agreed with by a court faced with the same issue at a later date." At this point, I feel that I am obligated to identify the considerations that may bear on the court's *Bess* analysis if the question of combining the two joint resolutions into one measure is offered. The *Bess* decision has so limited a later appellate history that I don't feel I can be any more definitive.

JBC:ljw
08-158.ljw

Alaska State Legislature

Interim:
600 E. Railroad Ave
Wasilla, AK 99654

Phone: (907) 376-3725
Fax: (907) 376-4768

Session:
Alaska State Capitol, Rm 108
Juneau, AK 99801-1182

Phone: (907) 465-3743
Fax: (907) 465-2381
Toll Free: (800) 565-3743
Rep_Carl_Gatto@legis.state.ak.us

Representative Carl Gatto

Chair House Military and Veteran Affairs Committee
District 13 - Palmer

SPONSOR STATEMENT
HJR 2

"Proposing amendments to the constitution of the State of Alaska to avoid the use of personal pronouns and similar references that denote masculine or feminine gender in that document."

HJR 2 removes all masculine or feminine terms from the Constitution of the State of Alaska. This resolution deletes the terms "his," "him," and "himself" and replaces them with terms as "oneself," "Governor," "Governor-elect," "Lieutenant Governor," "Legislator," "members," "executive," "justice or judge," "voter," "person's," "auditor," and "accused." Other changes that occur make the sentences grammatically correct.

Some of our oldest and youngest states in the union such as New York and Hawaii have amended their constitutions to reflect gender neutrality. The framers of our constitution went to great lengths in the construction of the Constitution to recognize gender equality and it is in that spirit and as a continuation of their leadership that we seek to modify our constitution in recognition of the progress in our society and culture.

This resolution is before us now because it is time for us to recognize a significant moment in Alaska history, a time when we elected our first female Governor. The administration fully supports this effort.

I ask for your support.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR2
() Publish Date:

Identifier (file name): HJR002-OOG-DOE-3-18-09
Dept. Affected: OOG
Title: Constitutional amendment relating to avoiding the use of personal pronouns and similar references....
RDU: Elections
Component: Elections
Sponsor: Representatives Gatto and Gruenberg
Requester: House State Affairs
Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual			1.5				
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF			1.5				
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is $1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to $22.0.

Prepared by: Gail Fenumiai, Director — Phone 465-4611
Division: Division of Elections — Date/Time 3/18/09, 2:29pm
Approved by: Linda Perez, Director — Date 3/18/2009
Division of Administrative Services

(Revised 9/10/2008 OMB)

WBASNY urges support of "gender-neutral" constitutional amendment on the November 6 ballot.

Archived Other Briefs

Posted by Administrator WBASNY on 05/05/2002

WBASNY URGES SUPPORT OF □GENDER-NEUTRAL□ CONSTITUTIONAL AMENDMENT ON THE NOVEMBER 6 BALLOT

On March 10, 2001, the WBASNY Board voted to support legislation to place on the ballot a referendum to amend the New York Constitution to make it gender-neutral. The bill was sponsored by Assemblywoman Sandra Galef (Democrat) and by State Senator Patricia McGee (Republican). It passed both houses of the Legislature for the second consecutive year, as required, by unanimous vote, and the referendum will be on the ballot on November 6, 2001. WBASNY strongly supports passage of this proposed amendment to the New York State Constitution. If the amendment passes, New York will become the seventh state with a gender-neutral Constitution. Eight other states are considering similar amendments, and two other states have gender-neutral sections in their Constitutions.

At the request of Assemblywoman Galef and Victoria Lutz, Executive Director of the Pace Women□s Justice Center, Westchester Women□s Bar Association President Kathy N. Rosenthal and the Co-Chairs of the WWBA Legislative Committee (Jeanne M. Frey, Susan W. Kaufman and Loriann Vita) met with Assemblywoman Galef, Ms. Lutz and others to discuss how to inform voters that the referendum is to be on the ballot and is worthy of strong support. Assemblywoman Galef is seeking the active support of WBASNY and its chapters in this effort.

The proposal would change the approximately 170 references to males in the New York State Constitution either to add a female reference (i.e., □his□ becomes □his or hers□) or to use gender-neutral language (e.g., □fireman□ becomes □firefighter□). If the changes are approved, references in the New York Constitution to offices currently held by women (such as that of Lieutenant Governor, held by Mary O. Donohue; that of Chief Justice, held by Judith Kaye; and state legislative offices, 46 of which are currently held by women) would henceforth be described in gender-neutral terms.

WBASNY believes that there is great symbolic benefit to be gained by passage of the referendum. By including female references in the State Constitution, we eliminate the exclusionary symbolism of the document. We pay tribute to the substantial contributions of women such as Susan B. Anthony to the history of New York State. The change in the State Constitution would reflect the presence of women in both government and public life today, a reality that is far removed from the times in which the Constitution was written.

The possible objections to passage of the referendum are easily dismissed. Some argue that the amendment alters an historic document, ignoring the fact that there have been over 57 amendments to our state Constitution since 1938. Opponents of the proposal also criticize it as a waste of effort and tax dollars, but this is simply wrong. The ballot proposal will cost nothing. Furthermore, each year 5000 copies of the State Constitution are printed, and there would be no extra cost in time or money to include the gender-neutral changes, which are already on a computer file. The argument that the amendment is unnecessary because women have de facto equality in New York is misguided in two respects. First, the referendum is not an equal rights amendment. The amendment would not alter the rights, duties, powers or privileges enumerated in the Constitution. Second, the visible under-representation of women in political life is one indication of the continued resistance in some quarters to women□s complete equality, and the proposed amendment will help to create an atmosphere of inclusion.

It is important that WBASNY join other non-partisan professional women□s organizations to take an active role in publicizing and promoting passage of the amendment. Accordingly, WBASNY urges all members not only to look for the referendum on the ballot on November 6 and to vote in its favor, but also to write to your local newspaper editors and in other ways to communicate the importance of this matter to all voters and to other professional and women's groups statewide.

Susan W. Kaufman
WWBA State Director to WBASNY

Archived Other Briefs

bluestep
Privacy Policy | Terms & Conditions
Copyright© 2007 BlueStep, Inc. All rights reserved.

Friday, April 13, 2007 Login Subscribe Search this site Search

VANGUARD ONLINE

Towards a better life for the people DAILY NEWS FROM NIGERIA



Home | About Us | Advertising | Contact

Headlines
Cover Stories
National News
Niger-Delta
East
South West
North
Politics
Business
Sports
Education
Health
Environment
Entertainment
Fashion
Technology
The Arts
Law
Labour
Tourism
Viewpoints

LAW & HUMAN RIGHTS

The 1999 constitution and the woman question (2)

By Joy Ngozi Ezeilo
Posted to the Web: Friday, March 10, 2006

We need to engender the language of the preamble and substitute the word 'we' with 'men' and 'women'. This will not only be gender specific but also accord with universal human rights norms that have unequivocally entrenched the principle of equality and non-Discrimination.

ADVERTISEMENT
Place your text link ads here and reach thousands of visitors daily.

Links

Naija Arsenal Fans. Click Here

Chapter II on Fundamental Objectives and Directive Principles of State Policy deals with this important aspects of the Constitution outlining the political, economic, social, educational, foreign policy, environmental objectives of the Nigerian Nation. It contains also obligation of the mass media, directive on Nigerian culture, National ethics and duties of the citizen. According to section 13: It shall be the duty and responsibility of all organs of government and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this Chapter of this constitution.

Section 14(1) states the fact that the Federal Republic of Nigeria shall be a state based on the principles of democracy and justice; and also recognize the fact that sovereignty belongs to the people, whereas section 14(3) entrenches what is now known as federal character.

A careful perusal of all the sections of this chapter reveals total gender blindness. Most of these provisions presented an ideal opportunity to be gender specific adopting men and women or genderless/gender neutral terms like "Everyone" "all persons" etc.

For example section 14(2) (b) which stipulates that "the security and welfare of the people shall be the primary purpose of government" should have used a gendered language that would read:

" the security and welfare of men and women shall be....

Further, the principle of federal character entrenched in the Nigerian Constitution is in effect an affirmative action provision and therefore ought to have extended its application based on gender. The most disappointing is the fact that the lofty ideals contained in this part are non-justiciable.

The Judicial Powers vested in accordance with the foregoing provisions of this Section (c) shall not, except as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter 11 of this Constitution".

The rights recognized under this Chapter of the constitution are basically socio-economic rights considered to be of paramount importance to women. Therefore, making these important provisions unenforceable has enormous implications for women's human rights.

The resource argument is the most advanced for making the ECOSOC rights non justiciable. I submit that these arguments no longer hold true. What it cost Nigeria to democratize (including all the aborted transitions) would have been enough to eradicate poverty in all its forms in Nigeria. Further, the indivisibility, interdependence and interrelatedness of these rights - Civil and Political and Economic, Social and Cultural rights have now crystallized.

For example, right to education falls within civil and political as well as socio-economic rights. What lack of education means for women is early marriage, harmful traditional practices, lack of self-determination all leading to socio-economic underdevelopment of women and girls. The trend in most recent constitutions is to recognize these ESC rights and make them justiciable.

Further, there is need to expand the content of substantive rights in Chapter II to include pre-natal and post natal medical care for women, right to work, right to social security amongst others.

Citizenship

The 1999 Constitution has failed to solve the problems associated with citizenship in a democratic Nigeria. The 1999 constitution recognizes only one class of nationals namely citizens of Nigeria of whom there are three categories: (i) Citizens by birth: The following persons are citizens of Nigeria by birth: Every person born in Nigeria before the date of Independence, either of whose parents or any of whose grandparents belongs or belonged to a community indigenous to Nigeria:

Every person born in Nigeria after the date of Independence either of whose parents or any of whose grandparents is a citizen of Nigeria; and Every person born outside Nigeria either of whose parents is a citizen of Nigeria.

As Professor Nwabueze noted, citizenship by birth is used in the constitution not in its generally accepted sense of citizenship derived from the circumstances of birth in a country (jus soli) but rather in a special sense of citizenship acquired automatically at birth. Birth in Nigeria by itself alone confers no citizenship; unlike in the United States and elsewhere where anybody born in the country is a citizen whether or not the parents are themselves citizens. Therefore, descent

from Nigeria parents carry greater importance than birth within a country.

A parent or grand-parent of a person is deemed to be a citizen of Nigeria if at the time of the birth of that person such parent or grandparent would have possessed that status by birth if he had been alive on October1, 1960. (ii) Citizenship by registration:

This second category of citizenship is provided for under section 26 and subject to the provisions of section 28. According to the provision a person may be registered as a citizen of Nigeria, if the President is satisfied that - he is a person of good characterhe has shown a clear intention of his desire to be domiciled in Nigeria and he has taken the oath of allegiance prescribed in the seventh schedule to this constitution.Importantly, it is stated in sub section (2) that the provisions of this section shall apply to - any woman who is or has been married to a citizen of Nigeria; or every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria. The provisions of section 26 (2)(a) clearly do not apply to husbands of female Nigerian citizens. This is blatant sex discrimination that cannot be justified in any democratic society like ours. It contradicts even the constitutional provision in section 42 which prohibits sex discrimination. This provision ought to be expunged from our constitution so that Nigerian men and women can confer full residency rights to their foreign spouses.

iii. The third category is citizenship by naturalization covered by Section 27 and made subject to section 28 on dual citizenship. This need not detain us except to say that the conditions precedents for grant of citizenship by naturalization are too stringent and need to be liberalized. The required compulsory period of residence need to be reduced from 15 years to 10 years. Additionally further reduction for a period not exceeding 5 years should be allowed for foreign spouses of female Nigerians. As naturalization is now the only option for them to becoming citizens of Nigeria

Furthermore, section 28 on dual citizenship should be amended so that persons who acquired Nigerian citizenship by birth should not be required to forfeit their original nationality. Since citizenship by naturalization is also conditional upon good behaviour and could be revoked by the President, it appears incongruous to ask the person on naturalization to forfeit its original citizenship.

The most obnoxious part of this constitution dealing with citizenship is Section 29 that made provisions concerning renunciation of citizenship. Section 29(4) stipulates that for purposes of denunciation full age" means the age of eighteen years and above"any woman who is married shall be deemed to be of full age. One wonders how this very obnoxious and discriminatory provision found its way into the new constitution. It is the first time such a provision appeared in a Nigerian Constitution.

It is highly retrogressive, incompatible with modern sociology and a legalization of child marriage with its attendant consequences. This provision should be expunged forthwith from the 1999 constitution.

Finally on citizenship, I would like to suggest that we should use gender specific words. Using prepositions 'he' or 'she' to ensure that

its provisions apply equally to all without distinctions on grounds of sex or gender.

Again the issue of indigeneity - an identified problem especially for women must be clarified in the constitution. Specific provisions should be entrenched outlining conditions and circumstances when a person not originally from a particular state should become or be regarded as an indigene of the place. This could be based on grounds of residence and/or marriage. Also state citizenship/indigeneity could be based on cite of labour of individual - place of work. We should also address the issue of federal centralism, which disempowers the citizens and exacerbates the indigeneity problem. The constitution needs to explicitly define state of origin and empower women disadvantaged by indigeneity policies to be an indigene of two states simultaneously. That is their state of origin at birth and their husband's state in cases where wife's state is different from that of the husband.

Fundamental Rights
This part of the constitution also called bill of rights contain classical provisions on civil and political rights the so-called first generation of rights only. Sections 33 -44 deals with substantive rights namely: -

Right to life - s. 33
Right of dignity of human person - s.34
Right to personal liberty - s.35
Right of fair hearing - s. 36
Right to private and family life - s. 37
Right to freedom of thought, conscience and religion - s. 38
Right to freedom of expression and the press - s. 39
Right to peaceful assembly and association - s. 40
Right to freedom of movement - s. 41
Right to freedom from discrimination
Right to acquire and own immovable properly anywhere in Nigeria - s. 43
Payment of compensation in case of compulsory acquisition of property - s. 44

Section 45 deals with restriction and derogation from fundamental rights and freedoms, while section 46 made provisions for its enforcement and granting of financial or legal aid to indigent citizens whose rights recognized under this Chapter have been violated.

Section 42 of the 1999 constitution seems to be the most relevant provision through which women can fight against discrimination. Although, it is not a right that can be exercised on its own alone it must be linked to violation of other substantive rights recognized in the bill of rights.

Even though section 42 may prove very useful to women, it is still not adequate. Commenting on similar provision under the 1979 (section 39) constitution, I concluded that the provisions are inadequate as it preserves equal status for women and men only in relation to laws and as far as practices, customs or other actions are concerned, there is no protection from discrimination.

In fact, item 61 on the exclusive list reinforces that thought as it excludes the federal government from making laws relating to the

formation, annulment and dissolution of marriages under Islamic law. Of course, this area poses the greatest challenge to realization of women's human rights. Nigeria should adopt the trend in modern constitutions of enacting an equal opportunity clause or provision that clearly embody the equality and non-discrimination principles. Mentioning specifically men and women and not just lumping 'sex' as one of the prohibited grounds for discrimination. The language of the constitution that is supposed to advocate for equality and non-discrimination is far from being gender sensitive. The word "he" was used and given the content of that right it is arguable whether "he" here could be said to mean "she".

There is a need to enlarge the content of Chapter IV, which unlike Chapter II is enforceable. Some of the provisions in the fundamental objectives and directive principles of state policy should be transferred to this Chapter. Economic and social rights including the right to work, free choice of employment, just and favourable remuneration and trade union rights; rights to rest and leisure, right to a standard of living adequate for health and well being including right to food and shelter should part of fundamental rights and freedoms contained in chapter IV. Sexual and Reproductive health rights of women should be specifically recognized. Also, right of women and girls to inherit and succeed to their husbands or fathers property should be recognized. The 1992 Ghana Constitution recognizes this right and other specific rights for women and children.

Furthermore, we need to expand the definition of those who can bring an action to enforce the fundamental rights provision. As it stands, it may be difficult based on the application of Locus standi for persons other than those directly affected to seek redress.

IMPLEMENTATION OF TREATIES
Section 12(1) provides for implementation of treaties ratified by Nigeria. In particular, the domestic enforcement of treaties entered into by Nigeria.
According to the section 12:

(1) No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted by the National Assembly.
(2) The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.
(3) A bill for an Act of the National Assembly passed pursuant to the provisions of this subsection (2) of this section shall not be presented to the president for assent, and shall not be enacted unless it is ratified by majority of all the Houses of Assembly in the Federation.

As I have argued elsewhere ratified human rights treaties will be of little importance to individual's subjects of rights thereon if not applied by national judges and administrators. Nigeria adheres to the common law legal system, which adopts a dualistic approach with regard to treaty interpretations and applications. Thus, an additional Act of Parliament is required to incorporate the treaty and make it a domestic law. The process outlined in section 12(3) for incorporation of treaties are rigorous and it may be extremely difficult to domesticate human rights treaties particularly dealing with contentious issues like women's rights and children's rights.

The provisions of 1979 Constitution are relatively easier and should be readopted.

I purposely left out consideration of sections dealing with powers of the three arms of government: Executive, Legislative and Judiciary. Also Resource allocation and Federalism, not because they do not have implications for women's rights as over centralization of wealth at the center without any visible trickle down effect to women and children at the bottom of the ladder impacts on their socio-economic and legal rights. I have left them out primarily because almost all interest groups in Nigeria have over flogged the issue without a moments consideration of the gender implications of the constitution of the Federal Republic of Nigeria 1999 on women. The pertinent question is how can we as women hold ourselves bound by these laws that we have no voice and representation in the making?

CAUSES OF CONSTITUTIONAL EXCLUSION OF WOMEN IN NIGERIA

I want to go back to the question I raised earlier on: Why is the female gender excluded from the constitution and constitution making processes in Nigeria? Why was it impossible for us to get specific provisions for women in the constitution despite seemingly gender consciousness of Nigerian Society, work of women's rights organizations and numerical strength of women? What really went wrong?

Feminists, women's rights activists and groups have not before now participated actively in debates about a Nigerian Constitution. It is only now that we are organizing and demanding inclusion and representation in the constitution making. But as the Igbos' will say: "tabugbo" meaning that today is still early if we can begin to make the desired impact. Females who were involved in the nationalist movement were more concerned with survival of Nigerian nation than getting specific rights for women. Although, they would not have predicated that an independent Nigeria would abandon its women and adopt a very retrogressive approach to women's human rights.

The conceptualized dichotomy of public and private sphere distinctions also made it very difficult for women to feature in the political space where constitutions are debated and negotiated. The experiences of women that have made an incursion into the so-called men's space served to discourage others from making similar attempt.

Related to this is the fact that women are not in power or in decision-making positions where they can influence the political process and change the laws and policies. Women's political powerlessness means that they always have to beg, shout, fight and even cry to be included. Lack of concerted action by women's groups have also made it impossible for women to speak with one voice in lobbying and agitating for their rights particularly the right to participate in determination of issues concerning them.

Customs, culture, religion and tradition are constantly used to deny women equal status in law and practice. The same constitution that prohibits sex discrimination accords recognition to customs and tradition that discriminate against women by reason of their sex and gender. The 1999 constitution and other legal standards in Nigeria are heavily weighted against women.

RECOMMENDATIONS

From my discussion there are twelve critical issues of concern to women with regard to the 1999 constitution and Gender and Constitution Reform Network (GECORN) have articulated these as part of women's demand in the on- going constitutional review. The following recommendations outlined here focuses on those twelve critical issues:

1. THE LANGUAGE OF THE CONSTITUTION

The 1999 Constitution should be re-drafted so that the language becomes user and gender friendly. The word "he or him" should be replaced with he/she and him/her and replacing person with men and women or any person or everyone.

2. CITIZENSHIP

Section 26 (2) should be amended to confer citizenship by registration to a foreign spouse of a woman just like her male counterpart. This section should be abrogated. There is no justification for allowing an under aged woman to have a rights to revoke or renounce her citizenship if it is not expected of her male counterpart. The other implication of this is that this section could become a mischief in a country where child marriage is prevalent.

3. INDIGENESHIP
It is recommended that a Nigerian citizen that has resided in any state of the federation for a period of more than 5 years shall be entitled to all right and privileges of the state.
A Nigeria woman shall have a right to enjoy the indigeneship of both her place of origin and that of her husband.

4. DISCRIMINATION
Section 42(3), 1999 constitution is restrictive, nullifies and impairs women's rights and the rights of others and thus should be abrogated. The provision of Section 42(1) should be expanded to clearly enshrine the principle of gender equality and non- discrimination.

5. RIGHT TO DIGNITY OF WOMANHOOD

The scope of Section 34 1999 Constitution should be expanded to include protection against harmful cultural and traditional practices affecting the health and rights of women and girls and other protection from other gender based violence such as widowhood practices, female genital mutilation, forced marriage and others which have constituted a continuing threat to the lives of women in Nigeria.

6. POLITICAL RIGHTS

Political Parties structures must reflect gender balance and we therefore recommend that in line with the international commitments of the government that at least 30% affirmative measure for women in both elective and political appointive position must be guaranteed through constitutional provisions.

Independent candidacy must be encouraged to facilitate women's participation where first past the post test often place women at great

disadvantage in seeking elective position.

7. REPRODUCTIVE HEALTH AND RIGHTS

Reproductive health rights has emerged as a development and Human right issue and thus should be clearly spelt out in the constitution of Nigeria to protect women and girls.

Free and qualitative ante natal and post natal care to reduce the high mortality rate and guarantee women right to safe motherhood.

Access to information and education relating to reproductive health and rights and encouraging proper understanding of maternity as a social function and the protection of motherhood and childhood.

8. ENFORCEABILITY OF SOCIO-ECONOMIC RIGHTS

Section 6 (6) (c) of the constitution should be amended to ensure accountability of government and its institutions to implementation of Chapter II of the constitution. To this end any amendment to the constitution must remove all restrictions and make it possible for all Nigerians to be able to enjoy these rights.
State Social Order: Section 19 (d) should be strengthened to include not only respect for international laws/conventions signed and agreed to, but also implementation and incorporation into National laws and adequate representation of women and men on equal basis at the international levels. The socio-economic rights enshrined in the constitution should be made enforceable.

Specific Social and Economic Rights such as right to education, health, work and adequate housing should be moved to Chapter IV containing the bill of rights

9. FEDERAL CHARACTER COMMISSION OR ESTABLISHMENT OF EQUAL OPPORTUNITY COMMISSION?

We proposed that the Federal Character principle in Section 14 (3) be amended to include gender as one of indices for composition and conduct of affairs of government. This will ensure gender balance in political appointment as well as gender balance in composition of such body.

Establishment of Equal Opportunity Commission to replace the Federal Character Commission. The trend world wide is to have such body to monitor observance and implementation of policies and programmes to reflect gender equity and ensure social justice to all irrespective of sex, religion, ethnic group among other grounds for which discrimination is prohibited.

10. RIGHT TO INHERITANCE

It is recommended that there should be a provision guaranteeing the rights of widows and widowers to inheritance of properties jointly acquired in the absence of a will.
Female and male children should have explicitly stated rights to inheritance.

11. LAND USE ACT
The Land Use Act according to the yearnings of Nigerians should be repealed or at least amended to guarantee equal access to land and adequate compensation to men, women and the poor.

12. WOMEN WITH DISABILITIES
We recommend that the provision of Chapter IV of the constitution should specifically address the rights of people with disabilities especially the needs of women within that category.

CONCLUSION
That law is gender blind and of course gender bias is truly reflected in previous constitutions of Nigeria, in particular the 1999 constitution. These constitutions have shown virtually no recognition that sex or gender can be a significant dimension in defining the substantive contents of individual rights or that it can affect the choice of methods that must be adopted by states to ensure that all individuals within their jurisdiction enjoy these rights equally.

Maintenance of distinctions and categorization of rights in the 1999 constitution are major set back to women's rights in Nigeria. The most important rights -if we are to prioritize are made non-justiciable. Yet poverty and violence of all sorts are the most pervasive violations of women's rights.

Civilized sociology requires that in a democratic society where democratic values holds sway; we should recognize gender issues which has assumed same importance as ethnicity and religion and would therefore play a major role and impact whether negatively or positively on the democratization process.
However, the woman or gender questions if addressed will play an important role in peace and unity of this country. As a Nigerian woman for example, I have multiple identities - an Igbo, a woman, Christian and a southerner. But my gender identity is of more important consideration to me than my ethnic identity. The reason is that no ethnic group has been found to be most benevolent to women - according them rights and privileges deserved.

Therefore, that a woman (very gender sensitive) becomes president of Nigeria holds a better prospect for me as a woman and I think majority of women will support such candidature irrespective of whether she is - Hausa, Tiv, Ijaw, Yoruba, Efik, Urhobo, Ogoni, Igala or an Igbo woman. I see women not because we belong to the same gender as the only groups that can come together across party, ethnic, and religious divide because they are able to see a commonality of purpose that transcends their differences.
For sustainability of our nascent democracy, a peaceful Nigeria, we need to take into account gender matters. Modern constitutions of other African countries namely: - South Africa, Ghana, Uganda, Eritrea, Malawi to mention but a few have specific provisions on women and children. This simply recognized the fact that motherhood and childhood deserve special protection. The important fact is that colonialism, imperialism, debt crisis, food crisis, water crisis; environmental issues impact especially and differently on women and their children.

Nigeria is very much part of the globalized world and cannot afford to be going backward when sister countries are forward looking. Its

constitution needs to reflect the international obligations it has undertaken, particularly, to eliminate all forms of discrimination against women. A consultative process to broaden and deepen the contributions of the Nigerian women to constitutional reform/making should be initiated and sustained by all those concerned with promotion and protection of women. The civil society organizations should take the lead in creating awareness, educating and mobilizing support for women's participation in constitution making, general governance and development initiatives taking place in the Country.

In conclusion, I wish to posit that the 1999 constitution should be amended to reflect the gender composition of Nigeria protecting women as full citizens with rights also applicable to their male counterparts. The review has presented an ideal opportunity to give visibility to women's concerns for both participation and adequate protection in proposed constitutional amendments. Nigerians should work towards giving themselves a new grundnorm with full participation of women and all stakeholders to make a constitution that will come into force before the next general election in 2007.

Gender democracy, evidenced by the balanced participation of women and men, is considered a cornerstone of democratic development. The empowerment and autonomy of women and the improvement of women's social, economic, and political status is essential for the achievement of both transparent and accountable government as well as sustainable constitutional democracy and development in all areas of life. Although Nigeria has finally transited from military rule to civil rule, it has to take steps to ensure participation of all stakeholders especially women who will in collaboration with men work towards a sustainable democracy fore grounded on constitutionalism.

Joy Ngozi Ezeilo

Home |About Us |Advertising | Contact
Copyright ©1998 - 2006 Vanguard Media Limited All rights reserved.

الموقع العربي
VIDEO ABOUT US
FREE SUBSCRIPTION LINKS PERMISSIONS
Women's eNEWS
Make a DONATION
March 1, 2007 RSS Feed

In the States

Six State Constitutions Use Gender-Neutral Wording

Run Date: 12/09/01

By Darryl McGrath
WEnews correspondent

Six states adopted gender-neutral language in their constitutions; eight others are considering the change. Advocates say gender-neutral language is a subtle but important way to promote equality; critics call it empty, feel-good, demeaning to women.


Sandy Galef

ALBANY, N.Y. (WOMENSENEWS)--A recent New York state referendum that will change the state constitution wording to gender-neutral language is part of a growing awareness of the power of language and the role it plays in promoting equality.

Advocates of gender-neutral language say that it is a subtle and often overlooked aspect of equality, but so pervasive that it affects everyday thinking in the workplace, home and government. Critics say the push for gender-neutral language is an unnecessary and even frivolous effort that distracts attention and drains resources from more pressing issues.

Still, a heightened awareness of gender-neutral language is evident in universities, institutional training programs and everyday conversation.

"I can't think of a more important time for this issue than right now," said Judith Barlow, a professor of English and acting chair of the women's studies department at the State University of New York in Albany. "There are going to be great changes in Afghanistan, that for several years has barely acknowledged women." Using language that erases women by only mentioning men absolutely sends the wrong message, she added.

The change in the New York State Constitution takes place immediately and will appear as soon as new copies are printed, an annual process. In most cases, the words "he" and "him" will be replaced with "he or she" and "him or her," but other changes will also be made. All references to the governor as "he" will become "the governor" and references to a "fireman" in a section dealing with civil service employees will become "firefighter."

That change reflects the decades-long efforts by women's scholars and others to change usage from gender-specific terms to gender-neutral terms, or terms that don't denote marital status. Examples from the 1970s and 1980s include police officer instead of policeman; chair instead of chairman; flight attendant instead of stewardess; and Ms. as an alternative to Mrs. or Miss. Advocates say that other, more recent terms, such as "humankind" instead of "mankind" are gradually gaining acceptance into modern terminology.

Six States Have Changed Wording: Eight Considering Changes

New York follows the example of several other states that have either changed their state constitutions to gender-neutral language or are considering doing so. Some states are also considering applying gender-neutral requirements to the wording of new legislation and the revision of current law.

Or, in Rhode Island's case, returning to old language. A research project undertaken by the state's Commission on Women recently brought to light the 1663 charter to the Rhode Island colony granted by King Charles II of England. The document is noteworthy for using many gender-neutral phrases instead of the male-oriented phrases that would be expected, said Jane Anthony, chair of the commission. The most prominent example cited by Anthony: a phrase that states "no person within the said colony, at any time hereafter shall be any wise molested, punished, disquieted, or called in question."

"It seems somewhat ironic," Anthony said, "that you find your first official document had nonspecific language, which was quite unusual at that time, and then centuries later, you had people making a conscious choice not to use nonspecific gender language."

New York voters approved the change in the language of the state constitution in last month's general election. The campaign for the referendum unfolded with little public debate, and 56 percent of the voters approved the measure.

The change in New York started four years ago with a bill introduced by state Assembly member Sandy Galef, a Democrat from the town of Ossining, about an hour's drive north of New York City.

N.Y. Lawmaker: Language Change Shows Others Women Are Valued

"You could say it's symbolic, but I think words are very important," Galef said. "What we say, how we say it, sends a message. We changed the term 'stewardess' to 'flight attendant' and that changed the image. I think symbolically it's important for us to show other countries that we value women."

The bill eventually gained bipartisan support, unanimously passing both the Republican-controlled state Senate and the Democratic-controlled Assembly. With legislative support secured, the change was ready for the referendum. Since the constitution is reprinted annually and distributed by the Secretary of State's office, there will be no significant or special cost to taxpayers, Galef said.

She touched on Barlow's theme of international perceptions in describing why she pushed for gender-neutral language in the state constitution, which dates to 1777 and had 170 references to the male gender and no references to the female gender. Her staff's research revealed that six other states--California, Hawaii, Maine, Rhode Island, Vermont and Florida--have changed their constitutions to gender-neutral language, and eight are considering such a change: Delaware, Illinois, Iowa, Minnesota, Nevada, Nebraska, New Hampshire and Wyoming.

The Conservative Party of New York was one of the most vocal opponents of the referendum, issuing a written statement of opposition and speaking out through its leadership against the effort, specifically in New York and in society in general.

"We were opposed to it before Sept. 11, but Sept. 11 highlighted that with all the things that have to be done in the state of New York, here the legislature spent time on something that did absolutely nothing for anyone," said Michael Long, the Conservative Party state chair. "It's just another example of what I guess one could consider 'feel good' legislation. Male and female legislators could not pass a budget on time, yet they could this. Shame on them."

Conservatives: Women Losers When Language Obscures Femininity

Long said women will lose more than they gain by pressing for language that obscures their femininity, in a world where women are often treated poorly.

"I do believe women sometimes have to be treated a little special," he said. "They haven't always been treated correctly, but I hope they would always be treated special."

Those working to change the thinking about male-dominant language agree that it can be difficult for people of either gender to push for such changes.

Sherryl Kleinman, a sociology professor at the University of North Carolina in Chapel Hill, has gained recognition for her campaign to eliminate the expression "you guys" from spoken language when the phrase describes a mixed-gender group. She knows she has an uphill battle when she hears a student in her gender class tell the group of 35 women and five men, "You guys, I have an announcement."

A year ago, Kleinman published a commentary entitled, "Good-bye 'You Guys'" in New York Newsday. In it, she mused about the origin of the expression and suggested that it came into common usage about the same time feminists started pushing for changes in official language.

In Popular Speech, 'You Guys' Refers to Both Women and Men

"So when did you 'you guys' sneak by and then sneak in?" Kleinman wrote. "I suspect it entered the scene around the time that official titles like 'chairman' were being challenged. You can push the provost to change freshman to first-year student or complain to publishers about their use of congressman in text books. But you can't go to court to make your friends stop using 'you guys.'"


Sherryl Kleinman

Kleinman and two former students have designed a card that publicizes the effort to eliminate "you guys" from spoken language, which can be handed out to explain the campaign "in a way that doesn't scold people," she wrote in her Newsday article.

The wallet-sized card has an illustration in the form of a mathematical equation, showing three women being added with one man and forming "you guys." The text sets up the illustration, reading in part, "Imagine someone walking up to a group of guys and saying, 'Hey, girls, how're ya doing?' We doubt they'd be amused! So isn't it weird that women are supposed to accept--even like--being called 'one of the guys'?"

Kleinman said the struggle for women to assert gender-neutral language can be likened to the efforts of African Americans to reject "Negro" and claim "black" in the 1960s, or the acceptance of "gay" in print and broadcast media instead of "homosexual."

"The struggle is harder when it comes to sexist language because, unlike blacks, for example, in relation to whites, most women seek intimate relationships with men, for emotional and economic reasons," Kleinman said. "This intimacy can be threatened when women make issues out of language habits that so many people take for granted."

Women, Men Pressured Not to Raise Issue of Gender-Neutral Language

Women's studies professor Barlow recalled a recent faculty meeting about the search for a new dean of the college of arts and sciences. A male department chair made repeated use of male gender terms, saying of the as-yet-

unidentified candidate for the dean's post that "he should know how to do this," and "he should have this experience."

"It was very glaring; it was certainly noted by people around me," Barlow recalled. But no one spoke up, she added.

"I think men and women have different reasons for being silent in this situation," said Jackson Katz, a nationally known expert on the prevention of gender-based violence, who has lectured and conducted training sessions at universities and military bases domestically and abroad.

For many women, Katz said, "they don't want to be creating conflict; they want to be creating cohesion. I think a lot of women just shuffle papers uneasily but go on. But the silence comes at a cost. The cost is frustration and loss of self-respect."


Jackson Katz

For men who want to speak up but are reluctant to do so, "there are very few models of men doing that kind of thing in public, much less private," Katz said. "You're not a team player--'What are you, one of those sensitive New Age guys?'"

Katz sees a dangerous flip side to gender-specific language, when sexual violence or teen pregnancy are almost always described in terms of the female gender. Rape statistics are usually presented in terms of how many thousands of women a year are raped, but rarely in terms of how many thousands of men a year commit rape. Teen pregnancies are couched in terms of how many teens become pregnant each year, but rarely in terms of how many boys or men a year impregnate teen-agers.

Advocates of gender-neutral language say they have a long way to go before gaining full acceptance in the culture of the United States, but many are persisting in their efforts to educate people.

Matt Ezzell is the coordinator of community education at the Orange County Rape Crisis Center in Chapel Hill, N.C. He stresses the use of gender-neutral language in training sessions.

"The first time we say something about it in our training group, they're surprised, they don't want to discuss it," Ezzell said. He persists, because he went through a similar awakening a few years ago and knows that most people will be receptive to the change once they think about it.

"It was like a lightbulb," said Ezzell, who majored in women's studies at the University of North Carolina at Chapel Hill, describing the time in college that he first heard someone else talk about language that constantly refers to the dominant male gender. "And it took me about a year to purge it from my language, that's how pervasive it was."

Darryl McGrath is a journalist in Albany, N.Y., who writes often on politics and child welfare issues.

For more information:

You All:
http://www.youall.freeservers.com/home.html

Jackson Katz:
http://www.jacksonkatz.com/

"Gender Neutrality in the New York State Constitution," by New York state Assemblywoman Sandra Galef:
http://assembly.state.ny.us/member_files/090/20010730/index.htm
http://assembly.state.ny.us/mem/?ad=090

Rhode Island Royal Charter:
http://www.sec.state.ri.us/rihist/richart.htm

Send this story to a friend.

Your Name:

Friend's Email: Send

To Obtain Permission to Reprint or Repost This Article: : COPYRIGHT.COM REUSE THIS CONTENT

For Complete Step-by-Step Instructions: Reprint FAQs

Copyright 2006 Women's eNews. The information contained in this Women's eNews report may--with the prior written authorization of Women's eNews--be published, broadcast, rewritten or otherwise distributed.

Women's eNews is a nonprofit independent news service covering issues of concern to women and their allies. An incubator program of the International Institute for Community Solutions, Fund for the City of New York, Women's eNews is supported by our readers; reprints and licensing fees; and the Carnegie Corporation of New York; the International Institute for Community Solutions, Fund for the City of New York; the John S. and James L. Knight Foundation; the Barbara Lee Family Foundation; the Open Society Institute; the Rockefeller Family Fund; The Helena Rubinstein Foundation; the Sister Fund and the Starry Night Fund. The donations from readers are critical to our success. Donate now by going to http://www.womensenews.org/support.cfm.

Women's eNews subscribers may select whether to receive a daily full text, daily summary or weekly summary. To change your email address, send mail to membersvcs@womensenews.org. To change the frequency of your mail or to cancel your subscription, send a message to Member Services (membersvcs@womensenews.org) or use our online form: http://www.womensenews.org/update_subscription.cfm

---

Copyright 2007 Women's eNews Inc.

ALASKA STATE LEGISLATURE

Rep. Carl Gatto

MEMORANDUM

TO: Rep. Bob Lynn Chair House State Affairs Committee
FROM: Rep. Carl Gatto
DATE: February 19, 2009
RE: Request for Hearing

Enclosed is our committee packet for HJR 2 "Proposing amendments to the Constitution of the State of Alaska to avoid the use of personal pronouns and similar references that denote masculine or feminine gender in that document." I have included a sponsor statement, the most recent version of the bill, and other supplemental information.

Please schedule a committee hearing before the House State Affairs Committee at your earliest convenience. I appreciate your time and look forward to reviewing this bill.

Please contact my staff member Sandra Wilson at 465-3163 with any questions or comments regarding this request.

Thank you

HJR

3

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: January 20, 2009

FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 3-17-09

The STATE AFFAIRS Committee considered:

HOUSE JOINT RESOLUTION NO. 3

Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska and setting other requirements.

HJR 3 CONST.AM:NO GAMING WITHOUT VOTER APPROVAL

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Gatto	✓			
Pam K Seaton	SEATON	X			
	LYNN	X			
Mike Gruenberg	Gruenberg	~~X~~		✓	
Peggy Wilson	WILSON	↘			
Bob Peterson	PETERSEN	X			
Craig Johnson	JOHNSON	✓			
Chair:	Lynn	X			
Chair:					

LEGAL SERVICES

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

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

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

MEMORANDUM February 12, 2009

SUBJECT: Effect of HJR 3 on Cruise Ship Gaming
(Work Order No. 26-LS0128\R)

TO: Representative Harry Crawford

FROM: Gerald P. Luckhaupt
Legislative Counsel

You have asked if HJR 3 would have any effect on gaming currently conducted aboard cruise ships in Alaska. It is my opinion that HJR 3 would not have an effect on gaming currently conducted aboard cruise ships. Cruise ship gaming is conducted pursuant to federal law and not state law.[1] The federal law was enacted in response to public statements made in the early 1990's by the administration of former Governor Wally Hickel questioning the authority of cruise ships to conduct gambling activities while in Alaska waters and asserting that the state would no longer allow those activities to occur. The legislature considered a bill to allow cruise ships to conduct gambling activities in Alaska and allowed a temporary exception for cruise ships for one season.[2]

GPL:med
09-003.med

[1] See 15 U.S.C. § 1175(c)(2).

[2] Chapter 31, SLA 1995.

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address:
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry T. Crawford, Jr.
East Anchorage District 21
E-mail: Representative_Harry_Crawford@legis.state.ak.us
Website www.akdemocrats.org

MEMORANDUM

To: Rep Bob Lynn

From: Representative Harry Crawford

Re: Scheduling Request, House Joint Resolution 3

Date: February 2, 2009

I respectfully request that the House Finance Committee schedule a hearing for House Joint Resolution 3, "Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska."

With this request, I am including a sponsor statement, the most recent copy of HJR 3, and Sectional analysis and supporting documentation. Teleconferencing in Anchorage and other areas may be needed. Once a committee hearing is scheduled, any teleconference request and names of witnesses wishing to testify will also be provided.

Please contact me if you have any questions or require any additional information.

Nancy Manly

From: Nancy Manly
Sent: Monday, February 02, 2009 9:44 AM
To: Paul Grossi
Subject: Error on HJR 3 Hearing Request Packet

Paul: Some of the documents you sent over have the wrong bill number. Can you correct and re-send? They are:

1) Memo requesting a hearing (in the title anyway) it says HJR 2 and should say HJR 3
2) In the first paragraph of the Sponsor Statement it is referring to HJR 2 and should say HJR 3
3) Sectional Analysis says House Bill 22 and should say House Joint Resolution 3
4) Testimony by Pamela Samash says "Testimony for HJR2 and should say HJR 3.

Those are the ones that I noticed but would request that you look everything over and make sure everything references HJR3. Then email the corrected versions back to nancy_manly@legis.state.ak.us Thanks.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

Rec'd New docs 2-2-09

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

SPONSOR STATEMENT: HOUSE JOINT RESOLUTION 3

While some Alaskans may consider gambling to be a harmless pastime, many underestimate the costs in dollars and human suffering associated with it. House Joint Resolution 3 would amend Alaska's Constitution to require an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska.

Studies show that about 2.5 million Americans are pathological gamblers, and another 3 million are problem gamblers. These compulsive gamblers have high rates of suicide, depression, mania, alcohol and drug abuse, and arrest rates. According to the American Insurance Institute, gambling is the main cause of white collar crime, and is the third leading cause of individual bankruptcy in America.

Though the human suffering caused by compulsive gambling may be borne by a minority of the population, the overall economic and social costs are shared by all. Before expanding gambling in our state, it is imperative that the voice of Alaskans be heard. I respectfully ask for your support of HJR 3

E-mail: Representative_Harry_Crawford@legis.state.ak.us

(b) This section does not prohibit or restrict any form of gaming lawfully conducted under Alaska law on the date of the ratification of this section by the people of Alaska, nor does this section affect the authority of the legislature to authorize or regulate nonprofit gaming by organized boroughs and cities or by nonprofit organizations.

* **Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

Sectional Analysis: House Joint Resolution 3

Section # 1 Amends the Alaska Constitution requiring a vote of the people before any for profit gaming or gambling may be authorized in Alaska. The amendment does not prohibit or restrict nonprofit gaming currently permitted by law.

Section # 2 Require the proposed amendment to be placed before the voters at the next general election.

E-mail: Representative_Harry_Crawford@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HJR 3**
() Publish Date:

HJR3 02-11-09
Title: Const.Amend: No Gaming Without Voter Approval
Sponsor: Representative Crawford and Dahlstrom
Requester: House State Affairs Committee

Dept. Affected:
RDU
Component
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Nancy Manly, Committee Aide — Phone 465-2794
Division: House State Affairs Committee — Date/Time
Approved by: Representative Bob Lynn — Date 2/11/2009
Chair

(Revised 9/10/2008 OMB)

1660

DOING THE MOST GOOD™

Office of the Divisional Commander

January 29, 2007

The Honorable Nancy Dahlstrom
The Honorable Harry Crawford
Alaska House of Representatives
State Capitol, Juneau, AK 99801-1182

RE: Proposed Gambling Constitutional Amendment

I recently learned of your intent to sponsor a constitutional amendment this legislative session to prohibit for-profit gambling in Alaska and wanted to express my appreciation for your leadership in addressing this important issue.

In other areas of the country where legalized gambling is welcomed, The Salvation Army has seen firsthand the impact and destruction caused in the lives of many who chase after the promise of riches and end up caught in the snare of addictive lifestyles. In Las Vegas, for instance, The Salvation Army recently expanded its Adult Rehabilitation Program for substance abusing adults to treat individuals with gambling addictions. In the short time the program has been open, they have documented that close to fifty percent of those who experience alcohol/drug addictions are also addicted to (or at significantly higher risk) for co-addictive behaviors, including gambling.

In Alaska, where we have some of the highest rates of substance abuse per capita in the nation, it is encouraging to know we have legislators like yourselves, ready to step forward and tackle these tough issues.

Thank you again, for your leadership. Know that I continue to pray God's blessing upon you as you serve the people of Alaska.

God bless you.

Sincerely,

Douglas Tollerud, Major
Divisional Commander
Alaska Division

Testimony for HJR[redacted]
By Pamela Samash
HC 66 Box 29715
Nenana, AK 99760
907-832-1850

Dear Representatives,

Thank you for taking the time to read my testimony today.

This letter is in regards to gambling and my family's experience.

My mother became addicted to gambling. She had always been against gambling before and had no addictions to anything but smoking. She worked for what she had, believed in God, raised us kids as best as she knew how.

What opened the door for her she shared with me was she became depressed because her mother passed away. She was also feeling rejected by people who were near and dear to her. My step dad took her to a casino to "lift her spirits" and get her mind off her troubles.

At first it was all for fun and in control. It took a few years to become addicted for her, but it happened none the less. Addiction to gambling is

No. 5022 P. 1
May. 9. 2007 4:47PM

very real and this is why it's so dangerous to bring to Alaska.

Once she was addicted, she had to gamble and get the money anyway she could. I asked her, "what made it so addicting?"

She replied, "it was always bright and friendly, good food, free drinks, great service, driven to get back the money lost from the last gambling experience, and to basically get away from the world."

My mom and step dad exhausted the payday loan stores, wrote bad checks and eventually towards the end, stole from their job.

I was visiting my sister when we got the call from my mom. Her boss found out about the theft, my mom was terminated and evicted from where she was living. She was also facing possible jail time. Everyone including us who love my parents had to scramble to raise money to quickly pay her boss to keep her out of jail. We had to get her stuff and get her out that day from where she lived. It was horrible. Here my mom at 48 yrs. old was losing everything she had worked for because of a gambling addiction. That was just the beginning. They had to pay back the payday loan stores, the banks, the casinos and all the people that loaned them money. The total bill was $27,000. They couldn't find work so they had to settle for odd jobs and sometimes working in

No. 5022 P. 2
May. 9. 2007 4:48PM

dangerous conditions or areas. They stayed at weekly motels and lived on McDonald's dollar meals. Every day was a complete struggle. Every minute of every day to rebuild their life. They finally filed bankruptcy, but they have to pay that back as well.

All this took place about 3 yrs. ago and they are still rebuilding from it all. The good news is that my mom is totally free from gambling addiction. She wanted me to write this to you because she didn't want anyone else to got through what she's been through.

During her gambling experiences she met many other people who also were addicted to gambling and so my mom shared with me some of the effects and tragedies of their lives. Here is a list of what she saw:

1. Children pay the highest price. Many times people divorce because of gambling or they leave for days at a time leaving the children to fend for themselves or with a caretaker who is not very responsible. The children are vulnerable to molesting, rape, abuse, poor eating habits, poor school grades or no attendance at all, kidnapping and sometimes even death. The parents simply aren't there to protect and take care of them.
2. Divorce is really common with gamblers. If a spouse becomes addicted, they may and many times do drain the savings account, and also

May. 9. 2007 4:48PM No.5022 P. 3

sometimes bounce checks or they're late on paying bills, mortgage or rent. It's very stressful on marriage to say the least.

3. My mom met people who were stealing to gamble occasionally. But what's really sad is when she met a small business owner who had to close up his business because of addicted gamblers who stole thousands from him.
4. Bankruptcy increases and that's hard on the public as a whole.

Final Statement

I have done my own research regarding gambling and it's a known fact that anyone who already has an addiction problem or has relatives with addictions is more likely to become addicted to gambling. In my love for Alaska I feel compelled to mention that Alaska has one of the highest drinking and drug addiction problems in the U.S. from what I've heard and read. Which, if this is true, means if gambling were introduced to Alaska, it could be devastating. If you also include long, dark, winters and the depression problems, I can't even imagine what would happen 10-20 yrs. down the road. If a casino were to open please consider the following:

May. 9. 2007 4:48PM No.5022 P. 4

1. Increase funding to Child Protective Services programs and foster homes because the children will need you to help them.
2. Provide marriage counseling and addiction counseling programs for free to the public.

Again I thank you so much for your time. May God bless you with His wisdom.
Pamela Samash

MAY. 9. 2001 4:48PM NO.0022 P. 3

Tide of gambling yields backwash of addiction

by Carl G. Bechtold

for the National Coalition Against Legalized Gambling
Rev. 08/21/04

1667

The risk of gambling is not so much in losing ones money, but rather the danger of losing control of ones life. Like other substances and activities which become addictive, games of chance too often turn on their players and transform frivolity into a nightmare. Collectively, the pattern is predictable, as each tide of gambling expansion leaves a backwash of addiction, pulling under an ever-growing wave of Americans.

In ways and in individuals that few would suspect, gambling can and does become addictive. Gambling addiction is listed among the psychological disorders recognized by the American Psychiatric Association. In 1995, Howard J. Shaffer, PhD., of the Harvard Medical School Division on Addictions reported, "Gambling is an addictive behavior, make no mistake about it . . . Gambling has all the properties of a psychoactive substance, and again, the reason is that it changes the neurochemistry of the brain." [1]

Gambling causes excitement, often leading the participant to forget about outside problems and the stresses of everyday life. Electronic gambling devices in particular offer a seemingly non-competitive diversion from reality. Gambling establishments usually serve and often encourage the use of alcoholic beverages, which further loosens players' inhibitions. The games themselves are made to satisfy the demands of excitement; and the ensuing "loss of control" is part of the "enjoyable" experience of gambling.[2]

Gambling environments, specifically within casinos, are scientifically and socially designed to transport players beyond the realm of rational decisions. Presentations by one prominent international researcher concluded, ". . . strong emotional/physiological responses during a session of play is a natural human experience. The expectation that the player will be able to continue to make controlled, informed, rational decisions during such a session of continuous gambling is ill-founded."[3]

Even the best intentioned gamblers, the majority of whom say they set limits of how much they intend to lose, often find themselves "out of control." "When regular players are recruited in gaming venues (no other selection criteria) 43% "sometimes", "often" or "always" experience an irresistible urge to continue a session of play once they

[1] Shaffer, Howard, quoted by Kindt in *Managerial and Decision Economics*, 22: 17-63 (2001)
[2] Dickerson, Mark, "What if There Were No Problem Gambler" p.3.
[3] Ibid.

1668

have started," the study concludes.

Though most gamblers are not "hooked," some begin to gamble well beyond reason or their financial ability. These players fit the classic definition of addiction, which is, "The compulsive use of a substance or activity resulting in physical, psychological, or social harm to the user; (and) the user continues in this pattern of behavior despite the harms that result."[4]

Much has been made of the "co-morbidity" of addictions, or the apparent tendency of victims to have multiple addictions or emotional and mental problems. The gambling industry has repeatedly attempted to dismiss gambling addiction as just another symptom of broader psychological problems among victims. That argument is specious and largely irrelevant, since harm would not befall victims if gambling were not available, in much the same way that lung cancer would occur far less if tobacco were not available. The fact is, gambling is addictive to a significant number of Americans, and that addiction afflicts an increasing number of victims as technology changes and the prevalence and proximity of gambling increase.

HISTORY provides some background for consideration of gambling addiction. The United States is in its third historic wave of gambling. The first two occurred in the Revolutionary and Civil War eras. Gambling was sanctioned and often sponsored by government to pay for war costs and civic improvements, and has historically intensified during times of economic stress. Both earlier eras ended when corruption and social costs persuaded the states to criminalize gambling.

In 1900, there was virtually no legalized gambling in the United States. After several decades of "abstinence," America first ventured back into gambling with its legalization in Nevada in 1931. Government first sponsored gambling in the modern era as New Hampshire initiated a state-run lottery in 1963. In 1976 New Jersey opened Atlantic City to gambling. In 1988, Congress passed the Indian Gaming Regulatory Act, providing gambling financiers a means of using tribes to penetrate states where gambling had been illegal. As the 1990's began, the floodgates opened.

---

[4] http://www.hms.harvard.edu/doa/research_education.htm#institute

In 1994, Congress realized gambling was growing out of control and authorized the National Gambling Impact Study Commission (NGISC), which published its findings in 1999.

Among the commission's findings was a number which could be reasonably used as a "background" level for compulsive gambling. The commission cited reports of between 0.6 and 0.9% of Americans were present or "past year" compulsive gamblers.[5]

In 1976, when only Nevada and a few scattered pari-mutuel tracks offered legal gambling, a widely quoted study by the University of Michigan showed just 0.77% of Americans, were then or had been pathological gamblers in their lifetimes.[6]

The commission found that following a decade of expansion in the 1990's, the national lifetime compulsive gambling population had grown by at least 50%, to no less than 1.2% based on the most conservative of its source studies.[7] The gambling industry's own addiction study organization admits to a 1.1% current pathology level in the U.S. and Canada.[8]

The NGISC also discovered a significant trend indicating addiction had doubled in many populations within 50 miles of casinos.[9]

The commission unanimously recommended the nation "pause" the expansion of legalized gambling until the social and economic impacts could be better understood. Their findings were almost universally ignored.[10]

At this writing, there are gambling opportunities in all states except Utah and Hawaii with 443 commercial casinos operating in 11 states, plus racetrack casinos in six states.[11] Indian casinos comprise the fastest growing segment with 354 casinos in 28

---

[5] National Gambling Impact Study Commission, "Final Report" Sec. 4, p..5.
[6] University of Michigan study, 1976, cited in NGISC Final Report, Part 4, p.6.
[7] NGISC, Part 4, p. 4
[8] National Center for Responsible Gambling http://www.ncrg.org/index.cfm 08/20/04
[9] Ibid.
[10] "The (NIGC) commission's study included more than a dozen recommendations to combat gambling addiction, ranging from refusing service to any customer exhibiting signs of problem gambling to posting hot line numbers in casinos. More than four years after the study's release, the gambling industry has disregarded most of the guidelines, Whyte said. Social, problem and pathological gamblers differ in their ability to control themselves." Keith Whyte, executive director of the National Council on Problem Gambling. http://www.thetimesonline.com/articles/2003/09/01/news/top_news/ec6dd9117df10497862256d93008073abd.txt
[11] American Gaming Association "State of the States survey, 2004" p. 4

states.[12] With government sanction and sponsorship of gambling, the vice has been gaining in prevalence and acceptability.[13]

Gaining, too, are the number of addicts and their associated social costs.

MATURE MARKETS provide a reasonable reference for what all of America could become if the trend were to continue. Australia has saturated its market with Electronic Gambling Machines, (EGM's) which they call "pokies," and parts of Canada have also had extensive experience with gambling. In the United States, Nevada and the cities of Las Vegas and Atlantic City provide some frame of reference.

Probable pathological gambling in Nevada in 2000 measured 3.5% and the prevalence of problem gambling added 2.9% for a total of 6.4%. Other cited states ranged from 2.1% in North Dakota in 2000 to 4.9% in Mississippi in 1996. [14]

The American Psychiatric Association notes the diversity of pathological gambling rates in its diagnostic manual. "Community studies estimate the lifetime prevalence of pathological gambling to range from 0.4% to 3.4% in adults, although prevalence rates in some areas (e.g., Puerto Rico, Australia) have been reported to be as high as 7%. Higher prevalence rates, ranging from 2.8% to 8% have been reported in adolescents and college students."[15] Those differences illustrate the effects of demographics, proximity and diversity of gambling opportunities.

Researchers at the National Opinion Research Center combined data from a national telephone survey with data from a casino patron survey and found that adults living within 50 miles of a casino had double the probability of pathological or problem gambling.[16]

Poverty, lower education level and other social and economic factors can affect gambling addiction, and they can be accelerated by the proximity of gambling outlets.

"Neighborhood disadvantage shows . . . a strong positive effect on frequency of gambling and pathological or problem gambling. For every increase of one standard

---

[12] http://www.indiangaming.org/library/index.html#facts
[13] "American Gaming Association State of the States survey, 2003" p. 3
[14] Volberg, Rachel A., PhD "Gambling and Problem Gambling in Nevada: Report to the Nevada Department of Human Resources," p. iii.
[15] DSM-IV, American Psychiatric Association, P.673.
[16] Welte, John W.; Wieczorek, William F.; Barnes, Grace M.; Hoffman, Joseph H. Reference cited in "The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology" p. 7.

deviation in neighborhood disadvantage the odds of being a pathological or problem gambler increase by 69%. . . . A casino within 10 miles of home is associated with a 90% increase in the odds of being a pathological or problem gambler."[17]

It is clear that establishing casinos in areas already troubled with alcohol and poverty will have a devastating effect on an already struggling population.

In short, the presence of gambling opportunities is likely to double the prevalence of problem and pathological gamblers, and the addition of other contributing factors may increase the addiction rate exponentially.

For example, 93% of a group of Southeast Asian refugees in a Connecticut study had gambled in the previous two months, and more than half were said to be pathological gamblers.[18] Clear across the nation, casinos find 60% to 70% of table game customers and 20% to 25% of their slot players are Asians, despite the fact they comprise only 9% of the population.[19]

TECHNOLOGY is also driving addiction rates as gambling venues compete to attract customers. The most "enjoyable" games may be the most addictive.

In recent years, casinos and lotteries have turned from table games and ticket sales to slot machines and Video Lottery Terminals (another form of EMG's). Space and labor-intensive table games used to comprise 60% of casino revenue, but slots have taken over, producing about 70% of gaming revenue.[20]

Women appear to be generally more attracted to machines than to table games and addiction rates among women are increasing accordingly. Gamblers who participate with electronic machines are becoming addicted much more quickly. One of the most recent studies show EGM gamblers arrive at the pathological level in 1.08 years vs. 3.58 years with more "conventional" forms of table and racetrack gambling. Thus, electronic gambling devices have been often labeled as the "crack cocaine" of the industry. [21]

---

[17] Welte, et al; P15

[18] http://www.newbritainherald.com/site/news.cfm?newsid=10057018&BRD=1641&PAG=461&dept_id=10110&rfi=6

[19] http://www.sacbee.com/content/news/story/7287160p-8231825c.html

[20] Christiansen Capital Advisors, http://www.cca-i.com/Primary%20Navigation/Online%20Data%20Store/Free%20Research/2002%20Revenue%20by%20Industry.pdf

[21] Breen, Robert B. and Zimmerman, Mark; "Rapid Onset of Pathological Gambling in Machine Gamblers" p.2

The effects of gambling addiction on individuals and society have been repeatedly calculated and demonstrated.

The percentage of those afflicted should not be considered "small." Even at the minimalist "background" level of under one percent, gambling addiction, not including problem gamblers, would still be twice as prevalent as cancer among Americans. [22] In mature gambling markets, more than 5% of the population will develop some problem with gambling, a prevalence rate about five times that of schizophrenia and more than twice that of cocaine addiction. [23]

Gambling exploded in Canada during the 1990's as it did in the United States, but Canada has funded more extensive research. A massive study recently completed there shows problem and addicted gamblers comprise 2.8% of the entire Canadian Population over 15 years of age! Three fourths of Canadians gambled during the year, and 6% of those are considered "at risk" or "problem" gamblers!

The study also confirms an accelerated level of addictions for those using gambling machines, and affirms the devices have become the "crack cocaine" of gambling for Canadian citizens.

Problem gamblers in Nova Scotia comprise 16% of all those who play the machines on a regular basis, which translates to approximately 0.92% of all adults in the province. This group of gamblers contributes just over half of the net revenue for video lottery gambling and, at any given time, and will comprise almost half of all those sitting in front of video lottery terminals in Nova Scotia.[24]

Percentages from problem gamblers appear to vary with market saturation, technology, gambling genre and demographics.

Dr. Henry Lesieur, president of the Institute for Problem Gambling compiled existing surveys from seven states and provinces. His study concluded that 30.4 percent of gambling revenues in those markets came from problem and pathological gamblers.

---

[22] American Cancer Society: Most recent year's prevalence rates are just under 0.5%
http://www.cancer.org/docroot/STT/stt_0.asp

[23] Petry, Nancy, Ph.D., University of Conn.
http://www.uchc.edu/oconnm/features/stories/stories03/feature_gambling2.html

[24] Nova Scotia Department of Health Nova Scotia "Video Lottery Players' Survey 1997/98 Highlights" p. 3

Those surveys included data from lotteries, casinos, pari-mutuel wagering and sports betting.[25]

These and other studies[26] illustrate that problem and pathological gamblers will contribute 30 to 50% of gambling losses in a mature gambling market.

Particularly troubling are problem and addictive gambling rates among America's youth and military. A study of America's 11- to 18-year-olds showed a 4 to 7% prevalence rate of problem gambling behaviors.[27]

The Worldwide Survey of Substance Abuse and Health Behaviors Among Military Personnel[28] is a large-scale study that screened for gambling-related problems among America's military personnel. The survey reported that in 1992 and 1998, 7.1% and 8.1%, respectively, of all Department of Defense personnel had at least one gambling-related problem, and 2% exhibited behaviors suggestive of pathologic gambling.

HEALTH ISSUES associated with problem and compulsive gambling are serious and complex. A recent Canadian study found, "Half of all problem gamblers reported that their gambling caused difficulties in relationships with family or friends. Four in 10 obsessive gamblers (42%) reported a high level of stress in their life, compared with 23% of gamblers who reported no problems.

"About 18% of problem gamblers reported that they had contemplated suicide in the year prior to the survey, six times the proportion (3%) of non-problem gamblers.

"The insidiousness of excess gambling is revealed by the 27% of moderate-risk gamblers and 64% of problem gamblers who wanted to stop gambling in the year prior to

---

[25] Lesieur, Henry R., "Measuring the Costs of Pathological Gambling," Revision of the presentation to the Tenth International Conference on Gambling and Risk Taking," Montreal, Quebec, June 1997.

[26] Also see E. L. Grinols, E.L. and Omorov J. D., "Development or Dreamfield Delusions?: Assessing Casino Gambling's Costs and Benefits," *The Journal of law and Commerce,* University of Pittsburgh School of Law, Fall 1996, pp.58-60, which calculates 52% of revenues from problem and pathological gamblers. Also, University of Minnesota researchers calculated that 2% of gamblers account for 63 percent of all the money legally wagered in Minnesota. Tice, D. J. "Big Spenders," *Saint Paul Pioneer Press* (Special Reprint Section), February 1993.

[27] Proimos J, DuRant RH, Pierce JD, Goodman E. "Gambling and other risk behaviors among 8th- to 12th-grade students." *Pediatrics* 1998;102:e23. as cited in *American Family Physician*, Feb. 1, 2000.

[28] Bray RM, Kroutil LA, Luckey JW, Wheeless SC, Iannacchione VG, et al. "1992 worldwide survey of substance abuse and health behaviors among military personnel." Research Triangle Park, N.C.: Research Triangle Institute, 1992. as cited in *American Family Physician*, Feb. 1, 2000.

the survey, but believed they could not. About 56% of problem gamblers had tried to quit, but could not.[29]

The Canadian study validates findings in the United States. Suicide, for example, is a link almost universally denied by the gambling industry, but a Nevada study of addicted gamblers revealed, "Between 20% and 30% of the respondents made actual suicide attempts (we could not assess how many were successful). No other addictive population has had as high a prevalence for attempts."[30]

The national publication of American family physicians said problem gambling victims may present "various gastrointestinal symptoms, low back pain, chest pain, impotence, headaches and vague illnesses. When patients are in the desperation phase of the addiction, they may present with symptoms of anxiety or depression. Pathologic gambling can have devastating effects on patients and their families, and may be the root of marital, family, sexual and financial problems. Some preliminary studies are starting to look at chemical markers for problem gambling, but the clinical use of such markers is limited. Studies have implicated the central noradrenergic system, the serotonin system and platelet monoamine oxidase activity in the pathophysiology of this condition."[31]

Gambling addiction appears to be very difficult to overcome. A study cited by the Harvard addiction scholars in their monthly publication noted, "Of the 80 participants followed for 12 months, 92% experienced relapse. Optimism about winning was the most frequently reported precipitant of relapse for both genders."[32]

In another review, the group reported, "Recent research reports that disordered gambling treatment providers experience patient drop-out rates between 40% and 80%"[33]

Financial and other stresses related to problem gambling take a toll on families. Government Accounting Office analyses prepared for the NGISC found 53.5% of

---

[29] 2002 Canadian Community Health Survey, Cycle 1.2 on Mental Health and Well-being http://www.statcan.ca/Daily/English/031212/d031212c.htm

[30] Schwer, R. Keith; Thompson, William N.; Nakamuro, Daryl; "Beyond the Limits of Recreation: Social Costs of Gambling in Southern Nevada." p. 4

[31] Pasternak, Andrew V., IV, MD, "Pathologic Gambling: America's Newest Addiction?" *American Family Physician*, V. 56, No. 5, 1997.

[32] Hodgins, D., & el-Guebaly, N. (2004). "Retrospective and Prospective Reports of Precipitants to Relapse in Pathological Gambling." *Journal of Consulting & Clinical Psychology*, 72(1), 72-80. quoted in The WAGER Volume 9 Number 13 - March 31, 2004 "In the Mood for a Relapse?" www.thewager.org

[33] *The Wager*, Volume 9 Number 24 - June 16, 2004 http://www.thewager.org/index.htm

1675

pathological gamblers reported having been divorced, while only 18.2 percent of non-gamblers were divorced.[34]

INCREASING crime is a well-documented companion of legalized gambling. Crime predictably rises three to four years following the opening of a casino as problem and pathological gamblers begin to deplete their resources.[35] Gamblers who have "bottomed out" their own resources frequently begin borrowing money from family, friends and business relationships. This "borrowing" frequently takes the form of theft. Gamblers often feel they are only borrowing other people's money until they can win it back.

Crime may drop slightly in communities with new casinos for the first few months or years, but Atlantic City is typical of the longer view. Three years after the introduction of casinos, there was a tripling of total crimes. Per capita crime in Atlantic City jumped from 50th in the nation to first.[36] Comparing Crime rates for murder, rape, robbery, aggravated assault, burglary and motor vehicle theft reveals Nevada is the most dangerous place to live in the United States.[37]

According to a 1990 Maryland Department of Health and Mental Hygiene survey, 62% of problem gamblers in treatment had committed illegal acts as a result of their gambling, 80% had committed civil offenses, and 23% were charged with criminal offenses. A similar study of nearly 400 members of Gamblers Anonymous showed that 57% admitted stealing to finance their gambling. On average they stole $135,000 each, for a total of more than $30 million.

The National Gambling Impact Study Commission's final report noted that among those who did not gamble, only 7% had ever been incarcerated. In contrast, more than three times this number, 21.4%, of individuals who had been pathological gamblers

---

[34] GAO stats prepared for NGISC, cited in Grinols, Earl L. *Gambling in America, Costs and Benefits*, p.145.
[35] Grinols, Earl L., *Cutting the Cards and Craps: Right Thinking About Gambling Economics*. p.11
[36] Widgery, Robin, President of Social Systems. "Warning: Legal Gambling is a Costly Game." May 23, 1994 edition.
[37] Morgan Quitno Press, "Determining the Safest and Most Dangerous State Rankings" http://www.governmentguide.com/community_and_home/where_i_live/factors.adp

at any point during their lifetime had been incarcerated.[38] That's TRIPLE the incarceration rate of a non-gambling community.

Oregon corrections officials have determined gambling is a significant motivator in criminal activity among the state's women. To help rehabilitate female convicts, the state penal system is launching pilot addiction treatment programs. The correctional system there finds 20-30% of female convicts have histories of gambling problems.[39]

BANKRUPTCY is another significant devastation in the wake of gambling expansion. Again, this phenomenon trails a few years behind casino openings because it takes gamblers some time to deplete their resources. In the most recent nationwide survey of every county in the nation, Creighton University researchers found personal bankruptcies rates are 100% higher in counties with casinos than in counties without casinos.[40]

Hired by the banking industry to help understand America's increasing bankruptcy rates, SMR Research Corporation determined in the late 1990's that legalized gambling was not only the fastest growing cause, but also the third leading cause of individual bankruptcies in the United States. [41]

More recently, SMR sites Dr. Nancy Petry's research, "UConn Health Center found that about one-third of all people in Connecticut who seek treatment for problem gambling have already filed for bankruptcy or are in the process of filing. On average, problem gamblers spend more than $2,000 per month gambling. Some have legal problems stemming from credit card fraud or bounced checks. And their troubles spill over to their families. Each problem gambler may affect the lives of eight to 10 other people."[42]

---

[38] Grinols, Earl L., "Cutting the Cards and Craps, right thinking about gambling economics." 2001, quoting Lesieur, Henry, "Costs and treatment of pathological gambling," *The Annuls of the American Academy of Political and Social Science* (Gambling: Socioeconomic Impacts and Public Policy, Frey JH, special editor) 556: 153-171.

[39] www.kgw.com/sharedcontent/APStories/stories/D837HJM01.html

[40] Gross, Ernie and Morse, Edward. "The Impact of Casio Gambling on Bankruptcy Rates: A County Level Analysis.) p. 1

[41] Kindt, John Warren and Palchak, John K.l, "Legalized Gambling's Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy," Credit and Social Norm Production, *Bankruptcy Developments Journal* V. 19, No. 1, P.29.

[42] Petry

Besides losing everything they own, including homes, vehicles, retirement funds and children's' college education accounts, addictive gamblers are likely to mass significant debts leading into bankruptcy. Families who could have funded their own futures begin to stress social, medical and welfare programs in states where they reside.

These costs clearly encumber the greater society, including the members who do not gamble at all. Based on extensive studies of original research, social costs for problem and pathological gamblers average between $14,006 and $22,077 (depending whether one uses the lowest or highest estimated costs.) [43]

Thus, the costs for gambling addiction are born by the entire community, including the one-third of Americans who do not gamble at all.[44]

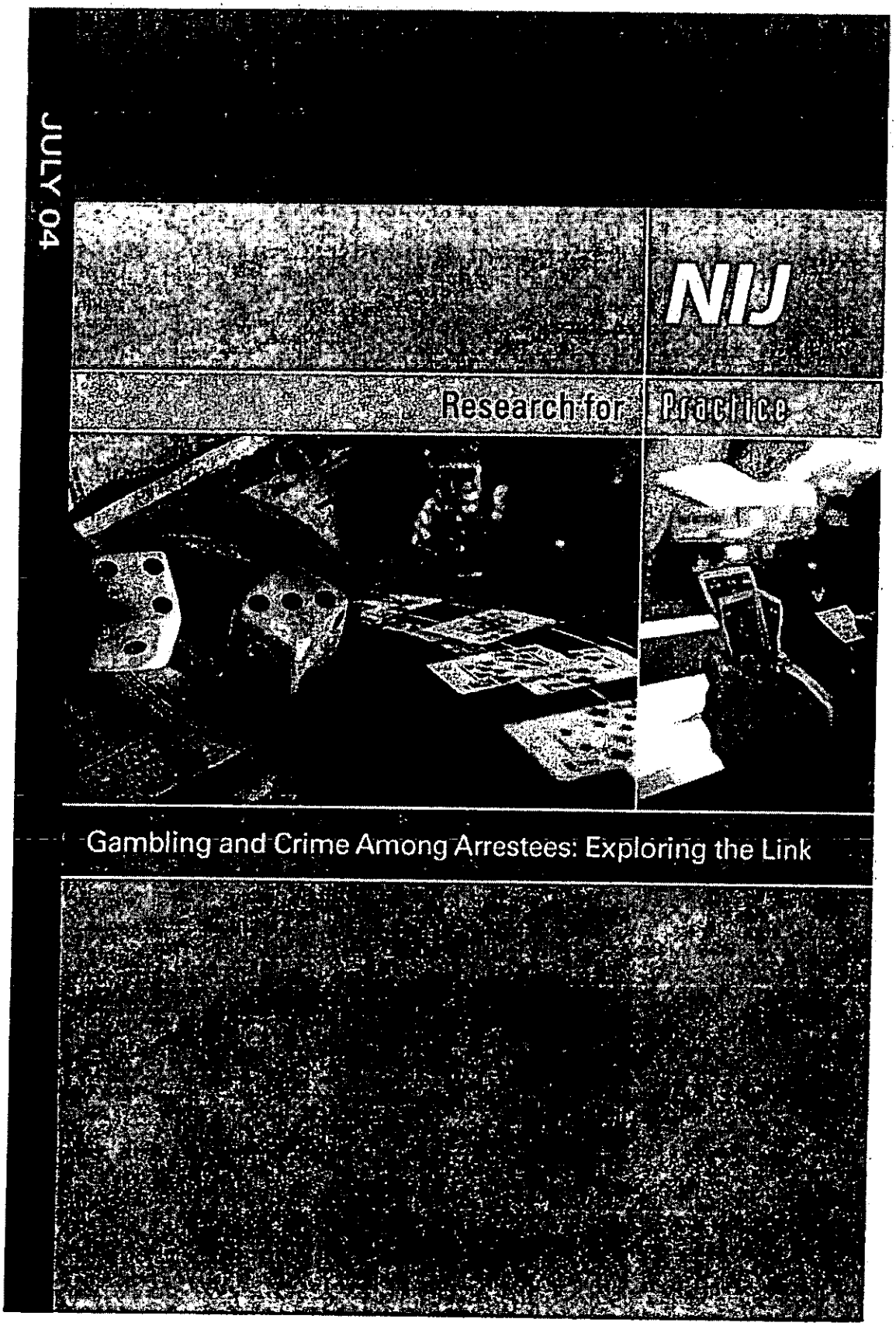
Though many Americans consider gambling to be acceptable behavior, it is unlikely that the general population understands the costs in either dollars or human suffering associated with the activity. Though the suffering may be born by a minority, the overall economic costs are shared by all.

For individuals and the society alike, when the hook is set, the fun of games is over.

---

[43] Grinols, p. 14.

[44] March 24, 2004 Gallup Polls, March 24, 2004 "Gambling a Common Activity for Americans" http://www.gallup.com/content/Default.aspx?ci=11098


JULY 04
NIJ
Research for Practice
Gambling and Crime Among Arrestees: Exploring the Link

U.S. Department of Justice
Office of Justice Programs
810 Seventh Street N.W.
Washington, DC 20531

John Ashcroft
Attorney General

Deborah J. Daniels
Assistant Attorney General

Sarah V. Hart
Director, National Institute of Justice

This and other publications and products of the National Institute of Justice can be found at:

National Institute of Justice
www.ojp.usdoj.gov/nij

Office of Justice Programs
Partnerships for Safer Communities
www.ojp.usdoj.gov

JULY 04

Gambling and Crime Among Arrestees: Exploring the Link

This Research for Practice is based on a final report submitted to the National Institute of Justice, *Pathological Gambling in Arrestee Populations* (NCJ 196677) by Richard C. McCorkle. The final report is available electronically from the National Criminal Justice Reference Service Web site, at http://www.ncjrs.org/pdffiles1/nij/grants/196677.pdf.

Findings and conclusions of the research reported here are those of the author and do not reflect the official position or policies of the U.S. Department of Justice.

This research was supported by National Institute of Justice grant number 99-IJ-CX-K011 awarded to the University of Nevada, Las Vegas.

NCJ 203197

ABOUT THIS REPORT

Is there a connection between problem gambling and crime? Do compulsive or pathological gamblers resort to criminal activity to pay their debts and finance their bets? To examine the link between problem gambling and crime, researchers interviewed arrestees in Las Vegas and Des Moines to probe their gambling behavior and its relationship to their crimes.

What did the researchers find?

Using the Arrestee Drug Abuse Monitoring (ADAM) Program as a survey vehicle, researchers found significantly more problem gambling among arrestees than in the general population. The arrestees who were interviewed had high levels of criminal activity related to pathological gambling.

- The percentage of problem or pathological gamblers among the arrestees was three to five times higher than in the general population.
- Nearly one-third of arrestees identified as pathological gamblers admitted having committed robbery in the previous year. Approximately 13 percent had assaulted someone for money. Pathological gamblers were much more likely to have sold drugs than other arrestees.

Limitations of the study

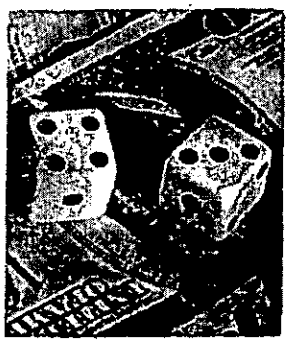
The study was conducted among arrestees in only two U.S. cities—Las Vegas and Des Moines. Las Vegas likely has the highest level of residents and visitors who gamble of any major U.S. city. Des Moines was chosen to represent a midsize U.S. city that had more typical levels of gambling.

Who should read this study?

Corrections administrators, drug and gambling treatment providers, State-level government policymakers.

Richard C. McCorkle

Gambling and Crime Among Arrestees: Exploring the Link



The spread of legalized gambling in the United States over the past 15 years has sparked considerable political controversy, public debate, and research (see "How Big Is Gambling?"). Many policymakers are concerned that widespread gambling, especially what social scientists call compulsive or pathological gambling, will lead to increased crime, drug and alcohol use, and other social or psychological problems. They worry that gambling and its consequences will destroy individual lives, wreck families, and weaken societal institutions. Another concern is that many compulsive or pathological gamblers will turn to drug sales or other crimes to finance their habit and pay their debts.

Unfortunately, what little we know about the social and psychological effects of gambling is derived from studies of treatment populations or the general public. To understand the relationship between gambling and crime, more needs to be known about the gambling habits of people who have been arrested and jailed or sentenced to prison. Their gambling and criminal problems may well be more chronic and severe than those of other subpopulations. And we know little about the nature and consequences of their gambling activities, or the extent to which their gambling is related to the crimes for which they have been jailed.

Exploring the connection

To better understand and deal with the relationship between gambling and criminal activity, researchers sought to answer several questions about the arrestee subpopulation:

- How many arrestees are compulsive or pathological gamblers and how many pathological gamblers are arrested for felony and misdemeanor offenses?
- Do compulsive or pathological gamblers fit any age, gender, marital status, or other profile?

About the Author

Dr. Richard C. McCorkle is associate professor at the University of Nevada, Las Vegas, and chair of the criminal justice department. He was the director of the Las Vegas Arrestee Drug Abuse Monitoring (ADAM) Program.

- How does the criminal activity of compulsive or pathological gamblers compare with that of less serious gamblers or nongamblers?
- What proportion of crimes committed by compulsive or pathological gamblers is linked to their gambling activities?
- What proportion of compulsive or pathological gamblers uses alcohol, illegal drugs, or other substances to excess? How does that affect the nature and extent of their gambling, as well as their criminal activity?

This Research for Practice is based on a study that addressed those questions. Researchers interviewed arrestees in jail in two U.S. cities—Las Vegas, Nevada, and Des Moines, Iowa. They initially contacted 3,332 arrestees. Completed interviews and urine samples were provided by 2,307 (69 percent) of those contacted. Ninety percent of those who were interviewed and provided urine samples also answered questions that probed their gambling behavior and its relationship to their crimes. The interviews for this study were conducted between fall 1999 and winter 2001.

Las Vegas was chosen because it probably has more residents and visitors who gamble than any other major metropolitan area in the United States. If a relationship exists between gambling and crime and/or drug and alcohol use, it should be clearly recognizable in Las Vegas. Des Moines, on the other hand, represents a more typical midsize U.S. city. Both Las Vegas and Des Moines participate in the Arrestee Drug Abuse Monitoring (ADAM) Program, which was operating in 35 U.S. cities when the research was conducted. ADAM collects data that allow researchers to develop national and local profiles of drug use among people who have been arrested and jailed for whatever reason.

Classifying gambling types

For the purpose of this study, the arrestees who were interviewed were divided into five types based on their answers to a series of questions designed to determine the nature and extent of

1684

their gambling: nongamblers and low-risk, at-risk, problem, and compulsive or pathological gamblers. Gamblers are classified by types based on a set of 10 criteria developed by the American Psychiatric Association (APA) and published in APA's *Diagnostic and Statistical Manual (DSM–IV)*. These criteria are preoccupation (e.g., reliving past gambling experiences or planning future ventures), tolerance (needing to wager more money to generate the same "buzz"), lying, withdrawal (restless or irritable when attempting to cut down or stop gambling), escape, chasing (returning to get even for a previous day's losses), loss of control, illegal acts, risked relationships, and bailout (relying on others to provide money to relieve a desperate financial situation caused by gambling). Gamblers must meet at least five of these criteria to be classified as pathological.

The overwhelming majority of Americans fall into the nongambler or low-risk groups. Most either do not gamble at all or do not gamble seriously enough to have social, legal, or economic problems as a result of their gambling. In general, low-risk gamblers are those who meet few if any of APA's criteria.

How Big Is Gambling?

There is no doubt about gambling's reach today. What once appeared to be largely confined to casinos, the quiet off-track bookie, bingo halls, and the occasional Friday night poker game has become a national pastime. By 1993, more than half of all Americans reported having gambled in a casino at least once. By 1996, Americans were wagering $47.6 billion a year—more money than movies, sporting events, theme parks, cruise ships, and the recording business generated combined. By 1997, nearly 500 gambling sites were on the Internet.

The number of States with legalized gambling has mushroomed. In 1978, only two States—Nevada and New Jersey—had casinos. That number grew to 27 by 1998. Twenty-three States now have Indian-owned casinos on tribal reservations within their boundaries. Seven States now permit betting on riverboat casinos. Additionally, State-run lotteries operate in 37 States and the District of Columbia. In fact, only Hawaii and Utah have no form of legalized gambling. As States and localities seek solutions to burgeoning budget deficits, legalized gambling may become even more pervasive.

They tend to gamble for social or recreational purposes, usually betting such small amounts that they rarely suffer significant losses. Thus, they have little or no reason to turn to crime to finance their gambling.

Defining problem gambling. Compulsive or pathological gamblers, the subject of this study, are those who sooner or later suffer heavy losses (often $100 or more at a

time), borrow or steal money or write bad checks to pay gambling debts, avoid or cannot pay their nongambling bills, and lie to their families, friends, and therapists about the extent of their gambling. Not only do they lie, but compulsive or pathological gamblers often rely on others to bail them out of their gambling debts. They have risked and sometimes lost friendships, marriages, jobs, and careers because of gambling. They may have tried to curtail or stop their gambling, but failed. Although the numbers have differed over the years as research methodologies and definitions have changed, the most recent studies show that about 2.5 million Americans are pathological gamblers. Another 3 million Americans are problem gamblers. The lifetime prevalence rate for pathological and problem gambling is estimated as 1.2 percent and 1.5 percent, respectively.

Challenging stereotypes. Compulsive gamblers are often perceived by the public as largely middle-class men whose gambling habits lead them to steal from their families, friends, and/or employers to finance their activities. They are seen as unfortunate individuals who commit such white-collar crimes as larceny, theft, embezzlement, and fraud when their gambling losses become too great to pay through their regular sources of income. Although many compulsive or pathological gamblers fit this image, surveys of the general population paint a somewhat different picture. In fact, general surveys show that pathological gamblers are most likely to be nonwhite males, who are young, less well educated, and unmarried.

Again, although many arrestees who are compulsive or pathological gamblers fit the two images described above, the study found some differences. Unlike the general population, women arrestees are as likely to have gambling problems as men. Marital status and educational attainment also seem to make little or no difference. Arrestees start gambling at a later age than pathological gamblers in the general population, especially men. Male pathological gamblers typically begin gambling as teenagers and then slowly, often over a decade or more, develop a serious gambling habit. Women who become

1686

compulsive or pathological gamblers generally begin gambling later than men, usually in their 20s. Once they become serious gamblers, however, women develop a dependency quickly, typically within 5 years. Both men and women arrestees who are compulsive or pathological gamblers tend to be from lower social and economic classes than those identified in general surveys, more often exhibit sociopathic traits, and frequently start as criminals and only later become gamblers.

Odds are there's a link

As noted earlier, compulsive or pathological gamblers represent only a small percentage of the general population. Yet those who meet APA's definition for pathological gambling accounted for slightly more than 1 in 10 arrestees surveyed in Las Vegas and about 1 in 25 in Des Moines. Together, 14.5 percent of arrestees in Las Vegas and 9.2 percent of those in Des Moines were either problem or pathological gamblers—three to five times the percentage in the general population.

Perhaps more telling, more than one-third of the compulsive or pathological gamblers arrested (34.6 percent in Las Vegas and 37.5 percent in Des Moines) had been arrested on at least one felony count. Surprisingly, though, pathological gamblers were no more likely to be arrested for property or other white-collar crimes (larceny, theft, embezzlement, and fraud) than nongamblers and low-risk and at-risk gamblers. Nor were they more likely to be arrested on drug charges, including selling illegal drugs. Rather, they were most likely to be arrested for such offenses as probation or parole violations, liquor law violations, trespassing, and other public order offenses.

Link to robbery, assault. Still, more than 30 percent of pathological gamblers who had been arrested in Las Vegas and Des Moines reported having committed a robbery within the past year, nearly double the percentage for low-risk gamblers. Nearly one-third admitted that they had committed the robbery to pay for gambling or to pay gambling debts. In addition, about 13 percent said they had assaulted someone

to get money; one in four assaults reported by pathological gamblers was directly or indirectly related to gambling. By comparison, low-risk, at-risk, or problem gamblers reported committing gambling-related robberies infrequently.

Drug dealing. Although they were no more likely to have been arrested on drug charges, compulsive or pathological gamblers were significantly more likely to have sold drugs than arrestees who fit the other gambling types. More than one-third of pathological gamblers said they had sold drugs, compared to 19.2 percent of problem gamblers, 20.2 percent of at-risk gamblers, and 16.1 percent of low-risk gamblers. The differences in those numbers were even greater among gamblers who reported having sold drugs specifically to fund their gambling or pay gambling debts. One in five pathological gamblers who had been arrested admitted having sold drugs to finance their gambling, compared to 4 percent among problem gamblers and less than 2 percent among at-risk gamblers.

Using speed. Not surprisingly, a significant proportion of compulsive or pathological gamblers tested positive for one or more illegal drugs. Arrestees' urine samples were screened for hallucinogens such as marijuana, opiates such as heroin, cocaine, and methamphetamine ("speed"). Overall, 60 percent of arrestees interviewed in Las Vegas and 56 percent of those in Des Moines had at least one illegal drug in their urine samples. But pathological gamblers were no likelier to test positive for drugs than were other gambler types. Nor were there any significant differences in which drugs were found, with one exception. Pathological gamblers were more likely to test positive for methamphetamine, a drug taken as an "upper" to keep users alert and awake during hours- or even days-long gambling binges. Beyond drugs, nearly two-thirds of the pathological gamblers reported that they drank alcohol to the point of dependence. In fact, only 3.3 percent of all arrestees interviewed for this study who were pathological gamblers reported no drug or alcohol problems.

Again, not surprisingly, the study found a relationship between pathological gambling and crime and/or drug

and alcohol use. More than 43 percent of those interviewed who acknowledged pathological gambling and substance use also said they had committed an assault during the previous year. Nearly 40 percent had committed more than one theft in the past year, four times the number of arrestees without either a gambling or a substance use problem. Approximately 38 percent of arrestees with both gambling and substance use problems reported having sold drugs, nearly eight times the number of those with no gambling or substance use problem.

Pathological gamblers reported that, on average, they committed their first crime around age 21, developed an alcohol problem by about 23 or 24, and began to have gambling problems in their mid- to late 20s. Gambling began after the onset of criminal and substance problems, not before. Nonpathological gamblers who said they had similar substance use problems and criminal activity reported a similar average age of onset for each of those problems. Men who were pathological gamblers were more likely to have committed a serious crime at an earlier age than women who were pathological gamblers. Also, only 13 percent of pathological gamblers who admitted having a gambling problem said they sought treatment. And only 10 percent said they attended Gamblers Anonymous or similar meetings.

Policy implications

A number of conclusions and policy recommendations can be drawn from the study findings. Arrestees who report that they are or can be defined by their responses to interviews or questionnaires as compulsive or pathological gamblers are drawn disproportionately from the social and economic fringes of society. As legalized gambling spreads to States and localities that do not now permit gambling or have it only on a small scale, these jurisdictions must prepare to deal with the social ills engendered by problem gambling.

Criminals and those who use alcohol and illegal drugs to excess appear to be at greater risk for becoming compulsive or pathological gamblers. Few are likely to receive or seek treatment for

1689

their addictions. Gambling, especially when accompanied by substance use, is a prime motivation for many but not all of their crimes.

States and localities may identify individuals with a gambling problem by using existing psychological tests (or abbreviated versions of such tests suitable to intake interviews) to screen arrestees. Today, however, few States or localities have screening programs in detention centers, jails, or prisons. Arrestees are often booked and released shortly thereafter. If at least some arrestees with a real or potential gambling problem can be identified, they can be offered treatment. Early treatment might help reduce the number who become repeat offenders.

States and localities also may want to develop treatment programs in detention centers, jails, and/or prisons. Such programs might include group therapy sessions similar to those offered by Gamblers Anonymous. Such sessions could be incorporated into existing programs for illegal drug or alcohol use. To reduce the chances of relapses once prisoners are released, States and localities may develop referral systems that offer former arrestees and inmates the names of agencies and programs that offer continued treatment and support.

Finally, being behind bars is likely to worsen the gambling habits of many compulsive or pathological gamblers. Although it is officially banned, gambling is difficult to control in prisons and jails. It is a diversion from the monotony of jail. As a result, jailed arrestees and prison inmates may accrue significant gambling debts behind bars that can only be paid off by committing further crimes after their release. Authorities could provide increased attention to gambling behaviors in detention centers, jails, and prisons.

1690

The National Institute of Justice is the research, development, and evaluation agency of the U.S. Department of Justice. NIJ provides objective, independent, evidence-based knowledge and tools to enhance the administration of justice and public safety.

NIJ is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

Facts about Gambling and Addiction

- **Yes, it is addictive.**

"Gambling is an addictive behavior, make no mistake about it . . . Gambling has all the properties of a psychoactive substance, and again, the reason is that it changes the neurochemistry of the brain."[1]

The National Gambling Impact Commission found that following a decade of expansion in the 1990's, the national lifetime compulsive gambling population had grown by at least 50%, to no less than 1.2% based on the most conservative of its source studies.[2] It also discovered a significant trend indicating **addiction had doubled in many populations within 50 miles of casinos.**[3]

Probable pathological gambling in Nevada in 2000 measured 3.5% and the prevalence of problem gambling added 2.9% for a total of 6.4%. Other cited states ranged from 2.1% in North Dakota in 2000 to 4.9% in Mississippi in 1996.[4]

The American Psychiatric Association notes the diversity of pathological gambling rates in its diagnostic manual. "Community studies estimate the lifetime prevalence of pathological gambling to range from 0.4% to 3.4% in adults, although prevalence rates in some areas (e.g., Puerto Rico, Australia) have been reported to be as high as 7%. Higher prevalence rates, ranging from 2.8% to 8% have been reported in adolescents and college students."[5] Those differences illustrate the effects of demographics, proximity and diversity of gambling opportunities.

- **Proximity matters. So do culture, disadvantage and demographics.**

Researchers at the National Opinion Research Center combined data from a national telephone survey with data from a casino patron survey and found that **adults living within 50 miles of a casino had double the probability of pathological or problem gambling.**[6]

Poverty, lower education level and other social and economic factors can effect gambling addiction, and they can be accelerated by the proximity of gambling outlets. "Neighborhood disadvantage shows . . . a strong positive effect on frequency of gambling and pathological or problem gambling. For every increase of one standard deviation in neighborhood disadvantage the odds of being a pathological or problem gambler increase by 69%. . . . **A casino within 10 miles of home is associated with a 90% increase in the odds of being a pathological or problem gambler."**[7]

In short, the presence of gambling opportunities is likely to double the prevalence of problem and pathological gamblers, and the addition of other contributing factors may increase the addiction rate exponentially.

For example, 93% of a group of Southeast Asian refugees in a Connecticut study had gambled in the previous two months, and more than half were said to be pathological gamblers.[8]

Clear across the nation, casinos find 60% to 70% of table game customers and 20% to 25%

of their slot players are Asians, despite the fact they comprise only 9% of the population. [9]

- **Electronic Gambling Machines may be the most addictive.**
  Gamblers who participate with electronic machines are becoming addicted much more quickly. One of the most recent studies show EGM gamblers arrive at the pathological level in 1.08 years vs. 3.58 years with more "conventional" forms of table and racetrack gambling. Thus, electronic gambling devices have been often labeled as the "crack cocaine" of the industry. [10]

- **It is neither a small number nor a small problem**
  The percentage of those afflicted by compulsive gambling should not be considered "small." Even at the minimalist "background" level of under one percent, gambling addiction, not including problem gamblers, would still be twice as prevalent as cancer among Americans. [11] In mature gambling markets, more than 5% of the population will develop some problem with gambling, a prevalence rate about five times that of schizophrenia and more than twice that of cocaine addiction. [12]

- **Problem gamblers are biggest victims**
  Problem and pathological gamblers comprise a sharply disproportionate share of gambling losses, contributing 30 to 50% of all gambling losses. They also often comprise HALF the gamblers participating at any given time.

  Problem gamblers in Nova Scotia comprise 16% of all those who play the machines on a regular basis, which translates to approximately 0.92% of all adults in the province. This group of gamblers contributes **just over half of the net revenue** for video lottery gambling and, at any given time, and will comprise **almost half of all those sitting in front of video lottery terminals** in Nova Scotia. [13]

  Dr. Henry Lesieur, president of the Institute for Problem Gambling compiled existing surveys from seven states and provinces. His study concluded that **30.4 percent of gambling revenues in those markets came from problem and pathological gamblers**. Those surveys included data from lotteries, casinos, pari-mutuel wagering and sports betting. [14]

- **Youth are more troubled and addicted than adults.**
  The "acceptance" of gambling by government and the society's adults have led to a devastating increase in problem gambling among minors. Many studies have confirmed the problem, including study of America's **11- to 18-year-olds which showed a 4 to 7% prevalence rate of problem gambling** behaviors. [15]

- **America's military in danger.**
  The Worldwide Survey of Substance Abuse and Health Behaviors Among Military Personnel [16]

  is a large-scale study that screened for gambling-related problems among America's military personnel. The survey reported that in 1992 and 1998, 7.1% and 8.1%, respectively, of all Department of Defense personnel had at least one gambling-related problem, and 2%

exhibited behaviors suggestive of pathologic gambling.

- **Gambling problems become health and family problems**
  A recent Canadian study found, "Half of all problem gamblers reported that their gambling caused difficulties in relationships with family or friends. Four in 10 obsessive gamblers (42%) reported a high level of stress in their life, compared with 23% of gamblers who reported no problems. [17]

  Financial and other stresses related to problem gambling take a toll on families. Government Accounting Office analyses prepared for the NGISC found **53.5% of pathological gamblers reported having been divorced,** while only 18.2 percent of non-gamblers were divorced. [18]

- **Suicide rates dramatic among problem gamblers**
  "About 18% of problem gamblers reported that they had contemplated suicide in the year prior to the survey, six times the proportion (3%) of non-problem gamblers.
  "The insidiousness of excess gambling is revealed by the 27% of moderate-risk gamblers and 64% of problem gamblers who wanted to stop gambling in the year prior to the survey, but believed they could not. About 56% of problem gamblers had tried to quit, but could not.
  The Canadian study validates findings in the United States. Suicide, for example, is a link almost universally denied by the gambling industry, but a Nevada study of addicted gamblers revealed, "Between 20% and 30% of the respondents made actual suicide attempts (we could not assess how many were successful). No other addictive population has had as high a prevalence for attempts." [19]

- **Gambling addiction is extremely hard to overcome.**
  A typical study cited by the Harvard addiction scholars in their monthly publication noted, "Of the 80 participants followed for 12 months, 92% experienced relapse. Optimism about winning was the most frequently reported precipitant of relapse for both genders." [20]
  In another review, the group reported, "Recent research reports that disordered gambling treatment providers experience patient drop-out rates between 40% and 80%" [21]

---

[1] Shaffer, Howard, quoted by Kindt, John Warren, in *Managerial and Decision Economics*, 22: 17-63 (2001)

[2] NGISC, Part 4, p. 4

[3] Ibid.

[4] Volberg, Rachel A., PhD "Gambling and Problem Gambling in Nevada: Report to the Nevada Department of Human

Resources," p. iii.
[5]
DSM-IV, American Psychiatric Association, P.673.
[6]
Welte, John W.; Wieczorek, William F.; Barnes, Grace M.; Hoffman, Joseph H. Reference cited in "The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology" p. 7.
[7]
Welte, et al; P15
[8]
http://www.newbritainherald.com/site/news.cfm?newsid=10057018&BRD=1641&PAG=461&dept_id=10110&rfi=6
[9]
http://www.sacbee.com/content/news/story/7287160p-8231825c.html
[10]
Breen, Robert B. and Zimmerman, Mark; "Rapid Onset of Pathological Gambling in Machine Gamblers" p.2
[11]
American Cancer Society: Most recent year's prevalence rates are just under 0.5%
http://www.cancer.org/docroot/STT/stt_0.asp
[12]
Petry, Nancy, Ph.D., University of Conn.
http://www.uchc.edu/ocomm/features/stories/stories03/feature_gambling2.html
[13]
Nova Scotia Department of Health Nova Scotia "Video Lottery Players' Survey 1997/98 Highlights" p. 3
[14]
Lesieur, Henry R., "Measuring the Costs of Pathological Gambling," Revision of the presentation to the Tenth International Conference on Gambling and Risk Taking," Montreal, Quebec, June 1997.
[15]
Proimos J, DuRant RH, Pierce JD, Goodman E. "Gambling and other risk behaviors among 8th- to 12th-grade students." *Pediatrics* 1998;102:e23. as cited in *American Family Physician*, Feb. 1, 2000.
[16]
Bray RM, Kroutil LA, Luckey JW, Wheeless SC, Iannacchione VG, et al. "1992 worldwide survey of substance abuse and health behaviors among military personnel." Research Triangle Park, N.C.: Research Triangle Institute, 1992. as cited in *American Family Physician*, Feb. 1, 2000.
[17]
Schwer, R. Keith; Thompson, William N.; Nakamuro, Daryl; "Beyond the Limits of Recreation: Social Costs of Gambling in Southern Nevada." p. 4
[18]
GAO stats prepared for NGISC, cited in Grinols, Earl L. *Gambling in America, Costs and Benefits*, p.145.
[19]
Schwer, et al, p. 4
[20]
Hodgins, D., & el-Guebaly, N. (2004). "Retrospective and Prospective Reports of Precipitants to Relapse in Pathological Gambling." *Journal of Consulting & Clinical Psychology*, 72(1), 72-80. quoted in The WAGER Volume 9 Number 13 - March 31, 2004 "In the Mood for a Relapse?" www.thewager.org
[21]
The Wager, Volume 9 Number 24 - June 16, 2004 http://www.thewager.org/index.htm

HJR

8

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 26, 2009

FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 4-7-09

The STATE AFFAIRS Committee considered:

HOUSE JOINT RESOLUTION NO. 8

Proposing amendments to the Constitution of the State of Alaska limiting appropriations from certain mineral revenue, relating to the balanced budget account, and relating to an appropriation limit.

HJR 8 CONST. AM: APPROP. LIMIT/MINERAL REVENUE

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW **FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
OOG		X		

PREVIOUS **FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson	X			
Gatto	Gatto			←	
Paul Seaton	SEATON		X		
Max Gruenberg	Gruenberg		✓		
Bryce Wilson	WILSON				✓
Pete Petersen	Petersen		X		
Chair: Bill Lynn	LYNN	X			
Chair:					

Alaska State Legislature

Juneau
State Capitol Bldg., Rm. 513
Juneau, AK 99801-1182
Phone (907) 465-4976
Fax (907) 465-3883
Toll Free 866-465-4976

Fairbanks
1292 Sadler Way, Ste 323
Fairbanks, AK 99701
Phone (907) 452-6084
Fax (907) 452-6096

Member
House Finance Committee

Representative Mike Kelly

House District 7

Questions & Answers for HJR 8 in House State Affairs Committee
Tuesday, April 7, 2009

Question: Where did the definition of "mineral revenue" come from on page 1, lines 8-10 of the resolution?
Answer: Article 9, Section 15 of the Alaska Constitution, which says: "At least twenty-five per cent of all **mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses** received by the State shall be placed in a permanent fund, etc..."

Mineral production refers to the State's production tax (ACES) on oil. Mineral Transportation refers to the State's tariff on transporting oil through the Trans-Alaska Pipeline System. This section would apply to a potential gasline as well.

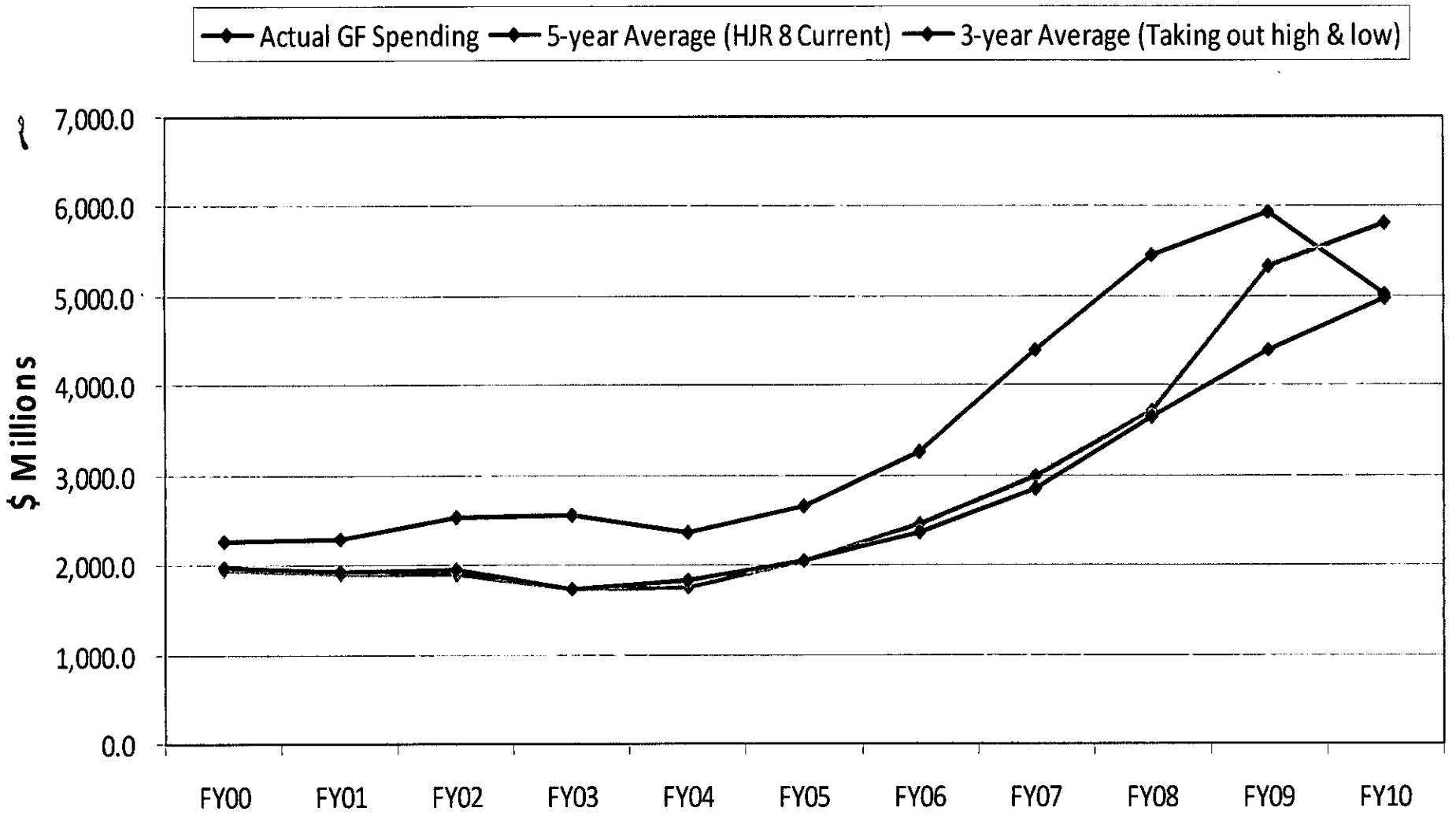
Question: Has the Constitutional Budget Reserve been repaid?
Answer: According to the Comprehensive Annual Financial Report of the State of Alaska, the remaining indebtedness to the CBR is $150 million and change. In FY08 the legislature appropriated $3 billion from the general fund to the CBR. Additionally, at the end of FY08 over $2 billion was swept from a variety of GF sub-funds and accounts, and transferred to the CBR.

Question: Can we include fish receipts and tourism in the 5-year appropriation limit?
Answer: Yes we can, but the state receives minimal revenue from these sources when compared to mineral revenue. For example, total unrestricted income from Fish Taxes was $22.4 and $22.6 million in FY07 and FY08. If these receipts were included in HJR 8, they would represent ½ a percent of total revenue in FY07 and even less in FY08. The Fall 2008 Revenue Sources book includes other restricted revenue from fish receipts, but because they are restricted they should not be included in the HJR 8 model.

Total unrestricted income from tourism includes: $9 million from the Car Rental Tax, $12.3 million from the Cruise Corporate Income Tax, $3.5 million from the Tourism Corporate Income Tax, and $6.7 million from the Cruise Gaming Tax. Total unrestricted revenue from tourism in FY08 was $31.5 million. These funds represent a 1/3 of a percent of total revenue for FY08. The Fall 2008 Revenue Sources book includes other restricted revenue from tourism, but because they are restricted they should not be included in the HJR 8 model.

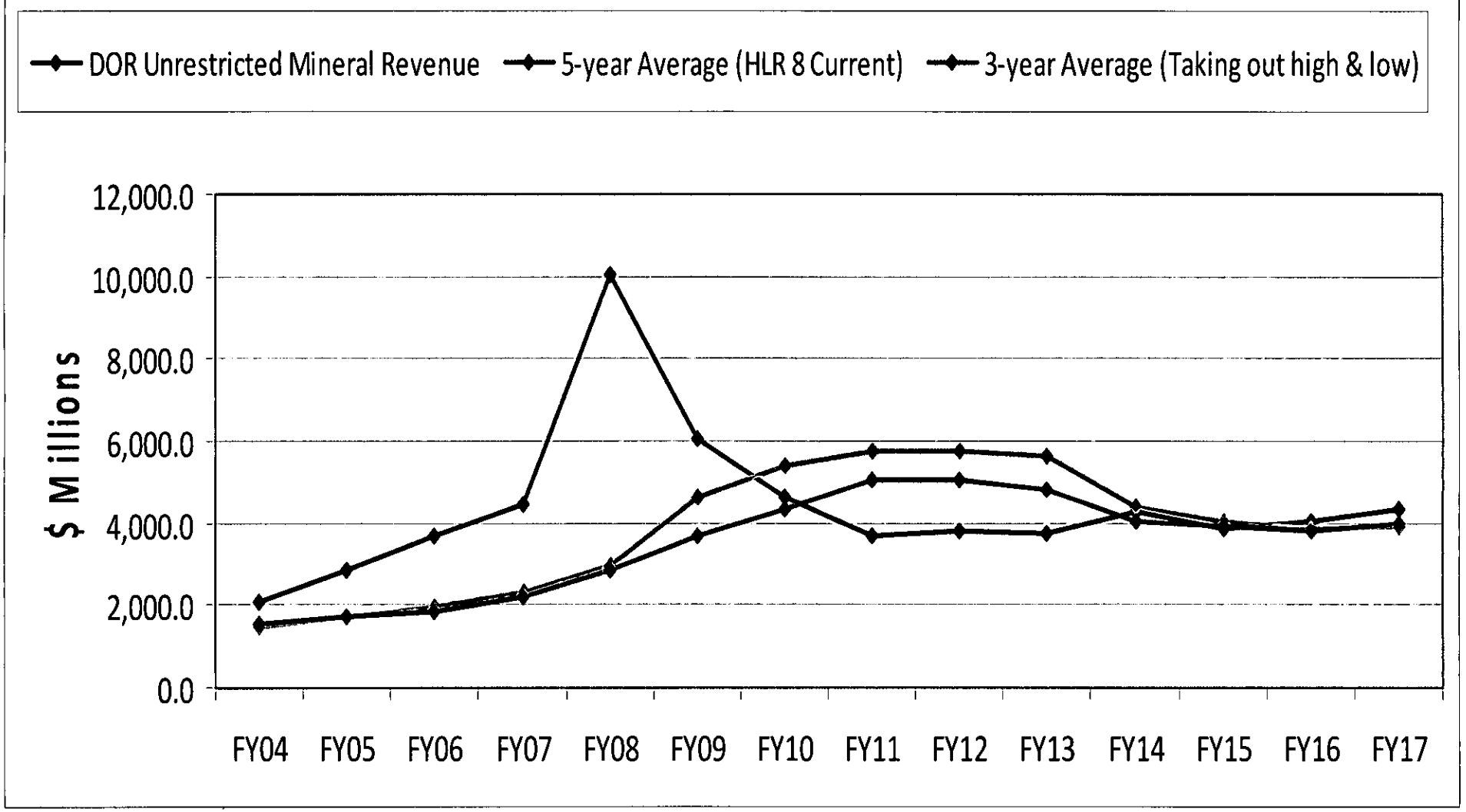
Question: Can we calculate a 3-year Average, deleting the high extreme and the low extreme?
Answer: Yes. (See Attached)

State of Alaska General Fund Spending FY00 - FY10



Source: Fall 2008 Revenue Sources Book

5-year and 3-year Average Comparison



Source: Fall 2008 Revenue Sources Book (No big fluctuations going up and assuming decline in TAPS throughput)

MODEL HJR 8 (Millions)

	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17
Unrestricted Oil Revenue *(Fall 2008 Revenue Resources Book)*	2,054.1	2,849.6	3,699.2	4,481.4	10,012.4	6,051.4	4,626.9	3,693.5	3,803.0	3,730.9	4,266.8	3,888.1	4,036.1	4,319.5
5-year Average Appropriation Limit (HJR 8)	1,480.2	1,708.4	1,949.8	2,312.4	2,944.7	4,619.3	5,418.8	5,774.3	5,773.1	5,637.4	4,381.1	4,024.2	3,876.5	3,945.0
Difference	573.9	1,141.2	1,749.4	2,169.0	7,067.7	1,432.1	(791.9)	(2,080.8)	(1,970.1)	(1,906.5)	(114.3)	(136.1)	159.6	374.5
Deposit ↓ or Draw ↑ (BBA)	↓	↓	↓	↓	↓	↓	↑	↑	↑	↑	↑	↑	↓	↓
BBA Beginning Balance	0.0	599.9	1,819.9	3,730.8	4,834.2	6,155.9	7,931.4	7,462.6	5,625.5	3,820.8	2,000.9	1,971.9	1,918.9	2,172.6
BBA Ending Balance	599.9	1,819.9	3,730.8	4,834.2	6,155.9	7,931.4	7,462.6	5,625.5	3,820.8	2,000.9	1,971.9	1,918.9	2,172.6	2,662.4
Deposit to CBR	0.0	0.0	0.0	1,274.9	6,012.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CBR Beginning Balance	2,064.0	2,184.2	2,265.6	3,822.1	10,007.7	10,460.6	10,934.0	11,428.9	11,946.2	12,486.9	13,052.0	13,642.8	14,260.2	14,905.7
CBR Ending Balance	2,184.2	2,265.6	2,547.2	3,995.1	10,460.6	10,934.0	11,428.9	11,946.2	12,486.9	13,052.0	13,642.8	14,260.2	14,905.7	15,580.3

***Assumed 4.526% growth for BBA and CBR

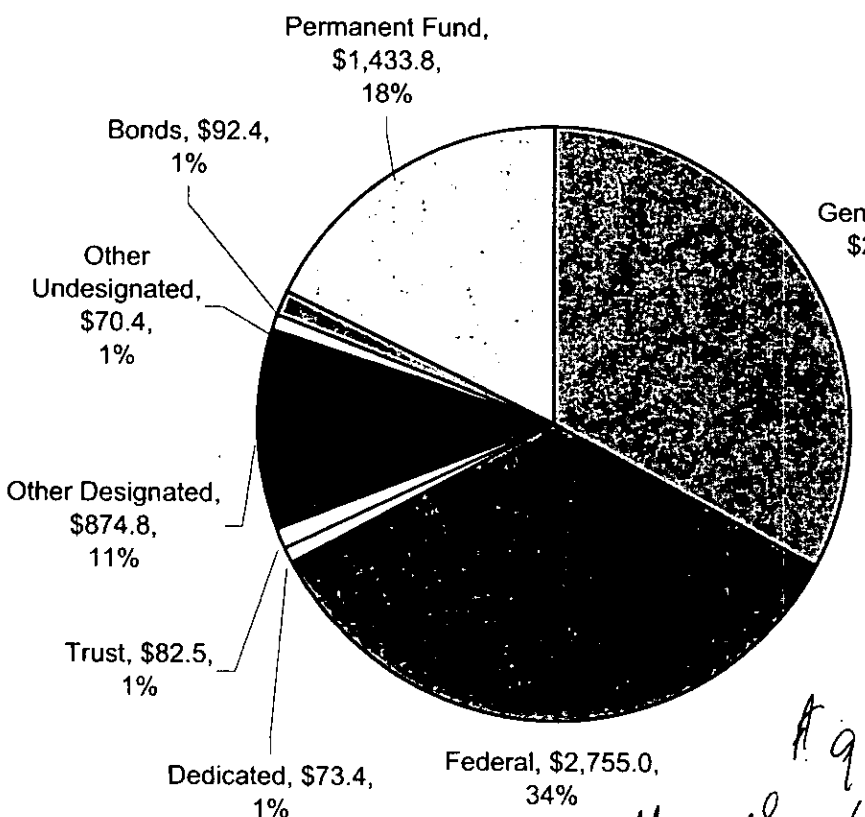
1703

State of Alaska Fiscal Summary

Section L

FY06 Operating & Capital Budgets
Unduplicated Appropriations by Category

($ millions)



2.3b operating
338.7m cap.

difference of 900 million for 2006 = 39 percent of GF operating budget

or 100% of capital budget plus 26% of GF operating budget

Definitions of Funds

General Fund expenditures include general fund match, general fund program receipts, general fund mental health, and "pure" general fund expenditures.

Permanent Fund expenditures include inflation proofing deposits into the fund, dividends and administrative costs. They also include special deposits to the fund and use of earnings as appropriated by the legislature.

Federal expenditures include all federal funds received and spent by the State. Federal funds typically can be used only for the specific purposes for which they are received.

Dedicated expenditures as provided for in the Constitution include expenditures by the School Fund (cigarette tax), Public School Fund, Second Injury Fund, Fisherman's Fund and the Fish and Game Fund.

Trusts include the Alaska Advance College Tuition Savings Fund, the Alyeska Settlement Fund, the Mental Health Trust, the Exxon Valdez Oil Spill Restoration Fund and several funds associated with public employee retirement systems.

Other Undesignated includes all non-federal, non-general fund codes that are not designated for a specific purpose by statute.

Other Designated includes all non-federal, non-general fund codes that are designated for a specific purpose by statute.

Bonds includes proceeds of bonds for which debt service payments will not appear in future budgets.

1704

State of Alaska Fiscal Summary

($ millions)

		FY05 Authorized				FY06 Budget (after vetoes)				GF
		GF	Federal	Other	Total	GF	Federal	Other	Total	Change
1	**REVENUE** (Excludes Permanent Fund Earnings)									
2	Unrestricted General Fund Revenue (1)	2,946.9			2,946.9	2,664.0			2,664.0	
3	Revised Revenue Forecast (5/18/05 $43.46/bbl in FY05)	107.8	11.1	6.0				20.0	20.0	
4	Bond Proceeds and Other Borrowing (2)			120.0	120.0			330.2	330.2	
5	Corporate Dividends (3)			130.6	130.6			114.9	114.9	
6	Retained Corporate Dividends (3)			(53.9)	(53.9)			(59.9)	(59.9)	
7	Federal and Other Funds		3,235.3	977.1	4,212.3		2,755.0	851.0	3,606.0	
8	**Total Revenue**	**3,054.7**	**3,246.4**	**1,179.8**	**7,480.8**	**2,664.0**	**2,755.0**	**1,256.2**	**6,675.2**	(390.7)
9	**APPROPRIATIONS**									
10	**Operating**	**2,321.7**	**1,633.7**	**1,008.1**	**4,963.5**	**2,214.1**	**1,681.3**	**1,011.2**	**4,906.6**	(107.6)
11	Agency Operations (Non-Formula) & RPLs	1,116.4	814.2	1,309.4	3,240.0	1,298.2	819.0	1,345.0	3,462.1	
12	Formula Programs (4)	1,150.9	778.3	148.6	2,077.8	845.7	818.7	141.9	1,806.4	
13	Debt Service	2.7	8.6	250.0	261.3	52.0	8.0	241.2	301.2	
14	Fund Capitalization	51.7	32.6	27.7	112.0	18.2	35.6	15.3	69.1	
15	Duplicated Authorization (5)			(727.7)	(727.7)			(732.2)	(732.2)	
16	**Capital**	**8.8**	**1,458.8**	**153.5**	**1,621.1**	**338.7**	**1,075.9**	**238.4**	**1,653.1**	**329.9**
17	Project Appropriations & RPLs (Revised Programs)	7.0	1,457.4	101.4	1,565.8	332.2	1,075.9	197.8	1,606.0	
18	Mental Health Projects	1.9	1.5	4.1	7.4	6.5	0.0	5.6	12.1	
19	Projects Funded with Debt Proceeds			95.2	95.2	0.0	0.0	308.2	308.2	
20	Duplicated Authorization (5)			(47.2)	(47.2)			(273.2)	(273.2)	
21	**New Legislation**					**11.4**	**(2.3)**	**6.6**	**15.7**	
22	**Total Authorization (unduplicated)**	**2,330.5**	**3,092.5**	**1,161.6**	**6,584.6**	**2,564.2**	**2,755.0**	**1,256.2**	**6,575.4**	**233.7**
23	**Surplus (Draw From CBR)**	**724.2**				**99.8**				(624.4)
24	**Post-Session Activity**									
25	Supplemental Operating Appropriations (6)	172.6	61.2	20.3	254.1	60.0			60.0	
26	Capitalization of the Public Education Fund (4)	414.2	0.0	0.0	414.2					
27	Supplemental Capital Appropriations	128.8	92.6	74.3	295.7					
28	Duplicated Authorization (5)			(76.3)	(76.3)					
29	**Total Authorization**	**3,046.1**	**3,246.4**	**1,179.8**	**7,472.2**	**2,624.2**	**2,755.0**	**1,256.2**	**6,635.4**	(421.9)
30	**Revised Surplus (Draw From CBR)**	**8.6**				**39.8**				
31	Permanent Fund Dividends			607.0	607.0			690.0	690.0	
32	Permanent Fund Inflation Proofing			640.0	640.0			651.0	651.0	
33	Capital Income Fund			20.0	20.0			30.0	30.0	
34	**TOTAL WITH PERMANENT FUND**	**3,046.1**	**3,246.4**	**2,446.8**	**8,739.2**	**2,624.2**	**2,755.0**	**2,627.2**	**8,006.4**	

Notes:

(1) Revenue assumptions are from the Spring 2005 Revenue Sources Book. The oil forecast is $41.75 per barrel and .920 million barrels per day in FY05 and $38.60 per barrel and .911 mbd in FY06.

(2) Money borrowed for FY05 projects includes $45 million in AHFC bonds and $50.1 million in ASLC bonds. Money borrowed for FY06 projects and debt service includes $62.1 million in revenue bonds, $138 million in Airport bonds, $20.4 million in COPs, $85 million in ASLC bonds and $20 million in line of credit.

(3) Corporate dividends include funds made available to the State by the boards of AHFC, AIDEA, and ASLC. Dividends retained by AHFC for debt service on state capital project bonds are subtracted.

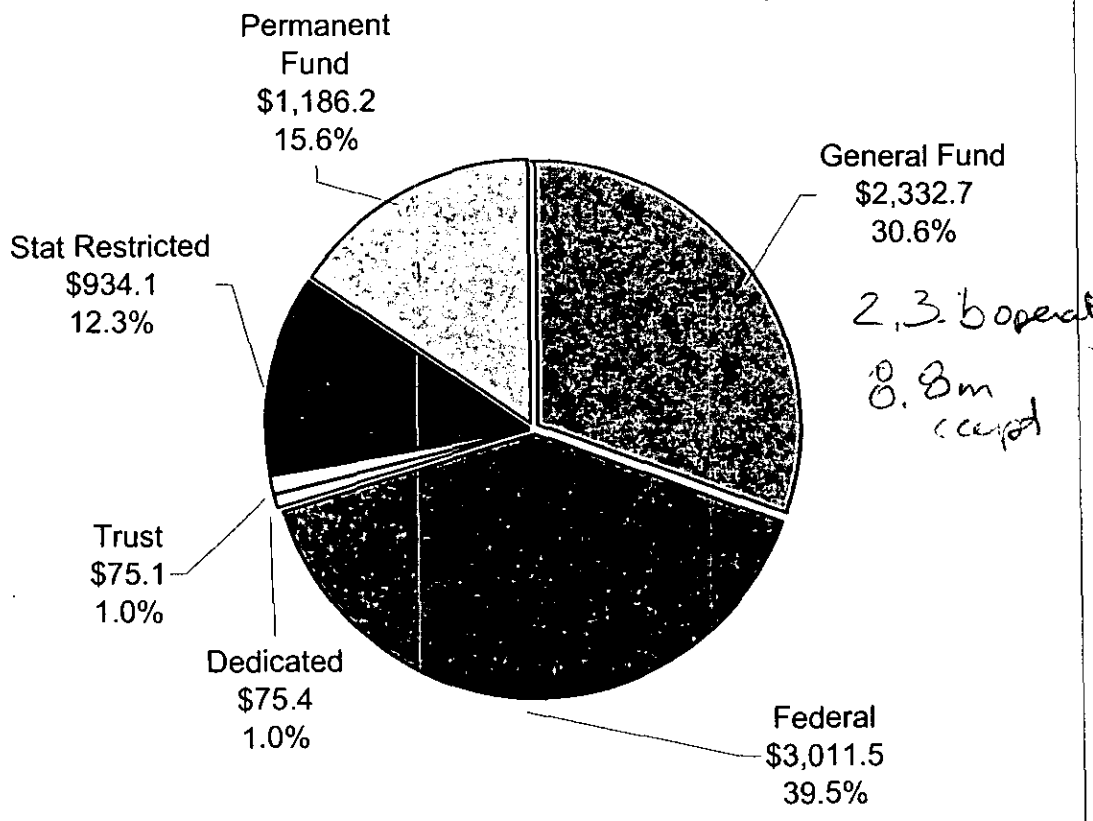
(4) FY06 appropriations for formula programs excludes the $414 million FY05 capitalization of the Public Education Fund (line 26) that will be used for K-12 education in FY06. Appropriating money in one fiscal year while spending it in another distorts year-to-year comparisons. Adjusting for K-12 funding would reduce FY05 GF appropriations to $2.6 billion and increase FY06 appropriations to $3.0 billion.

(5) Duplicated authorizations are in the budget twice, such as when funds flow in and out of a holding account or one agency pays another for services provided.

(6) Supplemental appropriations for FY06 is an estimate

FY05 Fiscal Summary

State of Alaska Expenditures by Category--FY05 Operating & Capital Budgets ($ millions)



2.3b operating
0.8m capital

Definitions of Funds

General Fund expenditures include general fund match, general fund program receipts, general fund mental health, and "pure" general fund expenditures.

Permanent Fund expenditures include inflation proofing deposits into the fund, dividends and administrative costs. They also include special deposits to the fund as appropriated by the legislature.

Federal expenditures include all federal funds received and spent by the State. Federal funds typically can be used only for the specific purposes for which they are received.

Dedicated expenditures as provided for in the Constitution include expenditures by the School Fund (cigarette tax), Public School Fund, Second Injury Fund, Fisherman's Fund and the Fish and Game Fund.

Trusts include the Alaska Advance College Tuition Savings Fund, the Alyeska Settlement Fund, the Mental Health Trust, the Exxon Valdez Oil Spill Restoration Fund and several funds associated with public employee retirement systems.

Statutorily Restricted expenditures include tuition, food and service fees and interest earned by the University of Alaska; several State loan and enterprise funds; the Marine Highway Fund; receipts of several State corporations and the disaster relief fund.

at 600 million difference for 2005 between GF spending + HJR8 avail.
26% of operating budget
plus 100% of Capital Budget

1706

FY04/FY05 Fiscal Summary

($ millions)

	FY04 Authorized				FY05 Enacted				GF
REVENUE (Excludes Permanent Fund Earnings)	GF	Federal	Other	Total	GF	Federal	Other	Total	Change
Unrestricted General Fund Revenue (1)	2,331.6			2,331.6	1,961.1			1,961.1	(370.5)
New Revenues (2)					10.8				
Bond Proceeds (3)							120.0		
Corporate Dividends (4)			123.5	123.5			130.6	130.6	
Retained Corporate Dividends (4)			(53.0)	(53.0)			(53.9)	(53.9)	
Federal and Other Funds		2,759.6	1,072.4	3,831.9		3,011.5	943.1	3,954.6	
Total Revenue	**2,331.6**	**2,759.6**	**1,142.9**	**6,234.1**	**1,971.9**	**3,011.5**	**1,139.8**	**6,123.2**	(359.7)
APPROPRIATIONS									
Operating	**2,233.1**	**1,633.5**	**977.9**	**4,844.4**	**2,323.8**	**1,566.0**	**986.3**	**4,876.2**	**90.8**
Agency Operations (Non-Formula)	1,086.8	721.5	1,260.8	3,069.2	1,104.9	752.4	1,280.0	3,137.3	18.1
Formula Programs	1,060.5	730.4	140.5	1,931.5	1,150.4	772.1	134.0	2,056.4	89.9
Debt Service & Fund Capitalization	53.7	47.8	231.8	333.2	54.4	41.3	280.9	376.6	
Revised Program Legislation (RPLs)		75.5	1.8	77.3					
Supplemental Appropriations	32.1	58.2	12.6	102.9	12.5			12.5	(19.6)
New Legislation					1.7	0.3	17.3	19.3	1.7
Duplicated Authorization (5)			(669.6)	(669.6)			(725.9)	(725.9)	
Capital	**86.0**	**1,126.1**	**165.0**	**1,377.1**	**8.8**	**1,445.5**	**153.5**	**1,607.8**	(77.2)
Project Appropriations	84.6	969.3	198.9	1,252.8	8.8	1,445.5	105.5	1,559.8	
Bond Specific Projects			92.4	92.4			95.2	95.2	
Revised Program Legislation (RPLs)		61.1	0.0	61.1					
Supplemental Appropriations	1.5	95.7	6.7	103.9					
Duplicated Authorization (5)			(133.0)	(133.0)			(47.2)	(47.2)	
Total Authorization (unduplicated)	**2,319.1**	**2,759.6**	**1,142.9**	**6,221.5**	**2,332.7**	**3,011.5**	**1,139.8**	**6,484.0**	**13.6**
Draw From CBR or (GF Lapse) (1)	**(12.5)**				**360.7**				**373.3**
Permanent Fund Dividends			568.0	**568.0**			512.0	**512.0**	
Permanent Fund Inflation Proofing & Other Transfers (6)		2.4	170.0	**172.4**			619.0	**619.0**	
TOTAL WITH PERMANENT FUND	**2,319.1**	**2,761.9**	**1,880.9**	**6,961.9**	**2,332.7**	**3,011.5**	**2,270.8**	**7,615.0**	**13.6**

Notes:

(1) Revenue assumptions are from the Spring 2004 Revenue Sources Book. FY04 is $31.13 per barrel and .985 million barrels per day. FY05 is $28.30 per barrel and .980 mbd. As of 10/5/04 (thru 1/3 of the year) the YTD avg was $40.87. With approx $60 million in addt'l revenue for every dollar/brl there will be a significant GF lapse if prices continue to remain hig

(2) This includes increased revenue the executive branch expects to collect from increased fees and user costs that require no legislative action. It also includes expected revenue generated from SB231, HB484 and SB1001 (tobacco bill passed during the special session).

(3) AHFC is providing $45 million in bond proceeds. ASLC is providing $75 million in bond proceeds as a return on invested capital.

(4) Corporate dividends include funds made available to the State by the boards of AHFC, AIDEA, and ASLC. Dividends retained by AHFC for debt service on state capital project bonds are subtracted.

(5) Duplicated authorizations are in the budget twice, such as when funds flow in and out of a holding account or one agency pays another for services provided.

(6) $354 million of FY04's inflation proofing of $524 was prefunded in FY03. The balance of $170.0 was funded with a supplemental but is being shown on this line.

L

Rep. Max Gruenberg

From: Sarita Knull
Sent: Friday, April 03, 2009 9:45 AM
To: Rep. Max Gruenberg
Cc: Deneen Tuck; Pat Davidson
Subject: RE: Balance Owed to Constitutional Budget Fund Reserve
Signed By: sarita_knull@legis.state.ak.us
Attachments: Rep. Gruenberg memo. - 4-3-09.pdf

Good morning Representative Gruenberg:

Here the Legislative Auditor's response to your inquiry concerning the balance owed to the constitutional budget reserve fund. I will be sending you the hard copy of this memorandum through the mail.

Have a wonderful day.

Sarita Knull
Executive Secretary II
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300
Phone: (907) 465 - 3833
Fax: (907) 465 - 2347

Confidentiality Statement:
This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. Any disclosure, copying, or distribution of this message, or the taking of any action based upon it, is strictly prohibited.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit

P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@legis.state.ak.us

MEMORANDUM

TO: The Honorable Max Gruenberg
Alaska State House of Representatives

FROM: Pat Davidson
Legislative Auditor

DATE: April 3, 2009

RE: Balance owed to Constitutional Budget Reserve Fund

You asked what is the amount owed by the General Fund to the Constitutional Budget Reserve Fund (CBRF). The calculation below is based on an accrual basis of accounting, and, therefore, the beginning point agrees with the FY 08 Comprehensive Annual Financial Report.

Balance owed at the end of FY 08	$150,093,111
Increase in amount owed to CBRF during FY 09	
Sec. 72(b) Ch. 29, SLA 2008 (management fees)	4,080,000
Sec. 28(a) Ch 27, SLA 2008 (sub-fund reverse sweep)	1,466,159,407
Sec. 28(c) Ch 27, SLA 2008 (management fees)	245,700
General Fund repayments during FY 09	
Section 28(e) Chapter 27, SLA 2008 (repayment)	(1,000,000,000)
Estimated amount currently owed to CBRF	$620,578,218

This calculation comes with some assumptions and limitations. First, the calculation assumes the total amount appropriated to Department of Revenue for treasury management fee is fully spent. Secondly, the financial effect of Sec. 28(b) has not been calculated, and, therefore, has not been included in this analysis. Lastly, it does not include any potential FY 09 deficits that may require a draw from the CBRF. Any draw from the CBRF to cover an FY 09 deficit still

needs legislative approval and would not be calculated until the books close and the FY 09 financial statements have been prepared.

If you have any additional questions, please feel free to contact me at 465-3814.

Alaska State Legislature

Juneau
State Capitol Bldg., Rm. 513
Juneau, AK 99801-1182
Phone (907) 465-4976
Fax (907) 465-3883
Toll Free 866-465-4976

Fairbanks
1292 Sadler Way, Ste 323
Fairbanks, AK 99701
Phone (907) 452-6084
Fax (907) 452-6096

Member
House Finance Committee

Representative Mike Kelly

House District 7

HJR 8

"An Act proposing amendments to the Constitution of the State of Alaska limiting appropriations from certain mineral revenue, relating to the balanced budget account, and relating to an appropriation limit."

The largest contributor to our state's unrestricted revenue is also the most volatile component. 85-90 percent of unrestricted revenues for FY '07 through FY'10 will come from oil. Since 1988 Alaska North Slope crude oil production has declined by 64% - from over 2 million barrels per day to under 720 thousand barrels per day. During that same period of time the market price of oil has increased sixfold. We have gone from a significant deficit in FY '03, a $500 million draw on the CBR, to a significant surplus in FY '06 of over $1 billion, back to a projected deficit in FY '09. This makes rational budgeting nearly impossible. HJR 8 provides an appropriation smoothing and limiting mechanism applicable to the wildly fluctuating portion of the budget that is oil revenue.

In recognition of the difficulty in building and balancing our budget in a responsible manner when the price of oil fluctuates, HJR 8 forces the legislature to incorporate its oil revenues into the budget in any given fiscal year on a five-year rolling average, (4 years back and 1 year forward). This averaging would act as a "dampener" to prevent spending sprees when oil prices are high and crashes when oil prices are low.

HJR 8 also establishes a "Balanced Budget Account" in the State Treasury. Any oil and other mineral revenue received by the state in excess of the 5-year average amount referenced above would be deposited into the Balanced Budget Account. This account would not be subject to the Constitutional Budget Reserve sweep, but would be limited to a maximum amount that is equal to the oil and other mineral revenue appropriations for the current fiscal year, plus the immediate preceding fiscal year. Any excess amount would be transferred to the Constitutional Budget Reserve.

This resolution would also provide for transfer of funds from the Balanced Budget Account into appropriations during years when actual revenue from oil and other minerals falls below the 5-year average. In lean years, the legislature may with a majority vote transfer funds from the Balanced Budget Account necessary to fill the "gap" between the revenue available and the 5-year average. If the legislature requires appropriations above what the 5-year average permits, it may choose to live within its means or seek funds from other sources of revenue including the CBR.

HJR 8 could end the constant search by the legislature for rat holes in which to stash excess revenues so they can access those funds to balance the budget in the following years, without having to buy the ¾ vote to get funds from the Constitutional Budget Reserve. The resolution also avoids "sacred cows" by having no effect on the permanent fund corpus or the earnings of the Permanent Fund, the Amerada Hess Account or the Permanent Fund Dividend.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR8
() Publish Date:

Identifier (file name): HJR008-OOG-DOE-3-27-09
Dept. Affected: OOG
Title: Constitutional amendment limiting appropriations from certain mineral revenues, relating to balanced budget....
RDU: Elections
Component: Elections
Sponsor: Representatives Kelly and Crawford
Requester: House State Affairs Committee
Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual			1.5				
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF			1.5				
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is $1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to $22.0.

Prepared by: Gail Fenumiai, Director — Phone 465-4611
Division: Division of Elections — Date/Time 3/27/09, 8:37pm
Approved by: Linda Perez, Director — Date 3/27/2009
Division of Administrative Services

(Revised 9/10/2008 OMB)

1712

Rep. Mike Kelly introduces state finance plan

Published Thursday, January 29, 2009

JUNEAU — Rep. Mike Kelly has introduced a plan to stabilize the state's finances by evening out the steep peaks and valleys of the "oil price roller coaster."

The Fairbanks Republican this week introduced House Joint Resolution 8, which, if approved by the Legislature, would ask voters to amend the Alaska constitution to require the state to base spending on a five-year average of oil and other minerals revenue.

That, Kelly said, would limit state spending and restore some financial stability.

"This government seems to have a ratchet, but it's only in the up direction," he said. "We have got to live within our means, and we've got to control the seemingly endless growth in state government."

He charged that state spending has doubled since 2005, when he entered the Legislature, and roughly tripled since 2000.

"If the people had to pay for that, they would be screaming bloody murder," he said.

About 90 percent of unrestricted state revenue in fiscal year 2009 came from oil production.

Kelly's plan calls for calculating state revenues on an average of the last four years and the current year and wouldn't affect the Permanent Fund. The proposal also would create a Balanced Budget Account, a short-term holding fund that could be drawn on to balance the budget at the end of each fiscal year. Any surpluses would flow into the Constitutional Budget Reserve.

The new, short-term account could help save money by eliminating steep spending in flush years and dramatic cuts in lean years, he said.

Lawmakers have to round up a three-fourths majority to tap into the CBR. That's generally done by promising money for special projects to legislators who will vote yes, Kelly said.

"If you want a billion, you're going to pay a lot more than that to get it out," he said.

His proposal would average revenues from all oil, natural gas and other mineral sources. At the same time, Rep. Mike Hawker, R-Anchorage, has filed a resolution for a constitutional amendment that would establish an endowment fund with natural gas revenue. Kelly said he and Hawker will discuss how the two plans could dovetail.

Sen. Joe Thomas, D-Fairbanks, agreed the state needs a long-term fiscal plan, but he has some initial concerns about Kelly's proposal. He sits on the Senate Finance Committee.

He would like a look at scenarios of how a five-year average would have affected revenue and spending during the last several years.

An average could still pack some wallops when years with major movement, such as 2008 with $140 per barrel oil, factor in. He cautioned against the possibility of "economic whiplash."

And, Thomas noted, while a five-year average could smooth some ups and downs, less revenue could lead to cuts to some state services that are as essential in lean times as in boom years.

Kelly's resolution was referred to the House state affairs, judicial and finance committees.

If the resolution passes the Legislature, he doesn't expect too much trouble convincing voters to make the amendment.

"I think this is something that the public understands clearly the need for," he said. "It's about responsible budgeting."

Rep. Mike Kelly shows some common sense: His plan has no chance.

Posted on ***29 January 2009***



By Dan Fagan

Like it or not, here in Alaska we live in a boom or bust economy. Alaska is known for its extremes and our economy is no different. The fluctuation in the price of oil has never been more dramatic than it was in 2008. So what's a state to do when it comes to a budget?

Republican Rep. Mike Kelly of Fairbanks has an idea. House Joint Resolution 8 sponsored by Kelly is designed to even out the up and down nature of state revenue.

The measure calls for changing the Alaska constitution requiring our big spending legislators to base budgets on a five-year of oil and other mineral revenues. It would take into account the past fours years and the current year of state revenue when putting together a budget.

This plan would prevent what happened last year when the state was flush with cash and blew much of it including a massive giveaway of free cash. Rep. Kelly hopes the plan would limit state spending in boom years.

"This government seems to have a ratchet, but it's only in the up direction," Kelly told the Fairbanks News Minor. "We have got to live within our means, and we've got to control the seemingly endless growth in state government."

Kelly is on the right track. Something has to be done. In the past three years, state spending has doubled. There's no justification for that kind

of irresponsible growth. Kelly says that type of growth is only possible because Alaskans, for the most part, don't directly have to pay for state government.

"If the people had to pay for that, they would be screaming bloody murder," Kelly said.

Nine out of every ten dollars the state collects comes from the oil industry.

Rep. Kelly's plan also creates a Balanced Budget Account. Lawmakers would draw on it to balance the budget at the end of each fiscal year. Any surplus would flow into the Constitutional Budget Reserve.

Kelly hopes the new, short-term account could help save money by eliminating steep spending in flush years and dramatic cuts in lean years, he said. The truth is we do spend like drunken sailors in boom years and yet during lean years we still spend too much. Kelly's plan would at least restrict legislators from going crazy when the price of oil is high.

Does Kelly's plan have a shot? Three quarters of legislators would have to be on board so it faces an uphill battle. Democrats typically oppose any legislation that would limit government spending. And the D's seem to have firm control in the Senate with the newly formed coalition.

HJR 8

Balanced Budget Resolution
House State Affairs Committee
April 2, 2009

Representative Mike Kelly
26th Legislature

Control Spending

In 1982, voters approved an amendment to the Alaska Constitution to control state spending.

The amendment established an annual appropriation limit of $2.5 billion plus adjustments for changes in population and inflation.

Today's Dollars

For FY 08, the Office of Management and Budget estimated the limit to be approximately:

$7.9 billion

(Source: State of Alaska Comprehensive Financial Report Fiscal Year Ended June 30, 2008, page 57)

FY 08 budget

The unsustainable FY 08 budget passed by the legislature after vetoes was $5.5 billion (unrestricted General Fund revenue), or $2.4 billion less than the 1982 constitutional spending limit.

Translation: The 1982 spending limit passed by voters is ineffective; or, we're doing a great job of controlling government growth.

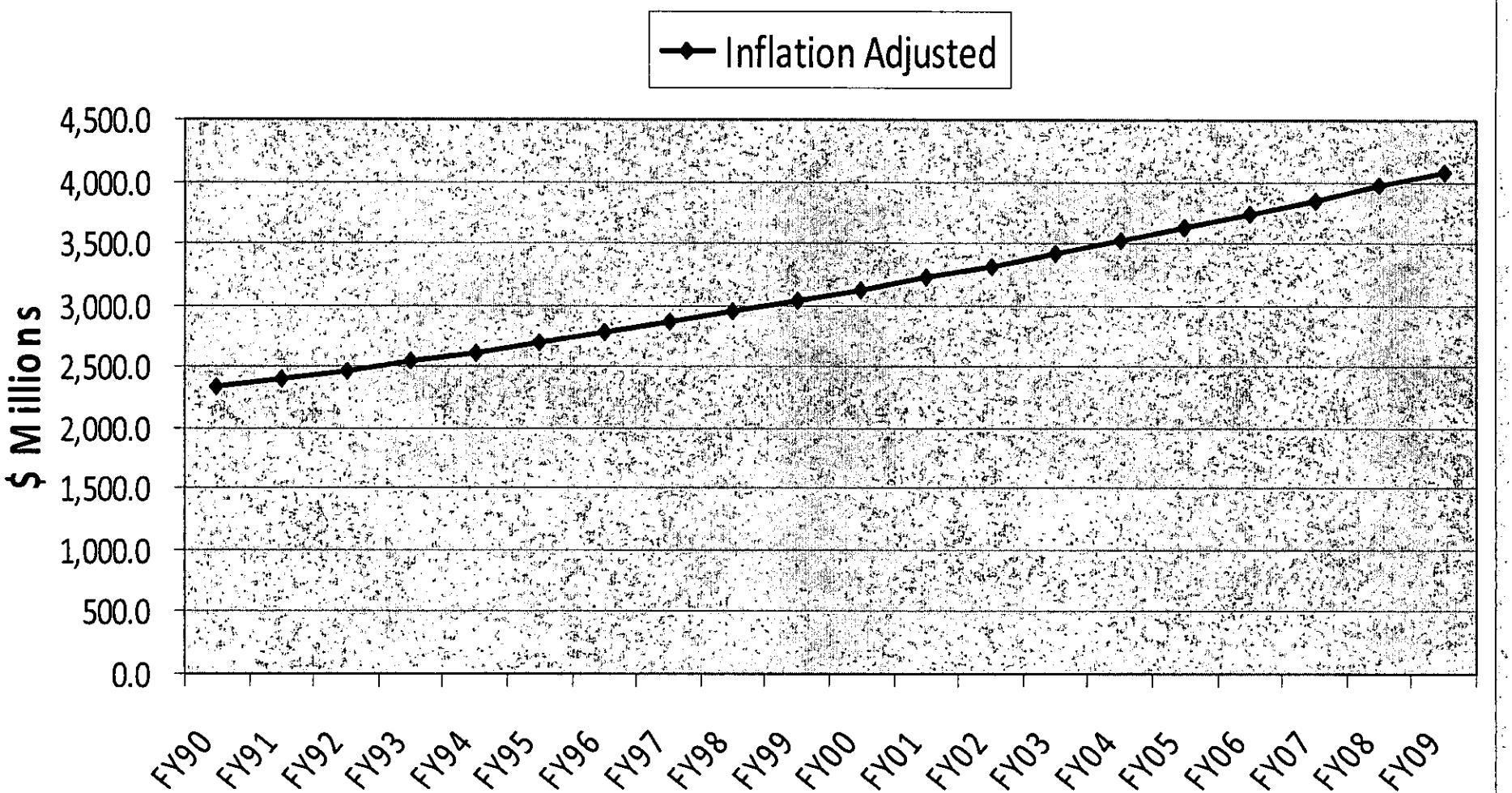
Constitutional Budget Reserve Fund (CBRF)

In 1990, another attempt was made by voters to impose budget stability. Voters approved a Constitutional Amendment creating the Constitutional Budget Reserve Fund (CBRF).

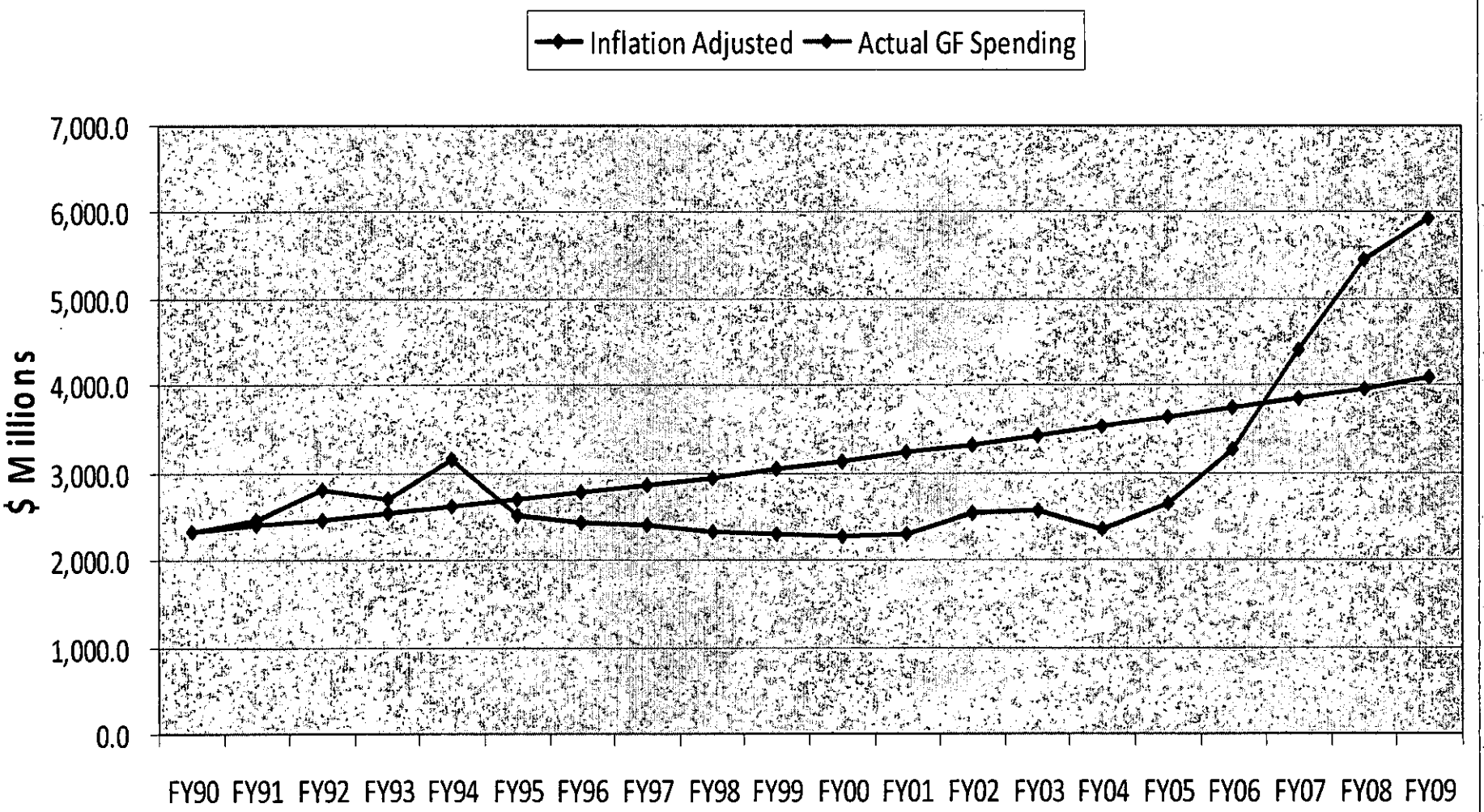
CBRF

The CBRF was created to receive and protect excess revenues generated in high revenue years rather than leaving excess funds in the General Fund (where they could be easily spent). Taking money from the CBRF requires a supermajority ¾ vote, making it more difficult to tap and therefore arguably a spending controller.

State of Alaska General Fund Spending FY90 - FY09

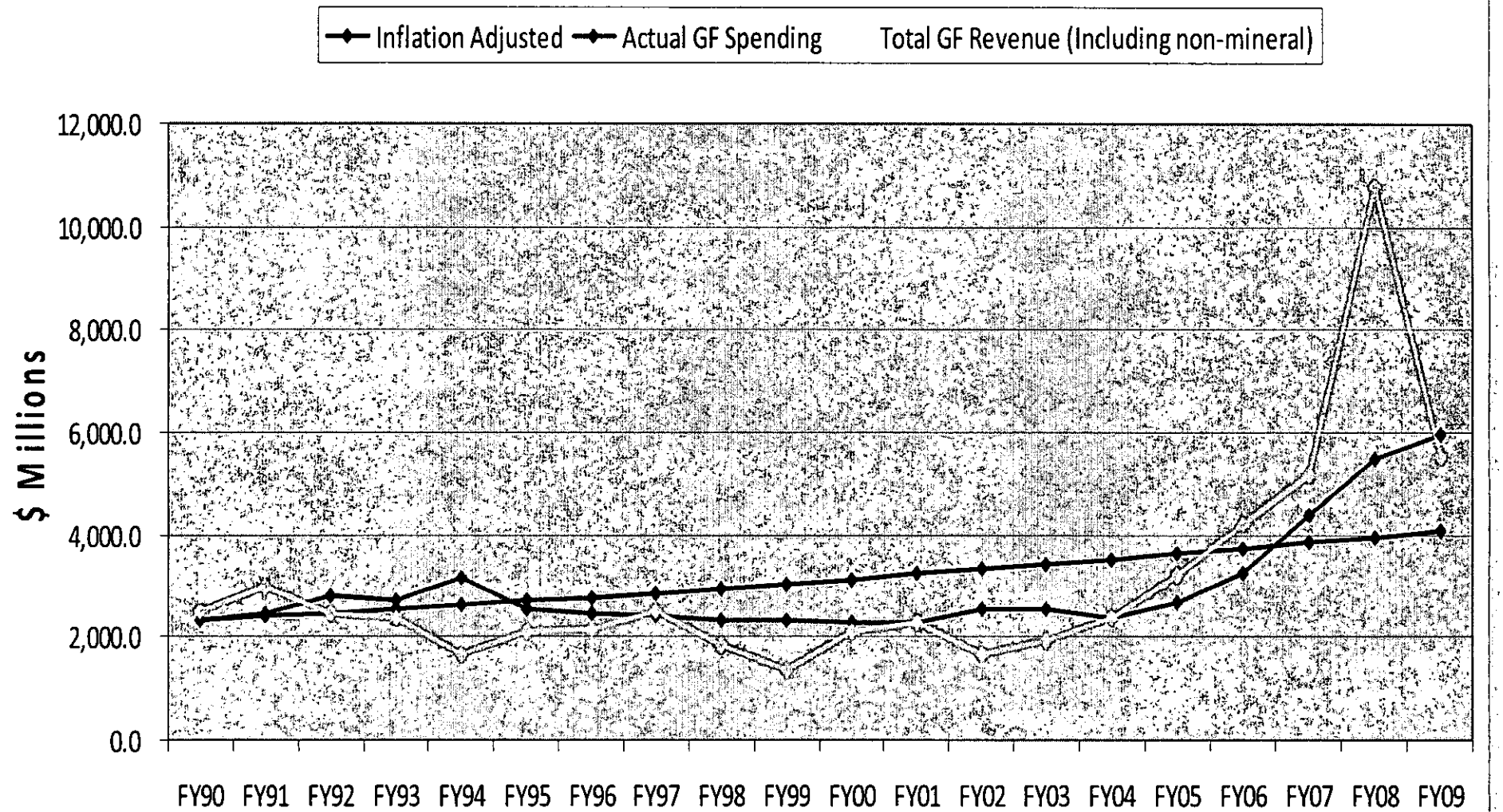


State of Alaska General Fund Spending FY90 - FY09



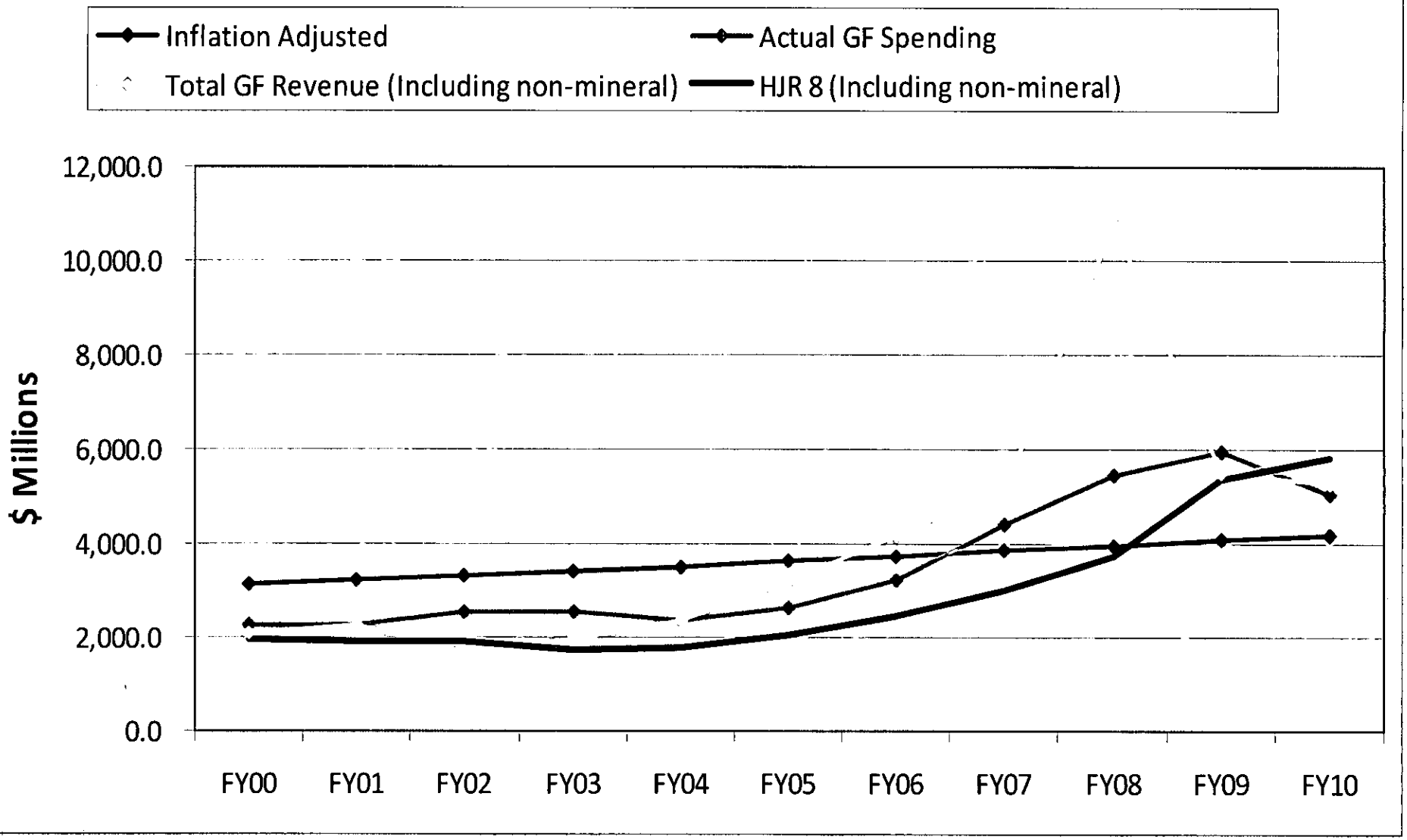
Source: Legislative Finance Division

State of Alaska General Fund Spending FY90 - FY09



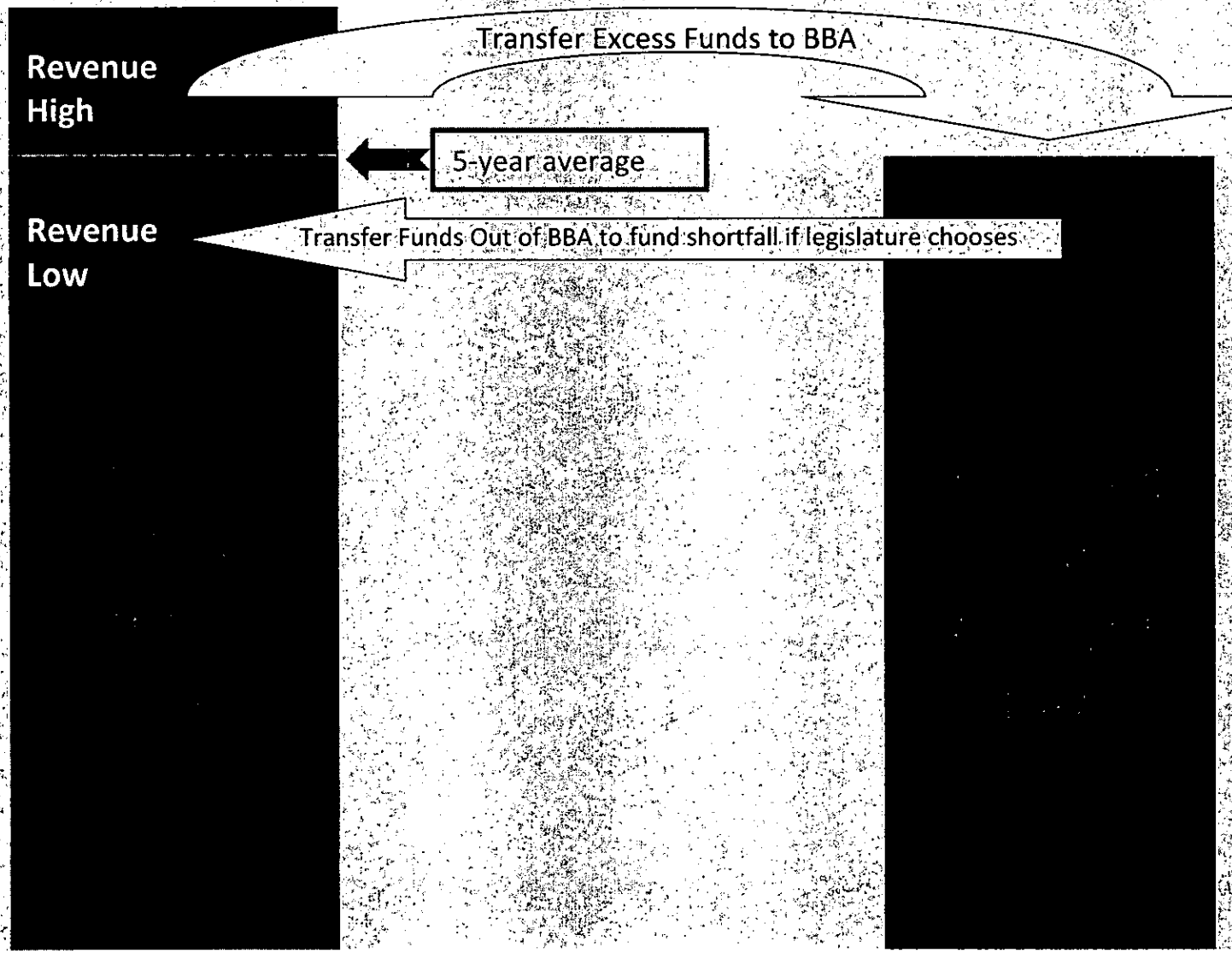
Source: Legislative Finance Division & Fall 2008 Revenue Sources Book

State of Alaska General Fund Spending FY00 - FY10



Source: Legislative Finance Division & Fall 2008 Revenue Sources Book

Basic Concept of Balanced Budget Resolution



Sacred Cows

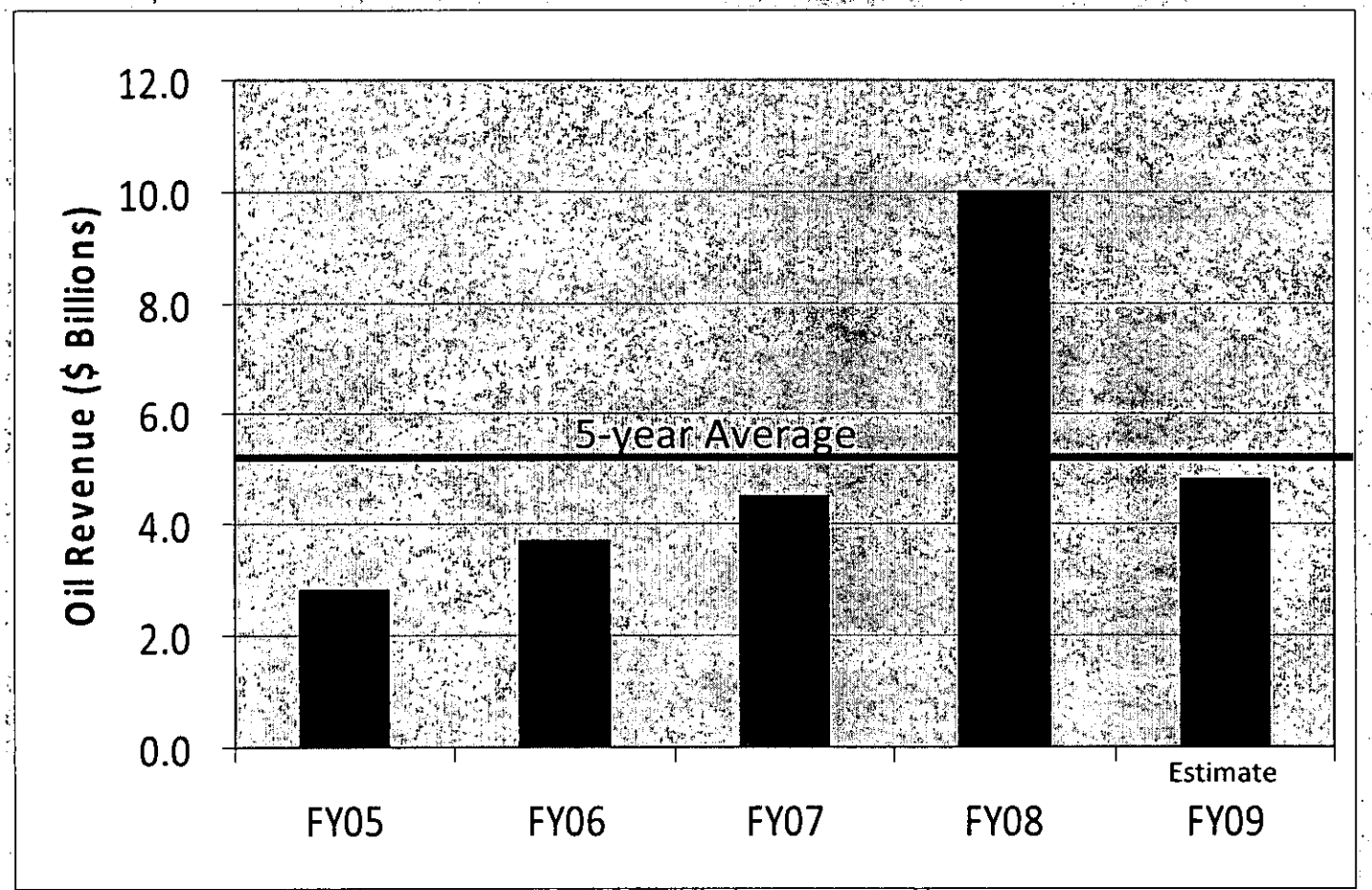
HJR 8 Does NOT touch:

- Permanent Fund Dividend
- Permanent Fund Corpus
- Permanent Fund Earnings
- Amerada Hess

CBR Sweep

The Balanced Budget Account is NOT subject to the Constitutional Budget Reserve sweep.

HJR 8

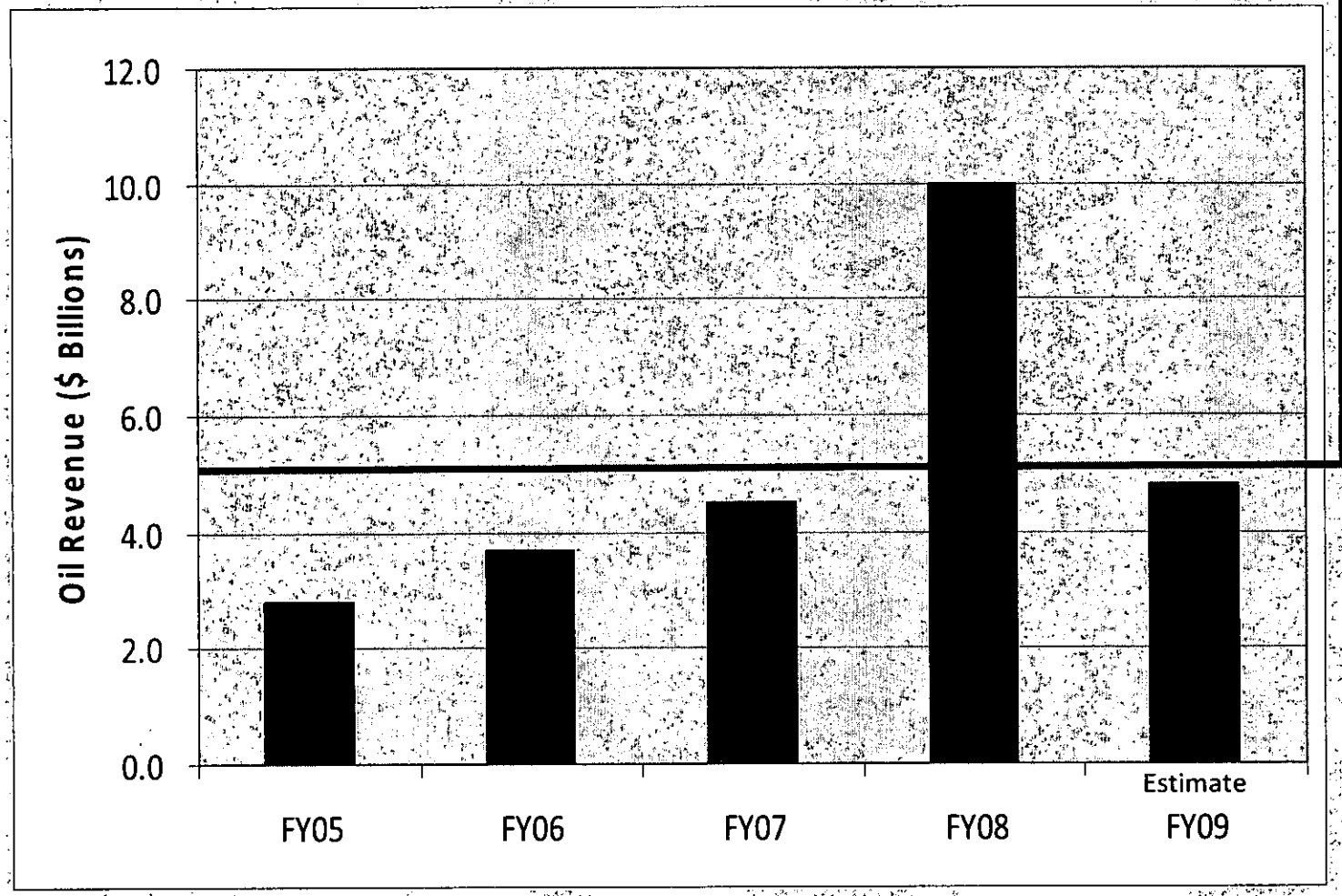


Balanced Budget Account (BBA)

- HJR 8 transfers funds into the BBA when oil prices are high and, with a simple majority vote, transfers funds out of the BBA to fill the gap when oil prices are low. When the balance of BBA exceeds 2 years of appropriations, excess will be transferred into the CBR.

Source: Fall 2008 Revenue Sources Book & Dept. of Revenue's revised 2009 Estimate (Feb. 5, 2009)

5-year Average



$ 5.2

5-year Average Calculation:

(For '10 Budget)

Take the Petroleum Revenue for the past 4 years, plus the Dept. of Revenue's current fiscal year projection and divide by 5.

Example:

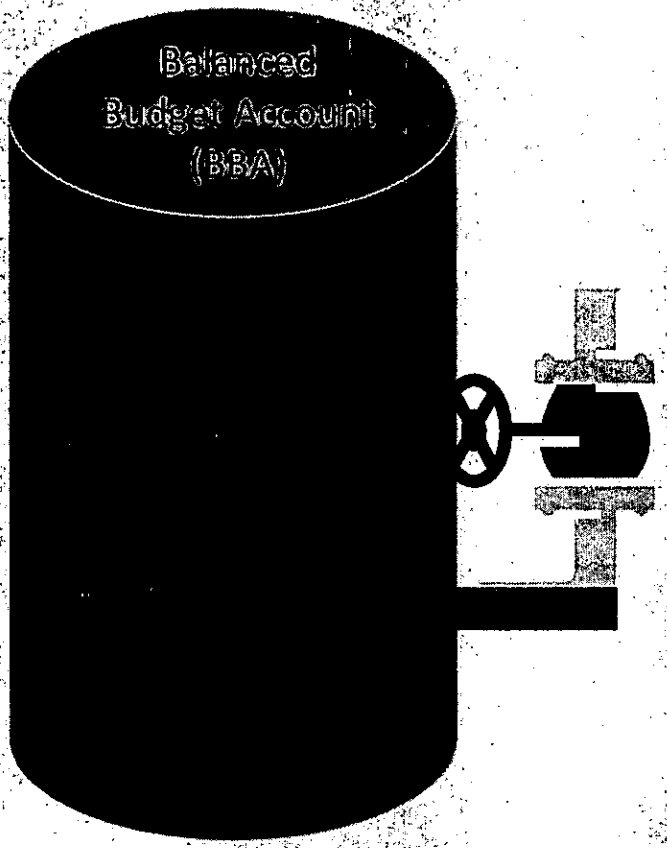
	$ (Billions)
'05	$ 2.8
'06	$ 3.7
'07	$ 4.5
'08	$ 10.0
'09	$ 4.8
Total	$25.8

Divided by 5 =

$ 5.2

Source: Fall 2008 Revenue Sources Book & Dept. of Revenue's revised 2009 Estimate (Feb. 5, 2009)

The BBA and CBR



Constitutional Budget Reserve (CBR)

HJR 8 transfers funds into the CBR when the BBA exceeds its 2 year limit. The legislature would still need a ¾ vote to access the CBR.

Fiscal Responsibility

- Encourages a better budgeting system than "when you have it, spend it – when you don't, cut."
- Provides a simple but effective mechanism to help save budget surpluses and avoid deficits while encouraging government to live within its means.
- Eliminates need for complicated "rat holing" and "parking" of excess funds to avoid ¾ vote.

Why a Constitutional Amendment?

- The legislature can easily overpower, ignore or change statutory appropriation constraints.

- Let the people speak concerning this simple fiscal framework. It may be the only fiscal plan they will endorse at this time.

HJR 8 & POMV

"If the people of Alaska choose a Percent of Market Value approach to funding government using the Permanent Fund Earnings, HJR 8 would accommodate that approach."

- *Excerpts from Bradners' Alaska Legislative Digest No. 29/07 Dec. 19, 2007:*

- **Fiscal policy is more than savings and sound bites; it requires long-haul skilled political crafting.**

- Long term fiscal policy has been elusive in Alaska, especially since the beginning [of] the pipeline flow and the flow of easy money. The citizen taxpayer close scrutiny faltered and was replaced by all of us with our hands out. There are reasons why we have failed, and continue to do so.

  - **We play the budget game from the seat of our pants.**

- Lawmakers are besieged with demands to spend, especially when there is the perception or the reality as is the current case, that there is money on the table. Fiscal restraint then becomes someone else's business, or the business of tomorrow, although tomorrow rings the same appetites.

- **The same people who demand that they see a critical need in their community, or in relation to their institution or industry, will still say the Legislature "spends too much."**

HJR

10

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

The House State Affairs Committee has agreed to waive the State Affairs referral for HJR 10, "*Urging the United States Congress to improve health care for veterans.*" Signature and agreement to waive does not constitute support or opposition to the bill, nor obligate the member to a specific vote on the House Floor.

Rep. Bob Lynn, Chair

Rep. Paul Seaton, Vice Chair

Rep. Craig Johnson

Rep. Peggy Wilson

Rep. Carl Gatto

Rep. Max Gruenberg

Rep. Pete Petersen

STATE OF ALASKA
DEPT. OF HEALTH & SOCIAL SERVICES

Alaska Commission on Aging

SARAH PALIN, GOVERNOR

P.O. BOX 110693
JUNEAU, ALASKA 99811-0693
PHONE: (907) 465-3250
FAX: (907) 465-1398

March 2, 2009

The Honorable Bob Lynn
House State Affairs
Alaska State Capitol, Room 104
Juneau, Alaska 99801-1182

Subject: Support for CSHJR 10 (MLV)

Dear Chair Lynn:

The Alaska Commission on Aging (ACoA) supports CSHJR 10 sponsored by Representative Guttenberg, Representative Kawasaki, Representative Salmon, Representative Kerttula, Representative Gruenberg, Representative Cissna and you. ACoA concurs with this resolution and its petition to Congress to improve health care and access for veterans by providing sufficient, timely, and stable funding for their health programs and enhanced service delivery.

Health care is a key benefit of the services provided to persons who served in the armed forces. The number of veterans returning from military duty, in addition to veterans who are aging, is increasing along with the associated health care expenses.

Alaskan veterans come from all areas of the state. Veteran clinic facilities are located only in Anchorage, Fairbanks, Juneau, and Kenai. If a veteran lives outside of these areas and his/her medical condition is not 51% or more service-related, that individual is responsible for paying their own travel expenses. The Commission on Aging supports the Resolution's recommendation of a special "Heroes Health Card" to provide veterans access to quality health care in communities where they live, including those without veteran clinic facilities, by coordinating care provided by local medical providers, community health care facilities, mental health centers, substance abuse treatment centers, tribal health organizations, and other appropriate providers with care provided by military doctors and medical facilities. In addition, ACoA supports the Resolution's request for Congress to increase funding for research into traumatic brain injuries and to improve its electronic claims filing process.

ACoA supports CSHJR 10 and believes that veterans who served our country deserve decent health care where they live. It is our responsibility and obligation to provide quality and accessible health care for veterans who joined the armed forces to serve and protect our nation. Please feel free to contact Denise Daniello, ACoA's executive director (465-4879), should you have any questions regarding our position. Thank you for your consideration.

Sincerely,

Sharon Howerton-Clark
Chair, Alaska Commission on Aging

Sincerely,

Denise Daniello,
ACoA Executive Director

Cc: Representative Seaton, Vice Chair
Representative Wilson
Representative Gatto
Representative Gruenberg
Representative Johnson
Representative Petersen

HJR

12

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

The House State Affairs Committee has agreed to waive the State Affairs referral for HJR 12, "*Relating to the Ground-based Midcourse Defense System.*" Signature and agreement to waive does not constitute support or opposition to the bill, nor obligate the member to a specific vote on the House Floor.

Rep. Bob Lynn, Chair

Rep. Paul Seaton, Vice Chair

Rep. Craig Johnson

Rep. Peggy Wilson

Rep. Carl Gatto

Rep. Max Gruenberg

Rep. Pete Petersen

ALASKA STATE LEGISLATURE

Co-Chair:
Joint Armed Services Committee

Vice-Chair:
Judiciary
Legislative Budget and Audit

Member:
Economic Development, Trade & Tourism
Energy

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-3783
Fax: (907) 465-2293
Toll Free (877) 460-3783

Interim:
10928 Eagle River Road
Eagle River, Alaska 99577
Phone: (907) 622-3783
Fax: (907) 622-3784

REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON
Representative_Nancy_Dahlstrom@legis.state.ak.us

Date: 2/10/2009

To: Representative Bob Lynn, Chairman
House State Affairs Committee

From: Representative Nancy Dahlstrom, Co-Chair
Joint Armed Services Committee

RE: Hearing Request

I am requesting a hearing, pending referral for House Joint Resolution 12- "A resolution respectfully urging the United States Congress to provide the necessary funding for the ongoing development, operation, and maintenance of the Ground-based Midcourse Defense System."

This resolution simply urges Congress to continue supporting and funding our Ground Based Midcourse Defense System.

The resolution passed out of the House Special Committee on Military and Veteran Affairs on 2/10/09. If you have any questions please contact Angela Blanchard in my office at 465-3783.

ALASKA STATE LEGISLATURE

Co-Chair:
Joint Armed Services Committee

Vice-Chair:
Legislative Budget and Audit
Judiciary Committee

Member:
Economic Development, Trade & Tourism
Energy

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-3783
Fax: (907) 465-2293
Toll Free (877) 460-3783

Interim:
10928 Eagle River Road
Eagle River, Alaska 99577
Phone: (907) 622-3783
Fax: (907) 622-3784

REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON
Representative_Nancy_Dahlstrom@legis.state.ak.us

Sponsor Statement

HJR 12

"A resolution respectfully urging the United States Congress to provide the necessary funding for the ongoing development, operation, and maintenance of the Ground-based Midcourse Defense System."

The Ground-based Midcourse Defense System makes up a significant piece of the United States' defense against foreign ballistic missile threats. Urging Congress to support the Ground-based Midcourse Defense System is crucial, because the program serves as the nation's only deployed operational system for defending against long range ballistic missiles, contributes to Alaska's economy, and continues to be a successful program.

The program's first interceptors were activated at Ft. Greely, Alaska in 2004. Today, foreign missile threats remain plausible. This resolution respectfully reminds Congress that now is not the time for the U.S. to let its guard down, and change course in terms of supporting the program. This system is viewed as the cornerstone of the nation's defense against foreign missile threats, and vital for the security of our country.

Furthermore, this resolution highlights the importance of the Ground-based Midcourse Defense System to Alaska in these uncertain economic times. The program provides over 700 jobs in state, and has an economic impact of nearly $250,000,000 on the state.

Lastly, this program boasts significant accomplishments, some as recently as 2008. Successful missions include an operationally realistic flight test intercepting a target missile launched from Kodiak, the deployment of additional long-range interceptor missiles at Ft. Greely, and superior weapon readiness rates in support of the 49th Missile Defense Battalion, made up of 200 member of the Alaska National Guard.

The Ground-based Midcourse Defense System remains vital for the defense of the nation and its citizens, important to Alaska's economy, and continues to be a successful program.

I respectfully request favorable support of House Joint Resolution 12.

Thank you.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 12
(H) Publish Date: 2/11/2009

Identifier (file name):
Dept. Affected:
Title GROUND-BASED MIDCOURSE DEFENSE SYSTEM
RDU
Component
Sponsor Representative Nancy Dahlstrom
Requester Military and Veterans' Affairs Committee
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: House Military and Veterans' Affairs Committee
Phone
Division
Date/Time
Approved by: Represtative Carl Gatto
Date 2/10/2008

(Revised 9/10/2008 OMB)

VANGUARD

PROVIDING INFORMATION ON NATIONAL SECURITY FOR STATE & LOCAL POLICYMAKERS

21 January 2009

Missile Defense Program in Alaska Boosts State's Economy Directly, and the Nation's Economy Overall

By Mead Treadwell and Jeremy Thompson, editors

A recent study by Hans Geier at the University of Alaska Fairbanks measures the economic impact that the Ground-based Midcourse Defense (GMD) Program is having on the local Alaska economy. The study, entitled *Economic Impact of the Boeing Ground-based Midcourse Defense (GMD) Program: Alaska Operations 2007*, surveyed four regions of the state and estimated the impact of GMD on both on the local rural economies and the gross domestic product of Alaska. The results make a compelling case that while research and development of GMD occurs in other parts of the Unites States, construction and operations is providing a boost to Alaska's still-developing economy.

Economic impact was classified into two categories. The first kind of impact stems from expenditures by the GMD program itself: direct, indirect and induced. The direct effects are the changes in the industries associated with GMD expenditures. The indirect effects are changes in inter-industry purchases as they respond to the new demands of GMD-affected industries. Induced effects reflect the changes in spending from households as income increases or decreases due to the change in spending by Boeing, the prime contractor for the GMD program and sponsor of the study. All effects combined showed the defense program boosted the state's economy by $246 million.

The second kind of impact considers household earnings income, tax revenue generated for state and local government, property and sales. The GMD program directly employs 323 people. For each employee, the study finds that an additional 1.2 jobs are created, giving a total of 716 jobs directly and indirectly created. The cumulative total of household earnings based on the factors of payroll and benefits was $71.8 million, directly and indirectly, with many of the jobs located in areas where few employment opportunities exist. These jobs and income generated $9.6 million in state and local tax revenue and $19.4 million for the federal government.

In addition to the role it plays in national defense, the GMD Program is one of Alaska's largest construction projects with economic effects which trickle down to the local level in the some of the most isolated rural economies in the world. Ft. Greely, where interceptors are based, was set to be closed entirely before the GMD site decision was made in the Clinton Administration. The Aleutian port of Adak, home port of the GMD's X-Band radar, is one of the most remote places in America, and the local economy had taken a dive after a U.S. Navy base had closed there. Remote Kodiak, with a state-owned launch facility that serves as part of the test-bed for both GMD and other elements of

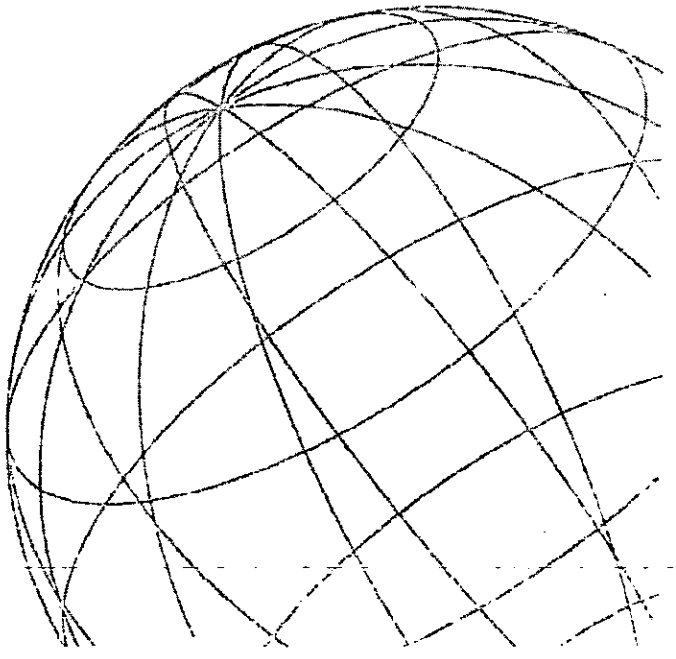
the layered national system – which envisions sea, air, and ultimately space-based defenses – is also benefitting from GMD construction in Alaska.

At the Institute of the North's Security and Defense Program, we seldom discuss the economic impact of missile defense construction. The right policy is to defend the homeland against any threat using the best means from the best location. The wrong policy is to support missile defense as a project for creating jobs. Alaskans simply called for a missile defense that would defend all 50 states through a legislative resolution in 1999. The resolution was first introduced in the state legislature in 1997, years before it was known that Alaska might host one layer of the nation's missile defense system. An effective missile defense is essential to deter missile attack on the Unites States, its forward forces, our friends and allies, especially from "asymmetric" or anonymous sources – states like North Korea, Iran, or from other rogue sources who might launch from ships at sea with no known "national" return address for a retaliatory response. Whatever the economic impact in Alaska, Alabama, California, Hawaii or Colorado, the ultimate impact is to provide an umbrella for the entire U.S. economy. *Link to study:* http://www.uaf.edu/snras/afes/pubs/misc/R_08_01.pdf

This article was taken from the Vanguard, a weekly publication of the Security and Defense program at the Institute of the North. It is edited by Senior Fellow Mead Treadwell and Research Associate Jeremy Thompson. For more information or to subscribe, send an email to jthompson@institutenorth.org. The Security and Defense program at the Institute of the North conducts research and educates policymakers on strategic issues relating to the defense of the United States that particularly concern decision makers in Alaska and at the state and local level throughout the nation.

The Institute of the North, based in Anchorage, Alaska, is a non-profit educational and research organization founded in 1994 by former Secretary of the Interior and twice Governor of Alaska Walter J. Hickel, focusing on strategic and natural resource issues.

The Institute of the North · 509 West Third Avenue, Suite 107 · Anchorage, AK 99501
Phone: 907.771.2446 · Fax: 907.771.2466



HJR

13

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 2, 2009

FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 2-19-09

The STATE AFFAIRS Committee considered:

HOUSE JOINT RESOLUTION NO. 13

Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor.

HJR 13 CONST AM: SEC. OF STATE REFERENCES

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
OOG		X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	JOHNSON			X	
C Gatto	Gatto				
Paul Seaton	SEATON	X			
Wes Gruenberg	Gruenberg	–			
Peggy Wilson	WILSON	↘			
Pete Peterson	PETERSEN	X			
Chair: Bill M	LYNN	X			
Chair:					

Talking Points
HJR 13

- In 1970 the voters of Alaska changed the Constitution by changing "Secretary of State" to the "Lieutenant Governor". When the book was redone, two typographical errors remain stating "Office of Secretary of State." This bill just cleans up those areas.

- The proposed amendments, if approved by the legislature, would be placed before the voters in the next general election.

LEGAL SERVICES

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

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

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

MEMORANDUM February 19, 2009

SUBJECT: Combining proposed constitutional amendment HJR 2 (gender neutral pronouns) with HJR 13 (correcting obsolete references to secretary of state)

TO: Representative Max F. Gruenberg, Jr.

FROM: Tamara Brandt Cook
Director TBC

You ask whether the legislature may combine HJR 2 with HJR 13 into a single proposition for constitutional amendments. The problem with this course of action is that the court has decided that each proposal for constitutional amendments must be confined to a single subject in Bess v. Ulmer, 985 P.2d 979 (Alaska 1999). While the court has upheld very broad subjects in cases construing the single-subject requirement that applies to bills changing statutes, there have been no other cases that shed light on the scope of a single subject for the purposes of proposed constitutional amendments. I think that there is a reasonably good chance that the court, if confronted with a constitutional amendment proposal consisting of the contents of both HJR 2 and HJR 13, would conclude that the proposal is encompassed in the single subject of technical, nonsubstantive amendments. Nonetheless, it is not certain that a court would agree for the reasons stated in a memorandum on this subject to you by Jack Chenoweth, Assistant Revisor, dated March 19, 2008, copy attached. Therefore, the safest course is for HJR 2 and HJR 13 to be offered to the people to consider as separate proposals.

TBC:med
09-010.med

Attachment

LEGAL SERVICES

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

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

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

COPY

MEMORANDUM March 19, 2008

SUBJECT: Consistent with the analytical principles set out in *Bess v. Ulmer*, may HJR 7 (proposing constitutional amendments substituting gender-neutral language for personal pronouns) and HJR 37 (proposing constitutional amendments to correct obsolete references to secretary of state) be combined?

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Assistant Revisor

As you and I have discussed, I am reluctant to endorse any proposal to combine the two joint resolutions identified in this memo's subject line into a committee substitute. I say this principally because of concerns arising out of the court's decision in *Bess v. Ulmer*, 985 P.2d 979 (Alaska 1999).

Under section 1 of article XIII, the legislature may initiate proposed constitutional amendments:

> **Amendments.** Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor.

By contrast, under section 4 of that article, constitutional revision is the prerogative of a constitutional convention:

> **Powers.** Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

The decision in *Bess* established that the legislature's power to propose a change in the text of the state constitution is limited to amendments that are "few, simple, independent,

and of comparatively small importance."[1] The legislature lacks authority, the court concluded, to propose changes to the document's "substance and integrity." Changes of that magnitude would have to be prepared and offered by a constitutional convention as revisions. The standard that the court fashioned relates that:

> . . . an enactment which is so extensive in its provisions as to change directly the "substantial entirety" of the constitution by the deletion or alteration of numerous existing provisions may well constitute a revision thereof [while] even a relatively simple enactment may accomplish such far reaching changes in the nature of our basic governmental plan as to amount to a revision also.
>
> The process of amendment, on the other hand, is proper for those changes which are "few, simple, independent, and of comparatively small importance." The core determination is always the same: whether the changes are so significant as to create a need to consider the constitution as an organic whole.

Bess, 985 P.2d at 987 (notes omitted).

The *Bess* standard spoke of evaluating an amendment's qualitative and quantitative effects.

HJR 7:

Quantitatively, the material in HJR 7 arguably fails at least part of the standard. The proposed changes are, admittedly, not clearly "few," nor, it may be contended, are they "independent." On the other hand, the material proposes changes that are "simple" -- the amendment is confined to a series of technical changes affecting singular masculine personal pronouns and a handful of gender-related terms. At least when compared to the much more significant questions of assigning powers among the branches of government, limiting the exercise of institutional authority, or providing protection of individual rights, cited as examples by the court in *Bess*, HJR 7 does not propose to make fundamental changes in the scheme or plan of operation of the state government. Indeed, in that context, the modifications proposed in HJR 7 are arguably of relative unimportance.

---

[1] The court prefaced its analysis by noting that, in its view, the framers' distinction between an amendment and a revision was intended to be substantive, and concluded that:

> a revision is a change which alters the substance and integrity of our Constitution in a manner measured both qualitatively and quantitatively.

Bess, 985 P.2d at 982.

Qualitatively, it is my observation that nothing in the resolution would "substantially alter the substance and integrity of the state Constitution as a document of independent force and effect." *Bess*, 985 P.2d at 987, quoting *Raven v. Deukmejian*, 801 P.2d 1077, 1087 (Cal. 1990) (note omitted). The material in the resolution is arguably wholly technical and not intended to make a substantive change in a matter of constitutional law.

On balance, I am satisfied that, if challenged, the court could conclude that the absence of qualitative change within the proposed amendments as set out and, despite the number of sections affected, the relatively insignificant incidental effect on the integrity of the document as a whole would allow the material in HJR 7 to be treated through the amendment process rather than as a revision.[2]

---

[2] When, in 1955-1956, the Alaska Constitution was deliberated, decades of territorial bill drafting practice reflected use of the masculine gender to reference to the feminine. See, for example, CLA 1913, § 2096 ("[t]hat words used in the masculine gender comprehend as well the feminine and the neuter"), CLA 1933, § 3274 (same), both part of the territorial compiled laws. The Constitutional Convention's Style and Drafting Committee prepared a "Drafting Suggestions" memo to guide its work; the document cited to Crawford, *Statutory Construction*, as a source, and that volume, at § 374, endorses the idea that "words importing the masculine gender may include the feminine and neuter." Indeed the Constitution itself relates (article XII, section 10) that "Personal pronouns used in this constitution shall be construed as including either sex," but the document makes no use of words imparting feminine gender. A later, 1981 edition of the *Merriam Webster Legal Secretaries Handbook* directs that:

> Notwithstanding recent concern about sexism in language, forms of the personal pronoun *he* and the indefinite pronoun *one* are still standard substitutes for antecedents whose genders are mixed or irrelevant:

Handbook, at page 247.

Times change. In 1981-1982, the Twelfth Legislature initiated a change to the state's bill drafting policy. The original form of the vehicle of change, SB 266, declared:

> POLICY. The constitution and laws of Alaska prohibit discrimination because of sex. In keeping with the spirit of those prohibitions the legislature now recognizes the inherent bias our laws occasioned by an official policy calling for the use of the masculine pronoun in the Alaska Statutes. The legislature finds that the interest of all Alaskans would be best served by eliminating all vestiges of sexual discrimination. The legislature declares a step in that endeavor by establishing in this Act the official policy of eliminating, whenever possible, the use of sexually explicit pronouns in the Alaska Statutes.

HJR 37:

My analysis of the resolution you introduced would proceed along the same lines. Suffice to say, a resolution that substitutes only references to "lieutenant governor" for the two obsolete references to "secretary of state" should easily meet the *Bess* criteria.

*

My doubts about the likelihood that a merger of these two measures would survive judicial scrutiny is based on two other elements of the *Bess* decision.

The court's preliminary opinion in the *Bess* matter looked at the qualitative standard from a different perspective, indicating that changes that are "few and simple and independent" are permissible amendments while "sweeping change" requires revision. In that preliminary opinion, the court identified four factors that suggest that a particular proposal is a valid amendment: it (1) "is simple to express and understand"; (2) "is complete within itself"; ***(3) "relates to only one subject";*** and (4) "does not substantially affect numerous other sections of the constitution. . . ." Preliminary Opinion and Order, at paragraphs 10 and 12 (emphasis added). The third of the four factors gives pause. It may be argued -- well argued, in my view -- that the reference puts the legislature on notice that the court is prepared to examine proposed constitutional amendments for compliance with a single subject requirement. A committee substitute joint resolution that combines arguably unrelated topics invites tougher scrutiny.

Any hesitation of that point should be resolved by the court's caution concerning joinder of marginally consistent subjects, as expressed within the *Bess* decision. Speaking of a proposed "amendment" to the California Constitution that ran to 228 subsections and more than 21,000 words, the court noted the California Supreme Court's rejection of the proposal as an "amendment":

> The proposal is offered as a single amendment but it obviously is multifarious. ***It does not give the people an opportunity to express approval or disapproval severally as to each major change suggested; rather does it, apparently, have the purpose of aggregating for the measure the favorable votes from electors of many suasions who, wanting strongly enough any one or more propositions offered, might grasp at that which they want, tacitly accepting the remainder.*** Minorities favoring each proposition severally might, thus aggregated,

---

While the bill's policy statement didn't survive the committee review process, the direction to the revisor of statutes to "edit and revise the laws enacted by the legislature, without changing the meaning of any law, so as to avoid the use of pronouns denoting masculine or feminine gender" has become part of the current statute law. AS 01.05.031(c).

> adopt all. Such an appeal might well be proper in voting on a revised constitution, proposed under the safeguards provided for such a procedure, but it goes beyond the legitimate scope of a single amendatory article. There is in the measure itself no attempt to enumerate the various and many articles and sections of our present Constitution which would be affected, altered, replaced or repealed.

Bess, 985 P.2d at 985, considering *McFadden v. Jordan*, 196 P.2d 787, 796 - 797 (Cal. 1948) (emphasis added). Neither of the changes you're contemplating by combining HJR 7 and HJR 37 is as lengthy or extensive as those alluded to by the Alaska court in its comments concerning *McFadden*. Still, our Supreme Court's reference does serve as a warning that it may consider as clearly distinct or separate the elements of the material presented within a modified House Joint Resolution proposing the amendment. Taken altogether, the court might be more disposed to view these separate elements as evidence of matter that should be treated as a revision for the public to consider through presentation by a constitutional convention rather than for the legislature to initiate.

The drafting manual relates that "[a] legal opinion [provided by this office] expresses a well-considered opinion that may or may not be agreed with by a court faced with the same issue at a later date." At this point, I feel that I am obligated to identify the considerations that may bear on the court's *Bess* analysis if the question of combining the two joint resolutions into one measure is offered. The *Bess* decision has so limited a later appellate history that I don't feel I can be any more definitive.

JBC:ljw
08-158.ljw

Committee Action on Legislation

HOUSE RECORDS COMMITTEE SECRETARY: LORI ROLAND

FEBRUARY 19, 2009

HOUSE STATE AFFAIRS STANDING COMMITTEE

PAGE 1 OF 1

#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
		✓ Moved Out of Cmte
	HJR 13-CONST AM: SEC. OF STATE REFERENCES	____ Moved CS (____)Out of Cmte
		____ Moved HCS (____)Out of Cmte
		____ Heard and Held
		____ Heard and Held; Assigned to Subcmte
		____ Scheduled but not Heard
		____ Failed to Move Out of Committee
		____ Waived Out of Committee

#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
		____ Moved Out of Cmte
		____ Moved CS (____)Out of Cmte
		____ Moved HCS (____)Out of Cmte
		____ Heard and Held
		____ Heard and Held; Assigned to Subcmte
		____ Scheduled but not Heard
		____ Failed to Move Out of Committee
		____ Waived Out of Committee

#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
		____ Moved Out of Cmte
		____ Moved CS (____)Out of Cmte
		____ Moved HCS (____)Out of Cmte
		____ Heard and Held
		____ Heard and Held; Assigned to Subcmte
		____ Scheduled but not Heard
		____ Failed to Move Out of Committee
		____ Waived Out of Committee

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

SPONSOR STATEMENT
HJR 13

TITLE: "Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor."

In 1970 Alaska voters approved amendments to the state constitution changing the name of "Secretary of State" to "Lieutenant Governor." At that time, however, the drafting attorneys did not catch all of the references to "Secretary of State". HJR13 corrects the two remaining references to "Secretary of State" in the state constitution. The proposed amendments, if approved by the legislature, would be placed before the voters in the next general election.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" www.RepLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sectional Analysis for HJR 13

Section 1. Amends Article II, sec. 5, Constitution of the State of Alaska

Adds: **lieutenant governor**
Removes: [SECRETARY OF STATE]

Section 2. Amends Article II, sec. 25 Constitution of the State of Alaska

Adds: **lieutenant governor**
Removes: [SECRETARY OF STATE]

These sections update by correcting the only two outdated references to "secretary of state" to "lieutenant governor" following the 1970 constitutional amendment that changed the name of that office.

Section 3. This section states that the constitutional amendments will be placed on the ballot at the next general election as required by Art. XIII, Sec. 1 of the Alaska Constitution. Two thirds of each House must approve the proposed amendments and a majority of the electorate voting must ratify it.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HJR13**
() Publish Date:

Identifier (file name): HJR003-OOG-DOE-2-5-09
Dept. Affected: OOG

Title: Constitutional amendment to correct obsolete references to office of secretary of state
RDU: Elections
Component: Elections

Sponsor: House State Affairs Committee
Requester: House State Affairs Committee
Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Personal Services							
Travel							
Contractual			1.5				
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF			1.5				
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is $1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to $22.0.

Prepared by: Gail Fenumiai, Director — Phone 465-4611
Division: Division of Elections — Date/Time 2/13/09, 8:26am
Approved by: Linda Perez, Director — Date 2/13/2009
Division of Administrative Services

(Revised 9/10/2008 OMB)

re: HJR13

States Pursue Title of Lieutenant Governor

The last states without lieutenant governors may soon jump on the bandwagon. Two states, Tennessee and Arizona, are pursuing in this legislation session the creation of the lieutenant governor position as a statewide elected office. Rhode Island lawmakers are considering expanding powers of the lieutenant governor. Only five states do not have lieutenant governors.

In each case, lieutenant governor supporters say the position allows for gubernatorial succession that's clear to voters, while protecting the continuity of government.

However, in Arizona, Oregon and Wyoming, states without the lieutenant governor position, the secretary of state is first in line for gubernatorial succession.

"People who are voting for secretary of state should note they are also electing the person next in line for governor," Arizona Sen. Chuck Gray told the Cronkite News Service.

An East Valley Tribune editorial agreed: "Arizonans always should keep in mind that the official who oversees the state election system suddenly could have power to veto legislation and control a large portion of state government, if the governor became unable to do the job."

Gubernatorial succession has happened five times in Arizona's 95-year history, most recently in 1997 when then-Secretary of State Jane Hull replaced Fife Symington. Voters may not realize that the secretary of state is next in line if the current governor dies or resigns since nearly all other states have a lieutenant governor, according to the East Valley Tribune editorial.

Four states place the senate president first in line to replace the governor, but Tennessee and West Virginia give the title lieutenant governor to this officer in recognition of the vital succession duty. Yet, Tennessee this year is considering creating an office of lieutenant governor, which would be elected statewide.

"An elected lieutenant governor is a companion piece to any sort of sensible line of succession," Gov. Phil Bredesen told The Tennessean. Only three officials are elected statewide in Tennessee, the governor and two U.S. senators.

New Hampshire and Maine are the other states where the senate president is first in line of succession and with no use of the lieutenant governor title. Voters in New Jersey approved creation of a statewide elected office of lieutenant governor in 2005; the first will be elected next year in 2009.

States Lengthen School Days



In an effort to raise achievement in schools, some states are looking to lengthen the school day. A handful of states and cities, along with many charter schools, are seeking to add more hours, days and weeks to their school calendar, according to *The Washington Post*.

Massachusetts is spending $13 million this year as part of a program to lengthen school days, according to Heidi Guarino, spokeswoman for the Massachusetts Department of Education. Ten schools made school days longer for the 2006-2007 school year and this school year, the number of schools increased to 19, Guarino said.

An additional 33 schools in 16 districts are in the pipeline and hope to convert to longer days in the future, according to *The Boston Globe*.

In most cases, the school days are expanded from six-hour days to eight- or nine-hour days.

The Commonwealth Readiness Project—the cornerstone of Gov. Deval Patrick's education priorities—issued an update in January 2008 that continued the recommendation of expanded teaching and learning time in Massachusettes.

"Expanded teaching and learning time, whether through full-day kindergarten, longer school days, summer learning programs or high-quality out-of-school or after-school programs, can provide increased opportunities that impact academic achievement, address out-of-school factors, such as health and nutrition and enhance support services including in-home resources and parenting skills," the report stated.

The Massachusetts report also said schools with longer days narrowed the achievement gap at a faster rate than the state and increased the number of students at or above the proficiency level by 10.8 percent compared to the state rate of only 3.5 percent.

Sen. Edward M. Kennedy, chairman of the U.S. Senate's Health, Education, Labor and Pensions Committee, joined with Boston Mayor Thomas M. Menino, to celebrate expanded school day programs in Massachusetts at the Clarence R. Edwards Middle School in Charlestown in January. The middle school implemented the state's expanded learning time initiative in 2006.

"It gives students the time not only to master the basics, but also to expand their horizons through art, music, physical education and other activities. It gives teachers additional time for collaboration and planning to improve instruction," Kennedy said in a press release.

New York tacked on minutes a day for schools in 28 different school systems, *The Washington Post* reports. New Mexico is also spending slightly more than $7 million to add 25 extra days at 29 schools where students need the most help, according to the *Post*.

from: 5 / State News at 9 (March 2008)
distributed by Rivamba.

1760

2008 HJR 37

Bill History/Action for 25th Legislature

BILL: HJR 37 **SHORT TITLE:** CONST AM: SEC. OF STATE REFERENCES

BILL VERSION: CSHJR 37(JUD)

CURRENT STATUS: (S) FIN **STATUS DATE:** 04/06/08

SPONSOR(s): REPRESENTATIVE(s) GRUENBERG, Cissna

TITLE: Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor.

HJR 37 minutes

Bill Number: Search Bills Next Bill

Full Text Fiscal Notes Minutes

Sponsor Statement

Display Committee Action with Bill History

Jrn-Date	Jrn-Page	Action
02/19/08	2002	(H) READ THE FIRST TIME - REFERRALS
02/19/08	2002	(H) STA, JUD
03/17/08	2291	(H) STA RPT 4DP 1NR
03/17/08	2291	(H) DP: JOHNSON, GRUENBERG, DOLL, ROSES
03/17/08	2291	(H) NR: COGHILL
03/17/08	2292	(H) FN1: (GOV)
03/17/08	2316	(H) FIN REFERRAL ADDED AFTER JUD
03/20/08	2378	(H) JUD RPT CS(JUD) NT 5DP 1NR
03/20/08	2378	(H) DP: GRUENBERG, COGHILL, DAHLSTROM, LYNN, RAMRAS
03/20/08	2378	(H) NR: SAMUELS
03/20/08	2378	(H) FN1: (GOV)
03/28/08	2485	(H) FIN RPT CS(JUD) NT 4DP 5NR
03/28/08	2485	(H) DP: CRAWFORD, KELLY, THOMAS, MEYER
03/28/08	2485	(H) NR: HAWKER, GARA, STOLTZE, JOULE, CHENAULT
03/28/08	2485	(H) FN1: (GOV)
03/31/08	2517	(H) RULES TO CALENDAR 3/31/2008
03/31/08	2517	(H) READ THE SECOND TIME
03/31/08	2518	(H) JUD CS ADOPTED UNAN CONSENT
03/31/08	2518	(H) ADVANCED TO THIRD READING UNAN CONSENT
03/31/08	2518	(H) READ THE THIRD TIME CSHJR 37(JUD)
03/31/08	2518	(H) PASSED Y36 N1 E3
03/31/08	2521	(H) COSPONSOR(S): CISSNA
03/31/08	2523	(H) TRANSMITTED TO (S)
03/31/08	2523	(H) VERSION: CSHJR 37(JUD)
04/01/08	2492	(S) READ THE FIRST TIME - REFERRALS
04/01/08	2492	(S) JUD, FIN
04/06/08	2669	(S) JUD RPT 3DP 2NR
04/06/08	2669	(S) DP: FRENCH, WIELECHOWSKI, MCGUIRE
04/06/08	2669	(S) NR: THERRIAULT, HUGGINS
04/06/08	2669	(S) FN1: (GOV)
04/06/08	2669	(S) REFERRED TO FINANCE

Similar Subject Match or Exact Subject Match

Committee Minutes
Mar 15, 2008

HJR 37-CONST AM: SEC. OF STATE REFERENCES

[Contains mention of HJR 7.]

11:08:23 AM

VICE CHAIR ROSES announced that the first order of business was HOUSE JOINT RESOLUTION NO. 37, Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended.

11:08:37 AM

REPRESENTATIVE GRUENBERG presented HJR 37 as prime sponsor. He stated his hope that the resolution would be noncontroversial. He said it is similar to HJR 7, which was sponsored by Representative Anderson in 2007. As noted in the sponsor statement and in a memorandum from Jack Chenoweth of Legislative Legal and Research Services, dated 2/18/08, included in the committee packet, voters approved a series of amendments to the Constitution of the State of Alaska in 1970, technically changing the name, "Office of Secretary of State," to "Office of the Lieutenant Governor." However, through an oversight, the drafting attorneys missed two of the references to secretary of state, located in Article 2, Section 5, and Article 3, Section 25. The proposed resolution would correct that technical oversight. Furthermore, the resolution would change masculine pronouns to gender neutral.

3 minutes

11:10:53 AM

VICE CHAIR closed public testimony.

11:11:03 AM

REPRESENTATIVE GRUENBERG moved to report HJR 37 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 37 was reported out of the House State Affairs Standing Committee.

2/18/09
to Deneen 4/940
asked for memo from
Jack Chenoweth.

BRENDA PAGE, Assistant Attorney General
Labor and State Affairs Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 281.

JANE W. PIERSON, Staff
to Representative Jay Ramras
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Answered a question during the hearing on HB 281.

LISA MARIOTTI, Staff
to Representative Max Gruenberg
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 368.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:11:42 PM. Representatives Lynn, Gruenberg, Dahlstrom, Coghill, and Ramras were present at the call to order. Representative Samuels arrived as the meeting was in progress.

5 Minutes

HJR 37 - CONST AM: SEC. OF STATE REFERENCES

1:12:05 PM

CHAIR RAMRAS announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 37, Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended.

1:13:01 PM

REPRESENTATIVE DAHLSTROM moved to adopt the proposed committee substitute (CS) for HJR 37, Version 25-LS1527\E, Chenoweth,

3/18/08, as the work draft. There being no objection, Version E was before the committee.

REPRESENTATIVE GRUENBERG, speaking as the sponsor of HJR 37, relayed that the resolution cures an oversight that occurred in 1970, when the legislature changed the name of the office of secretary of state to the office of lieutenant governor. At that time, two sections were missed and so this resolution would conform those sections. Version E also removes the provision in the original resolution to eliminate personal pronoun references, he explained, because gender neutral references are instead being addressed by HJR 7.

eliminated Gender Neutral from bill

CHAIR RAMRAS, after ascertaining that no one wished to testify, closed public testimony on HJR 37.

1:14:52 PM

REPRESENTATIVE GRUENBERG, in response to questions, indicated that his attention was drawn to this matter by an identical bill that died in committee during a prior legislature.

REPRESENTATIVE COGHILL pointed out that the proposed constitutional amendment must be approved by the voters. He then asked about the purpose of the change from secretary of state to lieutenant governor.

REPRESENTATIVE GRUENBERG surmised that it was a more modern term.

REPRESENTATIVE COGHILL observed that the governor has the authority to assign broad duties to the lieutenant governor.

1:16:58 PM

REPRESENTATIVE DAHLSTROM moved to report the committee substitute for HJR 37, 25-LS1527\E, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 37(JUD) was reported out of the House Judiciary Standing Committee.

HB 281 - CAMPAIGN FINANCE COMPLAINTS

1:17:30 PM

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 281, "An Act extending the statute of limitations

Committee Minutes
Mar 27, 2008

2:48:48 PM

HOUSE JOINT RESOLUTION NO. 37

Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended.

REPRESENTATIVE MAX GRUENBERG, SPONSOR, advised that in 1970, the legislature proposed and the voters of Alaska approved a series of amendments to the State Constitution that changed the name of the Office of "Secretary of State" to the office of "Lieutenant Governor". At that time, the drafting attorneys did not catch all of the references to "Secretary of State".

HJR 37 corrects the two remaining references to "Secretary of State". The proposed amendments, if approved would place it before the voters in the next general election. He added, it also corrects personal pronouns referenced in those sections.

10 min

2:50:27 PM

In response to Representative Gara's observation of changing all pronouns to "he", Representative Gruenberg responded that he wanted to take the path of least resistance and controversy.

Representative Gara thought that since the bill intends to be a "clean-up", all legislators should not be referenced as "he". Representative Gruenberg noted that the original bill could be adopted rather the House Judiciary draft.

Representative Gara asked why the House Judiciary Committee changed the pronouns to "he". Representative Gruenberg noted that the House Judiciary draft has attached a memorandum addressing two subjects. For that reason, it was determined safer to limit it to "Lt. Governor" and "he". He noted that another bill HJR 7, adds additional language clean-up.

2:53:41 PM

Vice-Chair Stoltze commented that incorrect gender reference falls under obsolete but that the courts will do what they want to in any case. He noted that he had not received any complaints regarding the matter.

Representative Hawker questioned why an oversight from a previous amendment, merits a process of putting it back in front of the people for a vote. Representative Gruenberg responded that it is important to keep the Alaska Constitution correct and up to date, acknowledging, it is not earth-shaking.

2:58:36 PM

Vice-Chair Stoltze stated that he would vote "do not pass" the bill out of Committee if the sponsor intended to place any amendments into it on the House floor. Representative Gruenberg replied he had no intention of adding amendments.

Co-Chair Chenault MOVED to REPORT CS HJR 37 (JUD) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HJR 37 (JUD) was reported out of Committee with "individual recommendations" and with fiscal note #1 by the Office of the Governor.

3:01:00 PM

Committee Minutes
Apr 05, 2008

CSHJR 37(JUD)-CONST AM: SEC. OF STATE REFERENCES

CHAIR FRENCH announced the consideration of CSHJR 37(JUD).

10:11:34 AM
DENEEN TUCK, Staff to Representative Max Gruenberg, sponsor of HJR 37, explained that in 1970, the voters of Alaska approved amendments to the state constitution to change the name of "secretary of state" to "lieutenant governor". At that time, the drafting attorneys caught all but two of the references to secretary of state, and HJR 37 corrects those omissions. The attached $1,500 fiscal note is to cover the first-time publication of the corrected references.

10:12:36 AM
CHAIR FRENCH recapped that Sections 1 and 2 each replace one reference to "secretary of state" with "lieutenant governor," and Section 3 says the constitutional amendments will be placed before the voters of the state because the legislature can't change the constitution without voter approval.

MS. TUCK agreed.

CHAIR FRENCH asked how the word "secretary of state" got into the state constitution in the first place.

4 min

REPRESENTATIVE MAX GRUENBERG, sponsor of HJR 37, explained that in the past all states used the term "secretary of state" to identify the second highest office in the state. In the last 30-40 years all but two states changed the second highest office to "lieutenant governor." Now some states have a secretary of state, but that person isn't the second in line after the governor.

CHAIR FRENCH noted the bill history provided in the packet.

REPRESENTATIVE GRUENBERG credited former Representative Anderson
th
with introducing the legislation in the 24 legislature.

10:15:15 AM
CHAIR FRENCH found no one who wished to testify on behalf of HJR 37, and closed public testimony. Finding no further discussion, he asked the will of the committee.

SENATOR McGUIRE motioned to report CSHJR 37 and attached fiscal note(s) from committee with individual recommendations.

CHAIR FRENCH announced that without objection CSHJR 39(JUD) is moved from the Senate Judiciary Committee.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HJR13**
() Publish Date:

Identifier (file name): HJR013-OOG-DOE-2-1-10
Dept. Affected: OOG
Title: Constitutional amendment to correct obsolete references to office of secretary of state
RDU: Elections
Component: Elections
Sponsor: House State Affairs Committee
Requester: House State Affairs Committee
Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual		1.5					
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF		1.5					
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is $1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to $22.0.

Prepared by: Gail Fenumiai, Director — Phone 465-4611
Division: Division of Elections — Date/Time 2/1/10, 8:52am
Approved by: Linda Perez, Director — Date
Division of Administrative Services

(Revised 10/13/2009 OMB)

HJR

22

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: March 2, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 03-19-09

The STATE AFFAIRS Committee considered: **HOUSE JOINT RESOLUTION NO. 22**

Urging the United States Senate to ratify the United Nations Convention on the Law of the Sea (the Law of the Sea Treaty).

HJR 22 URGING US TO RATIFY LAW OF THE SEA TREATY

Recommends it be replaced with [ ] HCS *or* **[ ] CS** *for* _____ (_____)
For Senate Bills with new title: *[ ] Technical Title [ ] New Title: HCR*_____ [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

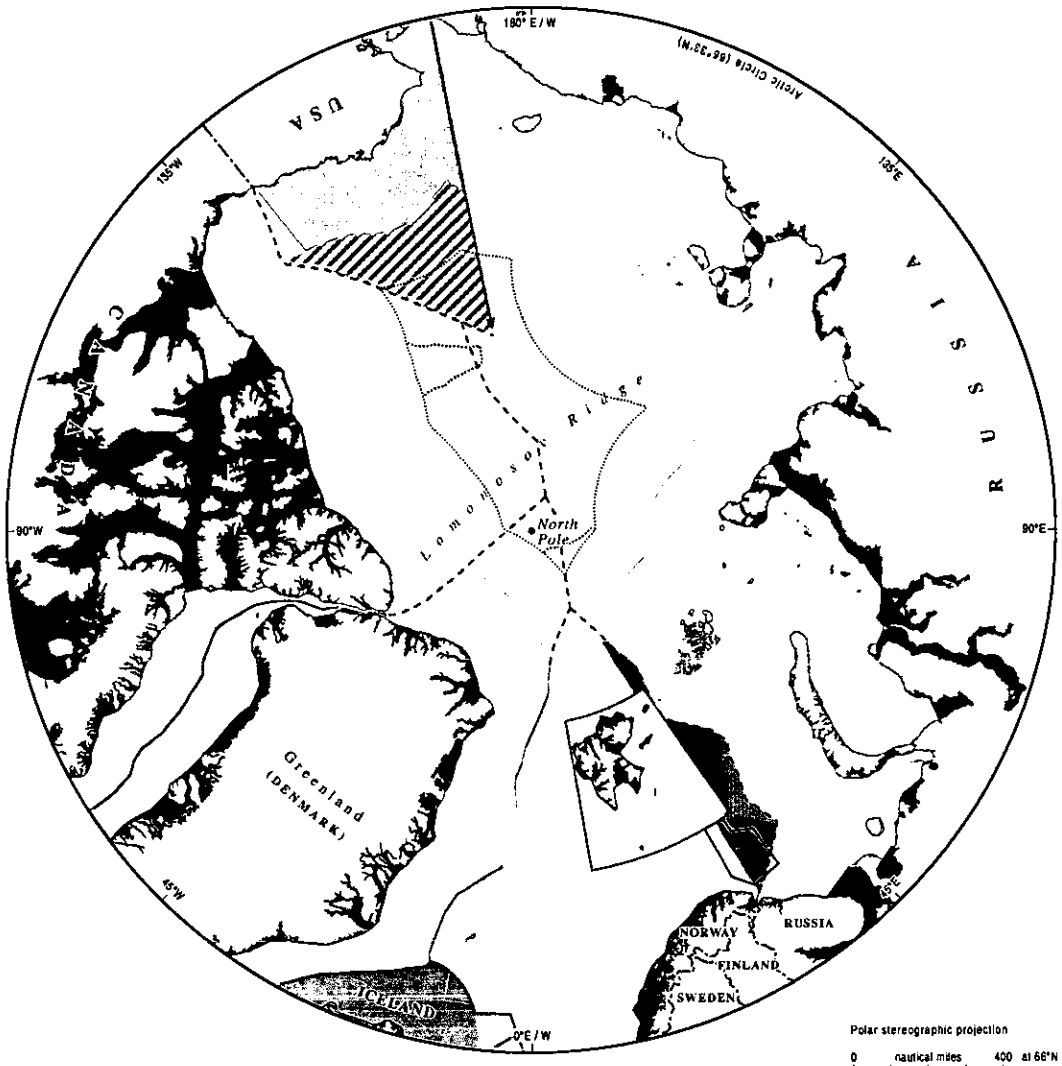
PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnsgn			Y	
Paul R Seaton	Gatto	✓			
	SEATON	✓			
Mary Gunby	Gunby	–			
Bryan Wilson	WILSON	N			
Bill Peterson	Peterson	X			
Chair:	LYNN	X			
Chair:					

IBRU International Boundaries Research Unit

Durham University

Maritime jurisdiction and boundaries in the Arctic region



- Internal waters
- Canada territorial sea and EEZ
- Potential Canada continental shelf beyond 200 nm
- Denmark territorial sea and EEZ
- Denmark claimed continental shelf beyond 200 nm
- Potential Denmark continental shelf beyond 200 nm)
- Iceland EEZ
- Iceland claimed continental shelf beyond 200 nm
- Norway territorial sea and EEZ / Fishery zone Jan Mayen) / Fishery protection zone (Svalbard)
- Norway claimed continental shelf beyond 200 nm
- Russia territorial sea and EEZ
- Russia claimed continental shelf beyond 200 nm
- Overlapping Norway / Russia EEZ
- Overlapping Norway EEZ / Russia claimed continental shelf beyond 200 nm
- Overlapping Norway / Russia claimed continental shelf beyond 200 nm
- USA territorial sea and EEZ
- Potential USA continental shelf beyond 200 nm
- Overlapping Canada / USA EEZ
- Straight baselines
- Agreed boundary
- Median line
- 350 nm from baselines
- 100 nm from 2500 m isobath (beyond 350 nm from baselines)
- Svalbard treaty area
- Iceland - Norway joint zone
- Norway - Russia 'Grey Area' (agreed fishing regime)
- Canada EEZ boundary claim
- Eastern Special Area

Notes

1. The depicted potential areas of continental shelf beyond 200 nautical miles (nm) for Canada, Denmark and the USA are theoretical maximum claims assuming that none of the states claims continental shelf beyond median lines with neighbouring states where maritime boundaries have not been agreed. **In reality, the claimable areas may fall well short of the theoretical maximums** (see the summary of the definition of the outer limit of the continental shelf below). It is also possible that one or more states will claim areas beyond the median lines.

   Where the continental margin of a coastal state extends beyond 200 nm from the state's territorial sea baseline, the outer limit of the continental shelf is defined with reference to two sets of points: (i) points 60 nm from the foot of the continental slope; (ii) points at which the thickness of sedimentary rocks is at least 1% of the shortest distance from the points in question to the foot of the continental slope. The outer limit of the continental shelf is defined by a series of straight lines (not exceeding 60 nm in length) connecting the seawardmost of the points in the two sets described above. This map does not attempt to depict such lines, which can only be identified with precision through bathymetric and seismic surveys. However, it is possible to depict the 'cut-off' limit beyond which states may not exercise continental shelf jurisdiction regardless of the location of the foot of the continental slope and the thickness of sediment seaward of that point. The cut-off limit is the seawardmost combination of two lines: (i) a line 350 nm from the state's territorial sea baseline; (ii) a line 100 nm seaward of the 2,500 metre isobath. Both the 350 nm line and (where it runs seaward of the 350 nm line) the 2,500 m + 100 nm lines are depicted on the map. The 2,500 m + 100 nm line is derived from the US National Geophysical Data Center's etopo2 bathymetry dataset.

2. The depicted claims of Denmark and Iceland to continental shelf beyond 200 nm in the northeast Atlantic Ocean are defined in the "Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between the Faroe Islands, Iceland and Norway in the Southern Part of the Banana Hole of the Northeast Atlantic" of 20 September 2006. The agreed division of the continental shelf in this area is subject to confirmation by the Commission on the Limits of the Continental Shelf (CLCS) that there is a continuous continental shelf in the area covered by the agreement. Neither Denmark nor Iceland has yet made a submission to the CLCS.

3. An executive summary of Norway's submission to the CLCS of 27 November 2006 is available at http://www.un.org/Depts/los/clcs_new/submissions_files/nor06/nor_exec_sum.pdf. The Commission has yet to respond to Norway's submission.

4. Maps and coordinates defining the area covered by Russia's submission to the CLCS of 20 December 2001 are available at http://www.un.org/Depts/los/clcs_new/submissions_files/submission_rus.htm. The Commission asked Russia to revise its submission relating to its continental shelf in the Arctic Ocean.

5. Norway and the Soviet Union agreed a partial maritime boundary in Varangerfjord in 1957 but disagree on the alignment of their maritime boundary in the Barents Sea: Norway claims the boundary should follow the median line, while Russia seeks a 'sector' boundary extending due north (but deviating around the 1920 Svalbard Treaty area). As the Barents Sea is an important fishery for both states, in January 1978 the two governments agreed on a fishing regime in the so-called "Grey Zone", a 19,475 nm² area covering 12,070 nm² of overlapping EEZ claims, 6,588 nm² of undisputed Norwegian EEZ and 817 nm² of undisputed Russian EEZ. Within the Grey Zone Norway and Russia have jurisdiction over their own fishing vessels.

6. Canada argues that the maritime boundary in the Beaufort Sea was delimited in the 1825 treaty between Great Britain and Russia defining the boundary between Alaska and the Yukon as following the 141° W meridian "as far as the frozen ocean". The USA argues that no maritime boundary has yet been defined and that the boundary should follow the median line between the two coastlines. The area of overlap between the two claims is more than 7,000 nm².

7. Under a treaty signed in February 1920, Norway has sovereignty over the Svalbard archipelago and all islands between latitudes 74° and 81° north and longitudes 10° and 35° east. However, citizens and companies from all treaty nations enjoy the same right of access to and residence in Svalbard. Right to fish, hunt or undertake any kind of maritime, industrial, mining or trade activity are granted to them all on equal terms. All activity is subject to the legislation adopted by Norwegian authorities, but there may be no preferential treatment on the basis of nationality. Norway is required to protect Svalbard's natural environment and to ensure that no fortresses or naval bases are established. 39 countries are currently registered as parties to the Svalbard treaty.

8. The Eastern Special Area lies more than 200 nm from the baseline of the USA but less than 200 nm from the baseline of Russia. Under the June 1990 boundary agreement between the two states, the Soviet Union agreed that the USA should exercise EEZ jurisdiction within this area. A second Eastern Special Area and a Western Special Area (in which the opposite arrangement applies) were established adjacent to the boundary south of 60° north. The agreement has yet to be ratified by the Russian parliament but its provisions have been applied since 1990 through an exchange of diplomatic notes.

Agreed maritime boundaries

Canada-Denmark (Greenland): continental shelf boundary agreed 17 December 1973.

Denmark (Greenland)-Iceland: continental shelf and fisheries boundary agreed 11 November 1997.

Denmark (Greenland)-Norway (Jan Mayen): continental shelf and fisheries boundary agreed 18 December 1995 following adjudication by the International Court of Justice.

Denmark (Greenland)-Iceland-Norway (Jan Mayen) tripoint agreed 11 November 1997.

Denmark (Greenland)-Norway (Svalbard): continental shelf and fisheries boundary agreed 20 February 2006.

Iceland-Norway (Jan Mayen): fisheries boundary following the 200 nm limit of Iceland's EEZ agreed 28 May 1980; continental shelf joint zone agreed 22 October 1981 following the report of the Conciliation Commission.

Russia-USA: single maritime boundary agreed 1 June 1990 (see also note 8).

Updated: 24 July 2008

PREPARED STATEMENT OF REAR ADMIRAL ARTHUR E. BROOKS, COMMANDER, SEVENTEENTH COAST GUARD DISTRICT, U.S. COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

Good morning, Mr. Chairman and distinguished members of the Committee. I am Rear Admiral Arthur E. Brooks, Commander of the Seventeenth Coast Guard District. It is a pleasure to appear before you today to discuss the United Nations Convention on the Law of the Sea.

In my current position, I am responsible for directing Coast Guard operations, including search and rescue, maritime safety, environmental protection, fisheries law enforcement and military readiness, in Alaska and the North Pacific. Units under my command patrol over 3.8 million square miles of ocean and 33,000 miles of coastline. Coast Guard aircraft and vessels monitor more than 950,000 square miles off the Alaskan coast to enforce U.S. fisheries laws. The Coast Guard patrols an even larger area of the North Pacific to stop large scale, high seas drift netting and other illegal fishing practices. I also consider maritime safety and environmental protection to be priority missions. Over 17 percent of the oil that America produces each day transships through the Port of Valdez. Alaska is the world's second most popular cruise destination, bringing 700,000 passengers to its waters every year. The safety of these ships and passengers and protection of the waters in and around Alaska are critical missions.

I have previously served as the Commander of Coast Guard Greater Antilles Section and as the Chief of Staff of the Coast Guard Atlantic Area. I also have served on four cutters, twice as commanding officer. My sea duty has encompassed all of the Coast Guard's Deepwater missions. Just before my present assignment, I served as the Deputy Director for Operations at the U.S. Northern Command.

The breadth of these assignments—encompassing Coast Guard operations in the Caribbean Sea, the Gulf of Mexico, and the Atlantic, Pacific, and Arctic Oceans—provides me with the experience necessary to comment on the many beneficial effects that becoming party to the Law of the Sea Convention would have on U.S. Coast Guard missions. Following these remarks, I am prepared to answer any questions you may have.

Although the 1982 UN Convention on the Law of the Sea entered into force in 1994, the U.S. has continued to rely upon customary international law as reflected in the Convention to advance our oceans policy goals. While reliance upon customary international law has served us well for many years, it will not adequately protect our key ocean interests in the future. Customary international law is based on the evolving practice of States; therefore, it can and does erode over time. The Law of the Sea Convention provides the legal certainty and stability that the Coast Guard needs to exercise its navigational rights and freedoms, to protect fisheries, to control marine pollution, and to maintain a legal order of the oceans against criminals and terrorists.

The first UN effort at codifying the Law of the Sea took place in 1958, when the first UN Conference on the Law of the Sea concluded four separate conventions dealing with the Law of the Sea. These four conventions, for the most part, represented codifications of customary international law at the time and the United States became party to them. While these conventions addressed issues of the day, it must be remembered that, at the time, pollution of the world's oceans was not considered an important issue, fish stocks were thought to be inexhaustible, and the need for maritime domain awareness was not present. In the 1960's, the oceans began experiencing significant change in such areas as pollution standards and fisheries management. Moreover, these conventions failed to provide a maximum breadth for the territorial sea or other specific limitations on claims to sovereignty over resources. As a result, various coastal States filed a proliferation of claims that threatened to carve up the oceans and restrict operational freedoms in large areas of ocean space. Moreover, these conventions failed to adequately provide for dispute settlement. Finally, while these conventions provided for non-suspendable innocent passage through straits used for international navigation, nothing in them guaranteed the right of submarines to pass through international straits submerged, or aircraft to overfly, where these expanded territorial seas overlapped the waters of the straits.

All of these factors led the United States and other major maritime powers to call for the Third United Nations Conference on the Law of the Sea, which met between 1973 and 1982 to develop the 1982 UN Convention on the Law of the Sea. With 156 States and the European Union now party to the 1982 UN Convention on the Law of the Sea, the Convention already is playing a central role in resolving these issues. It will also serve as a foundation upon which future oceans

agreements will be based. In order to carry out its natural leadership role in promoting the most appropriate legal order of the oceans, the United States must become party to the Convention.

On November 16, 1994, the Law of the Sea Convention entered into force. That event represented a milestone in the United States' efforts to achieve a widely ratified, comprehensive law of the sea treaty that protects and promotes a wide range of U.S. ocean interests, many of which affect the U.S. Coast Guard. Because of our law enforcement and national security missions, the Coast Guard has long been a proponent of achieving a comprehensive and stable regime with respect to traditional uses of the oceans. The Convention aids our interests by stabilizing the trend towards expansion of national jurisdiction over coastal waters, while furthering our efforts to protect and manage fishery resources and to protect the marine environment. From the Coast Guard perspective, public order of the oceans is best established and maintained by a stable, universally accepted law of the sea treaty reflective of U.S. national interest.

One of the core foundations of the Convention was codification of rights and responsibilities of states as port States, flag States, and coastal States. During the negotiations leading to the Law of the Sea Convention, the U.S. aggressively sought both clarification and delimitation of seaward territorial claims by coastal States to ensure navigational freedoms while at the same time recognizing the U.S.'s interest as a coastal State with sovereignty to protect its living and non-living marine resources. The result was an appropriate balance between the exclusive interests of coastal States and the inclusive interests of maritime States. It limits the maximum breadth of the territorial sea that a coastal State could claim to 12 nautical miles. Our fishery conservation management interests, as reflected in the Magnuson-Stevens Fishery Conservation Management Act of 1977, were instrumental in the international development of the concept of the 200-nautical mile Exclusive Economic Zone (EEZ). In the EEZ, all nations enjoy freedoms of navigation and overflight as on the high seas, while the coastal State possesses sovereign rights to protect and exploit the living and non-living marine resources. The United States, with its extraordinarily large and resource-rich EEZ, is perhaps the greatest beneficiary of this concept.

1774

The Convention also provides for a balanced and effective approach to protecting the marine environment. The *Amoco Cadiz* and subsequent vessel oil spill incidents prompted the participating States to address marine pollution in the 1982 UN Convention on the Law of the Sea. The Convention contains provisions that have been described as perhaps the most far-reaching and effective environmental accord yet devised. The Convention struck the appropriate balance of competing claims so that all nations could engage in high seas freedoms, including non-resource related law enforcement in the waters of another nation's EEZ, and the coastal State could enjoy the right to protect its marine environment, including damage from oil spills by vessels, fisheries conservation, and enforcement of domestic laws designed to conserve and protect the living marine resources in its EEZ. The Convention also recognized a port state regime adequate to ensure their interests were protected when vessels voluntarily entered their ports or places subject to their jurisdiction.

The Coast Guard and other U.S. military forces already rely heavily on the navigational freedoms and overflight rights codified in the Law of the Sea Convention. These protections allow the use of the world's oceans to meet changing national security requirements. In this regard, worldwide mobility requires undisputed access through international straits and archipelagic waters. The Convention ensures that our warships, including our Coast Guard cutters, will have their sovereign immunity protected wherever in the world they may be operating. In addition, the Convention limits a nation's territorial sea to no more than 12 nautical miles, beyond which all nations enjoy a high seas navigation regime that includes the freedom to engage in law enforcement activities. The Convention codifies the right to operate freely beyond a nation's territorial sea and protects this right by limiting excessive maritime claims that often have the effect of creating maritime safe havens for drug traffickers and other criminals. Each year, Coast Guard maritime interdiction operations occurring on international waters result in the seizure of tens of thousands of pounds of cocaine, dozens of vessels, and hundreds of arrests. Most of these seizures take place on distant maritime transit routes far from our shores. However, during bi-lateral negotiations, several nations have, in the past, questioned our authority to contest some of their excessive maritime claims simply because we have yet to become party to the Convention.

The Convention contains effective provisions for dealing with illegal activities at sea. Article 108 of the Convention requires international cooperation in the suppression of the transport of illegal drugs. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, also known as the 1988 Vienna Convention, is a fine example of this. The United States has been at the forefront of international cooperation in the war against illegal drugs, and the use of ocean space to transport them. We have aggressively pursued bilateral agreements with many nations that border drug transit zones as well as States with large registries to facilitate the effective interdiction of vessels suspected of transporting illegal drugs and the eventual prosecution of the drug traffickers. During discussions with these nations, we emphasize the Convention's call for cooperation and premise each agreement on concepts codified within the Convention. Articles 100-107 detail the international legal principles dealing with acts of piracy at sea. Other provisions prohibit the transport of slaves, the operation of stateless vessels, and other activities in violation of international norms.

The Convention also contains provisions that enhance our ability to interdict foreign-flagged vessels off our own coasts. The Convention codifies a coastal nation's right to establish a 12-nautical mile contiguous zone just beyond the territorial sea, where it may exercise control to prevent and punish infringements of its customs, immigration, fiscal, and sanitary laws. Adoption by the U.S. of an expanded contiguous zone has doubled the area where we can exercise these increased authorities. The benefits of the contiguous zone against traffickers surreptitiously shipping their illicit products to U.S. shores are clear.

The Convention also contains numerous provisions that advance the economic interests of the United States as a coastal State. By codifying the 200-nautical mile EEZ, the Convention confirms exclusive U.S. jurisdiction over all the living and non-living resources in the zone. The U.S. has the largest and richest EEZ in the world. Experts agree that the problems associated with the management of fish stocks will continue as a contentious issue for States that rely on fishing to feed their population. The Convention provides a legal baseline that sanctions the actions of regional fishing organizations to deal with such conservation issues. Indeed, the Convention imposes responsibilities on the coastal States to manage their fishery resources responsibly, and provides the best structural framework for resolving conflicts between

1776

competing users. The Convention's provisions regarding the EEZ are fully in accord with our fisheries policies and other economic interests.

The Convention calls for international cooperation among States in preserving the world's high-seas fisheries. This provision on cooperation supports the UN ban on high seas drift net fishing and other illegal fishing practices. Each year, the Coast Guard patrols the North Pacific to conduct boardings and inspections under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. Over two dozen nations participate in this effort, which is a direct outcome of the Law of the Sea Convention.

The Convention makes specific provision for asserting jurisdiction over the resources of an extended continental shelf. All coastal States may exercise their sovereign rights to the natural resources of the seabed and subsoil of the continental shelf out to 200 nautical miles. The Convention sets forth the requirements and procedures for parties to the Convention to claim an extended continental shelf beyond 200 nautical miles. For example, the U.S.'s extended continental shelf, which may extend as far out as 600 nautical miles in the Arctic, has enormous potential oil and gas reserves. In contrast to Russia, Canada, Denmark, and Norway, all of which are party to the Convention, the U.S. is presently unable to file a claim for an extended continental shelf in order to obtain secure title to our potentially vast resources in the Arctic. The U.S. also has potential continental shelf resources off the Gulf Coast and other coastal areas. Moreover, the United States currently has no role to play on the Continental Shelf Commission, whose members evaluate all claims to extended continental shelves to ensure compliance with objective legal standards.

The Convention is also an environmental accord that provides a comprehensive framework for the prevention, reduction, and control of maritime pollution. The Coast Guard conducts a wide-ranging port-state-control program to purge our waters of substandard ships and is assisting other nations in doing the same. This initiative will be enhanced through the consistent application of the Convention's broad enforcement mechanisms. Additionally, the Convention carefully balances the rights of coastal States to adopt certain measures to protect the marine environment adjacent to their shores with the primary right of a flag State to set and enforce standards and

1777

requirements concerning the operation of its vessels. Moreover, it does all this without unduly burdening international maritime navigation and sea-borne trade.

As the lead Federal agency for maritime safety and security, the Coast Guard believes that the 1982 UN Convention on the Law of the Sea would benefit the Coast Guard in its efforts to improve maritime safety and ensure the security of our maritime borders, thus promoting homeland security. The Convention recognizes that various UN subsidiary bodies may serve as competent international organizations for the further Conventional development of the law of the sea. The International Maritime Organization has always been the recognized competent international organization for maritime safety and marine environmental protection. More recently, it has assumed a similar role in port facility and vessel security. The Coast Guards has worked at the IMO to amend the SOLAS Convention for vessel and port facility security, to enhance maritime domain awareness through Long Range Identification and Tracking (LRIT) of vessels bound for U.S. ports and waters, and to increase the operational effectiveness of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention). The negotiations necessary to support efforts such as these take place in the context of the overwhelming number of nations at IMO being parties to the Law of the Sea Convention. Because of this fact, the Law of the Sea Convention provides the framework for the discussions and agreements. Although we have enjoyed success in the international security agreements so far, those negotiations have not always been easy. Frankly, the fact that the United States is not a party to the Law of the Sea Convention, when the overwhelming number of our international partners are parties, has repeatedly placed us in a difficult negotiating position at IMO and other forums. I see this situation only getting worse in the future as long as we are not a State Party.

In summation, the provisions of the Law of the Sea Convention fairly balance the exclusive interests of coastal States in controlling activities off their coasts against the inclusive interests of all States in freedom of navigation and overflight. The practical effect for the United States is to control economic activities within the world's largest Exclusive Economic Zone, while enabling our military forces and merchant vessels to freely operate in every part of the globe. The Convention more than doubles the resource jurisdiction of the United States and, once we

become a party, will extend our sovereign rights to develop oil and gas resources on the extended continental shelf that we so desperately need. The Convention guarantees our military and transportation industries critical navigation and overflight rights, U.S. fishermen enjoy exclusive fishing out to 200 nautical miles, and much, much more. In the view of the Coast Guard, the Convention for the Law of the Sea greatly improves our ability to protect the American public as well as our efforts to manage our ocean resources and to protect the marine environment.

Thank you for the opportunity to testify before you today. I will now be happy to answer any questions that you may have.

Summary of the Responses to the Six Reagan Criteria Contained in the 1994 Agreement on Implementation

Issue	Solution
Not Deter Development	• Provision for production limits is void; • Prohibition of subsidies or burdens for seabed mining relative to land-based mining; • Authority must develop rules for exploration and development of new mineral resource within two years of request.
Assure National Access	• Contract approval based on clearly specified criteria; • Contractor has access to commercial arbitration of contract disputes and Applicant has access to commercial arbitration to challenge denial of contract; • Provision for financing first Enterprise operation the deleted; • Enterprise is required to operate under same contracts as private firms; Initial operation of the Enterprise is required to be in joint ventures with contractors.
Decision Making Role	• Guaranteed Permanent Council Seat for United States; • Council concurrence is required for Assembly decisions on matters of substance; • Consensus in the Council is required for the most critical decisions, particularly amendments to the regime, rules, regulations and procedures and distribution of revenues; • Chambered Voting with majority required in each chamber required for other substantive decisions in Council.
Allow US to Block Amendments	• Amendments to non-seabeds part of the Convention are not binding on US without Senate approval and US Ratification; • Amendments to Seabed Mining provisions must be approved by consensus of the Council, allowing US to block them.
Not Set Undesirable Precedents	• Finance Committee must approve budget and recommend financial decisions and is subject to US blocking vote; • Requirement for secretariat to be of minimum size.
Issues identified as threatening Senate approval	• Technology Transfer: The provisions that permitted mandatory technology transfer have been voided; • National Liberation Movements: Only states have role in the organs of the Authority; Distribution of revenues is subject to consensus of both the Finance Committee and the Council, giving US a veto.

A more extensive analysis of the 1994 Agreement on Implementation may be found in the American Journal of International Law, "The 1994 Agreement and the Convention", Vol 88 (1994), pp 687-696. by Bernard Oxman.

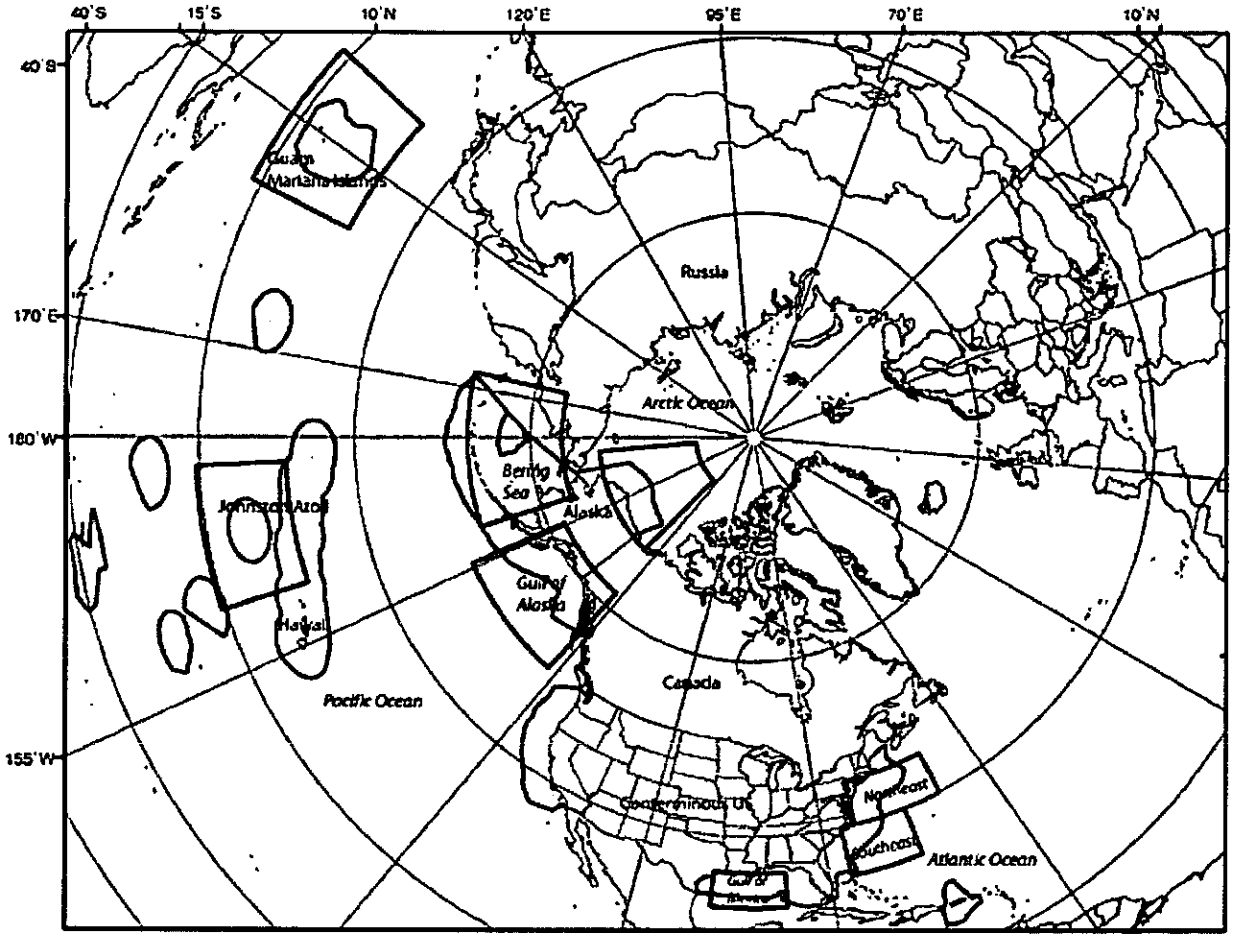


Figure 2: Eight regions (in red) adjacent to the United States and its dependences, where there likely exists extended continental shelf (ECS) beyond 200 nautical miles (in blue) identified by Mayer et al.(2002), The compilation and analysis of data relevant to a U.S. Claim under the United Nations Law of the Sea Article 76: A Preliminary Report. The regions presented in this figure are the result of an academic study, do not represent a formal position of the United States, and are without prejudice to any rights that the United States has with respect to its continental shelf.

US Department of State
Extended Continental Shelf Project

Stakeholder Endorsements of US Accession to the UN Convention on the Law of the Sea and the 1994 Agreement on Implementation

Endorsements categorized as follows:

- Obama Administration
- Bush Administration
- Current Military Service Chiefs and Legal Advisers(9)
- Former Secretaries of State (8)
- Other Former Cabinet and Sub-Cabinet Officers (12)
- Former UN Representatives and Ambassadors (5)
- Former National Security Advisors (4)
- Former EPA Administrators (4)
- Former Senators (6)
- State and City Officials (14)
- Business and Industry (20)
- Oceans and Environmental Organizations (21)
- Academia (25)
- Joint Ocean Commissions Initiative (3)
- Research and Science Organizations (7)
- International Affairs (4)
- Legal Societies and Organizations (5)
- Chairmen of the Joint Chiefs of Staff (7)
- Chiefs of Naval Operations (11)
- Commandants of the US Coast Guard (5)
- Additional Retired Navy and Coast Guard (12)
- Legal Advisers of the Department of State (10)
- Church Support (4)
- Other (31)

(Endorsements as contained in letters, commentary articles, letters to the editor and testimony)

Obama Administration

Barack Obama
President-Elect of the United States

Joseph Biden
Vice-President of the United States

Hillary Clinton
Secretary of State

Bush Administration

George W. Bush
President of the United States

Stephen Hadley,
National Security Advisor

James L. Connaughton
Director, Council on Environmental Quality

Condoleezza Rice
Secretary of State

Carlos Gutierrez
Secretary of Commerce

Dirk Kempthorne
Secretary of the Interior

Michael Chertoff
Secretary of Homeland Security

John Negroponte
Deputy Secretary of State

Gordon England
Deputy Secretary of Defense

Donald C. Winter
Secretary of the Navy

VAdm. Conrad Lautenbacher, USN (ret.)
Under Secretary of Commerce for Oceans and Atmosphere & Administrator of NOAA

John Bellinger
Legal Adviser, Dept. of State

Joseph A. Benkert
Assistant Secretary (nominee)
Global Security Affairs
Department of Defense

Current Military Service Chiefs and Legal Advisors

Adm. Mike Mullen
Chairman, Joint Chiefs of Staff

Adm. Gary Roughead
Chief of Naval Operations

Gen. James T. Conway
Commandant of the Marine Corps

Gen. George W. Casey
Chief of Staff of the Army

Gen. T. Michael Moseley
Chief of Staff of the Air Force

Adm. Thad Allen
Commandant of the US Coast Guard

Adm. Patrick Walsh
Vice Chief of Naval Operations

RAdm. McDonald
Judge Advocate General
U.S. Navy

RAdm, William D. Baumgarter
Judge Advocate General
U.S. Coast Guard

Former Secretaries of State

Condoleezza Rice
former Secretary of State

Colin Powell
former Secretary of State
former Chairman, JCS

Madeline Albright
Former Secretary of State
former US Representative to the United Nations
Chairman, Board of Directors
The Democratic Institute for International Affairs

Warren Christopher
former Secretary of State

James A. Baker, III
Former Secretary of State
Senior Partner, Baker Botts, LLP

Larry Eagleberger
former Secretary of State

George P. Shultz
former Secretary of State

Alexander M. Haig, Jr.
Former Secretary of State
Chairman, Worldwide Associates, Inc.

Other Former Cabinet and Sub-Cabinet Officers

Melvin R. Laird
Former Secretary of Defense

Michael Kantor
Former Secretary of Commerce

Donald L. Evans
Former Secretary of Commerce

Carla A. Hills
Former U.S. Trade Representative
Chairman and CEO, Hills & Company

Richard Armitage
former Deputy Secretary of State

William Taft, IV
former Deputy Secretary of Defense
former Legal Adviser, Dept. of State

Strobe Talbott
President, Brookings Institution
former Deputy Secretary of State

John C. Whitehead
former Deputy Secretary of State
former Chairman, Goldman Sachs

Sean O'Keefe
Former Secretary of the Navy
Chancellor, Louisiana State University

Antonia Chayes
former Under Secretary of the Air Force
Visiting Professor of International Politics & Law
Tufts University

D. James Baker
former Under Secretary of Commerce for Ocean Affairs and Administrator, National Oceanic and Atmospheric Administration
Director, Global Carbon Measurement Program
The William J. Clinton Foundation

John Knauss
former Under Secretary of Commerce for Ocean Affairs and Administrator, National Oceanic and Atmospheric Administration

John V. Byrne
former Administrator, National Oceanic and Atmospheric Administration

Former Ambassadors and UN Representatives

Amb. Kenneth Adelman
Director, US Arms Control Agency

John C. Danforth
former Senator
former US Representative to the United Nations
Bryan Cave LLP

Amb. Thomas Graham, Jr.
former General Counsel,
Arms Control and DIsarmament Agency and
former Special Representative of the President of the United States for Arms Control, Non-Proliferation, and Disarmament,

Thomas R. Pickering
Former Under Secretary for Public Affairs
former US Representative to the United Nations
U.S. Department of State
Vice Chairman, Hills & Company
see also: Madeline Albright, former Secretary of State and US Representative. to the UN

National Security Advisors

Stephen Hadley
National Security Advisor to President George W. Bush

Robert C. McFarlane
National Security Advisor
to President Ronald Reagan

Colin Powell
National Security Advisor
to President George H.W. Bush
see also, Condoleezza Rice (2001-2004)

Former EPA Administrators

William D. Ruckelshaus
Strategic Director
Madrona Venture Group

William K. Reilly
Former EPA Administrator
Chairman Emeritus, World Wildlife Fund

Russell E. Train
Chairman Emeritus
World Wildlife Fund

Christine Todd Whitman
Whitman Strategy Group

Former Senators

Senator John B. Breaux (D-LA)
Senior Counsel
Patton Boggs LLP

Ernest Hollings (D-SC)

Senator George J. Mitchell
Chairman
DLA Piper

Senator Sam Nunn → Chambliss
D-GA

Senator Tim Wirth
President UN Foundation
see also, Senator John Danforth (R-MO), former US Representative to the UN

State and City Officials

Governor Sarah Palin
State of Alaska

Governor Arnold Schwarzenegger
State of California

Governor Ruth Ann Minner
State of Delaware

Governor Linda Lingle
State of Hawaii

Governor John Baldacci
State of Maine

Governor Ted Kulongoski
State of Oregon

Governor Donald Carcieri
State of Rhode Island

Governor Christine Gregoire
State of Washington

Governor Felix Camacho
Territory of Guam

Tony Knowles
Former Governor of Alaska

George E. Pataki
former Governor, New York

Mike Hayden
Secretary
Kansas Department of Wildlife and Parks

Joseph P. Riley, Jr.
Mayor of Charleston

Lillian C. Borrone
Former Assistant Executive Director
Port Authority of New York and New Jersey

Business and Industry

Clarence P. Cazalot, Jr.
President and CEO
Marathon Oil Corporation

Red Cavaney
President and CEO
American Petroleum Institute

John Connelly
President
National Fisheries Institute

Joseph J. Cox
President and CEO
Chamber of Shipping of America

Thomas Dammrich
President
National Marine Manufacturers Association

Lawrence R. Dickerson
President and CEO
Diamond Offshore Drilling, Inc.

Thomas Fry
President
National Ocean Industries Association

James C. Greenwood
President and CEO
Biotechnology Industry Organization

General Jim Jones
President and CEO
Institute for 21st Century Energy
US Chamber of Commerce
former Supreme Allied Commander Europe

R. Bruce Josten
Executive Vice President, Government Affairs
Chamber of Commerce
of the United States of America

Paul L. Kelly
Kelly Energy Consultants

Christopher L. Koch
President and CEO
World Shipping Council

Daniel F. McNease
Chairman & CEO
Rowan Companies, Inc.

James J. Mulva
Chairman and CEO
ConocoPhillips

Mike Nussman
President and CEO
American Sportfishing Association

Brian T. Petty
Senior Vice President
International Association of Drilling Contractors

Peter J. Robertson
Vice Chairman of the Board
Chevron Corporation

Barry Russell
President
Independent Petroleum Association of America

Richard Schwartz
Chairman and Founder
Boat Owners Association of the United States

Deborah C. Trefts
President and Managing Member
Aquatic Stewards Consulting Group, LLC

Oceans and Environmental Organizations

John Adams
Co-Founder
Natural Resources Defense Council

Bruce Babbitt
Former Secretary of the Interior
Chairman, Board of Directors, World Wildlife Fund

Ted A. Beattie
President and CEO
John G. Shedd Aquarium

Frances Beinecke
President
Natural Resources Defense Council

John F. Calvelli
Senior Vice President for Public Affairs
Wilderness Conservation Society

Sarah Chassis
Natural Resources Defense Council

Phil Clapp
President
National Environmental Trust

Eileen Claussen
President and Chair of the Board
Pew Center on Global Climate Change

John Englander
CEO
International Seakeepers Society

Patricia Forkan
President
Humane Society International

Scott A. Hajost
Executive Director
IUCN-US

Robert Irvin
Senior Vice President for Conservation Programs
Defenders of Wildlife

Daniel B. McGraw, Jr.
President
Center for International Environmental Law

Steven J. McCormick
President and CEO
The Nature Conservancy

Elliot Norse
President
Marine Conservation Biology Institute

Julie Packard
Executive Director
Monterey Bay Aquarium

Pietro Parravano
President
Institute for Fisheries Resources

Jimmie Powell
Director of Government Relations
The Nature Conservancy

Joshua S. Reichert
Managing Director, Pew Environmental Group
The Pew Charitable Trusts

Carter S. Roberts
President and CEO
World Wildlife Fund

Andrew Sharpless
CEO
Oceana

Vikki N. Spruill
President and CEO
Ocean Conservancy

Academia

Craig Allen
School of Law
University of Washington

Anthony Clark Arend
Professor of Government and Foreign Service
Director, Institute for International Law & Politics
Georgetown University

Robert D. Ballard
Professor, Graduate School of Oceanography
University of Rhode Island

David Bederman
Professor of Law
Emory University

Martin Belsky
Dean, School of Law
University of Akron
former Assistant Administrator for Policy,
National Oceanic and Atmospheric
Administration

David D. Caron
Co-Director, Law of the Sea Institute
University of California, Berkley

James M. Coleman
Boyd Professor, Coastal Studies Institute
Louisiana State University

Barry Hart Dubner
Professor, Dwayne O. Andreas School of Law
Barry University

Tony Haymet
Director
Scripps Institution of Oceanography

Marc J. Hershman
Professor, School of Marine Affairs
University of Washington

Christopher C. Joyner
Director, Institute for International Law and
Politics
Professor of Government and Foreign Service
Georgetown University

Kristen Juras
University of Montana School of Law
Missoula, MT

Charles Kennel
Founding Director, Environment and
Sustainability
Initiative, Scripps Institution of Oceanography

Jane Lubchenco
Wayne and Gladys Valley Professor of Marine
Biology, Department of Zoology
Oregon State University

James R. Luyten
Acting President and Director
Woods Hole Oceanographic Institution

Larry A. Mayer
Professor and Director
Center for Coastal and Ocean Mapping/NOAA-
UNH Joint Hydrographic Center
University of New Hampshire

Edward Miles
School of Marine Affairs
University of Washington

Frank E. Muller-Karger
Dean, School for Marine Science and Technology
University of Massachusetts Dartmouth

John Norton Moore
Director, Center for Oceans Law and Policy
University of Virginia School of Law

Dennis W. Nixon
Professor of Marine Affairs and
Associate Dean for Academic Affairs
University of Rhode Island

Myron Nordquist
Associate Director
Center for Oceans Law and Policy
University of Virginia
former Acting General Counsel,
Department of the Air Force

John Noyes
California Western School of Law
San Diego, California

Professor Bernard Oxman
School of Law
University of Miami

Andrew A. Rosenberg
Professor, Department of Natural Resources and
Institute for the Study of Earth, Ocean, and Space
University of New Hampshire

Harry N. Scheiber
Co-Director, Law of the Sea Institute
University of California, Berkley

Joint Ocean Commissions Initiative

James D. Watkins
Admiral, U.S. Navy (Retired)
Chairman, U.S. Commission on Ocean Policy
Co-Chair, Joint Ocean Commission Initiative

The Honorable Leon E. Panetta
Chair, Pew Oceans Commission
Co-Chair, Joint Ocean Commission Initiative

Ann D'Amato
Commissioner
U.S. Commission on Ocean Policy

Research and Science Organizations

Robert R. Furgason
Director
Harte Research Institute for Gulf of Mexico Studies

Jack N. Gerard
President and CEO
American Chemistry Council

Donald Kennedy
Editor in Chief, Science Magazine, American Association for the Advancement of Science

P. Patrick Leahy
Executive Director
American Geological Institute

Paul A. Sandifer
Senior Scientist, National Ocean Service
National Oceanic and Atmospheric Administration

A.F. Spilhaus, Jr.
Executive Director
American Geophysical Union

Richard D. West
Rear Admiral, U.S. Navy (Retired)
President, Consortium for Oceanographic Research and Education

International Affairs

Charles J. Brown
President and CEO
Citizens for Global Solutions

Lee Hamilton
President and Director
Woodrow Wilson International Center for Scholars

John Temple Swing
President Emeritus
Foreign Policy Association

Timothy E. Wirth
former Senator
President
United Nations Foundation and Better World Fund

Legal Societies and Organizations

Lizabeth L. Burrell
President
Maritime Law Association

William H. Neukom
President
American Bar Association

Bettina B. Plevan
President
Association of the Bar of New-York City

Margaret Tomlinson
Law of the Sea Committee
American Bar Association

Caitlyn Antrim
Executive Director
Rule of Law Committee for the Oceans

Chairmen of the Joint Chiefs of Staff

Admiral Mike Mullen, US Navy

General Peter Pace, USMC

General Richard Myers, USAF

General Henry H. Shelton, USAF

General Colin Powell, US Army

Admiral William Crowe, US Navy

Chiefs of Naval Operations

Admiral Gary Roughead (current)

Admiral Mike Mullen (now Chairman, JCS)

Admiral Vern Clark

Admiral Jay Johnson

Admiral Frank Kelso

Admiral C. A. H. Trost

Admiral James D. Watkins
Admiral T. B. Hayward
Admiral J. L. Holloway
Admiral Elmo R. Zumwalt
Admiral Thomas E. Moorer

Commandants of the US Coast Guard

Admiral Thad Allen, USCG
Admiral Thomas Collins, USCG (Ret.)
Admiral James M. Loy, USCG (Ret.)
Admiral Robert E. Kramek, USCG (Ret.)
Admiral Paul Yost, USCG (Ret.)

Legal Advisers of the Department of State

John Bellinger (2005-2009)
William H. Taft IV (2001-2005)
David R. Andrews (1997-2000)
Conrad K. Harper (1993-1996)
Edwin D. Williamson (1990-1993)
Abraham D. Sofar (1985-1990)
Davis R, Robinson (1981-1985)
Roberts B. Owen (1979-1981)
Herbert L, Hansell (1977-1979)
Michael J. Matheson, acting Legal Advisor on multiple occasions

Church Support

United Methodist Church
American Baptist Church
Friends Committee for National Legislation
Unitarian Universalists

Additional Retired Navy and Coast Guard

Admiral Joseph W. Prueher
U.S. Navy (Retired)

Vice Admiral James Doyle
U.S. Navy (Retired)

RAdm William L. Schachte, Jr.
U.S. Navy, JAGC (Retired)

RAdm James McPherson
U.S. Navy, JAGC (Retired)

RAdm William O. Miller
US Navy JAGC (Retired)

RAdm James Lohr
U.S. Navy, JAGC (Retired)

RAdm Horace Robertson
US Navy, JAGC (Retired)

Vice Admiral Roger T. Rufe, Jr.
U.S. Coast Guard (Retired)

Rear Admiral John W. Lockwood
U.S. Coast Guard (Retired)

Vice Admiral Paul G. Gaffney II
U.S. Navy (Retired)

RAdm Rick Schiff
US Navy, JAGC (Retired)

Captain George Galdorisi, USN (Retired)

Other

David M. Abshire
President
Center for the Study of the Presidency

Richard Blaustein
Attorney
Washington, DC

Samuel A. Bleicher
Principal, The Strategic Path LLC
former Deputy General Counsel, NOAA

Joan Bondareff
Blank Rome, LLC
Washington, DC

Scott Borgerson
Fellow
Council on Foreign Relations

William Brewer
former General Counsel
National Oceanic and Atmospheric Administration

Walter Cronkite
CBS

Clifton Curtis
Director, The Varda Group
Washington, D.C.

Edward Dangler, Esq.,
Proctor in Admiralty
Lincoln Law School
San Jose, CA

Sylvia Earle
President, Deep Search International
Chairman, Deep ocean Exploration
National Geographic Explorer-in-Residence

Benjamin H. Friedman
Research Fellow
Cato Institute

Eldon Greenberg
partner, Garvey Schubert Barer
former General Counsel, National Oceanic and Atmospheric Administration

Rev,Theodore Hesburgh
former President
Notre Dame University

Montserrat Gorina-Ysern
Founder and Director
Healthy Children-Healthy Oceans Foundation
formerly law lecturer/adjunct law professor at
Australia-US universities

Carlotta Leon Guerrero
Executive Director
Ayuda Foundation

Lee A. Kimball
former Executive Director
Council on Ocean Law

Thomas R. Kitsos
former Executive Director
U.S. Commission on Ocean Policy

Jeffrey Laurenti
New York, NY

Terry L. Leitzell
former Assistant Administrator for Fisheries
National Oceanic and Atmospheric
Administration

Sheila M. McNeill
Past President
Navy League of the United States

Robert McManus
former General Counsel
National Oceanic and Atmospheric
Administration

Shelia M. McNeill
former President
Navy League of the United States

John T. Oliver
Adjunct Professor
Georgetown Law School

David Rockefeller, Jr.
New York, NY

Lisle Rose
Historian

Paul Saffo
Technology Forecaster

Wesley S. Scholz
Washington, DC

Scott Truver
Executive Advisor
National Security Programs
Gryphon Technologies LC

Mary Turnipseed
Graduate Student in Ecology
Duke University
Nicholas School of the Environment
Durham, N.C.

James 'Bud' Walsh
former Deputy Administrator
National Oceanic and Atmospheric
Administration

Mary Beth West
former Deputy Assistant Secretary of State for
Oceans and Fisheries

Patten D. White
CEO, Maine Lobstermen's Association

From: Fuglvog, Arne (Murkowski) [mailto:Arne_Fuglvog@murkowski.senate.gov]
Sent: Thursday, March 19, 2009 7:33 AM
To: Louie Flora
Subject: RE: Law of the Sea

Members of the House State Affairs Committee,

I am writing in support of HJR 22, A resolution urging the United States Senate to ratify the United Nations Convention on the Law of the Sea. This resolution will be helpful to Senator Lisa Murkowski and Senator Mark Begich as they work to bring the Treaty to the floor for Senate consideration.

I recognize there are still some concerns that remain, in regards to the Treaty and I ask that the committee members thoroughly research the facts. I believe you will find that the concerns about detrimental affects to the United States are unfounded.

I believe that the strong support from members of all branches of the United States military, including national intelligence; former Secretaries of State; former Joint Chiefs of Staff; the oil and gas industry, shipping companies, telecommunication, offshore mining interests, commercial and recreational fishing groups, and environmental organizations is a testament to the benefits that ratifying the Convention offers the United States, including enhancing our nation's economic security. Otherwise, you simply would not have support from such a diverse and broad group of interests.

I encourage you to support HJR 22 in your committee and by the Legislature of the State of Alaska.

Sincerely,

Arne Fuglvog
Legislative Assistant for Natural Resources
Senator Lisa Murkowski

REPRESENTATIVE PAUL SEATON

SESSION ADDRESS
State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472
1-800-665-2689

INTERIM ADDRESS
345 W. Sterling Highway
Homer, Alaska 99603
(907) 235-2921
Fax: (907) 235-4008
1-800-665-2689

ALASKA STATE LEGISLATURE
House District 35

Sponsor Statement
HJR 22

HJR 22 urges the U.S. Senate to ratify the United Nations Convention on the Law of the Sea ("Law of the Sea treaty"). This resolution will help Alaska's Senate delegation bring the Law of the Sea treaty to the Senate floor for a vote on ratification. Ratification of this treaty is important to protect U.S. interests concerning the use and development of the high seas off Alaska.

The Law of the Sea treaty governs many aspects of oceans, such as mapping, state area control, environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters.

150 countries are signatories to the treaty, including all of the arctic nations with the exception of the United States.

According to the office of U.S. Senator Lisa Murkowski, a resolution from the Alaska State Legislature would be helpful as she works this late spring or early summer to get a ratification vote to the Senate Floor. U.S. participation in the Law of the Sea Treaty was approved in 1994 by President Clinton after work was done on portions of the treaty to address concerns raised by President Reagan. The Bush Administration actively supported Senate ratification of the treaty. Among other entities on the record supporting ratification are the United States Coast Guard, the Department of the Navy, Governor Sarah Palin, The State Department, the Joint Chiefs of Staff, AT&T, The American Petroleum Institute, The International Association of Drilling Contractors, and the National Oceans Industries Association.

The U.S. is now the only arctic nation that is not a signatory to the treaty. Under the treaty, member nations can claim an exclusive economic zone (EEZ) to 200 miles, with sovereign rights to explore, develop, and manage the resources within that zone. A claim can extend beyond the 200 mile limit if a connection can be proven that the nation's continental shelf extends beyond 200 miles. It is estimated that the northern seabed off Alaska and beyond the 200 mile limit could be as large as the state of California.

http://www.RepPaulSeaton.com
Email: Rep_Paul_Seaton@legis.state.ak.us

Key features of the Law of the Sea treaty include the following:

- Coastal States exercise sovereignty over their territorial sea which may not exceed 12 nautical miles; foreign vessels are allowed "innocent passage" through those waters;
- Ships and aircraft of all countries are allowed "transit passage" through straits used for international navigation; States bordering the straits can regulate navigational and other aspects of passage;
- Coastal States have sovereign rights in the 200-nautical mile EEZ with respect to natural resources and certain economic activities, and exercise jurisdiction over marine science research and environmental protection;
- All other States have freedom of navigation and over flight in the EEZ, as well as freedom to lay submarine cables and pipelines;
- All States enjoy the traditional freedoms of navigation, overflight, scientific research and fishing on the high seas; they are obliged to adopt, or cooperate with other States in adopting, measures to manage and conserve living resources;
- States are bound to prevent and control marine pollution and are liable for damage caused by violation of their international obligations to combat such pollution;
- All marine scientific research in the EEZ and on the continental shelf is subject to the consent of the coastal State, but in most cases they are obliged to grant consent to other States when the research is to be conducted for peaceful purposes and fulfils specified criteria;
- States Parties are obliged to settle by peaceful means their disputes concerning the interpretation or application of the Convention;
- Disputes can be submitted to the International Tribunal for the Law of the Sea established under the Convention, to the International Court of Justice, or to arbitration. Arbitration is also available and, in certain circumstances, submission to it would be compulsory. The Tribunal has exclusive jurisdiction over deep seabed mining disputes.

The State of Alaska has much to gain from controlling development in the waters adjacent to our 200 mile EEZ and much to lose if we are the only arctic nation not to extend our ocean boundaries.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 22
() Publish Date:

HJR 22 26-LS0065\R
Title: URGING U.S. TO RADIFY LAW OF SEA TREATY
Sponsor: Representative Seaton
Requester:

Dept. Affected:
RDU
Component
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Nancy Manly, Committee Aide — Phone 465-2794
Division: House State Affairs Committee — Date/Time 03/18/09 2:30pm
Approved by: Representative Bob Lynn — Date 3/18/2009
Chair

(Revised 9/10/2008 OMB)

The Race To Own The Arctic



By Bob Reiss

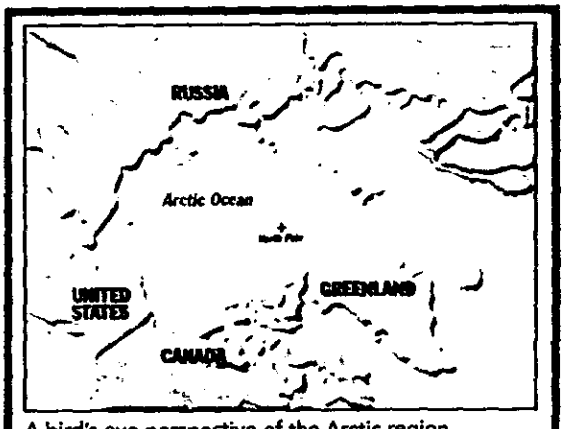
AS THE MIDNIGHT SUN RISES over the North Pole this year, it will shine down on a great race at the top of the world that could affect the lives and pocketbooks of every American. It will be a race not of explorers on dogsleds but of scientists on icebreaking ships, mapping the ocean floor below. Their work may provide a key to global wealth and power in the 21st century.

If the race goes well, the U.S. stands to gain rights to oil and gas deposits in an undersea territory 20 times larger than Kuwait. Experts say other benefits may come as new shipping routes open, lowering the cost of cars you buy, gasoline you purchase, and many items shipped to the eastern U.S. from Asia.

"Economic, scientific, and conservation opportunities in the Arctic are fabulous," says James Connaughton, President Bush's top energy adviser. Adds Rear Adm. Arthur E. Brooks, who heads the Coast Guard off Alaska, "The Arctic is crucial."

But both men are worried, too. If other nations gain control of disputed areas of the sea bottom or of new shipping lanes that the U.S. wants kept open to all, security may be handicapped. They'd like to see better intercountry coordination to protect Arctic waters. Some experts even fear eventual altercations. "If the United States doesn't lead the way toward diplomatic solutions, the Arctic may descend into armed conflict," warns Scott Borgerson of the Council on Foreign Relations.

What's happening now will af what you p gas and fo



A bird's-eye perspective of the Arctic region

Eight countries ring the 5.5 million square miles of sea and land above the Arctic Circle.

PHOTOS BY FEDOSEYEV LEV/ITAR-TASS/CORBIS (ICE-BREAKER), DURNER/*THE ANCHORAGE DAILY NEWS*/AP (TREADWELL), ASSOCIATION OF RUSSIAN POLAR EXPLORERS/AP (FLAG), AND AMSTRUP/U.S. FISH AND WILDLIFE SERVICE (POLAR BEARS); MAP BY MANUEL CARTAGENA

The area has some of the toughest conditions on Earth—subzero temperatures, icebergs that can smash ships, and terrain that has killed hundreds of explorers.

Until recently, the Arctic's wealth—which may include up to 25% of the Earth's oil and gas reserves—was too difficult to reach. But now the North Pole is warming twice as fast as the rest of the planet, according to the Intergovernmental Panel on Climate Change. Last year's summer Arctic ice cap was half the size it was 50 years ago. As the ice shrinks and technology improves, "it's likely, if you live in Maine, that your gasoline will soon be coming from the Russian Arctic partly via icebreaking tankers," says Mead Treadwell, chair of the U.S. Arctic Research Commission. "If you want to buy any item made in Asia, odds are increasing that it will come through the Arctic."

Why take the new route? Savings. A container ship sailing from China to New York would shave off more than 3000 miles by going through the Arctic. Each trip would save as much as $2 million on fuel and fees for the Panama Canal—savings that could be passed on to consumers.

right fect ay for od

Signs of a warming Arctic are everywhere. Some are tragic. Melting ice is shrinking the habitat of animals like polar bears. Native hunting grounds have disappeared. In Alaska, roads, buildings, and pipelines will need billions of dollars worth of shoring up as the frozen ground beneath them thaws. And sea levels are gradually rising.

But there are some benefits as well. Norway's new Snow White energy field, 90 miles offshore and once unreachable, is expected to produce $1.4 billion worth of liquefied natural gas annually for the next 25 years. Arctic oil already has helped make Russia the world's second-biggest oil producer.

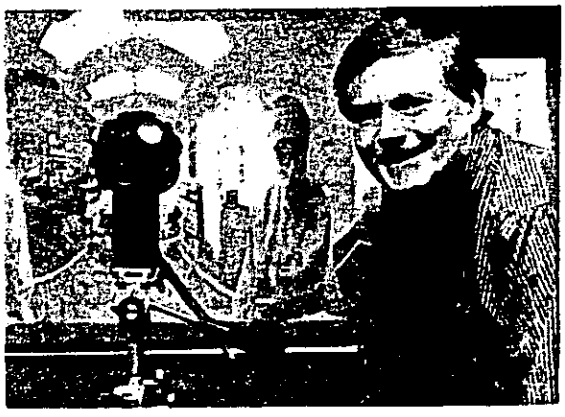
One farseeing Denver businessman, Pat Broe, and his company, OmniTRAX, bought the Canadian sub-Arctic port of Churchill 10 years ago for $10. The barren area is home to polar bears and tundra. Nobody thought Churchill could be profitable, since ice blocked the port much of the year. Now more ships are arriving there to load Canadian agricultural products. It's cheaper to ship goods by rail to Churchill and then send them across the Arctic than to send them by the longer southern route. In the near future, crops from the Midwestern U.S. may go via Churchill, too. What's more, the Northwest Passage—the legendary sea route that threads through Canada's northern islands and links the Atlantic and Pacific oceans—was open last summer.

Up th an re in

Scientists think the passage will be permanently ice-free during the summers sometime between 2013 and 2040. Borgerson predicts that within 20 years, a U.S. town like Alaska's Dutch Harbor may become a trade hub as important as thriving Singapore is today, with a significant tonnage of world shipping sailing past. That's why the race is on to draw boundaries and why American, Russian, and Norwegian scientists will be up north this summer, mapping the sea bottom.

Their work will help governments divide up thousands of square miles of sea floor—areas where the ocean surface will remain international but a host country will own the mineral rights underneath. "This will be the greatest division of lands on Earth possibly ever to occur, if you add up claims around the world," says Paul Kelly, an American consultant on energy and ocean policy.

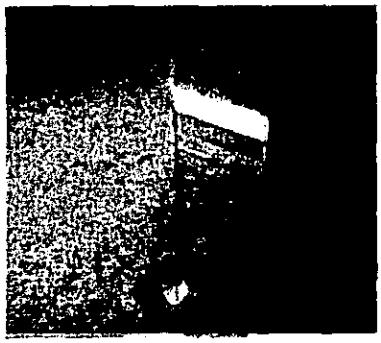
Although Arctic relations remain friendly, disputes have erupted. Canadian and American claims



'If you want to buy any item made in Asia, odds are increasing it will come through the Arctic.'

—Mead Treadwell, U.S. Arctic Research Commission

to 25% of Earth's oil d natural gas serves may lie the Arctic





Russia's flag on the sea floor at the North Pole. Left: Polar bears are among the animals that are hurt by a warming Arctic.

overlap near Alaska. Russia claims regions bigger than the land masses of France and Spain combined. Canadian officials insist the Northwest Passage belongs to their country, while the U.S. wants it to be international. Some Arctic experts fear the war of words may turn into worse. "The Russian claim is a time bomb," says Ariel Cohen, a Russian policy expert at the Heritage Foundation, a conservative think tank in Washington, D.C.

Last summer, the race heated up after a Russian mini-sub dropped a flag on the sea bottom at the North Pole. "The Arctic is ours," boasted Arthur Chilingarov, a Russian explorer and legislator. The flag drop electrified other countries. One week later, Canadian Prime Minister Stephen Harper flew to a small, rocky Arctic island at Resolute Bay. "Use the Arctic or lose it," he said, promising funding for new icebreakers, Arctic troops, and a new military base.

Meanwhile, officials in Washington, D.C., have begun a wholesale review of Arctic policy, but Cohen calls U.S. preparation "notoriously insufficient." While the Russians have about 20 icebreakers, the U.S. Coast Guard has just a couple considered seaworthy. Russia and Norway have filed claims with the U.N., and Canada and Denmark are expected to follow. The U.S. has not yet filed a claim and is the only Arctic nation that hasn't ratified a treaty called the Convention on the Law of the Sea, which will determine who gains control of contested offshore areas around the world.

"The U.S. will be cut out of the boundary wars if we don't ratify soon," said Sen. Lisa Murkowski (R., Alaska). President Bush called ratification "urgent," saying that it "would give the U.S. a seat at the table." Ratification is supported by a wide alliance of oil and shipping companies, Senators from both parties, and major environmental groups, which favor the treaty's provisions for protecting the oceans around the world. But a group of Senators has blocked ratifying the treaty. Sen. David Vitter (R., La.) says it would "hand a portion of our national security matters to the U.N."

A U.N. commission of scientists has started to analyze Arctic claims. The commission's head, Alexandre Albuquerque, a retired Brazilian Navy commander, says it's possible that other nations' claims may be recognized while America delays ratifying the treaty.

This summer, American scientists will be charting the sea floor north of Alaska on a Coast Guard icebreaker. Chief scientist *Larry* Mayer says that he'll always remember two sights from last *year's* voyage, *when* the ice *had shrunk* so much that the ship was able to research at least 100 miles *farther* north *than* was previously possible. He was excited by the first sight: the sea bottom captured on his computer screen. The floor was pocked with 300-foot-wide holes, an occurrence that usually indicates escaping natural gas.

The second sight occurred when Mayer was standing on deck. He spotted a lone polar bear drifting on a 30-foot-wide piece of ice. In the old days, the animal could have walked on solid ice back to land, but now it was bent and doomed. To Mayer, the two sights highlighted opportunity and tragedy in the least-mapped area of the world.

Why the Arctic Matters

- **Russia, Canada, the U.S., and several other nations are vying for a share of the 5.5 million-square-mile region above the Arctic Circle.**
- **This resource-rich area may contain up to 25% of the Earth's oil and gas reserves.**
- **The Arctic's warming is opening sea routes that could make shipping goods to and from Asia and Europe cheaper and faster.**

Oceans and Law of the Sea

Division for Ocean Affairs and the Law of the Sea

The United Nations Convention on the Law of the Sea
(A historical perspective)

- A historical perspective
- Third United Nations Conference on the Law of the Sea
- Key provisions of the Convention
- The United Nations and the Convention
- The future
- Links to the texts of the 1958 Geneva Conventions on the Law of the Sea

Convention on the Territorial Sea and the Contiguous Zone, 1958

Convention on the High Seas, 1958

Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958

Convention on the Continental Shelf, 1958

Optional Protocol of Signature concerning the Compulsory Settlement of Disputes, 1958

A Historical Perspective

The oceans had long been subject to the freedom of-the-seas doctrine - a principle put forth in the seventeenth century essentially limiting national rights and jurisdiction over the oceans to a narrow belt of sea surrounding a nation's coastline. The remainder of the seas was proclaimed to be free to all and belonging to nc While this situation prevailed into the twentieth century, by mid-century there was an impetus to extend national claims over offshore resources. There was growi concern over the toll taken on coastal fish stocks by long-distance fishing fleets and over the threat of pollution and wastes from transport ships and oil tankers car noxious cargoes that plied sea routes across the globe. The hazard of pollution was ever present, threatening coastal resorts and all forms of ocean life. The navies maritime powers were competing to maintain a presence across the globe on the surface waters and even under the sea.

A tangle of claims, spreading pollution, competing demands for lucrative fish stocks in coastal waters and adjacent seas, growing tension between coastal nation rights to these resources and those of distant-water fishermen, the prospects of a rich harvest of resources on the sea floor, the increased presence of maritime pow and the pressures of long-distance navigation and a seemingly outdated, if not inherently conflicting, freedom-of-the-seas doctrine - all these were threatening to transform the oceans into another arena for conflict and instability.

In 1945, President Harry S Truman, responding in part to pressure from domestic oil interests, unilaterally extended United States jurisdiction over all natural resources on that nation's continental shelf - oil, gas, minerals, etc. This was the first major challenge to the freedom-of-the-seas doctrine. Other nations soon follo suit.

In October 1946, Argentina claimed its shelf and the epicontinental sea above it. Chile and Peru in 1947, and Ecuador in 1950, asserted sovereign rights over a 2 mile zone, hoping thereby to limit the access of distant-water fishing fleets and to control the depletion of fish stocks in their adjacent seas.

Soon after the Second World War, Egypt, Ethiopia, Saudi Arabia, Libya, Venezuela and some Eastern European countries laid claim to a 12-mile territorial se clearly departing from the traditional three-mile limit.

Later, the archipelagic nation of Indonesia asserted the right to dominion over the water that separated its 13,000 islands. The Philippines did likewise. In 1970, Canada asserted the right to regulate navigation in an area extending for 100 miles from its shores in order to protect Arctic water against pollution.

From oil to tin, diamonds to gravel, metals to fish, the resources of the sea are enormous. The reality of their exploitation grows day by day as technology opens ways to tap those resources.

In the late 1960s, oil exploration was moving further and further from land, deeper and deeper into the bedrock of continental margins. From a modest beginni 1947 in the Gulf of Mexico, offshore oil production, still less than a million tons in 1954, had grown to close to 400 million tons. Oil drilling equipment was already as far as 4,000 metres below the ocean surface.

The oceans were being exploited as never before. Activities unknown barely two decades earlier were in full swing around the world. Tin had been mined in the shallow waters off Thailand and Indonesia. South Africa was about to tap the Namibian coast for diamonds. Potato-shaped nodules, found almost a century earlie lying on the seabed some five kilometres below, were attracting increased interest because of their metal content.

And then there was fishing. Large fishing vessels were roaming the oceans far from their native shores, capable of staying away from port for months at a time. Fish stocks began to show signs of depletion as fleet after fleet swept distant coastlines. Nations were flooding the richest fishing waters with their fishing fleets virtually unrestrained: coastal States setting limits and fishing States contesting them. The so-called "Cod War" between Iceland and the United Kingdom had brought about the spectacle of British Navy ships dispatched to rescue a fishing vessel seized by Iceland for violating its fishing rules.

Offshore oil was the centre of attraction in the North Sea. Britain, Denmark and Germany were in conflict as to how to carve up the continental shelf, with its rich oil resources.

It was late 1967 and the tranquillity of the sea was slowly being disrupted by technological breakthroughs, accelerating and multiplying uses, and a super-Power rivalry that stood poised to enter man's last preserve - the seabed.

It was a time that held both dangers and promises, risks and hopes. The dangers were numerous: nuclear submarines charting deep waters never before explored; designs for antiballistic missile systems to be placed on the seabed; supertankers ferrying oil from the Middle East to European and other ports, passing through congested straits and leaving behind a trail of oil spills; and rising tensions between nations over conflicting claims to ocean space and resources.

The oceans were generating a multitude of claims, counterclaims and sovereignty disputes.

The hope was for a more stable order, promoting greater use and better management of ocean resources and generating harmony and goodwill among States that would no longer have to eye each other suspiciously over conflicting claims.

Third United Nations Conference on the Law of the Sea

On 1 November 1967, Malta's Ambassador to the United Nations, Arvid Pardo, asked the nations of the world to look around them and open their eyes to a looming conflict that could devastate the oceans, the lifeline of man's very survival. In a speech to the United Nations General Assembly, he spoke of the super-Power rivalry that was spreading to the oceans, of the pollution that was poisoning the seas, of the conflicting legal claims and their implications for a stable order and of the rich potential that lay on the seabed.

Pardo ended with a call for "an effective international regime over the seabed and the ocean floor beyond a clearly defined national jurisdiction". "It is the only alternative by which we can hope to avoid the escalating tension that will be inevitable if the present situation is allowed to continue", he said.



Ambassador Tommy Koh, President, UN Convention on the Law of the Sea. *(UN Photo)*

Pardo's urging came at a time when many recognized the need for updating the freedom-of-the-seas doctrine to take into account the technological changes that had altered man's relationship to the oceans. It set in motion a process that spanned 15 years and saw the creation of the United Nations Seabed Committee, the signing of a treaty banning nuclear weapons on the seabed, the adoption of the declaration by the General Assembly that all resources of the seabed beyond the limits of national jurisdiction are the common heritage of mankind and the convening of the Stockholm Conference on the Human Environment. What started as an exercise to regulate the seabed turned into a global diplomatic effort to regulate and write rules for all ocean areas, all uses of the seas and all of its resources? These were some of the factors that led to the convening of the Third United Nations Conference on the Law of the Sea, to write a comprehensive treaty for the oceans.

The Conference was convened in New York in 1973. It ended nine years later with the adoption in 1982 of a constitution for the seas - the United Nations Convention on the Law of the Sea. During those nine years, shuttling back and forth between New York and Geneva, representatives of more than 160 sovereign States sat down and discussed the issues, bargained and traded national rights and obligations in the course of the marathon negotiations that produced the Convention.

United Nations Convention on the Law of the Sea - key provisions

- Setting Limits
- Navigation
- Exclusive Economic Zone
- Continental Shelf
- Deep Seabed Mining

- The Exploitation Regime
- Technological Prospects
- The Question of Universal Participation in the Convention
- Pioneer Investors
- Protection of the Marine Environment
- Marine Scientific Research
- Settlement of Disputes

The Convention

Navigational rights, territorial sea limits, economic jurisdiction, legal status of resources on the seabed beyond the limits of national jurisdiction, passage of ships through narrow straits, conservation and management of living marine resources, protection of the marine environment, a marine research regime and, a more unique feature, a binding procedure for settlement of disputes between States - these are among the important features of the treaty. In short, the Convention is an unprecedented attempt by the international community to regulate all aspects of the resources of the sea and uses of the ocean, and thus bring a stable order to mankind's very source of life.

"Possibly the most significant legal instrument of this century" is how the United Nations Secretary-General described the treaty after its signing. The Convention was adopted as a "Package deal", to be accepted as a whole in all its parts without reservation on any aspect. The signature of the Convention by Governments carries the undertaking not to take any action that might defeat its objects and purposes. Ratification of, or accession to, the Convention expresses the consent of a State to be bound by its provisions. The Convention came into force on 16 November 1994, one year after Guyana became the 60th State to adhere to it.

Across the globe, Governments have taken steps to bring their extended areas of adjacent ocean within their jurisdiction. They are taking steps to exercise their rights over neighbouring seas, to assess the resources of their waters and on the floor of the continental shelf. The practice of States has in nearly all respects been carried out in a manner consistent with the Convention, particularly after its entry into force and its rapid acceptance by the international community as the basis for all actions dealing with the oceans and the law of the sea.

The definition of the territorial sea has brought relief from conflicting claims. Navigation through the territorial sea and narrow straits is now based on legal principles. Coastal States are already reaping the benefits of provisions giving them extensive economic rights over a 200-mile wide zone along their shores. The right of landlocked countries of access to and from the sea is now stipulated unequivocally. The right to conduct marine scientific research is now based on accepted principles and cannot be unreasonably denied. Already established and functioning are the International Seabed Authority, which organize and control activities in the deep seabed beyond national jurisdiction with a view to administering its resources; as well as the International Tribunal for the Law of the Sea, which has competence to settle ocean related disputes arising from the application or interpretation of the Convention.

Wider understanding of the Convention will bring yet wider application. Stability promises order and harmonious development. However, Part XI, which deals with mining of minerals lying on the deep ocean floor outside of nationally regulated ocean areas, in what is commonly known as the international seabed area, had raised many concerns especially from industrialized States. The Secretary-General, in an attempt to achieve universal participation in the Convention, initiated a series of informal consultations among States in order to resolve those areas of concern. The consultations successfully achieved, in July 1998, an Agreement Related to the Implementation of Part XI of the Convention. The Agreement, which is part of the Convention, is now deemed to have paved the way for all States to become parties to the Convention.

Setting Limits

The dispute over who controls the oceans probably dates back to the days when the Egyptians first plied the Mediterranean in papyrus rafts. Over the years and centuries, countries large and small, possessing vast ocean-going fleets or small fishing flotillas, husbanding rich fishing grounds close to shore or eyeing distant harvests, have all vied for the right to call long stretches of oceans and seas their own.

Conflicting claims, even extravagant ones, over the oceans were not new. In 1494, two years after Christopher Columbus' first expedition to America, Pope Alexander VI met with representatives of two of the great maritime Powers of the day - Spain and Portugal - and neatly divided the Atlantic Ocean between them. A Papal Bull gave Spain everything west of the line the Pope drew down the Atlantic and Portugal everything east of it. On that basis, the Pacific and the Gulf of Mexico were acknowledged as Spain's, while Portugal was given the South Atlantic and the Indian Ocean.

Before the Convention on the Law of the Sea could address the exploitation of the riches underneath the high seas, navigation rights, economic jurisdiction, or any other pressing matter, it had to face one major and primary issue - the setting of limits. Everything else would depend on clearly defining the line separating national and international waters. Though the right of a coastal State to complete control over a belt of water along its shoreline - the territorial sea - had long been recognized in international law, up until the Third United Nations Conference on the Law of the Sea, States could not see eye to eye on how narrow or wide this belt should be.

At the start of the Conference, the States that maintained the traditional claims to a three-mile territorial sea had numbered a mere 25. Sixty-six countries had by then claimed a 12-mile territorial sea limit. Fifteen others claimed between 4 and 10 miles, and one remaining major group of eight States claimed 200 nautical miles.

Traditionally, smaller States and those not possessing large, ocean-going navies or merchant fleets favoured a wide territorial sea in order to protect their coastal waters from infringements by those States that did. Naval and maritime Powers, on the other hand, sought to limit the territorial sea as much as possible, in order to protect their fleets' freedom of movement.

As the work of the Conference progressed, the move towards a 12-mile territorial sea gained wider and eventually universal acceptance. Within this limit, States are in principle free to enforce any law, regulate any use and exploit any resource.

The Convention retains for naval and merchant ships the right of "innocent passage" through the territorial seas of a coastal State. This means, for example, that a Japanese ship, picking up oil from Gulf States, would not have to make a 3,000-mile detour in order to avoid the territorial sea of Indonesia, provided passage is not detrimental to Indonesia and does not threaten its security or violate its laws.

In addition to their right to enforce any law within their territorial seas, coastal States are also empowered to implement certain rights in an area beyond the territorial sea, extending for 24 nautical miles from their shores, for the purpose of preventing certain violations and enforcing police powers. This area, known as the "contiguous zone", may be used by a coast guard or its naval equivalent to pursue and, if necessary, arrest and detain suspected drug smugglers, illegal immigrants and customs or tax evaders violating the laws of the coastal State within its territory or the territorial sea.

The Convention also contains a new feature in international law, which is the regime for archipelagic States (States such as the Philippines and Indonesia, which are made up of a group of closely spaced islands). For those States, the territorial sea is a 12-mile zone extending from a line drawn joining the outermost points of the outermost islands of the group that are in close proximity to each other. The waters between the islands are declared archipelagic waters, where ships of all States enjoy the right of innocent passage. In those waters, States may establish sea lanes and air routes where all ships and aircraft enjoy the right of expeditious and unobstructed passage.

Back to the contents

Navigation

Perhaps no other issue was considered as vital or presented the negotiators of the Convention on the Law of the Sea with as much difficulty as that of navigational rights.

Countries have generally claimed some part of the seas beyond their shores as part of their territory, as a zone of protection to be patrolled against smugglers, warships and other intruders. At its origin, the basis of the claim of coastal States to a belt of the sea was the principle of protection; during the seventeenth and eighteenth centuries another principle gradually evolved: that the extent of this belt should be measured by the power of the littoral sovereign to control the area.

In the eighteenth century, the so-called "cannon-shot" rule gained wide acceptance in Europe. Coastal States were to exercise dominion over their territorial seas as far as projectiles could be fired from a cannon based on the shore. According to some scholars, in the eighteenth century the range of land-based cannons was approximately one marine league, or three nautical miles. It is believed that on the basis of this formula developed the traditional three-mile territorial sea limit.

By the late 1960s, a trend to a 12-mile territorial sea had gradually emerged throughout the world, with a great majority of nations claiming sovereignty out to that seaward limit. However, the major maritime and naval Powers clung to a three-mile limit on territorial seas, primarily because a 12-mile limit would effectively close off and place under national sovereignty more than 100 straits used for international navigation.

A 12-mile territorial sea would place under national jurisdiction of riparian States strategic passages such as the Strait of Gibraltar (8 miles wide and the only open access to the Mediterranean), the Strait of Malacca (20 miles wide and the main sea route between the Pacific and Indian Oceans), the Strait of Hormuz (21 miles wide and the only passage to the oil-producing areas of Gulf States) and Bab el Mandeb (14 miles wide, connecting the Indian Ocean with the Red Sea).

At the Third United Nations Conference on the Law of the Sea, the issue of passage through straits placed the major naval Powers on one side and coastal States controlling narrow straits on the other. The United States and the Soviet Union insisted on free passage through straits, in effect giving straits the same legal status as the international waters of the high seas. The coastal States, concerned that passage of foreign warships so close to their shores might pose a threat to their national security and possibly involve them in conflicts among outside Powers, rejected this demand.

Instead, coastal States insisted on the designation of straits as territorial seas and were willing to grant to foreign warships only the right of "innocent passage", a term that was generally recognized to mean passage "not prejudicial to the peace, good order or security of the coastal State". The major naval Powers rejected this concept, since, under international law, a submarine exercising its right of innocent passage, for example, would have to surface and show its flag C an unacceptable security risk in the eyes of naval Powers. Also, innocent passage does not guarantee the aircraft of foreign States the right of overflight over waters where only such passage is guaranteed.

In fact, the issue of passage through straits was one of the early driving forces behind the Third United Nations Conference on the Law of the Sea, when, in early 1967, the United States and the Soviet Union proposed to other Member countries of the United Nations that an international conference be held to deal specifically with the entangled issues of straits, overflight, the width of the territorial sea and fisheries.

The compromise that emerged in the Convention is a new concept that combines the legally accepted provisions of innocent passage through territorial waters and freedom of navigation on the high seas. The new concept, "transit passage", required concessions from both sides.

The regime of transit passage retains the international status of the straits and gives the naval Powers the right to unimpeded navigation and overflight that they had insisted on. Ships and vessels in transit passage, however, must observe international regulations on navigational safety, civilian air-traffic control and prohibition of vessel-source pollution and the conditions that ships and aircraft proceed without delay and without stopping except in distress situations and that they refrain from any threat or use of force against the coastal State. In all matters other than such transient navigation, straits are to be considered part of the territorial sea of the coastal State.

Back to the contents

Exclusive Economic Zone

The exclusive economic zone (EEZ) is one of the most revolutionary features of the Convention, and one which already has had a profound impact on the management and conservation of the resources of the oceans. Simply put, it recognizes the right of coastal States to jurisdiction over the resources of some 38 million square nautical miles of ocean space. To the coastal State falls the right to exploit, develop, manage and conserve all resources - fish or oil, gas or gravel,

nodules or sulphur - to be found in the waters, on the ocean floor and in the subsoil of an area extending 200 miles from its shore.

The EEZs are a generous endowment indeed. About 87 per cent of all known and estimated hydrocarbon reserves under the sea fall under some national jurisdiction as a result. So too will almost all known and potential offshore mineral resources, excluding the mineral resources (mainly manganese nodules and metallic crusts) of the deep ocean floor beyond national limits. And whatever the value of the nodules, it is the other non-living resources, such as hydrocarbons, that represent the presently attainable and readily exploitable wealth.

The most lucrative fishing grounds too are predominantly the coastal waters. This is because the richest phytoplankton pastures lie within 200 miles of the continental masses. Phytoplankton, the basic food of fish, is brought up from the deep by currents and ocean streams at their strongest near land, and by the upwelling of cold waters where there are strong offshore winds.

The desire of coastal States to control the fish harvest in adjacent waters was a major driving force behind the creation of the EEZs. Fishing, the prototypical cottage industry before the Second World War, had grown tremendously by the 1950s and 1960s. Fifteen million tons in 1938, the world fish catch stood at 86 million tons in 1989. No longer the domain of a lone fisherman plying the sea in a wooden dhow, fishing, to be competitive in world markets, now requires armadas of factory-fishing vessels, able to stay months at sea far from their native shores, and carrying sophisticated equipment for tracking their prey.

The special interest of coastal States in the conservation and management of fisheries in adjacent waters was first recognized in the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas. That Convention allowed coastal States to take "unilateral measures" of conservation on what was then the high seas adjacent to their territorial waters. It required that if six months of prior negotiations with foreign fishing nations had failed to find a formula for sharing, the coastal State could impose terms. But still the rules were disorderly, procedures undefined, and rights and obligations a web of confusion. On the whole, these rules were never implemented.

The claim for 200-mile offshore sovereignty made by Peru, Chile and Ecuador in the late 1940s and early 1950s was sparked by their desire to protect from foreign fishermen the rich waters of the Humboldt Current (more or less coinciding with the 200-mile offshore belt. This limit was incorporated in the Santiago Declaration of 1952 and reaffirmed by other Latin American States joining the three in the Montevideo and Lima Declarations of 1970. The idea of sovereignty over coastal-area resources continued to gain ground.

As long-utilized fishing grounds began to show signs of depletion, as long-distance ships came to fish waters local fishermen claimed by tradition, as competition increased, so too did conflict. Between 1974 and 1979 alone there were some 20 disputes over cod, anchovies or tuna and other species between, for example, the United Kingdom and Iceland, Morocco and Spain, and the United States and Peru.

And then there was the offshore oil.

The Third United Nations Conference on the Law of the Sea was launched shortly after the October 1973 Arab-Israeli war. The subsequent oil embargo and skyrocketing of prices only helped to heighten concern over control of offshore oil reserves. Already, significant amounts of oil were coming from offshore facilities: 376 million of the 483 million tons produced in the Middle East in 1973; 431 million barrels a day in Nigeria, 141 million barrels in Malaysia, 246 million barrels in Indonesia. And all of this with barely 2 per cent of the continental shelf explored. Clearly, there was hope all around for a fortunate discovery and a potential to be protected.

Today, the benefits brought by the EEZs are more clearly evident. Already 86 coastal States have economic jurisdiction up to the 200-mile limit. As a result, almost 99 per cent of the world's fisheries now fall under some nation's jurisdiction. Also, a large percentage of world oil and gas production is offshore. Many other marine resources also fall within coastal-State control. This provides a long-needed opportunity for rational, well-managed exploitation under an assured authority.

Figures on known offshore oil reserves now range from 240 to 300 billion tons. Production from these reserves amounted to a little more than 25 per cent of total world production in 1996. Experts estimate that of the 150 countries with offshore jurisdiction, over 100, many of them developing countries, have medium to excellent prospects of finding and developing new oil and natural gas fields.

It is evident that it is archipelagic States and large nations endowed with long coastlines that naturally acquire the greatest areas under the EEZ regime. Among the major beneficiaries of the EEZ regime are the United States, France, Indonesia, New Zealand, Australia and the Russian Federation.

But with exclusive rights come responsibilities and obligations For example, the Convention encourages optimum use of fish stocks without risking depletion through overfishing. Each coastal State is to determine the total allowable catch for each fish species within its economic zone and is also to estimate its harvest capacity and what it can and cannot itself catch. Coastal States are obliged to give access to others, particularly neighbouring States and land-locked countries, to the surplus of the allowable catch. Such access must be done in accordance with the conservation measures established in the laws and regulations of the coastal State.

Coastal States have certain other obligations, including the adoption of measures to prevent and limit pollution and to facilitate marine scientific research in their EEZs.

Back to the contents

Continental Shelf

In ancient times, navigation and fishing were the primary uses of the seas. As man progressed, pulled by technology in some instances and pushing that technology at other times in order to satisfy his needs, a rich bounty of other resources and uses were found underneath the waves on and under the ocean floor - minerals, natural gas, oil, sand and gravel, diamonds and gold. What should be the extent of a coastal State's jurisdiction over these resources? Where and how should the lines demarcating their continental shelves be drawn? How should these resources be exploited? These were among the important questions facing lawyers, scientists and diplomats as they assembled in New York in 1973 for the Third Conference.

Given the real and potential continental shelf riches, there naturally was a scramble by nations to assert shelf rights. Two difficulties quickly arose. States with a naturally wide shelf had a basis for their claims, but the geologically disadvantaged might have almost no shelf at all. The latter were not ready to accept geological discrimination. Also, there was no agreed method on how to define the shelf's outer limits, and there was a danger of the claims to continental shelves

being overextended - so much so as to eventually divide up the entire ocean floor among such shelves.

Although many States had started claiming wide continental-shelf jurisdiction since the Truman Proclamation of 1945, these States did not use the term "continental shelf" in the same sense. In fact, the expression became no more than a convenient formula covering a diversity of titles or claims to the seabed and subsoil adjacent to the territorial seas of States. In the mid-1950s the International Law Commission made a number of attempts to define the "continental shelf" and coastal State jurisdiction over its resources.

In 1958, the first United Nations Conference on the Law of the Sea accepted a definition adopted by the International Law Commission, which defined the continental shelf to include "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas".

Already, as the Third United Nations Conference on the Law of the Sea got under way, there was a strong consensus in favour of extending coastal-State control over ocean resources out to 200 miles from shore so that the outer limit coincides with that of the EEZ. But the Conference had to tackle the demand by States with a geographical shelf extending beyond 200 miles for wider economic jurisdiction.

The Convention resolves conflicting claims, interpretations and measuring techniques by setting the 200-mile EEZ limit as the boundary of the continental shelf for seabed and subsoil exploitation, satisfying the geologically disadvantaged. It satisfied those nations with a broader shelf C about 30 States, including Argentina, Australia, Canada, India, Madagascar, Mexico, Sri Lanka and France with respect to its overseas possessions C by giving them the possibility of establishing a boundary going out to 350 miles from their shores or further, depending on certain geological criteria.

Thus, the continental shelf of a coastal State comprises the seabed and its subsoil that extend beyond the limits of its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 miles from the baselines from which the territorial sea is measured, where the outer edge of the continental margin does not extend up to that distance.

In cases where the continental margin extends further than 200 miles, nations may claim jurisdiction up to 350 miles from the baseline or 100 miles from the 2,500 metre depth, depending on certain criteria such as the thickness of sedimentary deposits. These rights would not affect the legal status of the waters or that of the airspace above the continental shelf.

To counterbalance the continental shelf extensions, coastal States must also contribute to a system of sharing the revenue derived from the exploitation of mineral resources beyond 200 miles. These payments or contributions - from which developing countries that are net importers of the mineral in question are exempt C are to be equitably distributed among States parties to the Convention through the International Seabed Authority.

To control the claims extending beyond 200 miles, the Commission on the Limits of the Continental Shelf was established to consider the data submitted by the coastal States and make recommendations

Back to the contents

Deep Seabed Mining

Deep seabed mining is an enormous challenge that has been compared to standing atop a New York City skyscraper on a windy day, trying to suck up marbles off the street below with a vacuum cleaner attached to a long hose.

Mining will take place at a depth of more than fifteen thousand feet of open ocean, thousands of miles from land. Mining ships are expected to remain on station five years at a time, working without a stop, and to transfer the seabed minerals they bring up to auxiliary vessels.

At the centre of the controversy were potato-sized manganese nodules found on the deep ocean floor and containing a number of important metals and minerals.

On 13 March 1874, somewhere between Hawaii and Tahiti, the crew of the British research vessel HMS *Challenger*, on the first great oceanographic expedition of modern times, hauled in from a depth of 15,600 feet a trawl containing the first known deposits of manganese nodules. Analysis of the samples in 1891 showed the Pacific Ocean nodules to contain important metals, particularly nickel, copper and cobalt. Subsequent sampling demonstrated that nodules were abundant throughout the deep regions of the Pacific.

In the 1950s, the potential of these deposits as sources of nickel, copper and cobalt ore was finally appreciated. Between 1958 and 1968, numerous companies began serious prospecting of the nodule fields to estimate their economic potential. By 1974, 100 years after the first samples were taken, it was well established that a broad belt of sea floor between Mexico and Hawaii and a few degrees north of the equator (the so-called Clarion Clipperton zone) was literally paved with nodules over an area of more than 1.35 million square miles.

In 1970 the United Nations General Assembly declared the resources of the seabed beyond the limits of national jurisdiction to be "the common heritage of mankind". For 12 years from then, up to 1982 when the Convention on the Law of the Sea was adopted, nothing tested so sorely the ability of diplomats from various corners of the world to reach common ground than the goal of conserving that common heritage and profiting from it at the same time.

Back to the contents

The Exploitation Regime

Having established that the resources of the seabed beyond the limits of national jurisdiction are the common heritage of mankind, the framers of the treaty faced the question of who should mine the minerals and under what rules. The developed countries took the view that the resources should be commercially exploited by mining companies in consortia and that an international authority should grant licenses to those companies. The developing countries objected to this view on the grounds that the resource was unique and belonged to the whole of mankind, and that the most appropriate way to benefit from it was for the international community to establish a public enterprise to mine the international seabed area.

Thus, the gamut of proposals ran from a "weak" international authority, noting claims and collecting fees, to a "strong" one with exclusive rights to mine the common heritage area, involving States or private groups only as it saw fit. The solution found was to make possible both the public and private enterprises on one hand and the collective mining on the other - the so-called "parallel system".

This complex system, though simplified to a great degree by the Agreement on Part XI, is administered by the International Seabed Authority, headquartered in Jamaica. The Authority is divided into three principal organs, an Assembly, made up of all members of the Authority with power to set general policy, a council, with powers to make executive decisions, made up of 36 members elected from among the members of the Authority, and a secretariat headed by a secretary-general.

Back to the contents

Technological Prospects

Unfortunately, the road to the market is long, hard and expensive. The nodules lie two to three miles - about 5 kilometres - down, in pitch-black water where pressures exceed 7,000 pounds per square inch and temperatures are near freezing. Many of the ocean floors are filled with treacherous hills and valleys. Appropriate deep-sea mining technology must be developed to accommodate this environment.

Many mining systems have been tried, and some have appeared more promising than others. For a while, hydraulic suction dredge airlifts and a continuous-line bucket system were thought to be a promising answer to the mining dilemma. Another system, the so-called shuttle system, involves sending down a remotely operated, Jules Verne-like vehicle, with television "eyes" and powerful lights, to crawl over the ocean floor, gobble up and crush nodules and resurface with its catch.

Today, the continuous-line bucket system, where empty buckets are lowered to the bottom of the ocean and later raised, partially filled with nodules, has been discarded because of low recovery rates. The shuttle system has been shelved because its operational and investment costs far exceeded the costs of more conventional approaches. However, this system is thought to be the technology of the future. Thus, the current focus is on the hydraulic suction and dredge method. But there are a number of technological problems to be worked out before it will be ready for commercial application.

Keeping a steady ship position, since a vessel cannot anchor 5 kilometres above the sea floor and making sure that the pipe does not snap or that the recovery vehicle is not lost or permanently stuck on the ocean floor are among the many headaches involved in developing the necessary technology for commercial exploitation.

Extracting metals from the nodules is another task altogether. All agree that this phase will be the most expensive, even if only at the initial investment stage. Technologically, however, processing does not pose as much of a challenge as the recovery of manganese nodules. That is because it is thought that the two processing techniques applied to land-derived ores - heat and chemical separation of the metals - will apply just as well to the seabed resources.

Because of their porous nature, recovered nodules retain a great deal of water. Heat processing would therefore require a great amount of energy in order to dry the nodules prior to extracting the metals. It is for that reason that some believe that chemical techniques will prove to be the most efficient and least costly.

Moreover, processing would involve such waste that special barren sites would have to be found to carry out operations. Yet, others believe that the economic viability of seabed mining would be greatly enhanced if a method is devised to process the nodules at sea, saving enormous energy costs involved in the transfer of nodules to land-based processing plants.

Back to the contents

The Question of Universal Participation in the Convention

Prospects for seabed mining depend to a large degree on the market conditions for the metals to be produced from seabed nodules. While one of the driving forces behind the Convention on the Law of the Sea was the prevailing belief in the 1970s that commercial seabed mining was imminent, today the prospects for the inherently expensive process of mining the seabed have greatly receded with changing economic and other conditions since the early 1980s. Indeed, some experts predict that commercial mining operations are not likely to begin until well after the year 2000.

A number of important political and economic changes have taken place in the 10 years that have elapsed since the adoption of the Convention, some directly affecting the deep seabed mining provisions of the Convention, others affecting international relations in general. In the meantime, the prevailing economic prognosis on which the seabed mining regime was built has not been realized.

The Convention on the Law of the Sea holds out the promise of an orderly and equitable regime or system to govern all uses of the sea. But it is a club that one must join in order to fully share in the benefits. The Convention - like other treaties - creates rights only for those who become parties to it and thereby accept its obligations, except for the provisions which apply to all States because they either merely confirm existing customary law or are becoming customary law.

However, as its preamble states, the Convention starts from the premise that the problems of ocean space are closely interrelated and need to be considered as a whole. The desire for a comprehensive Convention arose from the recognition that traditional sea law was disintegrating and that the international community could not be expected to behave in a consistent manner without dialogue, negotiations and agreement.

In this context, it must be underscored that the Convention was adopted as a "package deal", with one aim above all, namely universal participation in the Convention. No State can claim that it has achieved quite all it wanted. Yet every State benefits from the provisions of the Convention and from the certainty that it has established in international law in relation to the law of the sea. It has defined rights while underscoring the obligations that must be performed in order to benefit from those rights. Any trend towards exercising those rights without complying with the corresponding obligations, or towards exercising rights inconsistent with the Convention, must be viewed as damaging to the universal regime that the Convention establishes.

The adoption of the Agreement on Part XI has eliminated this threat. With nearly all States now adhering, even on a provisional basis pending ratification or accession, to the Convention, the threat to the Convention has been eliminated. The Agreement has particularly removed those obstacles which had prevented the industrialized countries from adhering to the Convention. Those same countries have either ratified the Convention or submitted it for their internal legislative procedures. Even more important, is their active participation in the institutions created by the Convention and their strong support for the regime contained in it.

Back to the contents

Pioneer Investors

The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea was established, prior to the entry into force of the Convention, to prepare for the setting up of both institutions. The Preparatory Commission proceeded with the implementation of an interim regime adopted by the Third United Nations Conference on the Law of the Sea, designed to protect those States or entities that have already made a large investment in seabed mining. This so-called Pioneer Investor Protection regime allows a State, or consortia of mining companies to be sponsored by a State, to be registered as a Pioneer Investor. Registration reserves for the Pioneer Investor a specific mine site in which the registered Investor is allowed to explore for, but not exploit, manganese nodules. Registered Investors are also obligated to explore a mine site reserved for the Enterprise and undertake other obligations, including the provision of training to individuals to be designated by the Preparatory Commission.

The Preparatory Commission had registered seven pioneer investors: China, France, India, Japan, the Republic of Korea, and the Russian Federation, as well as a consortium known as the Interoceanmetal Joint Organization (IMO). With the Convention in force and the International Seabed Authority being functioning, those pioneer investors will become contractors along the terms contained in the Convention and the Agreement, as well as regulations established by the International Seabed Authority.

Back to the contents

Protection of the Marine Environment

Thor Heyerdahl, sailing the Atlantic in his papyrus raft, Ra, found globs of oil, tar and plastics stretching from the coast of Africa to South America. Parts of the Baltic, Mediterranean and Black Sea are already so polluted that marine life is severely threatened. And waste dumped in the Pacific and Atlantic Oceans has washed up on the shores of Antarctica.

In the United States, long stretches of beaches are often closed because of medical and other waste washing up on shore. And every time an oil tanker is involved in an accident, the world's pulse quickens a bit in fear of a major catastrophe. In fact, every time a tanker cleans its tanks at sea, every time a factory channels toxic residues to coastal waters or a city conveniently releases raw sewage into the sea, every time a service station changes the oil of an automobile and pours the waste oil into the sewers, the oceans become a little more polluted. Eventually, scientists fear, the oceans' regenerative capacity will be overwhelmed by the amount of pollution it is subjected to by man. Signs of such catastrophe are clearly observed in many seas—particularly along the heavily populated coasts and enclosed or semi-enclosed seas.

There are six main sources of ocean pollution addressed in the Convention: land-based and coastal activities; continental-shelf drilling; potential seabed mining; ocean dumping; vessel-source pollution; and pollution from or through the atmosphere.

The Convention lays down, first of all, the fundamental obligation of all States to protect and preserve the marine environment. It further urges all States to cooperate on a global and regional basis in formulating rules and standards and otherwise take measures for the same purpose.

Coastal States are empowered to enforce their national standards and anti-pollution measures within their territorial sea. Every coastal State is granted jurisdiction for the protection and preservation of the marine environment of its EEZ. Such jurisdiction allows coastal States to control, prevent and reduce marine pollution from dumping, land-based sources or seabed activities subject to national jurisdiction, or from or through the atmosphere. With regard to marine pollution from foreign vessels, coastal States can exercise jurisdiction only for the enforcement of laws and regulations adopted in accordance with the Convention or for "generally accepted international rules and standards". Such rules and standards, many of which are already in place, are adopted through the competent international organization, namely the International Maritime Organization (IMO).

On the other hand, it is the duty of the "flag State", the State where a ship is registered and whose flag it flies, to enforce the rules adopted for the control of marine pollution from vessels, irrespective of where a violation occurs. This serves as a safeguard for the enforcement of international rules, particularly in waters beyond the national jurisdiction of the coastal State, i.e., on the high seas.

Furthermore, the Convention gives enforcement powers to the "port State", or the State where a ship is destined. In doing so it has incorporated a method developed in other Conventions for the enforcement of treaty obligations dealing with shipping standards, marine safety and pollution prevention. The port State can enforce any type of international rule or national regulations adopted in accordance with the Convention or applicable international rules as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their offshore terminals. This has already become a significant factor in the strengthening of international standards.

Finally, as far as the international seabed area is concerned, the International Seabed Authority, through its Council, is given broad discretionary powers to assess the potential environmental impact of a given deep seabed mining operation, recommend changes, formulate rules and regulations, establish a monitoring programme and recommend issuance of emergency orders by the Council to prevent serious environmental damage. States are to be held liable for any damage caused by either their own enterprise or contractors under their jurisdiction.

With the passage of time, United Nations involvement with the law of the sea has expanded as awareness increases that not only ocean problems but global problems as a whole are interrelated. Already, the 1992 United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil in 1992, placed a great deal of emphasis on the protection and preservation of the oceans' environment in harmony with the rational use and development of their living resources, thus establishing the concept of "sustainable development" embodied in Agenda 21, the programme of action adopted at the Conference.

The necessity to combat the degradation and depletion of fish stocks, both in the zones under national jurisdiction and in the high seas and its causes, such as overfishing and excess fishing capacity, by-catch and discards, has been one of the recurrent topics in the process of implementation of the programme of action adopted in Rio de Janeiro.

In this respect, among the most important outputs of the Conference was the convening of an intergovernmental conference under United Nations auspices with a view to resolving the old conflict between coastal States and distant-water fishing States over straddling and highly migratory fish stocks in the areas adjacent to the 200 nautical-mile exclusive economic zones. This Conference adopted the 1995 Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks which introduces a number of innovative measures, particularly in the area of environmental and resource protection obliging States to adopt a precautionary approach to fisheries exploitation and giving expanded powers to port States to enforce proper management of fisheries resources.

Back to the contents

Marine Scientific Research

With the extension of the territorial sea to 12 miles and the establishment of the new 200-mile EEZ, the area open to unrestricted scientific research was circumscribed. The Convention thus had to balance the concerns of major research States, mostly developed countries, which saw any coastal-state limitation on research as a restriction of a traditional freedom that would not only adversely affect the advancement of science but also deny its potential benefits to all nations in fields such as weather forecasting and the study of effects of ocean currents and the natural forces at work on the ocean floor.

On the other side, many developing countries had become extremely wary of the possibility of scientific expeditions being used as a cover for intelligence gathering or economic gain. particularly in relatively uncharted areas, scientific research was yielding knowledge of potential economic significance.

The developing countries demanded "prior consent" of a coastal State to all scientific research on the continental shelf and within the EEZ. The developed countries offered to give coastal States "prior notification" of research projects to be carried out on the continental shelf and within the EEZ, and to share any data pertinent to offshore resources.

The final provisions of the Convention represent a concession on the part of developed States. Coastal State jurisdiction within its territorial sea remains absolute. Within the EEZ and in cases involving research on the continental shelf, the coastal State must give its prior consent, However, such consent for research for peaceful purposes is to be granted "in normal circumstances" and "shall not be delayed or denied unreasonably", except under certain specific circumstances identified in the Convention. In case the consent of the coastal State is requested and such State does not reply within six months of the date of the request, the coastal State is deemed to have implicitly given its consent. These last provisions were intended to circumvent the long bureaucratic delays and frequent burdensome differences in coastal State regulations.

Back to the contents

Settlement of Disputes

Provisions for the settlement of disputes arising out of an international treaty are often contained in a separate optional protocol. Parties to the treaty could choose to be bound by those provisions or not by accepting or not accepting the Protocol. The Convention on the Law of the Sea is unique in that the mechanism for the settlement of disputes is incorporated into the document, making it obligatory for parties to the Convention to go through the settlement procedure in case of a dispute with another party.

During the drafting of the Convention, some countries were opposed in principle to binding settlement to be decided by third party judges or arbitrators, insisting that issues could best be resolved by direct negotiations between States without requiring them to bring in outsiders. Others, pointing to a history of failed negotiations and long-standing disputes often leading to a use of force, argued that the only sure chance for peaceful settlement lay in the willingness of States to bind themselves in advance to accept the decisions of judicial bodies.

What emerged from the negotiations was a combination of the two approaches, regarded by many as a landmark in international law.

If direct talks between the parties fail, the Convention gives them a choice among four procedures - some new, some old: submission of the dispute to the International Tribunal for the Law of the Sea, adjudication by the International Court of Justice, submission to binding international arbitration procedures or submission to special arbitration tribunals with expertise in specific types of disputes. All of these procedures involve binding third-party settlement, in which an agent other than the parties directly involved hands down a decision that the parties are committed in advance to respect.

The only exception to these provisions is made for sensitive cases involving national sovereignty. In such circumstances, the parties are obliged to submit their dispute to a conciliation commission, but they will not be bound by any decision or finding of the commission. The moral pressure resulting was argued as being persuasive and adequate to ensure compliance with the findings. The Convention also contains so-called "optional exceptions", which can be specified at the time a country signs, ratifies or accedes to the Convention or at any later time. A State may declare that it chooses not to be bound by one or more of the mandatory procedures if they involve existing maritime boundary disputes, military activities or issues under discussion in the United Nations Security Council.

Disputes over seabed activities will be arbitrated by an 11-member Seabed Disputes Chamber, within the International Tribunal for the Law of the Sea. The Chamber has compulsory jurisdiction over all such conflicts, whether involving States, the International Seabed Authority or companies or individuals having seabed mining contracts.

The United Nations and the Law of the Sea

Throughout the years, beginning with the work of the Seabed Committee in 1968 and later during the nine-year duration of the Third United Nations Conference on the Law of the Sea, the United Nations has been actively engaged in encouraging and guiding the development and eventual adoption of the Law of the Sea Convention. Today, it continues to be engaged in this process, by monitoring developments as they relate to the Convention and providing assistance to States, when called for, in either the ratification or the implementation process.

The goal of the Organization is to help States to better understand and implement the Convention in order to utilize their marine resources in an environment relatively free of conflict and conducive to development, safeguarding the rule of law in the oceans.

In this context, the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the United Nations Office of Legal Affairs helps to coordinate the Organization's activities and programmes in the area of marine affairs. It is active in assisting and advising States in the integration of the marine sector in their development planning. It also responds to requests for information and advice on the legal, economic and political aspects of the Convention and its implications for States. Such information is used by States during the ratification process, in the management of the marine sector of their economies and in the development of a national sea-use policy.

The United Nations also gives assistance to the two newly created institutions - the International Seabed Authority and the International Tribunal for the Law of the Sea.

The Future

The entry into force of the Convention, together with extended jurisdiction, new fields of activity and increased uses of the oceans, will continue to confront all States with important challenges. These challenges will include how to apply the new provisions in accordance with the letter and spirit of the Convention, how to harmonize national legislation with it and how to fulfil the obligations incumbent upon States under the Convention.

Another major challenge will be to provide the necessary assistance, particularly to developing States, in order to allow them to benefit from the rights they have acquired under the new regime. For example, a great many of the States that have established their EEZs are not at present in a position to exercise all their rights and perform duties under the Convention. The delimitation of EEZ, the surveying of its area, its monitoring, the utilization of its resources and, generally speaking, its management and development are long-term endeavours beyond the present and possibly near-term capabilities of most developing countries.

The United Nations will continue to play a major role in the monitoring of, collection of information on and reporting on State practice in the implementation of the new legal regime. It will also have a significant role to play in reporting on activities of States and relevant international organizations in marine affairs and on major trends and developments. This information will be of great assistance to States in the acceptance and ratification of the Convention, as well as its early entry into force and implementation.

A number of new duties falls upon the Secretary-General of the United Nations. These include the depositing of charts and coordinates showing the maritime limits of coastal States and servicing of the Commission on the Limits of the Continental Shelf The Secretary-General is also called upon to convene meetings of States Parties to elect the members of the International Tribunal for the Law of the Sea and to adopt its budget. Meetings of States Parties may also be called for a Review Conference dealing with the provisions on deep seabed mining or for amending the Convention.

The United Nations will continue to strengthen the cooperation that has developed over the last two decades among the organizations in the United Nations system involved in marine affairs. Such close cooperation would be of great benefit to States, since it would avoid duplication and overlapping of activities. It would also help to coordinate multidisciplinary activities related to the management of marine affairs.

With the passage of time, United Nations involvement with the law of the sea is expected to expand as awareness increases that not only ocean problems but also global problems as a whole are interrelated.

Originally prepared for the International Year of the Ocean, 1998

The use of this web site constitutes agreement with the terms and conditions of use of
United Nations web sites.
Prepared by the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations.

Oceans and Law of the Sea Home Page | United Nations Home Page | Search Oceans and Law of the Sea site | Comments and suggestions? *Mail to DOALOS*

Copyright © 2007 United Nations

March 19, 2004

Senators James M. Inhofe
U.S. Senate
Washington, D.C.

Senator James M. Jeffords
U.S. Senate
Washington, D.C.

Dear Senators Inhofe and Jeffords:

The American Petroleum Institute (API), the International Association of Drilling Contractors (IADC) and the National Ocean Industries Association (NOIA), are pleased to provide for the Senate Environmental and Public Works Committee a copy of our statement in support of U.S. ratification of the United Nations Law of the Sea (LOS) Convention. The statement was delivered during an October 2003 hearing before the Senate Foreign Relations Committee. We would ask that our statement be made part of your committee's record for the March 23, 2004 hearing on the LOS.

Thank you for considering the views expressed in this statement.

American Petroleum Institute

International Association of Drilling Contractors

National Ocean Industries Association



CHAMBER OF SHIPPING
OF AMERICA

19 March 2004

The Honorable James M. Inhofe
Chairman, Senate Environment and Public Works Committee
United States Senate
Washington, DC 20510

The Honorable James M. Jeffords
Ranking Member, Senate Environment and Public Works Committee
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Ranking Member:

Thank you for holding a hearing on the UN Law of the Sea Treaty. The purpose of this letter is to advise that the Chamber of Shipping of America very strongly supports ratification of the United Nations Law of the Sea Convention (UNCLOS) as it is in the best interests of the United States to do so.

The Chamber of Shipping of America represents 22 American companies that own, operate or charter ships used in the domestic and international trades of the United States. We represent all types of ships including container ships, tankers, ocean-going tug/barges vessels, roll-on roll-off ships and bulk ships. We were founded in 1917 to coordinate U.S. shipowner positions at the initial deliberations leading to the Safety of Life at Sea Convention. Today, we represent our members on safety, environmental and security issues addressed domestically and at the international fora including the International Maritime Organization and the International Labor Organization.

UNCLOS is the codification of the traditional law of the sea and protects, inter alia, our rights of innocent passage and freedom of navigation. We are concerned that our status as a non-ratifying party places us in a dangerous position when the treaty comes open for amendment in October of this year. It is simply in our sovereign interest to ensure that we are at the international negotiating table in the strongest possible position. The U.S. should not ignore the potential for treaty amendments that could have large negative impacts on our interests and we have no vote.

I enclose here a copy of testimony I gave before the Senate Foreign Relations Committee on October 21, 2003 wherein I explain some of the potential problem areas where amendments may limit our navigation freedoms. I request that my letter and enclosure be made part of this hearing record. If you or your staff has any questions, please feel free to contact me.

Sincerely,

Joseph J. Cox
President

1730 M Street, NW ▪ Suite 407 ▪ Washington, DC 20036-4517
Voice: 202.775.4399 ▪ Fax: 202.659.3795

DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

18 Mar 04

Dear Senator Jeffords,

I write to express my strong support for United States accession to the Law of the Sea Convention. It has been the consistent, longstanding position of the Navy that accession to the Convention will benefit the United States by advancing our national security interests and ensuring continued U.S. leadership in the development and interpretation of the law of the sea.

The Law of the Sea Convention helps assure access to the largest maneuver space on the planet - the sea - under authority of widely recognized and accepted law and not the threat of force. The Convention protects military mobility by codifying favorable transit rights that support our ability to operate around the globe, anytime, anywhere, allowing the Navy to project power where and when needed. The Convention also provides important safeguards for protecting the marine environment while preserving operational freedoms.

Although the Convention was drafted over 20 years ago, the Convention supports U.S. efforts in the war on terrorism by providing important stability and codifying navigational and overflight freedoms, while leaving unaffected intelligence collection activities. Future threats will likely emerge in places and in ways that are not yet known. For these and other as yet unknown operational challenges, we must be able to take maximum advantage of the established navigational rights codified in the Law of the Sea Convention to get us to the fight rapidly. The diversity of challenges to our national security combined with a more dynamic force structure makes strategic mobility more important than ever. The oceans are fundamental to that maneuverability and, by joining the Convention, we further ensure the freedom to get to the fight, twenty-four hours a day and seven days a week, without a permission slip.

I appreciate your continued strong support of the Law of the Sea Convention and the Navy.

Sincerely,

VERN CLARK
Admiral, U.S. Navy

The Honorable James M. Jeffords
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

DATE: May 17, 2007 16:54:26 EST
Document Number: 234

FOR IMMEDIATE RELEASE

Office of Public Affairs
U.S. Coast Guard

U.S. Department of Homeland Security
United States Coast Guard

Press Release

Date: May 17, 2007

Contact: Cmdr. Jeff Carter
(202) 372-4635

STATEMENT BY ADM. THAD ALLEN, COMMANDANT OF THE COAST GUARD, ON THE CONVENTION ON THE LAW OF THE SEA

WASHINGTON – Adm. Thad Allen, commandant of the U.S. Coast Guard, issued the following statement today reiterating long-standing Coast Guard support for joining the Convention on the Law of the Sea.

"Becoming a party to the 1982 United Nations Convention on the Law of the Sea would greatly enhance our global position in maritime affairs. Because of our maritime security and law enforcement missions, the Coast Guard has long been a proponent of achieving a comprehensive and stable regime with respect to traditional uses of the oceans. The convention greatly enhances our ability to protect the American public as well as our efforts to protect and manage fishery resources and to protect the marine environment. From the Coast Guard's perspective, we can best maintain a public order of the oceans through a universally accepted law of the sea treaty that preserves and promotes critical U.S. national interests.

"The convention strikes the appropriate balance between the interests of countries in controlling activities off their coasts with the interests of all countries in protecting freedom of navigation. The convention provides the framework under which the Coast Guard is able to interdict illicit drug traffickers and illegal immigrants far beyond our own waters. The convention also gives the coastal state the right to protect its marine environment, manage its fisheries and off-shore oil and gas resources within the 200-nautical mile exclusive economic zone, and secure sovereign rights over resources of the continental shelf beyond 200 nautical miles.

"U.S. military forces, including Coast Guard units, already rely heavily on the freedom of navigation principles codified in the convention. These principles allow the use of the world's oceans to meet changing national security requirements, including those necessary to fight the global war on terrorism. Becoming a party to the convention will enhance our ability to carry out the many maritime missions of the Coast Guard, refute excessive maritime claims, and participate in interpreting and applying the convention to day-to-day realities."

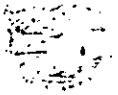
###

The U.S. Coast Guard is a military, maritime, multi-mission service within the Department of Homeland Security dedicated to protecting the safety and security of America.

printer friendly

powered by the PIER System

SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



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

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

September 13, 2007

The Honorable Ted Stevens
United States Senate
522 Hart Senate Building
Washington, DC 20510

The Honorable Lisa Murkowski
United States Senate
709 Hart Senate Building
Washington, DC 20510

Dear Senator Stevens and Senator Murkowski:

It is my understanding that the U.S. Senate may consider the United Nations Convention on the Law of the Sea in the fall. With this in mind, I am writing to express my strong support for Senate ratification of the convention. In my opinion, the convention would be beneficial to the U.S. and Alaska in various ways, but I want to focus on one aspect in this correspondence.

As you know, several Arctic nations have recently asserted claims to submerged lands off their coasts. The Convention on the Law of the Sea establishes the framework for these assertions. To date, 155 nations, including Canada and Russia, have approved the convention. If the U.S. does not ratify the convention, the opportunity to pursue our own claims to offshore areas in the Arctic Ocean might well be lost.

As a consequence, our rightful claims to hydrocarbons, minerals, and other natural resources could be ignored. In this regard, geologists have prognosticated that billions of barrels of crude oil and vast quantities of natural gas, not to mention various hard rock minerals, might be present in the Arctic. In the absence of affirmative action by the Senate, these resources could become the property of nations with less valid claims.

It is my understanding that the Bush administration and many senators, both republicans and democrats, have expressed support for Senate ratification of the

convention. However, as you know, ratification has been thwarted by a small group of senators who are concerned about the perceived loss of U.S. sovereignty. I believe that quite the contrary is the case. If the U.S. does not ratify the convention, we will be denied access to the forum established by the international community to adjudicate claims to submerged lands in the Arctic.

I also urge Congress to authorize the programs and funds necessary for the U.S. to assert its sovereign rights. The assertion of such rights requires significant research and information gathering. Other Arctic nations have recently begun this process, and I understand that the U.S. is moving in this direction as well.

I believe that you have previously supported Senate ratification of the convention. With this letter, I want to put my administration on record in support of the convention as the predicate for asserting sovereign rights that will be of benefit to Alaska and the nation. Hopefully, this letter will assist you in articulating Alaska's position to your colleagues in the Senate.

Thank you for considering my views.

Sincerely,

Sarah Palin
Governor



Western Pacific Regional Fishery Management Council

March 18, 2004

Hon. Daniel K. Akaka
US Senator
SH-141 Hart Senate Office Building
Washington, DC
20510-1103

Dear Senator Akaka:

I would like to express the support of Western Pacific Fishery Management Council for the ratification of the United Nations Convention on the Law of the Sea by the United States. This Council, by virtue of its geography, is the most internationally focused of the eight Regional Fishery Management Councils in the USA, and international fishery management is an integral part of our Pelagic Fishery Management Plan. Thus, the provisions of UNCLOS as they apply to the exploitation of natural resources are of key interest to the Council, quite apart from the important security aspects and key rights of navigation enshrined within the treaty.

Many of the provisions of UNCLOS, and international instruments that have stemmed therefrom, have been incorporated into this Council's management of highly migratory pelagic fish. In the 1980s, even before the UN ban, the Western Pacific Council was aware of the controversy surrounding this gear and banned its use within the EEZ of the US Flag Pacific Islands. This Council was also among those agencies and individuals who supported you and your colleagues in having tuna included within the Magnuson Act, an initiative which recognized the rights of individual countries to manage pelagic fishery resources within their EEZs as outlined within UNCLOS.

More recently, the Western Pacific Council has actively supported the development of an international convention for managing tuna fisheries in the Central and Western Pacific, hosting four out of the seven seminal meetings through which this new management initiative was crafted. This new fishery commission developed by the convention will come into force some time in 2004. This is the first international fishery management arrangement that fully incorporates UNCLOS principles in the articles of the convention, and will assume responsibility for the largest tuna fishery grounds on the globe. Such a development is timely due to the need to limit unconstrained expansion of fishing effort on these important shared economic resources.

A Council Authorized by the Magnuson Fishery Conservation and Management Act of 1976
1164 BISHOP STREET · SUITE 1400 · HONOLULU · HAWAII 96813 USA · TELEPHONE (808) 522-8220 · FAX (808) 522-8226
www.wpcouncil.org

As pointed out by your colleagues Senator Lugar and Senator Stevens in recent correspondence with Senate members, the failure to ratify UNCLOS would mean that the US would be unable to participate in the amendment to the Convention and safeguard aspects of concern to this country, including international fishery agreements such as the new fishery commission in the Central and Western Pacific. Naturally this is of paramount concern to this Council, embedded as it is within Micronesia and Polynesia, and with economies reliant to a large degree on ocean resources. The Council therefore hopes that the Senate will recognize the importance of ratifying UNCLOS, both from a strategic and security perspective, and also from our perspective in the US Pacific Islands, where the US voice needs to be heard in the management of shared fishery resources in the Pacific.

Sincerely,

Kitty M. Simonds

THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

April 6, 2004

Dear Senator Warner:

During recent briefings of Senate staff by officials from the Department of State, the Department of Defense, and other relevant agencies on the Law of the Sea Convention, the question was raised whether the Convention would prohibit or otherwise adversely affect U.S. intelligence activities. I would like to take this opportunity to respond to that question. I have coordinated this response with the Department of Defense and those other relevant agencies.

U.S. accession to the Convention would support ongoing U.S. military operations, including the continued prosecution of the war on terrorism. The Convention reinforces our military's ability to move – without hindrance and under authority of law – forces, weapons, and materiel to the fight, which is critical to our accomplishing national security objectives. The Convention does not prohibit U.S. intelligence activities; nor would we recognize any restrictions on those activities.

Since President Reagan's 1983 Ocean Policy Statement, the United States has conducted its activities consistent with the non-deep seabed provisions of the Convention. Further, the Convention's "innocent passage" provisions are actually more favorable to U.S. military and navigational interests than those in the 1958 Convention on the Territorial Sea and the Contiguous Zone, to which the United States is a party. Not

The Honorable
John Warner,
Chairman,
Committee on Armed Services,
United States Senate.

only is the Convention's list of non-innocent activities an exhaustive one, but it generally uses objective, rather than subjective, criteria in the listing of activities.

Sincerely,

William H. Taft, IV

cc: Sen. Carl Levin
Sen. Richard G. Lugar
Sen. Joseph R. Biden
Sen. Pat Roberts
Sen. John D. Rockefeller, IV
Sen. James M. Inhofe
Sen. James M. Jeffords
Congressman Porter J. Goss
Congresswoman Jane Harman

R. Reed Harrison III
Vice President/Chief Information and Investment Officer
Network and Computing Services
Room 4C107
900 Route 202/206
P.O. Box 752
Bedminster, NJ 07921-0752
908 234-5200, FAX 908 234-8414

Dear Senator Helms:

AT&T depends upon undersea fiber optic cables to carry the bulk of our international telecommunications traffic. We enclose for your reference an information packet describing AT&T's submarine cable network. We believe this information underscores the critical commercial significance of that network. We hope it also helps to acquaint you with AT&T's interest in the use of the seabed for its provision of global telecommunications services over that network.

It is essential that we protect that undersea cable network from damage and disruption. The main purpose of this letter, therefore, is to urge the United States Senate to give its advice and consent to accede to the Law of the Sea Convention. and to ratify the Agreement relating to the Implementation of Part Xl of the Convention. The requested action by the Senate will enable us to better protect our cables and recover for damage to the cables. AT&T respectfully asks that this advice and consent be given at the earliest opportunity.

AT&T's concern is straightforward. AT&T and other U. S. owners of such undersea telecommunications facilities become involved in matters of international law in their efforts to recover their losses from parties whose vessels have damaged their undersea cables. AT&T's efforts against such offending vessel owners and their underwriters have had limited success. Over the past 17 years, we have achieved some recovery in cases involving only 13 such cable failures. The scope of the problem is o evident when one considers that, since 1990, almost half of the 134 reported failures of international submarine cable were caused by third party vessels.

The recovery of damages in these cases reduces the operating expense of the cable owners and enables them, in turn, to benefit their customers in the form of lower rates for international telecommunications. services News of a significant damage recovery also provides a deterrent against careless or uncaring vessel owners. As indicated, however, AT&T and other U. S. cable owners have been frustrated in their cable protection and damage recovery efforts by serious shortcomings in existing submarine cable law. Illustrations of this problem are readily available.

In the typical case of damage by third party vessels, repairing damaged undersea cable and restoring service to telecommunications users costs in excess of $2 million. Yet our existing federal statute (47 U.S.C., Section 21) imposes a maximum criminal penalty of only $5,000 upon those who violate submarine cable laws and cause this level of damage to undersea cables.

Under these circumstances it is not surprising that, in February 1996, the U. S. Attorney in Florida declined to prosecute a vessel owner caught intentionally destroying an undersea telephone cable. And on several other occasions, the U. S. Coast Guard has declined to enforce obligations imposed on vessels and their owners under international law Despite Strong evidence against the violators in each of these cases, these agencies evidently determined that there would be insufficient return on their resource investment to support the assignment of full time legal and investigative personnel to an incident carrying such an Insignificant maximum criminal penalty.

These examples make clear that if we are to have any meaningful protection, we must have in place a level of fines that considers and reflects the level of damage inflicted by such criminal violations. In addition we need legal framework that establishes clear jurisdiction in cable damage cases, and that provides specific

authority to award damages. When nearly half of the 134 failures in intonational submarine cable since 1990 have been externally inflicted as previously noted, the need for increased legal protection is clear.

Many of the shortcomings in existing law are addressed and corrected in the U N. Convention on the Law of the Sea (UNCLOS,). UNCLOS expands the right to lay submarine cable in the oceans of the world and expands international protection for those cables. Articles 79 and 112 of UNCLOS have established the rights of nations and private parties to lay cable on the continental shelf (subject to reasonable review by the adjoining coastal state) and in the bed of the high seas. Universal codification of these rights would inhibit any single such coastal state from attempting unilaterally and unreasonably to thwart such rights.

Article 113 requires that all states must adopt laws that make damage to submarine cable, done willfully or through negligence - including behavior likely to result in cable damage - a punishable offense. Article 114 provides that if owners of a submarine cable, in landing or repairing their cables damage the cable of another, they must bear the cost of repairs. Article 115 provides that vessel owners who can prove they sacrificed an anchor or fishing gear to avoid damaging a cable, can recover their loss against the cable owner, provided that the vessel took reasonable precautionary measures beforehand.

To take full advantage of UNCLOS, the United States must become party and implement its provisions through legislation. This requirement is readily satisfied by much needed updating of the Submarine Cable Act of 1888. This law can and should be amended to conform to UNCLOS. We would be pleased to provide additional information and suggested amendments to your Committee.

Ratification of UNCLOS is of extreme importance to all U.S. providers of intonational telecommunications services. Beyond the obvious matters of national security associated with the protection of our undersea facilities, there are economic impact issues. The U. S. companies whose undersea facilities are at stake here are major U. S. enterprises and significant source of revenue, jobs and economic wellbeing for American citizens and businesses, at home and abroad.

Due to the rapid globalization of business, fiber optic capacity will have increased some 3000% from 1989 to the year 2000. With the explosion of data traffic on the information superhighway, fueled by greater use of the Internet, multimedia services and video conferencing, it has never been more important to our U. S. economic infrastructure to assure the protection and reliability of international submarine cables. UNCLOS will enable us to achieve that goal and maintain that protection.

We have attempted In this letter. Mr. Chairman, to outline the salient points of UNCLOS as they very positively affect U. S. owners and operators of Intonational submarine cables. I would be more than happy, at your convenience, to brief you or any of your staff in person with regard to any of the matters raised in this letter. In addition, AT&T remains ready and willing to appear and testify at any hearings that your Committee may schedule on this subject.

We remain most grateful, Mr. Chairman, for your attention to this matter.

Very truly yours,

R. Reed Harrison III
Vice President
Chief Information and Investment Officer
Network & Computing Services

Copy to: Mr. James W. Nance
Staff Director
Senate Committee on Foreign Relations
403 Dirksen Senate Office Building
Washington D.C. 20510



May 2004

JOIN NOW!

President's Message

Law of the Sea Convention is Essential to U.S. Naval Power

The sea services of our nation must maintain their leading role in shaping global rules and policies that affect our freedom of navigation and maritime mobility, two essential elements of U.S. naval power. That is why it is now time for Congress to ratify the Law of the Sea Convention and thereby strengthen our national security.

The Convention codifies access and transit rights for our ships and enhances the nation's prosecution of the global war on terrorism. Our nation has much to gain and nothing to lose by becoming a party to the Convention, which is a comprehensive international legal framework governing the world's oceans. The United States should now join 145 nations that use the Convention as a means to assure access to the oceans. In November, the Convention will be opened for amendment. As a party to the Convention, the United States would have a major role in shaping changes to come.

The Law of the Sea Convention is a complex document that touches on wide range of U.S. maritime concerns. Since it was finalized in 1982, a primary U.S. interest in the Convention has been to preserve essential navigational freedoms and thereby enhance the mobility of U.S. naval power. That is why every chief of naval operations (CNO), the Joint Chiefs of Staff and the Department of Defense have consistently and strongly supported U.S. ratification.

Our current CNO, Adm. Vern Clark, said in a March 18 letter to Sen. Richard G. Lugar, R-Ind., chairman of the Senate Committee on Foreign Relations, that accession to the Convention will support "our ability to operate around the globe, anytime, anywhere, allowing the Navy to project power where and when needed."

The Convention guarantees, for example, that ships and aircraft may transit straits that otherwise may have been closed by the territorial claims of nearby states. More than 135 straits are affected, including the Strait of Hormuz, entryway to the Persian Gulf, and the Strait of Malacca, the main sea route between the Indian and Pacific oceans.

In fact, the United States' interest as a global naval power was behind its initial participation in talks on the Convention as the United Nations conducted negotiations from 1973 to 1982. Our policy makers were concerned that transit and access rights of U.S. warships could be restricted by the rising number of claims from other nations over territorial seas, fishing zones and offshore high seas areas. Today, Adm. Clark wants the United States to join because, he said, "the Law of the Sea Convention helps assure access to the largest maneuver space on the planet — the sea — under authority of widely recognized and accepted law and not the threat of force."

Much of our government's initial delay in ratification was linked to objections by many industrialized countries to sections related to deep seabed mining. However, changes to the Convention in 1994 remedied each of the U.S. objections.

Despite its advantages, the Law of the Sea Convention remains controversial because of widespread — and erroneous — belief that it would adversely affect U.S. sovereignty, inhibit our intelligence gathering activities or hamper the U.S. Proliferation Security Initiative (PSI) through which our forces seek to interdict shipments of weapons of mass destruction.

Critics point to the International Tribunal for the Law of the Sea, created to settle disputes, as a threat to U.S. sovereignty. However, parties to the Convention are free to agree on any method of dispute settlement they desire — and the U.S. will not select the Tribunal.

Fears that ratification would diminish our collection of intelligence are linked to a section of the Convention containing a list of activities that would deprive a vessel of the right of innocent passage through territorial seas. These activities include the collection of certain types of information and the requirement that submarines navigate on the surface. However, such activity is not a violation of the Convention. Intelligence-gathering activities are not prohibited nor adversely affected by the Convention.

The Bush Administration's PSI — potentially a major weapon in the global war on terrorism — seeks the support of all nations in international efforts to board and search

vessels suspected of transporting weapons of mass destruction. Adm. Michael G. Mullen, vice chief of naval operations, told Lugar's committee that being party to the Convention "would greatly strengthen" the Navy's ability to support the PSI by reinforcing freedom of navigation rights on which the service depends for its operational mobility.

We learned in Iraq that even allies sometimes will block access to key battle areas. Our freedom of navigation cannot be contingent on the approval of nations along global sea lanes. A legal regimen for the world's oceans will help guarantee worldwide mobility for our military.

The Law of the Sea Convention is good for our sea services. It strengthens our country. The time for ratification is at hand.

Sheila M. McNeill, National President

▲ Back to Top

Home | About Us | Contact Us | Links | Online Community
U.S.Navy | U.S. Marine Corps | U.S. Coast Guard | U.S.Flag Merchant Marine
Membership | Ways of Giving | Meeting & Events | Public Relations
E-Store | Legislative Affairs | Navy League Councils | Naval Sea Cadets
Scholarship Program | Sea Power Magazine | Search

©2006 Navy League of the United States. All Rights Reserved.

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

WASHINGTON, D.C. 20318-9999

7 April 2004

The Honorable Richard G. Lugar
Chairman, Committee on Foreign
Relations
United States Senate
Washington, D.C. 20510-6225

Dear Mr. Chairman,

The testimony of the Chief of Naval Operations, Admiral Vern Clark, to the Senate Armed Services Committee regarding the Law of the Sea Convention (LOSC) reflects the views of the combatant commanders and the Joint Chiefs. We strongly support US accession to LOSC.

The Convention remains a top national security priority. In today's fast changing world, it ensures the ability of the US Armed Forces to operate freely across the vast expanse of the world's oceans under the authority of widely recognized and accepted international law. It supports efforts in the War on Terrorism by providing much-needed stability and operational maneuver space, codifying essential navigational and overflight freedoms.

The rules under which US forces have operated for over 40 years to board and search ships or to conduct intelligence activities will not be affected. The LOSC does not require permission from the United Nations to conduct these searches and leaves US intelligence activities unaffected. Moreover, the Proliferation Security Initiative is designed to be consistent with international law and frameworks, including the LOSC. While the Administration previously raised a concern regarding dispute resolution, that has been satisfactorily addressed by the proposed Resolution on Advice and Consent. Accession will provide continued US leadership in the development and interpretation of the Law of the Sea and ensure changes are compatible with future military initiatives.

I appreciate your continued strong support of the LOSC and the US Armed Forces.

Sincerely,

RICHARD B. MYERS
Chairman
of the Joint Chiefs of Staff

THE WHITE HOUSE

WASHINGTON

February 8, 2007

Dear Mr. Chairman:

Recognizing the historic bipartisan support for the Law of the Sea Convention, I anticipate our shared interest in moving it forward. As the President believes, and many members of this Administration and others have stated, the Convention protects and advances the national security, economic, and environmental interests of the United States. In particular, the Convention supports navigational rights critical to military operations and essential to the formulation and implementation of the President's National Security Strategy, as well as the National Strategy for Maritime Security. I appreciate your efforts as Chairman in bringing this important Convention to the Senate for consideration and look forward to its approval as early as possible during the 110th Congress.

Sincerely,

Stephen J. Hadley
Assistant to the President
for National Security Affairs

The Honorable Joseph R. Biden, Jr.
Chairman
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

RICE SAYS ADMINISTRATION SUPPORTS EARLY ACTION ON UN LAW OF SEA TREATY

January 25, 2004 -- During her nomination hearings on January 18-19, 2005, Dr. Condoleezza Rice asserted Administration support for "early Senate action" on the UN Convention on the Law of the Sea and urged the Foreign Relations Committee to report it to the floor again in the 109th Congress. Although the Senate Committee on Foreign Relations unanimously approved the treaty last year, the convention and implementing agreement must be re-reported for consideration in the new Congress. It is reported that the Committee may send the treaty to the floor for consideration as early as the first week of April.

In her testimony, Dr. Rice asserted that "Joining the Convention will advance the interests of the U.S. military," and that the U.S. "will gain economic and resource benefits from the Convention."

Full text of Dr. Rice's responses:

Questions from Senator Richard G. Lugar
Nomination Hearing for Dr. Condoleezza Rice
January 18 & 19, 2005

Law of the Sea: Ratification Efforts

Question #1:

The most recent Treaty Priority List submitted by the Administration to the Committee listed the Law of the Sea Convention as a treaty "for which there is an urgent need for Senate approval." How can we work together to make certain that the treaty is ratified on an urgent basis?

Answer:

The Administration supports early Senate action on the Convention.
The Administration urges the Senate Foreign Relations Committee to again favorably report out the Convention and Implementing Agreement, with the Resolution of Advice and Consent to Ratification as reported by the Committee last March.
The Administration will work with the Senate leadership to bring the Convention and Implementing Agreement to a floor vote in the 109th Congress.

Law of the Sea: Benefits for National Security

Question #2:

I was pleased to see in the U.S. Ocean Action Plan that he submitted to the Congress on December 17, the President states that "as a matter of national security, economic self-interest, and international leadership, the administration is strongly committed to U.S. accession to the UN Convention on the Law of the Sea." Can you cite specific benefits that accession will have for U.S. national security?

Answer:

Joining the Convention will advance the interests of the U.S. military.

As the world's leading maritime power, the United States benefits more than any other nation from the navigation provisions of the Convention. Those provisions, which establish international consensus on the extent of jurisdiction that States may exercise off their coasts, preserve and elaborate the rights of the U.S. military to use the world's oceans to meet national security requirements. They achieve this, among other things:
• by stabilizing the outer limit of the territorial sea at 12 nautical miles;
• by setting forth the navigation regime of innocent passage for all ships in the territorial sea, through an exhaustive and objective list of activities that are inconsistent with innocent passage – an improvement over the subjective language in the 1958 Convention on the Territorial Sea and Contiguous Zone;

- by protecting the right of passage for all ships and aircraft, through, under, and over straits used for international navigation, as well as archipelagoes;
- by reaffirming the traditional freedoms of navigation and overflight in the exclusive economic zone and the high seas beyond; and
- by providing for the laying and maintenance of submarine cables and pipelines.

U.S. Armed Forces rely on these navigation and overflight rights daily, and their protection is of paramount importance to U.S. national security.

Becoming a party to the Convention would strengthen our ability to deflect potential proposals that would be inconsistent with U.S. national security interests, including those affecting freedom of navigation.

Law of the Sea: Economic Benefits

Question #3:

Support for U.S. accession to the Law of the Sea Convention has been expressed by U.S. companies and industry groups whose businesses depend on the oceans. These include the American Petroleum Institute, the U.S. Oil and Gas Association, the Chamber of Shipping of America, the U.S. Tuna

Foundation, the American Chemistry Council, the National Oceans Industries Association, and the U.S. Council for International Business. Do you agree with these U.S. companies that acceding to the Law of the Sea Convention will advance U.S. economic interests and benefit American businesses?

Answer:

Yes. The United States, as the country with the longest coastline and the largest exclusive economic zone, will gain economic and resource benefits from the Convention:

- The Convention accords the coastal State sovereign rights over non-living resources, including oil and gas, found in the seabed and subsoil of its continental shelf.
- The Convention improves on the 1958 Continental Shelf Convention, to which the United States is a party, in several ways:

by replacing the "exploitability" standard with an automatic♣ continental shelf out to 200 nautical miles, regardless of geology;
by♣ allowing for extension of the shelf beyond 200 miles if it meets certain geological criteria; and
by establishing an institution that can promote♣ the legal certainty sought by U.S. companies concerning the outer limits of the continental shelf.

Concerning mineral resources beyond national jurisdiction, i.e., not subject to the sovereignty of the United States or any other country, the 1994 Agreement meets our goal of guaranteed access by U.S. industry on the basis of reasonable terms and conditions.

Joining the Convention would facilitate deep seabed mining activities of U.S. companies, which require legal certainty to carry out such activities in areas beyond U.S. jurisdiction.

The Convention also accords the coastal State sovereign rights over living marine resources, including fisheries, in its exclusive economic zone, i.e., out to 200 nautical miles from shore.

The Convention protects the freedom to lay submarine cables and pipelines, whether military, commercial, or research.

In addition, the Convention establishes a legal framework for the protection and preservation of the marine environment from a variety of sources, including pollution from vessels, seabed activities, and ocean dumping.

The provisions effectively balance the interests of States in protecting the environment and natural resources with their interests in freedom of navigation and communication.

With the majority of American living in coastal areas, and U.S. coastal areas and EEZ generating vital economic activities, the United States has a strong interest in these aspects of the Convention.

Law of the Sea: Military Operations

Question#4:

It is my understanding that it has been U.S. policy since President Reagan's 1983 Statement of Ocean Policy that the United States, including the U.S. military, will act in accordance with the Law of the Sea Convention's provisions relating to the traditional uses of the oceans. Would acceding to the Law of the Sea Convention require the United States military to make any changes in its existing policies or procedures with respect to the use of the oceans to conduct military operations?

Answer:

No.

As the Chief of Naval Operations, Admiral Vern Clark, testified before the Senate Armed Services Committee on April 8, 2004, "I am convinced that joining the Law of the Sea Convention will have no adverse effect on our operations ..., but rather, will support and enhance ongoing U.S. military operations, including continued prosecution of the global war on terrorism."
The Vice Chief of Naval Operations, Admiral Mike Mullen, testified before the House International Relations Committee on May 12, 2004, that the Navy "currently operate[s] – willingly because it is our national security interests – within the provisions of the Law of the Sea Convention in every area related to navigation. We would never recommend an international commitment that would require us to get a permission slip – from anyone – to conduct our operations." Admiral Mullen concluded his oral statement by emphasizing, "Simply, the Convention does not require a permission slip or prohibit these activities; we would continue operating our military forces as we do today."

Law of the Sea: Weapons Of Mass Destruction

Question #5:

Some commentators have asserted that acceding to the Law of the Sea Convention would prevent the United States from taking action necessary to stop the transportation of weapons of mass destruction across the oceans. I note,

however, that State Department Legal Adviser William Taft testified before the House International Relations Committee that "the Convention will not affect applicable maritime law or policy regarding interdiction of weapons of mass destruction, their means of delivery and related materials." Do you believe that acceding to the Law of the Sea Convention will in any way diminish the ability of the United States to take necessary action to prevent the transport of weapons of mass destruction?

Answer:

No.

The Convention's navigation provisions derive from the 1958 law of the sea conventions, to which the United States is a party, and also reflect customary international law accepted by the United States.
As such, the Convention will not affect applicable maritime law or policy regarding interdiction of weapons of mass destruction.
Like the 1958 conventions, the LOS Convention recognizes numerous legal bases for taking enforcement action against vessels and aircraft suspected of engaging in proliferation of weapons of mass destruction:

- exclusive port and coastal State jurisdiction in internal waters and national airspace;
- coastal State jurisdiction in the territorial sea and contiguous zone;
- exclusive flag State jurisdiction over vessels on the high seas (which the flag State may, either by general agreement in advance or approval in response to a specific request, waive in favor of other States); and
- universal jurisdiction over stateless vessels.

Nothing in the Convention impairs the inherent right of individual or collective self-defense (a point which is reaffirmed in the Resolution of Advice and Consent proposed in the last Congress).

Law of the Sea: Proliferation Security Initiative

Question #6:

Some commentators have asserted that acceding to the Law of the Sea Convention would prevent or inhibit the United States from implementing the Proliferation Security Initiative. I note, however, that State Department Legal Adviser William Taft testified before our Committee that the PSI is consistent with the Law of the Sea Convention, and that the obligations under the Convention do not present any difficulties for successfully carrying out this important initiative. Chief of Naval Operations Admiral Vern Clark gave similar testimony before the Senate Armed Services Committee. I also note that all of the other countries that are partners with the United States in PSI are themselves parties to the Law of

the Sea Convention. In your view, will acceding to the Convention inhibit the United States and its partners from successfully pursuing the PSI?

Answer:

No.

PSI requires participating countries to act consistent with national legal authorities and "relevant international law and frameworks," which includes the law reflected in the Law of the Sea Convention.
The Convention's navigation provisions derive from the 1958 law of the sea conventions, to which the United States is a party, and also reflect customary international law accepted by the United States.
As such, the Convention will not affect applicable maritime law or policy regarding interdiction of weapons of mass destruction, their means of delivery, and related materials.

Like the 1958 conventions, the LOS Convention recognizes numerous legal bases for taking enforcement action against vessels and aircraft suspected of engaging in proliferation of weapons of mass destruction:

- exclusive port and coastal State jurisdiction in internal waters and national airspace;
- coastal State jurisdiction in the territorial sea and contiguous zone;
- exclusive flag State jurisdiction over vessels on the high seas (which the flag State may, either by general agreement in advance or approval in response to a specific request, waive in favor of other States); and
- universal jurisdiction over stateless vessels.

Nothing in the Convention impairs the inherent right of individual or collective self-defense (a point which is reaffirmed in the Resolution of Advice and Consent proposed in the last Congress).

Law of the Sea: Role of the UN

Question #7:

Some commentators have asserted that the Law of the Sea Convention gives the United Nations the power to regulate the use of the oceans and that U.S. accession to the Convention would allow the United Nations to veto uses of the ocean by the United States, including by the U.S. military. It is my understanding that, under the Convention, the United Nations has no decision-making role with respect to any uses of the oceans. Please explain what role, if any, the United Nations would have in regulating uses of the oceans by the United States if the United States were to accede to the Law of the Sea Convention.

Answer:

The United Nations has no decision-making role under the Convention in regulating uses of the oceans by any State Party to the Convention. Commentators who have made this assertion have argued that the International Seabed Authority (ISA) somehow has regulatory power over all activities in the oceans.
The authority of the ISA is limited to administering the exploration and exploitation of minerals in areas of deep seabed beyond national jurisdiction, generally more than 200 miles from shore. The ISA has no other role and has no general regulatory authority over the uses of the oceans, including freedom of navigation and oversight.

Law of the Sea: Taxation by International Seabed Authority

Question #8:

Some commentators have asserted that acceding to the Law of the Sea Convention would involve giving the International Seabed Authority the power to impose taxes on U.S. citizens. State Department Legal Adviser William Taft has testified before Congress that the International Seabed Authority has no ability or authority to levy taxes. In your view, is there any basis for concern that U.S. accession to the Law of the Sea Convention will result in U.S. citizens being subject to taxation by the International Seabed Authority?

Answer:

No. The Convention does not provide for or authorize taxation of individuals or corporations.

Law of the Sea: Technology Transfer

Question #9:

Some commentators have asserted that the United States would be required to transfer sensitive technology, including technology with military applications, to developing countries if it acceded to the Law of the Sea Convention. It is my understanding, however, that provisions of the Law of the Sea Convention containing mandatory technology transfer requirements were eliminated by the 1994 Agreement addressing the Convention's deep seabed mining regime. Do you believe there is any reason for concern that acceding to the Convention would require the United States to transfer any technology to developing countries?

Answer:

No, technology transfers are not required by the Convention.

Law of the Sea: U.S. Sovereignty over Ocean Resources

Question #10:

Some commentators have asserted that acceding to the Law of the Sea Convention will involve ceding to the International Seabed Authority sovereignty currently enjoyed by the United States over ocean resources. It is my understanding, however, that the jurisdiction of the International Seabed Authority addresses only mining of minerals in areas of the deep seabed beyond the jurisdiction of any country, and that the United States has never asserted sovereignty over such areas. Do you believe that acceding to the Convention would involve any surrender of existing United States claims to sovereignty over ocean resources?

Answer:

No, the United States has never claimed sovereignty over areas or resources of the deep seabed.

The Convention's provisions on the exclusive economic zone and continental shelf preserve and expand U.S. sovereign rights over the living and non-living ocean resources located within, and with regard to the continental shelf beyond, 200 miles of our coastline.

Law of the Sea: Effect of 1994 Implementing Agreement

Question #11:

Some commentators have asserted that there is uncertainty as to the legal status of the 1994 Agreement Relating to the Implementation of Part XI of the Law of the Sea Convention, which addresses the Convention's deep seabed mining regime. I have received a letter from eight former Legal Advisers to the Department of State from both Republican and Democratic Administrations stating that the 1994 Agreement "has binding legal effect in its modification of the LOS Convention." Do you believe there is any basis for questioning the legal effect of the 1994 Agreement?

Answer:

No. My understanding is that the notion that the 1994 Agreement has no legal effect is incorrect.

Last updated:

Statement of Senator Lisa Murkowski
Senate Foreign Relations Committee
Hearing on the UN Convention on the Law of the Sea
September 27, 2007

Mr. Chairman – thank you for holding this hearing and the opportunity to comment on a treaty that is of particular importance to Alaska.

Some of my colleagues may not be aware, but over half of the United States' coastline is in Alaska. Likewise, the Arctic Ocean covers only 3% of the earth's surface, yet it accounts for over 25% of the world's continental shelf area. So when we are considering a Treaty that governs the planet's oceans and the ocean floor, the people of Alaska have a very strong interest.

There are some who do not see the point in joining the rest of the world in ratifying the Convention on the Law of the Sea. They say that the U.S. already enjoys the benefits of the Treaty even though we are not a member – that by not becoming a party to the Treaty we can pick and choose which sections of the Treaty we abide by while not subjecting our actions to international review.

But I would point out, while the situation is favorable now, that may not always be the case. The Treaty opened to amendment in 2004. Do we want a seat at the table to ensure our voice is heard, or do we place our interests in the hands of other nations?

I will give one example. When the U.S. declined to sign the Law of the Sea Treaty in 1982 out of concern over deep sea-bed mining provisions in Part XI, one of the objections was that the United States was not guaranteed a seat on the executive council of the international seabed authority. With the renegotiation in the 1994 agreement, the U.S. is essentially assured a seat on the 36-member State Council by virtue of the "largest economy" provision within the Implementation Agreement.

And I would note that while some decisions by the Council are subject to majority vote if a consensus cannot be formed, there are circumstances where decisions must be made by consensus – including the adoption of rules concerning sea-bed mining, and the adoption of amendments to Part XI of the Treaty. As a party to the Law of the Sea, the U.S. can promote rules and regulations based on market principles and investment protection. But if we do not ratify this Treaty, the Senate will have capitulated the United States' ability to block unfavorable rules and amendments – including potential amendments that could revoke the United States' guarantee of a seat in the Council.

The U.S. waged a global campaign in the developed world to hold off ratifying the Treaty until the sea-bed mining provisions were changed. We got what we wanted, but still we have declined to ratify the Law of the Sea. How can we expect parties in the future to take the U.S. seriously when we negotiate treaties or agreements if we are not willing to follow through in this instance? I believe it is very important for the U.S. to be a party to

this Treaty and be a player in the process, rather than an outsider hoping our interests are not damaged.

Now, there are several topics I would like to comment on relating to the Treaty and its potential impact on Alaska. The first being claims over the continental shelf.

In the 1958 Convention on the Continental Shelf, which the U.S. is a party to, the issue of limitations on the continental shelf was not resolved due to lack of information about the continental shelf. With technological advances and greater knowledge the Law of the Sea provides that a coastal state's continental shelf can extend for 200 nautical miles, with the potential to extend that claim even further.

Russia has submitted a number of claims to the Commission on the Limits of the Continental Shelf that would grant them 45% of the Arctic Ocean's bottom resources – first in 2002 and of course the most recent when Russia placed a flag on the ocean bottom earlier this year. We are fortunate that the Commission so far has withheld its approval of Russia's claim.

According to the U.S. Arctic Research Commission, if we were to become a party to the Treaty, the U.S. stands to lay claim to an area in the Arctic of about 450,000 square kilometers – or approximately the size of California.

But if we do not become a party to the Treaty our opportunity to make this claim, and have the international community respect it, diminishes considerably – as does our ability to prevent claims like Russia's from coming to fruition.

Not only is that a negligent forfeiture of valuable oil, gas, and mineral deposits, but also the ability to perform critical scientific research. The Arctic Ocean is the most poorly understood ocean on the planet. Now is the time to be studying the thinning of the polar cap and its potential impact on the global climate, as well as potential economic activity in the area – not the least of which is the opening of polar routes for maritime commerce.

Also in relation to the Arctic Ocean – and the potential thinning of the polar cap – is the opening of polar routes for maritime commerce. There are predictions that the Arctic Ocean will be ice free for ninety days or more in the summer by the year 2050 – which in turn translates into greater access, and greater utilization.

By utilizing a polar route, the distance between Asia and Europe is 40% shorter than current routes via the Suez or Panama Canals – and is in a much more stable part of the world.

But with greater usage comes greater responsibility. A number of nations have Arctic research programs. Alaska's coastline on the Arctic Ocean is over 1,000 nautical miles. The U.S. can either exercise sea control and protection in this area of the world, or cede that role to whichever nation is willing to assume it. As a party to the Law of the Sea, the

United States' ability to enforce our territorial waters and our Exclusive Economic Zone (EEZ) in the Arctic Ocean is strengthened even further.

Mr. Chairman, the Convention on the Law of the Sea also provides a basis for several international treaties with great relevance to our nation's most productive fisheries, which occur off the coast of Alaska and are of significant value to the economies of Alaska and other Pacific Northwest states.

The Convention on Straddling and Highly Migratory stocks provides both access to, and protections for fish stocks which migrate through the high seas and the jurisdictions of other countries. Among the stocks for which this agreement is of paramount significance is the Bering Sea stock of Alaska pollock, which is the basis for this country's largest single fishery.

The Convention on Fisheries in the Central Bering Sea is another critical piece, which allows us an unprecedented degree of control over the activities of other fishing nations in the central portion of the Bering Sea, beyond both the U.S. and the Russian Exclusive Economic Zones. Without the influence of the Law of the Sea, neither of these important fishing agreements would likely have come into being.

Also, Mr. Chairman, let me note the importance – and the somewhat fragile status of – our maritime boundary agreement with Russia. As you may know, this agreement delineates a specific boundary between our two countries. It is necessary because the agreement under which the United States acquired what is now the State of Alaska was interpreted differently by the two parties.

Both the boundary agreement, and the fisheries enforcement mechanisms that stem from it, are critical to the conduct of fisheries policy in the U.S. and Russian EEZs in the Bering Sea. Although the United States ratified the maritime boundary agreement shortly after it was presented to the Senate, the Russian government has yet to do so, under pressure both from nationalist political interests and Russian Far East economic interests. While observing the provisions of the boundary treaty, the Russian government also has attempted to persuade the U.S. to make a number of significant concessions regarding Russian access to U.S. fishery resources, suggesting meanwhile that such concessions would improve the atmosphere for Russian ratification.

The terms of the boundary treaty are widely regarded as highly favorable to the United States, and are themselves consistent with the Law of the Sea. However, rejection of the latter by the United States could trigger similar rejection by the Russian Duma of the boundary treaty. If that were to occur, it would extremely difficult to renegotiate the boundary agreement with similar positive results for the United States.

The United States and Alaska have tremendous interests in the Arctic Ocean. Our technological capabilities in calculating the extent of the continental shelf are welcomed by other nations. As a party to the Law of the Sea Treaty, we have the opportunity to

stake our claim to a significant chunk of real estate that has the potential for impact on our economy and our national security.

We also have the opportunity to further U.S. leadership in the international community on maritime issues and ensure the continuation of those provisions in the Convention that are so vital to the United States' fisheries industries.

The Convention on the Law of the Sea has my strong support and I look forward to its consideration on the Senate floor.

INFORMATION MEMO
SENATOR MURKOWSKI
From: Isaac
Date: December 10, 2007

RE: Law of the Sea: Myths v. Fact

Below are three of the most common arguments in opposition to the Law of the Sea Treaty and what the text of the Convention actually says.

United Nations:
Myth: This is an abrogation of our sovereignty and hands over control of the United States' waters and seabed to the United Nations.

Reality: The only connection the United Nations Convention on the Law of the Sea has with the United Nations is its title.* Although negotiated under the auspices of the United Nations, the U.N. has no role in the governance of the Treaty nor in the commissions set up by the Treaty. The Treaty establishes several international bodies, most notably the Commission on the Limits of the Continental Shelf and the International Seabed Authority.

The Continental Shelf Commission is composed of 21 members who are "experts in the fields of geology, geophysics, or hydrography" and are nationals of Parties to the Law of the Sea Treaty. This means that unless the United States is a party to the Treaty, no one from the U.S. can serve on the Commission and we will have no say on whether other nations' extended continental shelf claims are internationally recognized. This takes on increased significance with Russia's latest claim to a large portion of the Arctic Ocean. We will not have the opportunity to receive international recognition for our own claims in the Arctic, or refute Russian and other nation's claims, without ratifying the Treaty.

The International Seabed Authority is composed of all parties to the Law of the Sea Treaty. Within the Seabed Authority, a 36-member Council is set up which functions as the executive power of the Seabed Authority. Based on election criteria, the United States would be guaranteed a permanent seat on the Council if we ratify the Treaty. As a result, because most of the Council's substantive decisions are made on a consensus basis, the United States would be able to prevent action against our interests from being adopted.

The Seabed Authority only has jurisdiction over the ocean floor outside of each nation's Exclusive Economic Zone (EEZ). The Law of the Sea grants a nation the exclusive rights over all living and non-living resources within its Exclusive Economic Zone, which extends 200 nautical miles from the shoreline. That includes all fisheries and mineral deposits. No nation may exploit the natural resources within the United States' EEZ without our permission.

* The United Nations does provide a forum for parties to the Treaty to elect members to the Continental Shelf Commission, and funds a secretariat to the Continental Shelf Commission, but plays no other role.

Military:

Myth: The United States Navy's ability to continue its current operations around the world will be subject to an international tribunal. Certain articles in the Treaty prevent military activity, or allow a nation to prevent military passage, in that nation's territorial sea (out to 12 miles from shore). For example, Article 19 says innocent passage is not innocent if a foreign ship undertakes any exercise or practice with weapons of any kind, launches or lands any aircraft, or launches, lands, or takes on board any military device. Article 20 says a submarine must travel on the surface in a nation's territorial sea. Article 30 says that if a warship does not comply with the coastal state's laws, it can be forced to leave. Opponents also say that the exception provided under Article 298 is not clear (more on that below) and would subject U.S. military action to international arbitration or international court.

Reality: A nation has complete sovereignty in its territorial waters and it is understandable that a nation would not want U.S. or any other nation's warships moving through their waters without permission, just as we would not want foreign warships in U.S. waters without abiding by our laws. There are two provisions that refute the opponents arguments.

Article 298 says that when signing, ratifying, or acceding to the Convention, or at any time thereafter, the State may declare that it does not accept any one or more of the procedures with respect to…

> (1)(b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service,

Opponents argue that there is no definition of military activity and another nation could challenge the United States' claim of military activity – thus subjecting our military activities to an international tribunal.

So far Argentina, Belarus, Canada, Cape Verde, Chile, China, France, Mexico, Portugal, South Korea, Russia, Slovenia, Tunisia, Ukraine, and the UK have made declarations opting out of dispute settlement provisions with respect to military activities. This includes every other member of the UN Security Council. In the Senate Resolution of Advice and Consent to the Treaty, the U.S. opts out of the dispute resolution mechanisms for disputes concerning military activities. Further, in the Senate Resolution, the U.S. further declares that "its consent to accession to the Convention is conditioned upon the understanding that, under Article 298(1)(b), each State Party has the exclusive right to determine whether its activities are or were military activities and that such determinations are not subject to review." This is a permissible declaration under the Convention.

Innocent Passage: Article 17 grants ships of all states the right of innocent passage through the territorial sea and archipelagic waters (ie: Indonesia). Based on this right, a U.S. warship will always be able to traverse a nation's territorial waters.

On a side note, it is worth pointing out that just about every Resolution on Advice and Consent that the Senate passes contains a RUD (Reservation, Understanding, or Declaration) and sometimes multiple RUDs. Treaties are purposefully written to be vague so that more nations will support them – the RUDs provide for the individual interpretation of the Treaty. By arguing that a certain item is not specifically spelled out (ie: definition of military activity) you're essentially saying that you don't support any treaty the U.S. has ever become a party to because a RUD is needed to clarify the text.

International Tribunal – Dispute Resolution:
Myth: The United States will be subjecting itself to mandatory international arbitration when we currently enjoy the benefits of the Law of the Sea Treaty without limiting our sovereignty.

Reality: Start with the fact that as a non-party to the Treaty, the U.S. enjoys Law of the Sea Treaty benefits at the pleasure of other nations – they have no obligation to recognize U.S. claims (12 mile territorial sea, 200 mile Exclusive Economic Zone, etc...).

Article 287 permits states to choose from a number of mechanisms for dispute resolution, including: the International Tribunal for the Law of the Sea; the International Court of Justice; an arbitral tribunal; or a special arbitral tribunal. Under the Senate's Resolution of Advice and Consent, the U.S. will choose arbitration. At present, the U.S. is party to 16 multilateral agreements, and a large number of bilateral agreements that require dispute settlement through arbitration. Not the least of these is the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks agreement which is based on the Law of the Sea dispute resolution mechanisms and is highly important to Alaska and the Pacific Northwest's fisheries. The Senate has ratified this Treaty.

Under the special arbitration process, which is principally chosen, both parties select two arbitrators and then those four arbitrators select a fifth and final arbitrator. If they are unable to agree on a fifth arbitrator, they can agree on a third party to select a fifth arbitrator. If still no agreement can be reached, the Secretary General of the U.N. appoints an arbitrator.

In a regular arbitration, each party selects one arbitrator, and then mutually agree on three other arbitrators. If there is no agreement, a third party may appoint the three remaining arbitrators.

Bottom line is that if an arbitration panel returns a decision that the United States strongly opposes, there is no true enforcement mechanism and the U.S. can veto and U.N. Security Council measure.

NewsBank inc. America's Newspapers

Law of the Sea Treaty crucial to U.S. - COMPASS: Points of view from the community

Anchorage Daily News (AK) - November 8, 2007

Author: *SEN. LISA MURKOWSKI ; Commentary*

It's ironic that an international treaty that can do much good for the nation, especially Alaska, is only now moving closer to Senate approval because of actions by Russia, Denmark and Canada. Steps taken by those three nations to strengthen or establish claims in the Arctic Ocean have highlighted for many Americans -- and many of my colleagues -- the need of the Senate to approve the Law of the Sea Treaty. Otherwise, we could be left standing on the shore, watching as other nations divvy up the wealth and scientific riches of the valuable Arctic seabed.

Without ratification, the U.S. will have no permanent seat on the decision-making body that would settle disputed claims.

Without ratification, the United States, with 1,000 miles of Arctic coast along Alaska, would be the only Arctic nation not party to the treaty. Currently, 155 nations have ratified the treaty, including all of our allies and the world's maritime powers.

International negotiators first approved the Convention on the Law of the Sea in 1982. President Ronald Reagan wisely saw a serious shortcoming in how the new treaty would deal with deep-seabed mining. Negotiators went back to work and, in 1994, presented an improved treaty.

U.S. Senate approval is required of all international treaties, and a Senate committee held hearings in 1994 but the full Senate never voted on the measure. Committee hearings resumed in 2003 and 2004, but still no vote.

The Senate Foreign Relations Committee, of which I am a member, again took up the treaty last month. I hope this is the year for final passage.

Several events of the past few months have pushed the treaty to the front of the agenda, including Russia's decision to send two small submarines into Arctic waters in August to plant their nation's flag under the North Pole. Russia believes its continental shelf extends that far into the Arctic. Like-minded Denmark has sent scientists to determine if a mountain ridge beneath the Arctic Ocean is connected to its territory of Greenland. And Canada, getting nervous at the thought of underwater flags and ice-free shipping lanes through the Northwest Passage, is talking about setting up military bases and expanding its fleet to patrol the waters.

The United States cannot sit by and watch as other nations draw their own maps.

Under the Law of the Sea Treaty, member nations can claim an exclusive economic zone out to 200 miles, with sovereign rights to explore, develop and manage the resources within that zone. Nations' claims can extend even farther if they can prove a real connection to their continental shelf. The U.S. Arctic Research Commission believes the United States could lay claim, beyond our 200 mile exclusive economic zone, to the northern seabed around Alaska equal in size to the state of California.

This isn't just about the oil, gas and mineral resources in the Arctic. It's also about managing the critical scientific research that is so important to Alaskans' way of life. It's about the United States defining and defending its rights on uses of the sea, rules of navigation,

economic development and environmental standards. This is about our future, for without Senate ratification of the treaty, the future of miles of ocean north of Alaska is in someone else's hands.

"We have more to gain from legal certainty and public order in the world's oceans than any other country," Deputy Secretary of State John Negroponte said in Senate committee hearings last month. Negroponte, who also has served as director of national intelligence and U.N. ambassador, said the treaty would not interfere with U.S. intelligence-gathering efforts or our Navy's navigational freedom.

Support for Senate ratification is coming from all sides of the political world, including the ranking Republican on the Foreign Relations Committee, Indiana Sen. Richard Lugar, and the Democratic chairman of the committee, Delaware Sen. Joseph Biden.

I urge Alaskans to join me in supporting the Law of the Sea Treaty. It's time the United States signed on the bottom line to protect our rights.

Republican Lisa Murkowski represents Alaska in the U.S. Senate.

Caption: Graphic 1: Lisa Murkowski BW_110807.eps

Edition: *Final*
Section: *Alaska*
Page: *B4*
Record Number: *1533033211/08/07*
Copyright (c) 2007, Anchorage Daily News

REPRESENTATIVE PAUL SEATON

SESSION ADDRESS
State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472
1-800-665-2689

INTERIM ADDRESS
345 W. Sterling Highway
Homer, Alaska 99603
(907) 235-2921
Fax: (907) 235-4008
1-800-665-2689

Louie x
3923

ALASKA STATE LEGISLATURE
House District 35

Memorandum

To: House State Affairs Chairman Bob Lynn
From: Representative Paul Seaton
Date: March 10, 2009
RE: HJR 22 hearing request

I respectfully request a hearing for HJR 22 in House State Affairs at your earliest possible convenience.

HJR 22 urges the United States Senate to ratify the Law of the Sea Treaty.

Please find the following materials in this bill packet:

- Sponsor statement
- HJR 22
- Law of the Sea Treaty background material
- Letters in support of treaty ratification
- Testimony of Dr. Condoleezza Rice
- Testimony and discussion papers by Senator Lisa Murkowski

http://www.RepPaulSeaton.com
Email: Rep_Paul_Seaton@legis.state.ak.us

HJR

24

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: April 1, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 4-7-09

The STATE AFFAIRS Committee considered: **HOUSE JOINT RESOLUTION NO. 24**

Urging the United States Congress and the United States Department of Agriculture to extend the basic housing allowance exclusion to all military families for purposes of the school nutrition program.

HJR 24 FED. SCHOOL LUNCH PROGRAM/MILITARY

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
LEG	1			X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Guerra	X			
Paul K Seaton	SEATON	X			
Mary Ann Greenberg	Greenberg	–			
Peggy Wilson	WILSON	↘			
Pete Petersen	PETERSEN	X			
Craig Johnson	Johnson	X			
Chair: Bill Lynn	LYNN	X			
Chair:					

Chair, Judiciary
Chair, Economic Development, Trade & Tourism
Energy
Military & Veteran Affairs
Joint Armed Services
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature
House of Representatives

While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465- 3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Representative Jay Ramras
District 10

Sponsor Statement
HJR 24

"Urging the United States Congress and the United States Department of Agriculture to extend the basic housing allowance exclusion to all military families for purposes of the school nutrition program."

House Joint Resolution 24 enables military families that are living off the base to qualify for the school nutrition programs.

Families who live off the base are given an additional basic allowance for housing (BAH). Due to this increase of income children of these families are not qualified for the school nutrition programs. Many of these families are struggling financially. This presents a major issue for families that have one or multiple children to feed and a vital program such as the free lunch program is denied to them because of the location of their homes and increased income due to the basic allowance for housing.

HJR 24 encourages the United States Congress and the United States Department of Agriculture to look at the issue presented to the heroic military men and women and thus their families. This is an opportunity to ensure our military families do not have to endure additional hardships while a family member is defending our country.

Representative_Jay_Ramras@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 24
(H) Publish Date: 4/1/2009

Identifier (file name):
Dept. Affected:
Title HJR 24 FED. SCHOOL LUNCH PROGRAM/MILITARY
RDU
Component
Sponsor Representative Jay Ramras
Requester Military and Veterans' Affairs Committee
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: House Military and Veterans' Affairs Committee
Phone
Division
Date/Time
Approved by: Represtative Carl Gatto
Date 3/31/2009

(Revised 9/10/2008 OMB)

ABC NEWS

Exclusive: Michelle Obama's Emotional Meeting With Military Families

First Lady Tells ABC News That President Obama Is 'What We Need Right Now'

By KAREN TRAVERS

March 13, 2009—

First lady Michelle Obama says she is distressed by the plight of many military families who are struggling to keep their heads above the poverty line while the soldier in the family is in harm's way in Iraq or Afghanistan.

Michelle Obama opened up to Robin Roberts on "Good Morning America" in her first television interview since she became first lady.

Watch more of Robin Roberts' interview with first lady Michelle Obama on "World News With Charles Gibson" at 6:30 p.m. ET and "Nightline" at 11:35 p.m. ET

During the interview, the first lady talked about everything from her husband's handling of the presidency to what's been broken in the White House since the Obama's moved in.

But she was at her most emotional in talking about the families of soldiers and their financial battles while a parent is deployed to battle al Qaeda or the Taliban.

"It hurts. It hurts," the first lady said of hearing about military families on food stamps. "These are people who are willing to send their loved ones off to, perhaps, give their lives -- the ultimate sacrifice. But yet, they're living back at home on food stamps. It's not right, and it's not where we should be as a nation."

To highlight that concern, Mrs. Obama made her first trip outside Washington as first lady Thursday to Fort Bragg, N.C., where she visited with military families. It was an emotional meeting that clearly moved her.

"Our soldiers and their families have done their duty. They do it without complaint. And we as a grateful nation must do ours and do everything in our power to honor them by supporting them," she said at the Fort Bragg Community Center.

First Trip to Fort Bragg

During her visit to Fort Bragg, the first lady read "The Cat in the Hat" to a dozen preschoolers at the Prager Child Development Center, and the folks at Fort Bragg were touched by her performance.

"It was like she was reading to her children," said Mattie White, a lead education technician at Fort

Bragg.

While reading "The Cat in the Hat," the first lady told the children she had two young daughters, and one tyke chimed in "I know Sasha."

Her concern for military families is an agenda issue that began during the presidential campaign, and one that she vowed she would continue to work on from the East Wing of the White House.

The Fort Bragg visit is a setting that the first lady seems comfortable in -- it combines her top policy issue and the qualities of the "mom-in-chief" she aims to be.

And any mention of the Obama daughters, Malia, 10, and Sasha, 7, is an emotional touchstone for Mrs. Obama and, she suggests, for many in the country.

"You know, I just think, 'How sweet.' That's the power of kids connecting with other kids," the first lady said after the Fort Bragg child shouted out Sasha's name. "I think that that's, you know, been wonderful for the nation to have two little kids in the White House that they connect to."

Besides the financial woes of military families, the first lady said she is aware of how many American families are struggling during the economic recession. But she remains confident in her husband and the nation. "I wouldn't want anybody but Barack Obama to be working at this time, because he is a focused, clear-thinking, rational man -- and that's what we need right now," she said. "I'm coming off of a boost of understanding all that our country is made of, the values, the men, the women, people who are looking for the silver lining, even in tough times."

The first lady told Roberts about how she has taken time in the first few weeks in the White House to get to know the new city she now calls home and to make the rounds visiting various federal agencies. She has met with thousands of men and women who now work for her husband.

She makes these visits to thank the people she calls "the backbone of our government," and rally them for more work ahead.

It's also a chance for her to hear the concerns of federal government employees and relay them back to the president.

At each stop, she makes a point to meet privately with a smaller group of staffers before she delivers remarks. She has asked to meet with the longest-serving staff members at these agencies, and when she visited the Department of Interior last month, some of the employees she spoke with had worked there for nearly 40 years.

"Part of what I want to do is to tell them, 'Thank you. Thank you for your service.' They make up the foundation of this democracy as well," she said.

She plans to get to every federal agency over the next few months.

Michelle Obama is adjusting to her many new roles, including hostess-in-chief, she said. The first family has hosted regular Wednesday night social gatherings at the White House and two formal dinners in less than two months.

For Super Bowl Sunday, the Obamas opened the White House to friends and members of Congress and

their families.

Living in a home with antiques, historic artifacts and two small children might be an accident waiting to happen, but the first lady said, so far, the children have not broken anything.

"We've had some guests who've broken some things but not the kids," she said with a laugh. "And they know who they are."

Both the first lady and the president have talked about the simple joy of being able to eat dinner together every night at the White House after two long years on the campaign trail.

"There's time to breathe a little bit, at least as a family. We're breathing in a way that we haven't breathed in a long time. And it feels good," she told Roberts.

Her daughters, she said, are doing "great" after two months in Washington.

"I think they're doing great because I've been able to strike a balance," she said. "I have a pretty full plate, but I still have time to be home for homework and to make sure I'm there before they leave, and to go to their parent-teacher conferences and all the things that it's important to do as a parent. So they're doing great. They keep us going."

First Lady Michelle Obama on Family's White House Transition

The first lady credited her mother, Marian Robinson, with helping to ease the transition for her and her daughters and called Robinson's presence in the White House "immeasurable."

"First of all, she's one of the funniest people I know. And she's so nonimpressed by any of this. She keeps all of our feet on the ground," Michelle Obama said.

Robinson is there to lend a hand with the girls when the first lady's own schedule prevents her from being there, she said.

"Like today, when I'm out and about, I'm gone all day, she's picking them up, she's getting them through homework. She's, you know, making sure that they practice piano, all the things that moms would do," she said. "But she does it with that little extra kick of love, and a little extra piece of dessert, tonight, I'm sure is going on."

The first lady laughed when Roberts suggested her morning workout routine was paying off.

"Well, I covered my arms up" for the interview, she said, noting her departure from her well-documented fondness for sleeveless dress. Life in the White House for the new first lady starts with an early morning workout and ends with a late night "veg out" in front of the TV, the first lady confided to Roberts.

"I must confess," she said. "Sometimes I just click on some non-important TV and just veg out."

Copyright © 2009 ABC News Internet Ventures

AKSNA Alaska School Nutrition Association

March 23, 2009

Honorable Congressman Young,

On behalf of the Alaska School Nutrition Association (AKSNA) I would like to congratulate you on your re-election. It is a time of change and extreme need in our country and we look forward to your leadership.

As a former member of the military and a supporter of child nutrition, I thought you would like to know about the Military Nutrition Protection Act introduced by Senator Michael Bennett from Colorado. He is seeking to exclude combat pay in eligibility requirements that eliminate dependents of deployed service members out of any special nutrition assistance programs. Those include free and reduced price school meals and supplemental nutrition assistance for women, infants, and children, otherwise known as "WIC" programs. Current regulations allow us to exclude the portion of income sent to the deployed household member yet that is not typically enough to provide benefits to these children.

In the Fairbanks North Star Borough School District, we have two military bases – Ft. Wainwright and Eielson Air Force Base. There are currently over 5,000 members deployed overseas, several who have left behind families. The military receive many different types of adjustments – e.g. COLA, BAH (housing assistance) – that when combat pay is received can result in their children being ineligible for meal benefits. This can cause additional stress for those deployed and the families.

Last month, I spoke with state Representative Jay Ramras' office regarding the above issue and the disparity between households living on and those off of military installations. Soon all military families will be receiving BAH and we are informed that families on military installations do not have to include the housing assistance as income but those living off the installation do. This causes a disparity in treatment as school nutrition directors have been informed that if assistance is received monetarily and not in-kind, it must be counted as income when processing children for meal benefits. He and his staff are drafting a resolution supporting the exclusion of housing assistance as income for all military households.

These issues are seen every place a military installation is – from Kodiak to Anchorage to Delta to Fairbanks. This is an opportunity to ensure our military families do not have to endure additional hardships while a family member is defending our country. With Congress' reauthorization of the Child Nutrition programs and Senator Bennett's legislation, there is an opportunity to ensure equitable treatment for our students in Alaska.

Please contact me if you have additional questions regarding these issues or as questions arise during the Reauthorization process. You may contact me at (907) 452-2000 x332 or arouse@northstar.k12.ak.us Thank you for your kind consideration.

Sincerely,

Amy C. Rouse, SNS
Director, Nutrition Services
Fairbanks North Star Borough School District
520 5th Avenue
Fairbanks, AK 99701

Representative Jay Ramras
Chair, House Judiciary
House Labor & Commerce
House Oil & Gas
House Military & Veteran Affairs
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature

While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465- 3004
Fax: 465-2070
Toll Free: (877) 465-3004

House District 10

House of Representatives

Memo

To: Representative Lynn
Chair House State Affairs Committee

From: Representative Jay Ramras

Date: March 31, 2009

Re: HJR24 – Federal School Lunch Program/Military

Please consider this memorandum as a request for the House State Affairs Committee to schedule a hearing for HJR 24. Accompanying this memo are the following documents:

- Sponsor Statement
- 26-LS0710\A
- Support

Thank you for your time and consideration, should you have any questions, please do not hesitate to contact me or Dana Strommen at 465-3004.

Representative_Jay_Ramras@legis.state.ak.us

HJR

31

HOUSE COMMITTEE REPC_T

(7)
Date Referred to Committee: April 8, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 4-11-09

The STATE AFFAIRS Committee considered: **HOUSE JOINT RESOLUTION NO. 31**

Urging the United States Congress to pass the Honor the Written Intent of our Soldier Heroes Act.
HJR 31 SUPPORT SOLDIERS' BURIAL DESIGNATIONS

Recommends it be replaced with [ ] HCS *or* [X] CS for HJR 31 (MLV)
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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
HMLV				X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson	∞			
	Gallo	6			
	SEATON	X			
	Greenberg	—			
	WILSON	—			
	PETERSEN	X			
Chair:	LYNN	X			
Chair:					

HJR 31

Cornell University Law School

Search Law School Search Cornell

LII / Legal Information Institute

U.S. Code collection

10

TITLE 8 > CHAPTER 12 > SUBCHAPTER III > Part III > § 1481

§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions

(a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality—

(1) obtaining naturalization in a foreign state upon his own application or upon an application filed by a duly authorized agent, after having attained the age of eighteen years; or

(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof, after having attained the age of eighteen years; or

(3) entering, or serving in, the armed forces of a foreign state if

(A) such armed forces are engaged in hostilities against the United States, or

(B) such persons serve as a commissioned or non-commissioned officer; or

(4)

(A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years if he has or acquires the nationality of such foreign state; or

(B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(6) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the

interests of national defense; or

(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, or willfully performing any act in violation of section 2385 of title 18, or violating section 2384 of title 18 by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

(b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after September 26, 1961 under, or by virtue of, the provisions of this chapter or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this chapter or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.

LII has no control over and does not endorse any external Internet site that contains links to or references LII.

REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us

webpage: www.akrepublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-465-3732

888-461-3732

Sponsor Statement HJR 31

"Urging the United States Congress to pass the Honor the Written Intent of our Soldier Heroes Act."

HJR 31 expresses the Alaska's support for H.R. 1633; a congressional bill entitled ***Honor the WISH Act***. This bill would allow our troops to designate people other than their immediate family members to oversee their disposition if they are killed in the line of duty. Current law prohibits the members of our armed forces from authorizing non-relatives to make their funeral arrangements.

Members of the Armed Services fill out a DD93 Form to designate who will direct disposition of the member's remains if they die in active duty. However, current law only allows them to designate a spouse, blood relatives, or adoptive parents. Some of our service members need someone who does not fall into these categories to bear that responsibility, but are prohibited by federal law to do so. The Honor the Wish Act would allow servicemen and women to designate whomever they want to direct disposition.

An example of the need for this legislation is as follows:
Specialist Christopher T. Fox, of Tennessee served in Bravo Company, 1st of the 68th Combined Arms Battalion, 3rd Brigade Combat Team, 4th Infantry Division. He served with them in combat in Iraq from 2005 – 2006, and again in 2007. On 29 September 2008 Specialist Fox was killed in action in Baghdad; his DD93 specified Amy Frost, his mother figure, as the person to handle the disposition of his remains. JAG concluded that Amy Frost wasn't legally eligible under the current law to be the designee, and overturned Specialist Christopher Fox's last wishes. Christopher Fox had been born to other parents, his mother had since passed, and his step father and step brother kicked him out of their home at 17. Amy Frost, one of Christopher's high school teachers saw potential in the young man and took him into her home; she was there for him when he enlisted and supported him through his military career. On September 29, 2008 she lost a young man who thought of her as a mother. A few days later, she lost him again when JAG awarded his less than desirable step father and brother custody over his remains. Amy Frost wanted Specialist Fox buried in a Veterans cemetery in Knoxville, near her home, where even strangers could know he was an American Hero, and his grave would never go unobserved; instead he was laid to rest in a public cemetery in Memphis.

H.R. 1633 supports our troops and their dying wishes. Passing HJR 31 will be a very meaningful way for Alaska to continue supporting our military while they are in combat.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHJR 31(MLV)
(H) Publish Date: 4/8/2009

Identifier (file name):
Dept. Affected:
Title CSHJR 31SUPPORT SOLDIERS' BURIAL DESIGNATIONS
RDU
Component
Sponsor Representative Bill Thomas
Requester Military and Veterans' Affairs Committee
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: House Military and Veterans' Affairs Committee
Phone
Division
Date/Time
Approved by: Represtative Carl Gatto
Date 4/7/2009

(Revised 9/10/2008 OMB)

§ 1482. Expenses incident to death

(a) Incident to the recovery, care, and disposition of the remains of any decedent covered by section 1481 of this title, the Secretary concerned may pay the necessary expenses of the following:
(1) Recovery and identification of the remains.
(2) Notification to the next of kin or other appropriate person.
(3) Preparation of the remains for burial, including cremation if requested by the person designated to direct disposition of the remains.
(4) Furnishing of a uniform or other clothing.
(5) Furnishing of a casket or urn, or both, with outside box.
(6) Hearse service.
(7) Funeral director's services.
(8) Transportation of the remains, and roundtrip transportation and prescribed allowances for an escort of one person, to the place selected by the person designated to direct disposition of the remains or, if such a selection is not made, to a national or other cemetery which is selected by the Secretary and in which burial of the decedent is authorized.
(9) Interment of the remains.
(10) Presentation of a flag of the United States to the person designated to direct disposition of the remains, except in the case of a military prisoner who dies while in the custody of the Secretary and while under a sentence that includes a discharge.
(11) Presentation of a flag of equal size to the flag presented under paragraph (10) to the parents or parent, if the person to be presented a flag under paragraph (10) is other than the parent of the decedent. For the purpose of this paragraph, the term "parent" includes a natural parent, a stepparent, a parent by adoption or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to him, and preference under this paragraph shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent.
(b) If an individual pays any expense payable by the United States under this section, the Secretary concerned shall reimburse him or his representative in an amount not larger than that normally incurred by the Secretary in furnishing the supply or service concerned. If reimbursement by the United States is also authorized under another provision of law or regulation, the individual may elect under which provision to be reimbursed.
(c) Only the following persons may be designated to direct disposition of the remains of a decedent covered by this chapter:
(1) The surviving spouse of the decedent.
(2) Blood relatives of the decedent.
(3) Adoptive relatives of the decedent.
(4) If no person covered by clauses (1)–(3) can be found, a person standing in loco parentis to the decedent.
(d) When the remains of a decedent covered by section 1481 of this title, whose death occurs after January 1, 1961, are determined to be nonrecoverable, the person who would have been designated under subsection (c) to direct disposition of the remains if they had been recovered may be—
(1) presented with a flag of the United States; however, if the person designated by subsection (c) is other than a parent of the deceased member, a flag of equal size may also be presented to the parents, and
(2) reimbursed by the Secretary concerned for the necessary expenses of a memorial service.

However, the amount of the reimbursement shall be determined in the manner prescribed in subsection (b) for an interment, but may not be larger than that authorized when the United States provides the grave site. A claim for reimbursement under this subsection may be allowed only if it is presented within two years after the date of death or the date the person who would have been designated under subsection (c) to direct disposition of the remains, if they had been recovered, receives notification that the member has been reported or determined to be dead under authority of chapter 10 of title 37, whichever is later.

(e) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member's death, he—

(1) was a member of the Ready Reserve; or

(2) had performed at least twenty years of service as computed under section 12732 of this title and was not entitled to retired pay under section 12731 of this title.

(f) The payment of expenses incident to the recovery, care, and disposition of a decedent covered by section 1481 (a)(9) of this title is limited to the payment of expenses described in paragraphs (1) through (5) of subsection (a) and air transportation of the remains from a location outside the United States to a point of entry in the United States. Such air transportation may be provided without reimbursement on a space-available basis in military or military-chartered aircraft. The Secretary concerned shall pay all other expenses authorized to be paid under this subsection only on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available, at the time of reimbursement, for the payment of such expenses.

RECORD OF EMERGENCY DATA

PRIVACY ACT STATEMENT

AUTHORITY: 5 USC 552, 10 USC 655, 1475 to 1480 and 2771, 38 USC 1970, 44 USC 3101, and EO 9397 (SSN).
PRINCIPAL PURPOSES: This form is used by military personnel and Department of Defense civilian and contractor personnel, collectively referred to as civilians, when applicable. **For military personnel**, it is used to designate beneficiaries for certain benefits in the event of the Service member's death. It is also a guide for disposition of that member's pay and allowances if captured, missing or interned. It also shows names and addresses of the person(s) the Service member desires to be notified in case of emergency or death. **For civilian personnel**, it is used to expedite the notification process in the event of an emergency and/or the death of the member. The purpose of soliciting the SSN is to provide positive identification. All items may not be applicable.
ROUTINE USES: None.
DISCLOSURE: Voluntary; however, failure to provide accurate personal identifier information and other solicited information will delay notification and the processing of benefits to designated beneficiaries if applicable.

INSTRUCTIONS TO SERVICE MEMBER

This extremely important form is to be used by you to show the names and addresses of your spouse, children, parents, and any other person(s) you would like notified if you become a casualty (other family members or fiance), and, to designate beneficiaries for certain benefits if you die. IT IS YOUR RESPONSIBILITY to keep your Record of Emergency Data up to date to show your desires as to beneficiaries to receive certain death payments, and to show changes in your family or other personnel listed, for example, as a result of marriage, civil court action, death, or address change.

INSTRUCTIONS TO CIVILIANS

This extremely important form is to be used by you to show the names and addresses of your spouse, children, parents, and any other person(s) you would like notified if you become a casualty. Not every item on this form is applicable to you. **This form is used by the Department of Defense (DoD) to expedite notification in the case of emergencies or death.** It does not have a legal impact on other forms you may have completed with the DoD or your employer.

IMPORTANT: This form is divided into two sections: Section 1 - Emergency Contact Information and Section 2 - Benefits Related Information. READ THE INSTRUCTIONS ON PAGES 3 AND 4 BEFORE COMPLETING THIS FORM.

SECTION 1 - EMERGENCY CONTACT INFORMATION

1. NAME *(Last, First, Middle Initial)*	2. SSN

3a. SERVICE/CIVILIAN CATEGORY	b. REPORTING UNIT CODE/DUTY STATION
☐ ARMY ☐ NAVY ☐ MARINE CORPS ☐ AIR FORCE ☐ DoD ☐ CIVILIAN ☐ CONTRACTOR	

4a. SPOUSE NAME *(If applicable) (Last, First, Middle Initial)*	b. ADDRESS *(Include ZIP Code)* AND TELEPHONE NUMBER
☐ SINGLE ☐ DIVORCED ☐ WIDOWED	

5. CHILDREN a. NAME *(Last, First, Middle Initial)*	b. RELATIONSHIP	c. DATE OF BIRTH *(YYYYMMDD)*	d. ADDRESS *(Include ZIP Code)* AND TELEPHONE NUMBER

6a. FATHER NAME *(Last, First, Middle Initial)*	b. ADDRESS *(Include ZIP Code)* AND TELEPHONE NUMBER

7a. MOTHER NAME *(Last, First, Middle Initial)*	b. ADDRESS *(Include ZIP Code)* AND TELEPHONE NUMBER

8a. DO NOT NOTIFY DUE TO ILL HEALTH	b. NOTIFY INSTEAD

9a. DESIGNATED PERSON(S) *(Military only)*	b. ADDRESS *(Include ZIP Code)* AND TELEPHONE NUMBER

10. CONTRACTING AGENCY AND TELEPHONE NUMBER *(Contractors only)*

SECTION 2 - BENEFITS RELATED INFORMATION			
11a. BENEFICIARY(IES) FOR DEATH GRATUITY *(Military only)*	**b. RELATIONSHIP**	**c. ADDRESS** *(Include ZIP Code)* **AND TELEPHONE NUMBER**	**d. PERCENTAGE**
12a. BENEFICIARY(IES) FOR UNPAID PAY/ALLOWANCES *(Military only)* **NAME AND RELATIONSHIP**		**b. ADDRESS** *(Include ZIP Code)* **AND TELEPHONE NUMBER**	**c. PERCENTAGE**
13a. PERSON AUTHORIZED TO DIRECT DISPOSITION (PADD) *(Military only)* **NAME AND RELATIONSHIP**		**b. ADDRESS** *(Include ZIP Code)* **AND TELEPHONE NUMBER**	
14. CONTINUATION/REMARKS			
15. SIGNATURE OF SERVICE MEMBER/CIVILIAN *(Include rank, rate, or grade if applicable)*		**16. SIGNATURE OF WITNESS** *(Include rank, rate, or grade as appropriate)*	**17. DATE SIGNED** *(YYYYMMDD)*

DD FORM 93 (BACK), JAN 2008

INSTRUCTIONS FOR PREPARING DD FORM 93

(See appropriate Service Directives for supplemental instructions for completion of this form at other than MEPS)

All entries explained below are for electronic or typewriter completion, except those specifically noted. If a computer or typewriter is not available, print in black or blue-black ink insuring a legible image on all copies. Include "Jr.," "Sr.," "III" or similar designation for each name, if applicable. When an address is entered, include the appropriate ZIP Code. If the member cannot provide a current address, indicate "unknown" in the appropriate item. Addresses shown as P.O. Box Numbers or RFD numbers should indicate in Item 14, "Continuations/Remarks", a street address or general guidance to reach the place of residence. In addition, the notation "See Item 14" should be included in the item pertaining to the particular next of kin or when the space for a particular item is insufficient. If the address for the person in the item has been shown in a preceding item, it is unnecessary to repeat the address; however, the name must be entered. Those items that are considered not applicable to civilians will be left blank.

ITEM 1. Enter full last name, first name, and middle initial.

ITEM 2. Enter social security number (SSN).

ITEM 3a. Service. **Military:** Mark X in appropriate block. **Civilian:** Mark two blocks as appropriate. Examples: an Army civilian would mark Army and either Civilian or Contractor; a DoD civilian, without affiliation to one of the Military Services, would mark DoD and then either Civilian or Contractor as appropriate.

ITEM 3b. Reporting Unit Code/Duty Station. See Service Directives.

ITEM 4a. Spouse Name. Enter last name (if different from Item 1), first name and middle initial on the line provided. If single, divorced, or widowed, mark appropriate block.

ITEM 4b. Address and Telephone Number. Enter the "actual" address and telephone number, not the mailing address. Include civilian title or military rank and service if applicable. If one of the blocks in 4a is marked, leave blank.

ITEM 5a-d. Children. Enter last name (only if different from Item 1) first name and middle initial, relationship, and date of birth of all children. If none, so state. Include illegitimate children if acknowledged by member or paternity/maternity has been judicially decreed. Relationship examples: son, daughter, stepson or daughter, adopted son or daughter or ward. Date of birth example: 19950704. For children not living with the member's current spouse, include address and name and relationship of person with whom residing in item 5d.

ITEM 6a. Father Name. Last name, first name and middle initial.

ITEM 6b. Address and Telephone Number of Father. If unknown or deceased, so state. Include civilian title or military rank and service if applicable. If other than natural father is listed, indicate relationship.

ITEM 7a. Mother Name. Last name, first name and middle initial.

ITEM 7b. Address and Telephone Number of Mother. If unknown or deceased, so state. Include civilian title or military rank and service if applicable. If other than natural mother is listed, indicate relationship.

ITEM 8. Persons Not to be Notified Due to Ill Health.
a. List relationship, e.g., "Mother," of person(s) listed in Items 4, 5, 6, or 7 who are not to be notified of a casualty due to ill health. If more than one child, specify, e.g., "daughter Susan." Otherwise, enter "None".
b. List relationship, e.g., "Father" or name and address of person(s) to be notified in lieu of person(s) listed in item 8a. If "None" is entered in Item 8a, leave blank.

ITEM 9a. This item will be used to record the name of the person or persons, if any, other than the member's primary next of kin or immediate family, to whom information on the whereabouts and status of the member shall be provided if the member is placed in a missing status. Reference 10 USC, Section 655. **NOT APPLICABLE to civilians.**

ITEM 9b. Address and telephone number of Designated Person(s). **NOT APPLICABLE to civilians.**

ITEM 10. Contracting Agency and Telephone Number **(Contractors only). NOT APPLICABLE to military personnel.** Civilian contractors will provide the name of their contracting agency and its telephone number. Example: XYZ Electric, (703) 555-5689. The telephone number should be to the company or corporation's personnel or human resources office.

ITEM 11a. Beneficiary(ies) for Death Gratuity **(Military only)**. Enter first name(s), middle initial, and last name(s) of the person(s) to receive death gratuity pay. A member may designate one or more persons to receive all or a portion of the death gratuity pay. The designation of a person to receive a portion of the amount shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the person may receive. If the member does not wish to designate a beneficiary for the payment of death gratuity, enter "None," or if the full amount is not designated, the payment or balance will be paid as follows:

(1) To the surviving spouse of the person, if any;
(2) To any surviving children of the person and the descendants of any deceased children by representation;
(3) To the surviving parents or the survivor of them;
(4) To the duly appointed executor or administrator of the estate of the person;
(5) If there are none of the above, to other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

The member should make specific designations, as it expedites payment.

INSTRUCTIONS FOR PREPARING DD FORM 93

(Continued)

ITEM 11a. *(Continued)* Seek legal advice if naming a minor child as a beneficiary. If a member has a spouse but designates a person other than the spouse to receive all or a portion of the death gratuity pay, the Service concerned is required to provide notice of the designation to the spouse. **NOT APPLICABLE to civilians.**

Item 11b. Relationship. **NOT APPLICABLE to civilians.**

ITEM 11c. Enter beneficiary(ies) full mailing address and telephone number to include the ZIP Code. **NOT APPLICABLE to civilians.**

ITEM 11d. Show the percentage to be paid to each person. Enter 10%, 20%, 30%, up to 100% as appropriate. The sum shares must equal 100 percent. If no percent is indicated and more than one person is named, the money is paid in equal shares to the persons named. **NOT APPLICABLE to civilians.**

ITEM 12a. Beneficiary(ies) for Unpaid Pay/Allowance **(Military only)**. Enter first name(s), middle initial, last name(s) and relationship of person to receive unpaid pay and allowances at the time of death. The member may indicate anyone to receive this payment. If the member designated two or more beneficiaries, state the percentage to be paid each in item 10c. If the member does not wish to designate a beneficiary, enter "By Law." The member is urged to designate a beneficiary for unpaid pay and allowances as payment will be made to the person in order of precedence by law (10 USC 2771) in the absence of a designation. Seek legal advice if naming a minor child as beneficiary. **NOT APPLICABLE to civilians.**

ITEM 12b. Enter beneficiary(ies) full mailing address and telephone number to include the ZIP Code. **NOT APPLICABLE to civilians.**

ITEM 12c. If the member designated two or more beneficiaries, state the percentage to be paid each in this section. The sum shares must equal 100 percent. **NOT APPLICABLE to civilians.**

ITEM 13a. Enter the name and relationship of the Person Authorized to Direct Disposition (PADD) of your remains should you become a casualty. Only the following persons may be named as a PADD: surviving spouse, blood relative of legal age, or adoptive relatives of the decedent. If neither of these three can be found, a person standing in loco parentis may be named. **NOT APPLICABLE to civilians.**

ITEM 13b. Address and telephone number of PADD. **NOT APPLICABLE to civilians.**

ITEM 14. Continuations/Remarks. Use this item for remarks or continuation of other items, if necessary. Prefix entry with the number of the item being continued; for example, 5/John J./son/ 19851220/321 Pecan Drive, Schertz TX 78151. Also use this item to list name, address, and relationship of other persons the member desires to be notified. Other dependents may also be listed. This block offers the greatest amount of flexibility for the member to record other important information not otherwise requested but considered extremely useful in the casualty notification and assistance process. Besides continuing information from other blocks on this form, the member may desire to include additional information such as: NOK language barriers, location or existence of a Will, additional private insurance information, other family member contact numbers, etc. If additional space is required, attach a supplemental sheet of standard bond paper with the information.

ITEM 15. Signature of Service Member/Civilian. Check and verify all entries and sign all copies in ink as follows: First name, middle initial, last name. Include rank, rate, or grade if applicable. May be electronically signed (see DoD Instruction 1300.18 for guidelines).

ITEM 16. Signature of Witness. Have a witness (disinterested person) sign all copies in ink as follows: First name, middle initial, last name. Include rank, rate, or grade as appropriate. A witness signature is not required for electronic versions of the DD Form 93 (see DoD Instruction 1300.18).

ITEM 17. Date the member or civilian signs the form. This item is an ink entry and must be completed on all copies.

AFA
Air Force Association
1501 Lee Highway, Arlington, Virginia 22209-1198 (703) 247-5800 www.afa.org
An Independent Nonprofit Aerospace Organization

Michael M. Dunn
President/CEO

April 3, 2009

The Honorable Steve Cohen
1005 Longworth House Office Building
Washington, DC 20515

Dear Congressman Cohen:

The Air Force Association, a 501(c)(3) non-profit organization representing approximately 125,000 current and former Airmen and their families, is writing to express our support for H.R. 1633, the Honor the Written Intent of our Soldier Heroes (WISH) Act.

Under current law, servicemembers do not have the option to truly designate a person of their choosing to have the authority of direct disposition over their remains if, dreadfully, they pay the ultimate sacrifice. While current law does allow for this authority for surviving spouses, blood relatives or adoptive relatives, many times this limited authority proves inadequate. In other cases it has proven to be unsavory and off-putting in the eyes of currently-serving or prospective military personnel. Your legislation would rectify this problem by allowing servicemen and servicewomen to designate a person of their choosing to dispose of their remains.

The Air Force Association strongly supports H.R. 1633. Please contact Shane Barker in our Office of Government Relations at (703) 247-5800 ext. 4842 if we can further assist in achieving this important goal.

Sincerely,

Michael M. Dunn
President and CEO

111TH CONGRESS
1ST SESSION

H. R. 1633

To amend title 10, United States Code, to authorize a member of the Armed Forces to designate anyone as the person authorized to direct disposition of the remains of the member if the member dies while on active duty.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2009

Mr. COHEN (for himself, Mr. DUNCAN, Mr. ROHRABACHER, Ms. WATSON, and Ms. MOORE of Wisconsin) introduced the following bill; which was referred to the Committee on Armed Services

---

A BILL

To amend title 10, United States Code, to authorize a member of the Armed Forces to designate anyone as the person authorized to direct disposition of the remains of the member if the member dies while on active duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Honor the Written Intent of our Soldier Heroes Act" or "Honor the WISH Act".

SEC. 2. DESIGNATION OF PERSONS AUTHORIZED TO DIRECT DISPOSITION OF REMAINS OF MEMBERS OF THE ARMED FORCES.

Section 1482(c) of title 10, United States Code, is amended—

(1) by striking "Only the" in the matter preceding paragraph (1) and inserting "The";

(2) by redesignating paragraphs (1) through (4) as paragraphs (2)

through (5), respectively;

(3) in paragraph (5), as so redesignated, by striking "clauses (1)–(3)" and inserting "paragraphs (1) through (4)"; and

(4) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The person identified by the decedent on the record of emergency data maintained by the Secretary concerned (DD Form 93 or any successor to that form), as the Person Authorized to Direct Disposition (PADD), regardless of the relationship of the designee to the decedent.".

Nancy Manly

From: Elizabeth Hensley
Sent: Monday, April 06, 2009 8:47 AM
To: Nancy Manly
Subject: RE: Withdraw of hearing request
Attachments: CSHB106_T.pdf

Good morning Nancy,

Rep. Joule would like to re-request a hearing for HB 106, the VPSO bill. He would appreciate if the Committee would adopt the attached version of the bill (16-LS0402\T). I emailed the bill packet to you last month; would you like me to re-submit the packet?

I hope you enjoyed the weekend.
elizabeth

From: Nancy Manly
Sent: Wednesday, March 11, 2009 3:47 PM
To: Elizabeth Hensley
Subject: RE: Withdraw of hearing request

Done – thanks!

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

From: Elizabeth Hensley
Sent: Wednesday, March 11, 2009 2:41 PM
To: 'Nancy_Manly@legis.state.ak.us'
Subject: Withdraw of hearing request

Hi Nancy,

I apologize, but could I please withdraw the hearing request for CS HB 106 that I submitted yesterday on Rep. Joule's behalf?

Thank you,
elizabeth
–

Elizabeth Saagulik Hensley
Office of Representative Joule
First Alaskans Institute Legislative Fellow
direct line: (907) 465 4924

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4833
Fax (907) 465-4586
1-800-782-4833
Representative_Reggie_Joule@legis.state.ak.us

During Interim:
P.O. Box 673
Kotzebue, Alaska 99752
(907) 442-3880
Fax (907) 442-3022

Alaska State Legislature
REPRESENTATIVE REGGIE JOULE

To: Representative Lynn, Chair, House State Affairs Committee
Representative Seaton, Vice-Chair, House State Affairs Committee

From: Representative Joule

Re: Request for hearing

Date: March 9, 2009

I would like to formally request a hearing on CS HB 106, "An act relating to village public safety officers and regional public safety officers." I have attached my sponsor statement, sectional analysis, bill, and other pertinent information. I would appreciate a hearing as soon as possible. If you have any questions or comments, please do not hesitate to contact Elizabeth Hensley in my office at 465-4924. I appreciate your consideration of this request.

3/10 Asked Elizabeth For info to be in Electronic format

REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us

webpage: www.akrepublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-465-3732

888-461-3732

Memorandum

April 7, 2009

To: Representative Bob Lynn, Chair
House State Affairs Committee

From: Representative Bill Thomas

Subject: Request to Schedule HJR 31 for a Hearing

I respectfully request the scheduling of HJR 31, "Urging the United States Congress to pass the Honor the Written Intent of our Soldier Heroes Act," for a hearing before the House State Affairs Committee at your earliest convenience.

Please contact Josh Tempel, staff person for the Joint Alaska State Legislative Veterans' Caucus, with any questions on the details of this bill. Josh's phone number is 465-4066.

Please find attached pertinent information for the committee.

Thank you.

Attachments

Nancy Manly

From: Josh Tempel
Sent: Tuesday, April 07, 2009 4:33 PM
To: Nancy Manly; Rep. Bob Lynn
Cc: Kaci Schroeder
Subject: Committee Request for HJR 31
Attachments: HJR 31 Committee Request.doc; Sponsor Statement HJR 31.doc

Hello Nancy,

Please find a committee request and sponsor statement for HJR 31 attached. Unfortunately the CS for HJR 31 hasn't popped up online yet, but tomorrow I will send CSHJR 31 and the remaining supporting documents to you.

Sorry about sending a piecemeal request, but I hope this give you a little more time to schedule with.

Thank you,

Josh Tempel

Legislative Staff
Joint Alaska State Legislative Veterans' Caucus
State Capitol, Room 429
Juneau, AK 99801
Phone (907) 465-4066
Fax (907) 465-3265
josh_tempel@legis.state.ak.us

HJR

38

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 19, 2010

FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 2-18-10

The STATE AFFAIRS Committee considered: **HJR 38**

HOUSE JOINT RESOLUTION NO. 38
Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members of the house of representatives to forty-eight and the number of members of the senate to twenty-four.
HJR 38 CONST. AM: INCREASE NUMBER OF LEGISLATORS

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HJR 38 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ [ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
OOG		X		
Legislature		X		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Carl Gatto	Gatto		X		
Paul Seaton	SEATON	X			
Mike Kreiss	Gruenberg	VM		NS E	
Peggy Wilson	WILSON	X			
Pete Petersen	Petersen	X			
Chair: John	LYNN			X	
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 3

Re FINAL CS to HJR 38 (26-LS1323\A)

2/18/10

HJR 38 Version A passed out of the House State Affairs Committee this morning amended. Please draft a final CS with the following amendment:

Amendment #1 (Seaton)
26-LS1323\A.1 (attached)

26-LS1323\A.1
Cook
2/15/10

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HJR 38

Page 1, line 2:
Delete "**forty-eight**"
Insert "**forty-four**"

Page 1, line 3:
Delete "**twenty-four**"
Insert "**twenty-two**"

Page 1, lines 7 - 8:
Delete "**twenty-four**"
Insert "**twenty-two**"

Page 1, line 8:
Delete "**forty-eight**"
Insert "**forty-four**"

Page 1, line 12:
Delete "**forty-eight**"
Insert "**forty-four**"

Page 1, line 13:
Delete "**twenty-four**"
Insert "**twenty-two**"

Page 2, line 7:

Delete "**forty-eight**"

Insert "**forty-four**"

26-LS1323\R

CS FOR HOUSE JOINT RESOLUTION NO. 38(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES PEGGY WILSON, Joule, Salmon, Kerttula, Austerman, Edgmon, Herron, Thomas

A RESOLUTION

Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members of the house of representatives to forty-four and the number of members of the senate to twenty-two.

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

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

Section 1. Legislative Power; Membership. The legislative power of the State is vested in a legislature consisting of a senate with a membership of **twenty-two** [TWENTY] and a house of representatives with a membership of **forty-four** [FORTY].

*** Sec. 2.** Article VI, sec. 4, Constitution of the State of Alaska, is amended to read:

Section 4. Method of Redistricting. The Redistricting Board shall establish **forty-four** [FORTY] house districts, with each house district to elect one member of the house of representatives. The board shall establish **twenty-two** [TWENTY] senate districts, each composed of two house districts, with each senate district to elect one senator.

* **Sec. 3.** Article VI, sec. 6, Constitution of the State of Alaska, is amended to read:

Section 6. District Boundaries. The Redistricting Board shall establish the size and area of house districts, subject to the limitations of this article. Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by **forty-four** [FORTY]. Each senate district shall be composed as near as practicable of two contiguous house districts. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

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

Section 30. Applicability of the 2010 Amendments Increasing the Number of Members in the Legislature. The 2010 amendments increasing the number of members in the legislature (art. II, sec. 1, and art. VI, secs. 4 and 6) apply only to plans for redistricting and proclamations of redistricting adopted on or after January 1, 2011, and to the membership of legislatures subject to those redistricting plans and proclamations.

* **Sec. 5.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HJR38**
() Publish Date:

Identifier (file name): HJR-038-OOG-DOE-2-1-10
Dept. Affected: OOG
Title: Constitutional amendment relating to and increasing the number of members of the house of representatives to....
RDU: Elections
Component: Elections
Sponsor: House State Affairs
Requester: Representative Peggy Wilson
Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services							
Travel							
Contractual		1.5					
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF		1.5					
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is $1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to $22.0.

Prepared by: Gail Fenumiai, Director — Phone 465-4611
Division: Division of Elections — Date/Time 2/1/10,7:30pm
Approved by: Linda Perez, Director — Date
Division of Administrative Services

(Revised 10/13/2009 OMB)

library

Section 6. Redistricting

The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socioeconomic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

878

ALASKA STATE LEGISLATURE

Interim:
P.O. Box 109
Wrangell, AK 99929
Phone: (907) 874-3088
Fax: (907) 874-3055

Session:
State Capitol, Room 406
Juneau, AK 99801-1182
Phone: (907) 465-3824
1-800-686-3824
Fax: (907) 465-3175

REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2

SPONSOR STATEMENT
House Joint Resolution 38

"Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members of the House of Representatives to 48 and the number of members of the Senate to 24."

" ....Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area...." Alaska Constitution Article VI, Section 6, titled Legislative Apportionment.

HJR 38 will put a constitutional amendment before the voters in the 2010 general election that would increase the size of the legislature to 48 representatives and 24 senators. Upon voter approval, the measure would apply to the 2012 determination of new boundary's for the election district.

In the first 50 years of statehood, Alaska has not changed the 20 senator, 40 representative size of its legislative body, the smallest bicameral legislature in the nation. In this time span, the population of the state has more than tripled. Most significantly, the population increase is disproportionate, strongly favoring large urban areas over rural and small community areas. The task then of applying the proscriptions of Article VI, above, has correspondingly become more difficult and contentious. Except for the 1960 reapportionment, all subsequent reapportionments have faced successful legal challenges, requiring boundary adjustments and on several occasions, a court constructed plan.

Federal protections of the U.S. Voter Rights Act of 1965 for large minority concentrations further complicate Alaska's reapportionment process. Indeed, they can act to counter the Section 6 requirements. Rural election district distortions are evident in the current plan. There is a probability that the new population distribution of the 2010 census cannot reconcile Section 6 and the Voter Rights Act without increasing the size of the legislature.

Between 1960 and 2006, twenty nine states have changed the size of their legislative body. For the nine states with small populations similar to Alaska (509,000 to 1,429,000), the average size of their legislative bodies is 134 members.

Another measure of the effect of the state's growth and complexity on the work of the legislature is its budget responsibilities. Legislative expenditures for government programs and projects has risen from a figure of $104 million in FY 61 to somewhere in the neighborhood of $7 billion currently. This is an increase from $2700 per capita in 1961 nominal dollars to $10,000 per capita today.

For these reasons, putting a proposal to increase the size of the legislature before the voters is timely and merited.

26-LS1323\A

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HJR 38**
() Publish Date:

Identifier (file name): HJR38-LEG-COU-1-29-10
Dept. Affected: Legislature
Title "Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members..."
RDU All
Component Various
Sponsor Representative Peggy Wilson
Requester House State Affairs
Component Number Various

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
Personal Services				3,600.0	3,600.0	3,600.0	3,600.0
Travel				350.0	350.0	350.0	350.0
Contractual				520.0	520.0	520.0	520.0
Supplies				170.0	0.0	0.0	0.0
Equipment				1,500.0			
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**6,140.0**	**4,470.0**	**4,470.0**	**4,470.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF				6,140.0	4,470.0	4,470.0	4,470.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**6,140.0**	**4,470.0**	**4,470.0**	**4,470.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time				35	35	35	35
Part-time				16	16	16	16
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

HJR 38 proposes amending the Constitution of the State of Alaska by ballot proposition in the next general election which would increase the membership of the Alaska Senate by four Senators and the Alaska House of Representatives by eight Representatives. If this resolution passes, the ballot proposition would be voted on in the November 2010 general election. If the ballot proposition passes, the Redistricting Board would create their redistricting plan using the new number of districts. For purposes of this fiscal note, it is assumed that the number of Legislators elected to office for the 28th Legislature would total 72. Please note the figure included for capital outlay is for the remodeling cost to accommodate the increased number of Legislators in the Capitol. If a decision were made to create an addition to the Capitol or to construct a new building the figure would be much higher and would likely be included in a capital appropriation.

Prepared by: Karla Schofield, Deputy Director
Division Legislative Affairs Agency
Phone 465-6626
Date/Time 1/29/10 1:14 PM
Approved by: Pamela Varni, Executive Director
Legislative Affairs Agency
Date 1/29/2010

(Revised 11/6/2009 OMB)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. HJR 38

ANALYSIS CONTINUATION

Personal Services - 12 Additional Legislators - 963.0
Assume for staff allocation 1/2 Legislators are in the majority and 1/2 are in minority
34 staff to Legislators - $2,637.0 Support staff include full time - 1 attorney; session only - 2 LIO Officers, 1 Enroller or Help Desk Technician, 1 custodian. Total increase in Personal Service - 3,600.00.

Travel - Assume 1 Legislator from Juneau - Cost to move 11 Legislators and families - 60.0
Cost to relocate an additional 34 staff - 30.0; Cost of increased session per diem - 200.0;
Increase in Legislature's travel budget related to 12 new Legislators - 60.0; Total increase in Travel - 350.0.

Contractual - Allowance Accounts for 4 Senators at 10.0 and 8 Representatives at 8.0 = $104.0;
Connectivity for computers, phones, faxes, and printers - 66.0. Increase in office space for either expanding existing Legislative Information Offices or establishing new offices - 350.0. Total increase in contractual - 520.0.

Supplies - Cost to equip two offices per Legislator and their staff, one office in the district and one office in the Capitol. Items include desktop computers, one laptop per office, printers , hardware, software, which will be shipped to and from the Capital City each year, and one set of furniture for a district office and one set for the Capitol. Furniture items include desks, chairs, phones, file cabinets, fax machines - Total cost to equip offices - 170.0.

Capital Outlay - Cost to remodel the existing chambers in the Capitol and reconfigure space in the Capitol Complex to accommodate 12 new offices would likely, at a minimum, be at least 1,500.0. The cost could be much higher if the Legislature decided to build an addition to the Capitol or construct a new building.

NCSL **Changes in the Sizes of Legislatures 1960-2006**

State	Size in 1960	Size in 2006	Year(s) of Change(s)*
Alabama	141	140	1974
Alaska	60	60	No change
Arizona	108	90	1966
Arkansas	135	135	No change
California	120	120	No change
Colorado	100	100	No change
Connecticut	330	187	1966, 1972
Delaware	52	62	1964, 1968, 1972
Florida	133	160	1962, 1964, 1966, 1972
Georgia	259	236	1968, 1972
Hawaii	76	76	No change
Idaho	103	105	1962, 1964, 1966, 1984, 1992
Illinois	235	177	1972, 1982
Indiana	150	150	No change
Iowa	158	150	1964, 1966, 1970
Kansas	165	165	No change
Kentucky	138	138	No change
Louisiana	144	144	No change
Maine	184	186	1962, 1968, 1972, 1984
Maryland	152	188	1962, 1966, 1974
Massachusetts	280	200	1978
Michigan	144	148	1964
Minnesota	202	201	1972
Mississippi	189	174	1962
Missouri	191	197	1962
Montana	150	150	1966, 1972
Nebraska	43	49	1964
Nevada	64	63	1962, 1966, 1982
New Hampshire	424	424	No change
New Jersey	81	120	1966, 1968
New Mexico	98	112	1964, 1966
New York	208	212	1964, 1966, 1972, 1982, 2004
North Carolina	170	170	No change
North Dakota	164	141	1962, 1964, 1966, 1972, 1976, 1982, 1992, 2004
Ohio	177	132	1962, 1964, 1966
Oklahoma	165	149	1964, 1972
Oregon	90	90	No change
Pennsylvania	260	253	1964, 1966
Rhode Island	144	113	1962, 1966, 2004
South Carolina	170	170	No change
South Dakota	110	105	1972
Tennessee	132	132	No change
Texas	181	181	No change
Utah	89	104	1964, 1966, 1972
Vermont	276	180	1966
Virginia	140	140	No change
Washington	148	147	1972
West Virginia	132	134	1964
Wisconsin	133	132	1972
Wyoming	83	90	1964, 1966, 1972, 1982, 1992

* The year is the election year in which a change took effect, not necessarily the year that the change was adopted.

Two legislative redistrictings - one in 2012 and perhaps another in 2014

Alaska could go through two legislative reapportionments after the 2010 census. The first would be the result of our own state districting process. Inclusive within this process will be contentious litigation that always results. And in Alaska, it has not been infrequent that the Court has taken control and redrawn the plan by appointed court masters.

Now comes the test! Any Alaska plan, or even election laws must be pre-cleared by the U.S. Justice Department civil rights division to ensure it complies with the requirements of the federal U.S. Voters Rights Act of 1965, and subsequent revisions. Alaska is in a special category with nine others states (*all in the Old South*). There were a number of reasons why we earned inclusion, but one was an "English language" test for voting in our state constitution. This was never implemented, and subsequently repealed. **Note:** In fact, Alaska did not even implement voter registration until the election of 1968.

Nevertheless, getting tangled up with U.S. Justice preclearance on the state 2012 plan could cause delay preventing resolution and implementation prior to the 2012 elections. The result of delay would be some kind of interim plan for 2012, i.e. use of the existing plan, the state proposed plan, or temporary court imposed plan.

The problem been with us since before statehood, and is built into the small size of our House and Senate

Alaska's increasingly skewered districting map is a natural result of a very small but fixed number of our 20 member Senate and 40 member House (*smallest in the nation*). The size of the House and Senate is fixed. However, the state's population has grown much faster in the urban areas, along the railbelt, and in coastal cities like Juneau, than in the smaller communities scattered along the extensive Alaska coastline and in the vast rural Interior of the state. This means districts in urban centers become more numerous and compact, but rural districts become fewer and must become huge and ungainly to gather sufficient population for a district, taking in regions completely unrelated and separated from each other.

For example, Sen. Johnny Ellis, D-Anchorage, can walk his downtown Anchorage district North and South, East and West, in just a few hours. Sen. Al Kookesh, D-Angoon, must catch a plane to Juneau (or ferry), catch Alaska Airlines to Anchorage, and then fly to Aniak of the Lower Kuskokwim or Holy Cross on the Lower Yukon. This district is half the size of Alaska.

- *Continued on next page*

We started with an enlarged hour of 40 districts that fit the Alaska socio-economic map perfectly

- *Continued from previous page*

At statehood our first district plan for the House fit the "constitutional socio-economics criteria" almost perfectly. We wonder whether constitutional crafters of this first plan (*done at the 1955 Constitutional Convention*) knew that an increase in the House from 24 members to 40 members would fit the existing socio-political map so well, making most happy. Nevertheless, it did just that "political job. It kept everyone happy, and that may have been especially important during the time of Congressional review and creation of the Statehood Act (*as well as our own Alaska local vote on statehood*).

> **Note:** *The constitutional committee charged with drafting the scheme was not without its bit of controversy and regional politics, i.e. Anchorage against everyone else, the latter reportedly wanting a plan, at least partially, radiating out from turban centers.*
>
> *So, to avoid the "others," meaning Anchorage delegates, reportedly Fairbanks Delegate George Cooper and Nenana/Yukon Delegate Jack Coghill, put together a little mid-night caucus in Delegate George Cooper's basement. Meanwhile, one of their faith kept the Anchorage delegation busy at the Fairbanks Second Avenue Mecca Bar.*
>
> **Note: As most states did at this time Alaska had a Senate based on regional geography.**

This 1955 plan by "population count' was out-of-date by statehood, but another census was just around the corner. Further, everyone probably understood this, because the 1960 reapportionment plan had to do some serious revising, and yet produced little acrimony. *It was the only plan that has escaped court review and litigation.*

The point is that the first statehood districts fit the socio-economic map perfectly. However, from that day on every decennial redistricting forced the outlying and coastal districts into contortions, struggling to fit constitutional criteria and then the mandates of the ethnic criteria imposed by the 1965 U.S. Voters Right Act and subsequent revisions. Further, almost simultaneously the U.S. Supreme Court Tennessee case brought down the traditional regional Senates across the country. This was a political shock in itself

With a 20 member Senate and 40-member House, and a landmass that imposes huge barriers, we are now about out-of-gas in being able to meet the mandates of the U.S. Voters Rights Act. The issue is! Might the U.S. Justice Department question the size of our legislative bodies, and due to their small fixed size, our ability to provide ethnic representation required under the U.S. Voters Rights Act.

- Ongoing series of back grounders

Population trend for Election Districts in 2010

Election District	Pop. 2000	DOL 2008 Est.	2010 Extrapolation	Diff. From Average
1 Ket.	15,031	13,832	13,532	-3,777
2 Sit-Wran-Pet	14,991	14,104	13,882	-3,427
3-Jun	15,203	15,207	15,208	-2,101
4-Jun	15,508	15,220	15,148	-2,161
5 SE islands	15,048	13,368	12,948	-4,361
6 Interior Bush	14,906	14,564	14,479	-2,830
7 Fbks	15,494	16,725	17,033	-276
8 Fbks	15,552	16,597	16,858	-451
9 Fbks	15,723	17,323	17,723	414
10 Fbks	15,599	17,017	17,372	63
11.N. Pole	15,904	17,129	17,435	126
12 Valdez-Hwys	16,303	17,465	17,756	447
13 Mat-Su	16,231	22,529	24,104	6,795
14 Mat-Su	16,119	22,384	23,950	6,641
15 Mat-Su	16,137	22,477	24,062	6,753
16 Mat-Su	16,104	20,015	20,993	3,684
17 Anch	15,819	17,171	17,509	200
18 Anch	15,639	17,032	17,380	71
19 Anch	15,841	17,394	17,782	473
20 Anch	15,837	17,330	17,703	394
21 Anch	15,850	17,321	17,689	380
22 Anch	15,831	17,353	17,734	425
23 Anch	15,847	17,671	18,127	818
24 Anch	15,812	17,415	17,816	507
25 Anch	15,836	17,464	17,871	562
26 Anch	15,823	17,443	17,848	539
27 Anch	15,820	17,261	17,621	312
28 Anch	15,839	17,279	17,639	330
29 Anch	15,846	17,322	17,691	382
30 Anch	15,839	17,229	17,577	268
31 Anch	15,811	17,216	17,567	258
32 Anch	15,839	16,717	16,937	-372
33 Kenai	16,466	17,488	17,744	435
34 Kenai	16,409	17,477	17,744	435
35 Kenai	16,436	17,613	17,907	598
36 Kodiak	14,928	14,240	14,068	-3,241
37 Bristol B- Chain	15,150	13,623	13,241	-4,068
38 Bethel-YK	14,921	15,793	16,011	-1,298
39 Nome	14,966	15,862	16,086	-1,223
40 Kotz-Barrow	15,155	14,693	14,578	-2,731
TOTAL	627,413	679,363	692,351	
Average Population	15,673	16,993	17,309	

Table 3.4 Alaska Population by House and Senate District 2000, 2008.

Area Name	Representative	Senator	July 1, 2008 Population by Age Group								April 1, 2000			
			House District Total	% of Total	Under 5	5-17	18+	% of Total	18-64	65+	Total	% of Total	18+	% of Total
Total			679,720	100.00	56,242	140,642	482,836	100.00	433,384	49,452	626,932	100.00	436,215	100.00
Average Population			16,993		1,406	3,516	12,071		10,835	1,236	15,673		10,905	
HD 1 SD A	Kyle Johansen (R)	Bert Stedman (R)	13,832	2.03	967	2,561	10,304	2.13	8,899	1,405	15,031	2.40	10,817	2.48
HD 2 SD A	Peggy Wilson (R)		14,104	2.07	880	2,559	10,665	2.21	8,974	1,691	14,991	2.39	10,809	2.48
HD 3 SD B	Beth Kerttula (D)	Dennis Eagan (D)/2	15,207	2.24	936	2,424	11,847	2.45	10,206	1,641	15,203	2.42	11,459	2.63
HD 4 SD B	Cathy Engstrom Munoz (R)		15,220	2.24	1,143	3,051	11,026	2.28	10,174	852	15,508	2.47	10,835	2.48
HD 5 SD C	Bill Thomas (R)	Albert Kookesh (D)	13,368	1.97	819	2,516	10,033	2.08	8,584	1,449	15,048	2.40	10,669	2.45
HD 6 SD C	Woodie Salmon (D)		14,564	2.14	1,236	3,364	9,964	2.06	8,621	1,343	14,905	2.38	9,774	2.24
HD 7 SD D	Mike Kelly (R)	Joe Thomas (D)	16,725	2.46	1,143	3,542	12,040	2.49	11,059	981	15,494	2.47	10,899	2.50
HD 8 SD D	David Guttenberg (D)		16,597	2.44	1,055	2,974	12,568	2.60	11,773	795	15,552	2.48	11,572	2.65
HD 9 SD E	Scott Kawasaki (D)	Joe Paskvan (D)	17,323	2.55	1,554	3,086	12,683	2.63	10,687	1,996	15,723	2.51	11,261	2.58
HD 10 SD E	Jay Ramras (R)		17,017	2.50	2,100	2,935	11,982	2.48	11,010	972	15,599	2.49	10,847	2.49
HD 11 SD F	John Coghill (R)	Gene Therriault (R)	17,129	2.52	1,449	3,769	11,911	2.47	11,134	777	15,904	2.54	10,826	2.48
HD 12 SD F	John Harris (R)		17,792	2.62	1,700	3,883	12,209	2.53	11,314	895	16,303	2.60	10,861	2.49
HD 13 SD G	Carl Gatto (R)	Linda Menard (R)	22,559	3.32	1,843	5,101	15,615	3.23	13,859	1,756	16,231	2.59	10,835	2.48
HD 14 SD G	Wes Keller (R)		22,384	3.29	2,123	5,081	15,180	3.14	13,745	1,435	16,119	2.57	10,567	2.42
HD 15 SD H	Mark Neuman (R)	Charlie Huggins (R)	22,477	3.31	1,632	4,668	16,177	3.35	14,455	1,722	16,137	2.57	11,235	2.58
HD 16 SD H	Bill Stoltze (R)		20,015	2.94	1,493	4,416	14,106	2.92	12,743	1,363	16,104	2.57	11,082	2.54
HD 17 SD I	Anna Fairclough (R)	Fred Dyson (R)	17,171	2.53	1,242	4,239	11,690	2.42	11,035	655	15,819	2.52	10,642	2.44
HD 18 SD I	Nancy Dahlstrom (R)		17,032	2.51	2,376	3,428	11,228	2.33	10,858	370	15,639	2.49	10,266	2.35
HD 19 SD J	Pete Petersen (D)	Bill Wielechowski (D)	17,394	2.56	1,455	3,682	12,257	2.54	10,796	1,461	15,841	2.53	11,020	2.53
HD 20 SD J	Max Gruenberg (D)		17,330	2.55	1,971	3,860	11,499	2.38	10,454	1,045	15,837	2.53	10,397	2.38
HD 21 SD K	Harry Crawford (D)	Bettye Davis (D)	17,321	2.55	1,330	3,735	12,256	2.54	11,179	1,077	15,850	2.53	11,086	2.54
HD 22 SD K	Sharon Cissna (D)		17,353	2.55	1,393	3,324	12,636	2.62	11,419	1,217	15,831	2.53	11,413	2.62
HD 23 SD L	Les Gara (D)	Johnny Ellis (D)	17,671	2.60	1,075	2,289	14,307	2.96	11,700	2,607	15,847	2.53	12,703	2.91
HD 24 SD L	Berta Gardner (D)		17,415	2.56	1,375	3,028	13,012	2.69	11,447	1,565	15,812	2.52	11,696	2.68
HD 25 SD M	Mike Doogan (D)	Hollis French (D)	17,464	2.57	1,317	2,656	13,491	2.79	11,874	1,617	15,836	2.53	12,129	2.78
HD 26 SD M	Lindsey Holmes (D)		17,443	2.57	1,178	3,028	13,237	2.74	11,521	1,716	15,823	2.52	11,877	2.72
HD 27 SD N	Robert L."Bob" Buch (D)	Lesil McGuire (R)	17,261	2.54	1,395	3,682	12,184	2.52	11,286	898	15,820	2.52	11,053	2.53
HD 28 SD N	Craig Johnson (R)		17,279	2.54	1,349	3,907	12,023	2.49	11,053	970	15,839	2.53	10,893	2.50
HD 29 SD O	Chris Tuck (D)	Kevin Meyer (R)	17,322	2.55	1,588	3,311	12,423	2.57	11,506	917	15,846	2.53	11,271	2.58
HD 30 SD O	Charisse Millett (R)		17,229	2.53	1,484	4,014	11,731	2.43	11,033	698	15,839	2.53	10,673	2.45
HD 31 SD P	Bob Lynn (R)	Con Bunde (R)	17,216	2.53	1,135	4,078	12,003	2.49	11,115	888	15,811	2.52	10,886	2.50
HD 32 SD P	Mike Hawker (R)		16,717	2.46	966	3,435	12,316	2.55	11,262	1,054	15,329	2.45	11,161	2.56
HD 33 SD Q	Kurt Olson (R)	Thomas Wagoner (R)	17,488	2.57	1,275	3,588	12,625	2.61	10,913	1,712	16,466	2.63	11,220	2.57
HD 34 SD Q	Mike Chenault (R)		17,477	2.57	1,048	3,458	12,971	2.69	11,209	1,762	16,409	2.62	11,524	2.64
HD 35 SD R	Paul Seaton (R)	Gary Stevens (R)	17,613	2.59	1,145	3,141	13,327	2.76	11,423	1,904	16,436	2.62	11,815	2.71
HD 36 SD R	Alan Austerman (R)		14,240	2.09	1,252	3,264	9,724	2.01	8,784	940	14,928	2.38	10,019	2.30
HD 37 SD S	Bryce Edgmon (D)	Lyman Hoffman (D)	13,623	2.00	854	2,365	10,404	2.15	9,733	671	15,150	2.42	11,192	2.57
HD 38 SD S	Bob Herron (D)		15,793	2.32	2,018	4,517	9,258	1.92	8,356	902	14,921	2.38	8,970	2.06
HD 39 SD T	Richard Foster (D)	Donald Olson (D)	15,862	2.33	2,079	4,666	9,117	1.89	8,192	925	14,996	2.39	8,845	2.03
HD 40 SD T	Reggie Joule (D)		14,693	2.16	1,869	4,017	8,807	1.82	7,999	808	15,155	2.42	9,116	2.09

Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section, Demographics Unit, August 5, 2009

/1Official Returns, November 2008 General Election,State of Alaska Division of Elections

/2 Dennis Eagan appointed to fill the unexpired term of Kim Elton.

Alaska State Legislature

Representative Peggy Wilson
House District 2

MEMORANDUM

Date: January 27, 2010

To: Representative Bob Lynn, Chair, State Affairs Committee

From: Representative Peggy Wilson PW

Re: HJR 38 – Constitutional Amendment: Increase Number of Legislators

I would like to request the House State Affairs Committee schedule a hearing on HJR 38.

HJR 38 will put a constitutional amendment before the voters in the 2010 general election that would increase the size of the legislature to 48 representatives and 24 senators. Upon voter approval, the measure would apply to the 2012 determination of new boundary's for the election district.

Thank you for your consideration.

26-LS0274\C

SB 29

HOUSE COMMITTEE REPO

(7)
Date Referred to Committee: March 19, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 3-26-09

The STATE AFFAIRS Committee considered: **SENATE BILL NO. 29**

"An Act naming the Capitol Annex the Thomas B. Stewart Legislative Office Building."

SB 29 NAMING THOMAS B. STEWART LEG. OFFICE BLDG

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
LEG	1			0

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson			Y	
	SEATON	X			
	WILSON	~			
	Greenberg	✓			
Chair:	LYNN	X			
Chair:					

SENATOR KIM ELTON

SB 29

"An Act naming the Capitol Annex the Thomas B. Stewart Legislative Office Building."

Sponsor Statement

SB 29 would name the Capitol Annex the Thomas B. Stewart Legislative Office Building in honor of Judge Thomas B. Stewart and his countless contributions to the State of Alaska. The Capitol Annex was formerly known as the Scottish Rite Temple and is currently under renovation.

Tom Stewart was known and respected throughout Alaska. He served in the territorial House of Representatives and was a driving force behind the Alaska Constitutional Convention and Alaska statehood. Tom then served as a state senator in the first Alaska Legislature. The remainder of his professional career was spent serving as a Superior Court judge.

More than the distinguished positions he held, Tom was known and respected for his character, wisdom, and leadership. He led by example and remains an inspiration to Alaskans. As we celebrate Alaska's 50th anniversary of statehood this year, it's an appropriate time to honor Judge Thomas B. Stewart.

The estimated completion date of the renovation of Capitol Annex is August 31, 2009.

ALASKA SENATE
STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108
SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: **SB 29**
(S) Publish Date: 2/27/09

Identifier (file name): SB29-LEG-COU-2-20-09
Dept. Affected: Legislature
Title "An Act naming the Capitol Annex the Thomas B. Stewart..."
RDU Council and Subcommittees
Component Administrative Services
Sponsor Senators Elton, Ellis, Therriault, Paskvan, Thomas
Requester Senate State Affairs
Component Number 780

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
This legislation has zero fiscal impact on the Legislative Affairs Agency. The cost to prepare and install an appropriate plaque will be absorbed within existing budgets.

Prepared by: Karla Schofield, Deputy Director
Phone 465-6626
Division Legislative Affairs Agency
Date/Time 2/20/09 3:30 PM
Approved by: Pamela Varni, Executive Director
Date 2/20/2009
Legislative Affairs Agency

(Revised 9/10/2008 OMB)

Kristen Bressette

From: John Havelock [jehavelock@yahoo.com]
Sent: Tuesday, February 24, 2009 3:08 PM
To: Sen. Kim Elton
Subject: SB 29

I understand you are sponsoring a bill to name the old Mason's Building after Tom Stewart. I could not think of a more apropriate name. Tom Stewart was an able Senator, profoundly conscientious, a just judge, one of a handful of truely influential Convention delegates and an honest and accurate reporter of this state's history, consitutional and otherwise.. There is every reason to endorse this naming. John Havelock

Kristen Bressette

From: Victor Carlson [victorcarlson@yahoo.com]
Sent: Tuesday, February 24, 2009 5:09 PM
To: Sen. Kim Elton
Subject: Naming of old Masonic Hall

Dear Senator Elton:

It is with great pleasure that I support your bill to name the old Masonic Hall to honor the late Thomas Stewart.

As a colleague of Judge Stewart and an admirer from the first time I met him in 1962 I believe he set the standard for which every public servant should strive.

You and your colleagues are to be congratulated for taking this action.

Very truly yours,

Victor D. Carlson

Kristen Bressette

From: miranda2@gci.net
Sent: Tuesday, February 24, 2009 5:27 PM
To: Sen. Kim Elton
Subject: Senate Bill 29

Dear Senator Elton:

I will not be able to attend Thursday's Senate State Affairs Committee's hearing on Senate Bill 29, proposing to name the former Scottish Rite Temple building after Thomas B. Stewart, but wanted to express my support.

I am sure that countless Alaskans will provide you and the Committee with equally countless reasons why there is no person more deserving to have this building named after him than Tom Stewart. There's not much I can add to that except to say that I can't imagine anything more fitting than to name a building once used for Scottish rites after a guy named "Stewart."

For what it's worth, the bill has my wholehearted (and loving) support. Thanks for initiating the idea.

Sincerely,

Susan Burke

Kristen Bressette

From: Steve Cowper [scowper@mindspring.com]
Sent: Wednesday, February 25, 2009 6:08 PM
To: Sen. Kim Elton
Subject: Tom Stewart

Kim -

I am told there is a move to name an annex to the capitol building after Tom Stewart. Count me as a supporter.

Tom Stewart was sui generis, a legal term that means one of a kind.
Born in Juneau, and coming of age as he did with the fabled 10th Mountain Division in the Aleutians, he personified the history of Alaska from the 1920s until his death last year. He participated in most of that history and influenced events in a way that called up our better nature. Fortunately, the rest of us got to benefit from his wisdom and decency. We'll not see his like again.

Steve Cowper

Kristen Bressette

From: Jessica Dillon [jessica.r.dillon@gmail.com]
Sent: Wednesday, February 25, 2009 9:35 PM
To: Kristen Bressette
Subject: SB 29 - Support Note

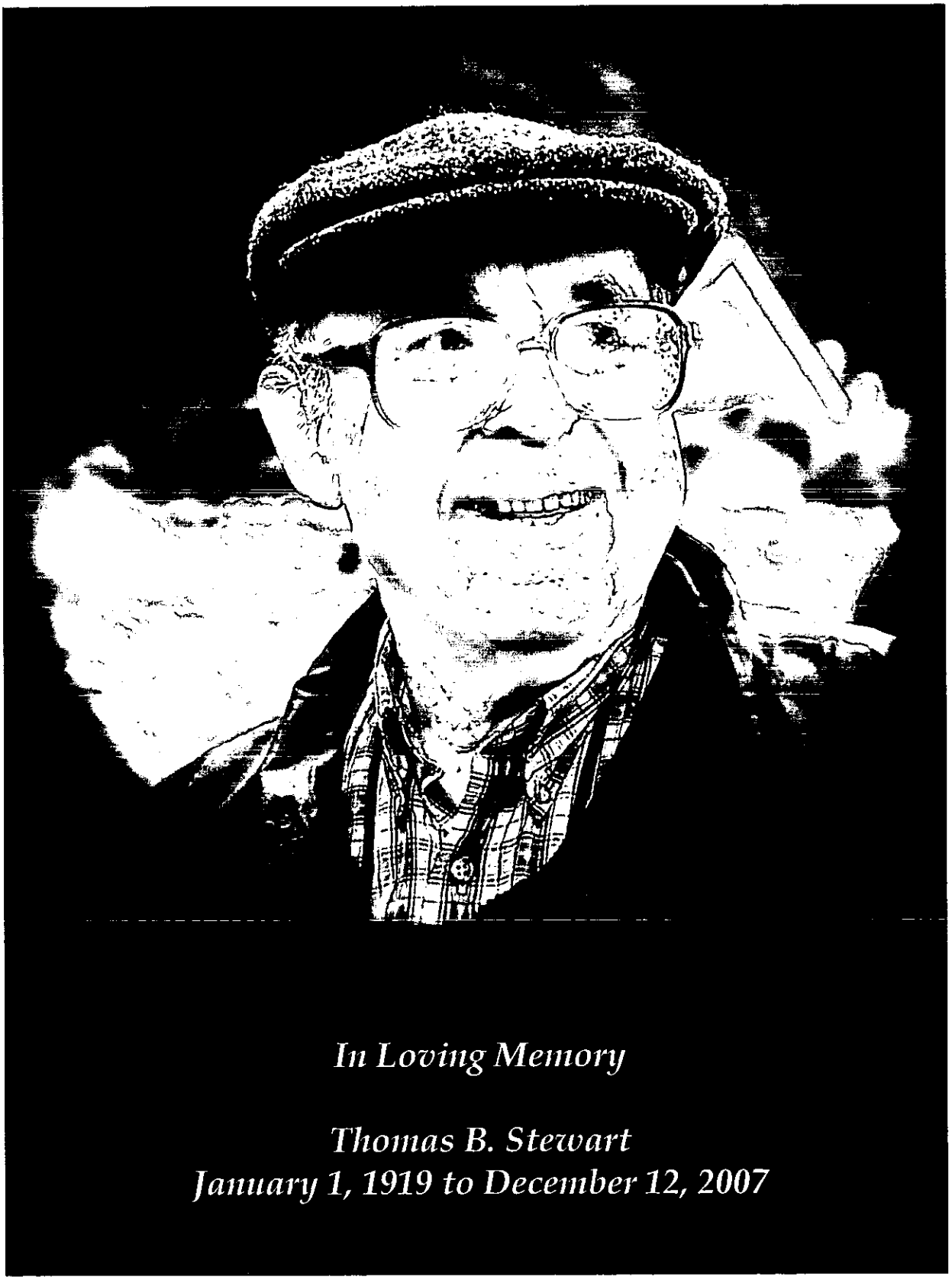
I am in support of naming the capitol annex, formly the Scottish Rite Temple, after my grandfather, Thomas B. Stewart.

My grandfather's life work demonstrated his unwavering commitment to public service in Alaska; He was an exemplary Alaskan.

I believe this building would be a worthy tribute to him.

Sincerely,

Jessica Dillon
726 "O" Place, Apt. 102
Anchorage, AK 99501



In Loving Memory

Thomas B. Stewart
January 1, 1919 to December 12, 2007



Tom and I have had 88 years together and I treasure dearly this lifetime experience. We actually met as babies. I lived with my family in a house on 12th and "A" streets. Our mothers were good friends so we spent a great deal of time at each other's homes. A lot of time was spent at the Evergreen Bowl (now Cope Park) sailing boats and rafting the big pond, which was in the bowl at that time. Mt. Roberts was one of our favorite hikes and we climbed it many times together. Fishing was another hobby for both of us and we had many trips all over Southeast Alaska. Tom said one of these was the best of his life. This incident occurred in peril Straits for coho salmon. Tom has been in our home hundreds of times over the years. He brought Jane with him and she really enjoyed hearing our stories. We are truly missing Tom and all of the wonderful things he has done for us, but we do have our wonderful memories.
– Dean Williams

*

I will always remember Tom Stewart: his humor, optimism, balanced perspective, memory for details, wisdom, love for Jane, honesty, Gilbert and Sullivan cameos, love for Alaska, wide ranging dinner table conversation, respect for the law, hiking tours and tales about mining in early Juneau, his friendship with Jay Hammond, patience with all the rehearsals at the Stewart home, and love for his family. I always learned something, every time I talked with Tom, and felt blessed to have known him as a friend. Tom, I will always think of you with respect, admiration and affection. - Fran Ulmer

*

I was deeply saddened by the passing of a wonderful man I have known since childhood. A very young Tom Stewart was a chum of my cousin's. They kept in touch over the years and never forgot getting rides on the Juneau Fire Trucks in the 4th of July parade on the lap of my father, Elliott Fremming. – David Fremming

*

Our flag's 49th star shines all the brighter because of Tom Stewart. As the young lawyer and Territorial Legislator who worked hard for statehood, he was the spark that led to organizing our Constitutional Convention. As the Convention's secretary, it was his hard work and research that ensured Alaska's Constitution would become the model for others to copy.

Tom's skills and accomplishments were far beyond the capacity of most men. A decorated veteran for his World War II service in Italy, he was an accomplished skier and outdoorsman, a prodigious reader, a great dad, and a fair and legendary judge. Alaska has lost a true Renaissance man, and I have lost a good friend. – Ted Stevens

Meeting Judge Stewart is high on the list of my fond memories of my Juneau years. As a settlement conference judge after he "retired", he was well prepared, very polite, never rushed, and got matters resolved. When we met around town, he would stop and chat, usually about some aspect of Juneau history, such as the 4th of July race up to the top of Mt. Juneau back in the twenties. - Bill Chisham

*

When I first lived in Juneau, I knew Tom as another single guy who skied, chased girls, and partied. Juneau was about 2,500 people, if memory serves me correctly. A fairly cohesive group of Tom's friends (myself included) would gather now and then for beach parties at Auke Bay. – Bruce Campbell

*

One time when I was on the stand giving my testimony, the opposing lawyer saw fit to call me a liar. (I was telling the truth and I had a signed letter in my pocket from the Governor that supported my story.) I sensed that this was not a wise move on the part of that attorney and that he made a very serious tactical error in calling me a liar. A dark cloud, or look of sternness, came over Judge Stewart's face. The second time I interacted with Judge Stewart in a formal way was when he served as the mediator to keep our case out of court. He was so gracious in supervising the process. So while I experienced the Stewarts' graciousness in their home, my most profound memory was Judge Stewart's graciousness in his professional life. Alaska and Juneau are blessed to have both Judge Tom Stewart and Jane Stewart in its history. - John J. Shaffer

*

We shall remember Tom with much fondness. Years ago he encouraged us to visit Alaska, and with great thoroughness planned our twelve-day itinerary. Like an expert tour director, he prearranged our accommodations and ferry reservations. Tom was a magnificent man who contributed richly to Alaska and our country during both war and peace. - Loretta and John Engle



*

When I was 10 or 11, and the Stewarts were living in Anchorage, Mr. and Mrs. Stewart took Mary and me to see the production of Oklahoma at the Sydney Laurence Auditorium. After the show I spent the night with Mary. We slept in 'the barn' which was always fun. The next morning, in came Mr. Stewart swinging a tray with our breakfast on it and singing Oh What a Beautiful Morning. He served us breakfast in bed. I still smile every time I think about that, and 40 years later it's still the only time I've ever been served breakfast in bed. - Elizabeth Nesbett Lake



I met Tom and Jane in 1985. George Rogers wanted the Juneau Lyric Opera to do a Gilbert and Sullivan production of Iolanthe, and Jane was the musical director. For the next three years it was my privilege to be paired with Elizabeth in Iolanthe, The Gondoliers, and The Merry Widow. I spent many hours in the Stewart house singing and practicing for these various roles. Just walking in the back door you could tell that theirs was a warm, loving home. During Iolanthe, Tom played the part of the Guard. His solo opened the second act. To see this distinguished, honorable man dressed in a red soldier's uniform and tall furry hat strutting around the stage and singing about the ignorance of the political establishment was hysterical. And, one of the biggest laughs in the entire play came in the finale; when Tom popped open his wings to fly with the Fairy Queen to Fairy Land. It was a true delight to work with him. I was blessed to have known and become friends with the Stewarts. - Bob Jacobson

*

To know Tom Stewart was to touch the Alaska Constitution. Through him, we experienced the delegates' work at the convention, and came to know the purpose and strength of the bedrock document they created. In the legal community, Judge Stewart was a compass. We revered him, and will miss him very much. – Morgan Christen

*

I first met Tom about 35 years ago. He arrived at my home for dinner with Bob and Donna and presented me with a lovely bouquet of flowers. I had wonderful visits with Jane and Tom, including a fishing trip the five of us took on the No Weigh to Mitchell Bay, one of Tom's favorite places. I brought four of my grandchildren, separately, to Juneau on cruises. On each trip, Tom always met us at the dock and took us on an historical tour of the town, including a visit to his office and chambers. Each had their picture taken in the Judge's seat. Tom had friends all over the world and I felt honored to be one of them. He could hold you spellbound with stories of his adventures. He will always be missed. – Dobey Peacock



*

A shared frustration and regret by most adult children is our not having listened more closely to stories and information passed on to us from our own parents and grandparents as they raised us. It was Tom who helped bridge some of those gaps after my parents and grandparents were gone. I will always be grateful to him. – Alison Eastaugh Browne

I feel extremely lucky to have been a part of Grandpa's life. All the people I met through him had such a tremendous light about them and were so friendly, sincere, and caring. Their collective character said so much about what an extraordinary person Grandpa was, that so many different people should care so much for him. Grandpa wanted to bring the people he loved together, and we all got to meet and know an almost endless stream of amazing people through him because he was so amazing himself. – Jared Hendricks



*

Without a lecture or a textbook, without talking about the how and why of things, and without even acknowledging that he was doing it, Tom Stewart was probably the greatest teacher I ever encountered. Whether it was how to conduct oneself in a courtroom, or how to deal with the vagaries of a Juneau winter, or how to maintain a friendship across the years and across the miles, Tom was always the perfect model. As a result, if you wanted to succeed at something, you simply tried to do it as he did.

His courtroom, for example, was an oasis of calm, courtesy, and rationality – even with the most difficult of cases – such that a young lawyer would quickly learn that the bombast and theatrics one might see on television trials were not only counterproductive, but wrong. The term "role model" is widely over-used these days (why should anyone presume that a professional athlete is a role model for children?) but as applied to Tom Stewart it seems a perfect fit: Whether as a judge or a legislator or a friend or a parent – or in any of countless other roles – Tom Stewart taught us how to act by doing it himself as it should be done. These were lessons worth learning.
– Bud Carpeneti

*

I'll never forget going over to Tom's house and being greeted by him with his pajama bottoms pulled up over his belly button and his toes hanging over his Birkenstocks.
- Tighearnan O'Malley

Because Tom was always a great gentleman, one who embraced the many bounties with which life rewarded him in return for his generous, warm-hearted, supportive and enthusiastic nature, there was never an occasion when we weren't richer for his presence.

Perhaps the occasions that most stand out for us were the times when he offered his home as a salon so that friends could gather and share the gift of music. Of course, the Stewart home was not only a salon for music, but one for lovers of exploring, history and much else besides.

But it is the dozen or so times that we performed at the house, in the early years with Jane at the piano and later, when her presence had become that of a benevolent spirit, with other pianists, that we recall with unique fondness.

Performers, after studying their pieces with love and care, treasure the opportunity to bring that love and care to others, and Tom, in his generosity, warmth and enthusiasm understood that perfectly. The occasions he created were special creations, meant for his guests to have special experiences and for us so they were, and they remain as highlights, musically, socially and personally. – Linda and Paul Rosenthal

*

I was stranded one day and could not get hold of anyone to provide me with a ride downtown, including Grandpa. So, I went to the bus stop and got on the next bus. I found Grandpa sitting in the first seat, first row, and was so surprised, because at that time he had three cars. I asked him why he was riding the bus. He responded that he had a lot of houseguests who needed his cars, and that he enjoyed taking the bus. His generosity and unselfishness never ceased to amaze me. Since it was raining, I tried to persuade him to get off the bus at a stop where it would be a short walk to his house, instead of at his usual stop that was several blocks further away. He turned to me, and said, "of course it's raining, we live in a rain forest and we need the rain." And he then continued, "and we need the exercise too." Of course! What was I thinking? So, we had a nice stroll up through Evergreen Cemetery, and although I returned to work soaked from the rain, I felt fortunate to have had this additional time with him before I headed south, and to have gained a few more "little life lessons" from him.
– Jessica Dillon





I remember when I was just a little girl, Dad took me and my sister, Elizabeth, up the Taku in his outboard motor boat. We jumped the beaver dam, stopped to visit a friend living rough in the woods, fished, and ate ice cream at Taku Lodge – all very exciting for a youngster. On the way home we ran into a wicked squall. I could see other open boats heading into shore and asked Dad to please, please, please take us in. He said, no, your mother will worry if we're late, we need to get back to town. Over the years, he took me to some great fishing spots: Shelter, Outer Point, Taku, Mitchell Bay, Nushagak. He didn't always fish, saying he had caught his fair share many years earlier, but he took me to the fish and was thrilled when I caught one. He was always eager to help in any way he could, and usually went above and beyond the call of duty, as Mom would say. Late in life, when the adventuring became too strenuous for him, he would happily smile, give me a hug and a kiss, then wave goodbye, as I took off on my own. I will sorely miss those hugs and kisses, and that loving wave and bright smile. – Donna Stewart

*

This is a poem from the New Yorker that Tom used to recite to parents in divorce settlement conferences. It never failed to make a huge impact, and helped to make the tone of the conference child-centered. - Kathy Ruddy

VOICE OF GOOD COUNSEL WITH ECHO

Because a child is not a flower
And will not wither from the stem,
Do not conspire against the hour
That you must needs let go of him.

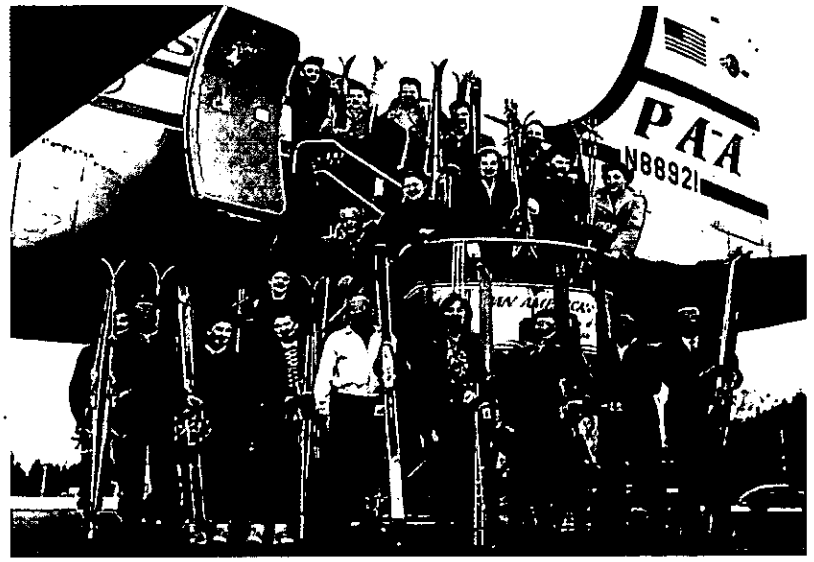
Because a child is not a feast
However much he feed your pride,
Against the hour he is released
Set other food and drink aside.

Because a child is not a reason
And calls but does not justify,
Plan to outline his needy season
And listen now beyond his cry.

Because a child is not a king,
Put you some other livery on,
Lest you stand, bare and shivering,
When he is garmented and gone.



Oh flower that from my roots did spring, My feast, my reason and my king.



In the early spring of 1952, Tom's parents decided to move to Europe for two years, and left Tom in charge of the house. Tom invited several of his friends to room at the house and share expenses. It seemed like we were always doing something. He and Dean Williams had big plans for the Ski Bowl, and almost immediately involved me as a willing recruit. This included fixing up the Dan Moller trail down from Third Cabin, starting a Ski Patrol, acquiring the Sno-Cat, and hauling auto wheels and 2,400 feet of rope up the 3 miles to the bowl and mounting them on poles to create a new ski tow. Tom was the guiding light behind all this. Tom's enthusiasm, organizing skill, and unassuming personality helped to make him a very effective leader in all the projects that he undertook.

The Taku River was another favorite place for adventuring, and we made several trips in Tom's 25-foot long flat bottom riverboat with the 22 outboard motor. When we encountered a log jam or beaver dam, Tom would head directly for the obstruction at full speed, allow the boat to run up on the obstruction, and then at the last second, slow the motor and rapidly turn the crank so the motor would be raised high enough to clear the obstruction, when it passed under the boat. This required intense concentration and time, but Tom was usually skilled enough to accomplish the task.

Tom displayed to each of us his intense love of the outdoors, and particularly his love and encyclopedic knowledge of Southeast Alaska. Without his enthusiasm and intimate knowledge of each inlet, cove and mountain, it was doubtful if many of us would have ever seen this spectacular country. Tom was one of the finest human beings Loretta and I have ever known. He was a wonderful combination of a person with very high intelligence and fantastic memory, but at the same time very kind, generous and helpful to others. He was self-effacing in most circumstances, but when he wanted to make a point in a discussion, he could put together all the right words in the right sequence to make the argument. He was the true definition of a "friend" to hundreds of people, I am sure. He was always helping others in countless ways. Mostly these kind gestures went unnoticed, which is the way Tom preferred to do it. We will all miss him terribly, but are very grateful that we did have the opportunity to know and enjoy him as long as we did. – Dick Holmgren



Tom visited us every Christmas Eve. He always brought a shiny bag filled with smoked salmon, fresh bagels, and cream cheese. He would sit with us by the Christmas tree and talk about past Christmases, family, and the news. I loved these visits. – Annie Carpeneti

*

At an arts fundraiser, my friends Alison and Forrest Browne won a continental breakfast for 10 prepared by Tom Stewart, followed by a hike with him up the Perseverance Trail while he explained early Juneau mining history. I was invited.

We started with coffee and blueberry muffins prepared and served by Tom at the Stewart house. As we began hiking, I asked him why he had a pair of hip waders strapped to his backpack. He replied, "In case I need to carry a woman across the creek along the trail." Such gallantry! That was about 1990. Tom would have been 70 years old. The women on the hike were disappointed that the foot bridges were intact that spring, and there was no deep, standing water on the trail. – Sharon Satre Kelly



*

Many of us feel that we've lost not only a wonderful colleague and mentor, but someone who was in many ways a father to us: a father of our constitution; a father of our justice system, including a judicial selection process admired around the nation and world; and a father of so many chapters in our state's young history. – Dana Fabe

*

Dad took me grouse hunting up the Eklutna Lake Road. As we drove along slowly with the windows rolled down, he told me all he knew about hunting grouse: what to look for, how to find them, etc. I spotted one about 100 feet in front of the car. I said, "Dad, there's a grouse!" "Where?" he asked. "Right in front of us on the road. Stop, you'll run it over." We both got out of the car and he said, "I still can't see it. Where is it?" And before I answered, I pulled out my rifle and shot it. He jumped in shock, then turned to me and said "You could have told me you were going to shoot it, but now I see it. And it is a grouse." – Steve Stewart

As Dean of Tom's proud alma mater, the Yale Law School, I write to express the deep admiration and affection of everyone of Judge Tom Stewart's community for the life and work of this great man. He was a truly remarkable person: an extraordinary judge and patriot, a gifted lawyer, a loving husband and father, and a remarkable friend.

At Yale Law School, we ask our graduates to combine vision with action, humanity with excellence. Tom Stewart did both throughout every phase of his life: his time in the army, his years at Yale Law School, his work on the Joint House and Senate Committee on Statehood, and as chief organizer of the Alaska Constitutional Convention. He was both a Founding Father and a gifted storyteller and his book about the Alaska Constitutional Convention is a memorable recounting of how human excellence and decency can make the law live for a rugged people. Judge Tom went on to serve in both the territorial and state legislatures, to administer the state court system, and to sit 15 years as a respected Superior Court judge. Few Alaskans, and few American lawyers, can claim a comparable level of governmental service. In retirement, he continued to be unflagging in his commitment to his community, and most of all to his extraordinary, close-knit family.

To be honest, at Yale Law School, we don't see many students from Alaska. I have had the personal pleasure of "coming into the country" on a boat sailing from Seattle to Juneau, to see the eternal sunrise at Homer Spit and Nome, to fish the Deshka River, and to gaze at the crest of Denali. At such moments, Alaska seems, quite frankly, to be a land governed more by nature than by people or law. To bring a smoothly working constitution to such a vast expanse takes vision, decency, imagination, and precision. It takes patriotism and statesmanship of the highest order. All of these qualities Judge Tom Stewart wielded in abundance.

Tom Stewart was the living embodiment of the Alaska Constitution, and for us, a brilliant, potent piece of Yale Law School in the Great Northwest. We will remember him with great great pride, and think of you, his friends and family as you recall the many gifts that he gave to all of us. – Harold Hongju Koh



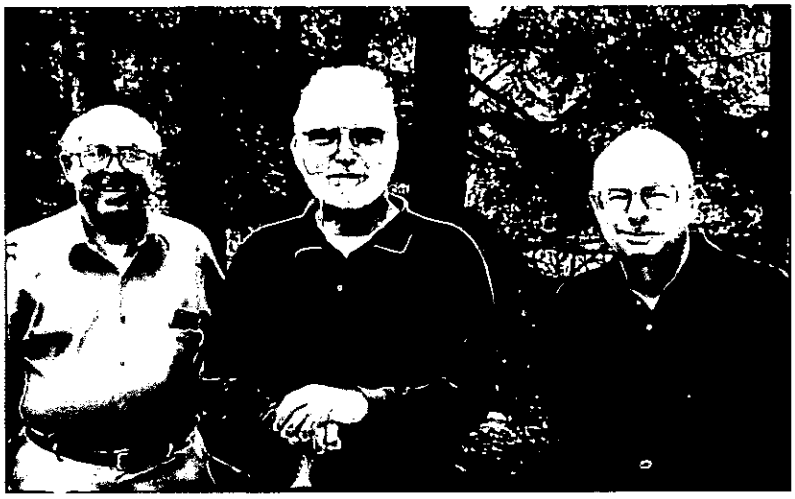
Alaska today, and for all time, would have been dramatically different if it weren't for Judge Stewart. He shaped the convention that created a model constitution, not just for our country, but for all lands that are rich in resources and commonly owned. When the full story is known, he will not only be seen as a champion of our great state but a champion of a vision that can change the world. Ermalee and I will greatly miss this remarkable man.
– Walter J. Hickel



I have thousands of memories of your father that flit through my mind, nearly all of them positive and some profoundly affecting me. When I was the DA, and was as green as grass, we did the first jury trial in the then new courthouse, and I was beat badly. After the verdict I was wandering around my house feeling lower than whale poop. Your dad called and consoled me ... nothing improper, but kept me from feeling so desolate.

There was the time when your dad was supposed to do a settlement conference and didn't show up. People were waiting. He was never late, and after several phone calls with no answer, we were all very concerned. I decided to walk over and check on him. I knocked several times. No answer. I opened the door and yelled, and got no response. With grave trepidation I moved through the kitchen and into the living room calling out "Tom" loudly. No answer – and then he came bursting into the living room. Stark Naked. I've never been so happy to see a naked old man. His alarm hadn't gone off, the hearing aids weren't in, and he hadn't heard the phone and was shocked at the time. We were thrilled. He came and apologized and did the settlement conference professionally and successfully.

Many years ago, I asked him to swear me in, which he did. As we left the room he pulled me aside and said, Larry the only real control we have as judges is to take a recess. If you need to think about something you can always take a recess and go pee. It was the only advice he ever gave me and I saw him on nearly a daily basis. He was full of examples that we could emulate but he didn't tell you how to do things. He was always the epitome of courteous, almost courtly. He was witty and often profound. He stayed current on the affairs of the day and had great insight and memories of things that were fascinating to hear and gave perspective to contemporary issues. He lived his principles and those principles included compassion, respect for the rights of others and helping those who could not help themselves. He believed in living life, intelligently, and to the fullest and encouraging others to enjoy the life we have.
– Larry Weeks



I am honored and blessed to call myself a friend of Judge Stewart. Our friendship began in the 1980's through our mutual interest in preserving the history of Alaska. (At that time I was the State Archivist.) One project dear to both our hearts was the remastering of the Constitutional Convention tapes. Years later, in 2003, when he agreed to give me away at my wedding, I was thrilled. At the same time, I was nervous and disorganized, and as usual Judge Stewart was patient and organized. When my fiancé, Alvin Schmid, met Judge Stewart he was immediately entranced, and to this day Alvin fondly remembers with great pride the salute that Judge Stewart gave him when they parted. But of all my memories of Juneau, my most vivid is the sight of Judge Tom Stewart and his darling wife, Jane, walking hand in hand around the streets of Juneau. – Virginia Newton

*

There are so many reasons why I treasure the memory of Tom Stewart. Many of us have heard about Kiska and Riva Ridge and the Constitutional Convention. My personal opinion is that he was the most important Juneauite in the history of the State of Alaska, and that the handful of people who may be counted the most important in the state's history includes him: Egan, Hickel, Greuning, Hammond, and Tom Stewart; his contributions to the state's foundation were that important. I have always been astounded that such a shy and soft-spoken man of moderate physical stature cast such an enormous shadow.

But what each of us will remember first and last will probably be something personal, some small kindness or surprise. Here is one of my favorites: When I was a third-year law student in Boston, I flew to Alaska for job interviews. After making the rounds in Juneau, I flew on to Anchorage for a handful of interviews. One was with the hiring partner of one of the most respected firms in the state, and at the end the partner asked me if I had yet received any job offers. I responded that, as a matter of fact, Judge Stewart offered me a job as his law clerk for the coming year. The man put my file on the desk and sat up very straight in his chair. He then looked me straight in the eye and said, "Mr. Jahnke, if you have an offer to clerk for Judge Stewart, why are you wasting your time talking to me?"

Tom Stewart gave me my first law job, and I learned more from him in my one-year clerkship than I learned in three years of law school. And that was only the beginning. I thank God for the life of Tom Stewart. – Tom Jahnke

Too Good to Be Gone

I keep waiting for Tom to call
And give a detailed accounting
Of where he's been
Who he's lunched with
And taken out to dinner
Perhaps even the spelling
Of their last name.

Tom was always one to check in
To unfailingly call on a birthday
And sing a speeded-up version
Of Happy Birthday to You,
To extend an invitation
For Sunday morning pancakes
And bacon and sausage and eggs
With long-cherished maple syrup
Poured from a long-cherished pitcher.

Tom was the epitome
Of welcoming and thoughtful.

It would be fair to say
They don't make them like Tom anymore.
He was faithful, decent, unwavering,
And true.
He never missed an opportunity
To be helpful to another person
Or his community,
Or Alaska.

He was a true statesman
He lived his values
With vim and vigor
And, always, good cheer.

I expect I will miss him terribly
My whole life.

Thank you, Tom
You are reason to have faith in the world.

– Michelle Sydeman



Knowing Judge Tom Stewart and the intellectual wealth he gave to Alaska leaves me hoping that he will also be remembered as a man who could reach across social barriers to touch everyone. Sometimes people in leadership lose their ability to relate to the common citizen, yet Tom communicated with everyone as his social equal and this selfless empathy is a lesson for all of us to embrace. – Eric Havelock



Tom and Jane's courtship in the mid '50s was a delight to behold. Their love was warm and their friendship deep and full of respect. They shared music, literature, dancing, and all aspects of their existence, including the children. Tom and Jane married during the 1955-56 constitutional convention, the creation of which will forever remain to Tom's credit. They shared a wonderful life thereafter, and Tom's caring for Jane through her last days was truly heartwarming. What a wonderful human being, Tom Stewart, a good friend. – Vic Fischer

*

As a young lawyer I was in awe of Judge Stewart. To be truthful, I was also somewhat intimidated by him, perhaps the more so when I lost one of my first bench trials in front of him. He was no-nonsense, get-to-the-point, but courteous and respectful to all. During my career I have appeared before many other judges—almost without exception very thorough, competent people—but I realize that Judge Stewart shaped my very conception of what an ideal judge (and perhaps justice itself) is like: a combination of knowledge of the law, wisdom, life experience, compassion—and humor. Over the years, I came to know Tom in a variety of other settings: the arts, the world affairs council, and two gubernatorial task forces, to name a few. I count myself blessed to have been a friend. I still stand in awe of him. – Bruce Botelho

*

Tom opened his home to countless visitors in his later years, and I was fortunate to be his guest on several occasions. Interesting people dropped in, or slept in a nearby room, or Tom would be cooking breakfast for guests while vividly recalling notable Alaskans and events. The atmosphere always was casual and comfortable and friendly, and it was just plain fun to be there.

I stopped at the house last year just as KTOO was concluding their filming of his ski troop experience in Italy during WW11, after which we had, as it turned out, the last chat of a 50-plus year friendship. The following December I wrote him a note to express how much I'd enjoyed watching his program the evening before and how good he was in it. Then, on an impulse I added that a kid in my neighborhood, Walter, had been killed fighting in the same area at about the same time, and that his sister Ida, who has taken up channeling, recently told me matter of factly that Walter has been reincarnated and is living with his family in the South. I sincerely hope that this eccentric if somehow endearing idea brought a little amusement into what were, sadly, his final days. I know that all of us will continue to miss Tom, a remarkable and remarkably kind man. – Betty Annis

I have known Judge Stewart since the 1960's when I served as presiding District Magistrate for the First Judicial District. When I returned to private practice, I was privileged to also know him as a mentor to me, a young attorney still feeling his way into the practice of law. He had the patience of Job and the skill to offer a suggestion, sometimes in the heat of battle that helped move things along without ever making either side feel that he was playing favorites. However, the "line officer" from the 10th Mountain could show up when necessary, and he had a wonderful ability of making himself heard in a very clear and forceful way without ever raising his voice. He continued to mentor me after I was appointed to the Superior Court in 1973. My last visit with Tom was the end of July. I had been a student at the U of A Fairbanks during the constitutional convention, and we talked about that from our different perspectives. I can't think of a better way to say goodbye to him than to be able to share with him what was one of the highlights of his life and a great contribution to our state. He honored us all with his leadership, his service and his friendship. – Thomas Schulz

*

My fondest memory of Tom is of him as a father and a husband. The first time I met him, Steve brought me home to Juneau to meet his parents. All through the ride from the airport, Steve and Tom chatted as I sat quietly listening. I think Tom sensed that his son's prospective bride was a bit nervous because almost before I was though the kitchen door he wanted to show me something displayed on the refrigerator. It was a photograph of him and his lovely bride dancing. Only after he shared that treasured memory with me did he seat me at the kitchen table for tea, cookies, and induction into that society of people who have had the honor of enjoying Tom's favorite venue for sharing his marvelous stories. Over the years, I watched as he cared for his bride. It was a gift to observe as he played Sousa marches to encourage Jane to eat. He would sing to her a bit of one of her favorite show tunes to make her smile, or at her whim, whisk her in a few circles through the halls of the pioneer's home, bringing a glimmer of the Jane he fell in love with so many years before. Dad gave Steve and me a living testament that the vows of "for better or for worse, in sickness and in health" are just that – solemn vows. Vows he fulfilled with love. – Ann Stewart

*

A fond memory that I have of my father that sums up his character took place on a sunny fall afternoon at his home in Juneau. My mother had been suffering from dementia for several years, but still retained some degree of cognizance of her condition. On this day as my dad was walking through the living room, she stopped him and said that she thought it would be a good idea if he let her take care of herself and that he should consider finding another partner that wasn't a burden to take care of. He stopped and smiled and said to her that he had made a promise fifty years ago, and that he had no intention of not keeping that promise. Commitment to his word was one of his character strengths that I loved so much. I miss you Dad! Lots of Love, Caleb



Hale and Farewell to our dear friend Tom Stewart
We will miss you forever!



"It is not place,
nor power,
nor popularity,
that makes the success that one desires.
But the trembling hope
that one has come near to an ideal."

Oliver Wendell Holmes

Walter J. Hickel

Box 101700
Anchorage, Alaska 99510-1700
Telephone 907-343-2400
Fax 907-343-2211
Email wjhickel@gci.net

March 16, 2009

The Honorable Mike Chenault
Speaker of the House
The Alaska Legislature
Representative_Mike_Chenault@legis.state.ak.us

Dear Mr. Speaker:

Please add my name to those in support of SB 29 that would name the Capitol Annex after Judge Thomas B. Stewart. Tom played a pivotal role in preparing Alaska for Statehood, heading up the challenging assignment to see that a model constitution was created for our unique state, researching what other states had done, organizing the Constitutional Convention, and recruiting top experts from across the nation to assist the Delegates with their assignment.

What's more, Judge Stewart, a top skier, was a member of the famed 10th Mountain Division of the US Army in WWII that fought with great courage in the Italian campaign, was an outstanding citizen of Juneau all his life, and served Alaska with distinction in both the legislature and on the bench.

This proposed tribute is a fine idea, and I urge enthusiastic support from today's legislature.

Sincerely,

Walter J. Hickel

Cc:
Rep. Cathy Munoz Representative_Cathy_Munoz@legis.state.ak.us
Rep. Bob Herron Representative_Bob_Herron@legis.state.ak.us
Rep. John Coghill Representative_John_Coghill@legis.state.ak.us
Rep. Bob Lynn Representative_Bob_Lynn@legis.state.ak.us

Chevault 3/16/09

SB

43

LEGAL SERVICES

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

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

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

MEMORANDUM March 29, 2010

SUBJECT: Alaska's Flag song, copyright issues
(SB 43 Work Order No. 26-LS0259\A)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Alpheus Bullard TLAB
Legislative Counsel

Concerned about copyright infringement issues that might accompany an adoption of the second verse of the Alaska Flag song, Nancy Manly of your office called Saturday. In response I asked Michael Rovito, of Senator Menard's office, whether permission had been secured for the use of the text of the second verse of the song "Alaska's Flag" from the copyright holder. Michael provided me with an email from Mary Rutherford of the University of Alaska Foundation, the copyright holder for the music and both verses of the song. Mary's email stated that the copyright holder had no objection to the addition of the song's second use in statute if there was no alteration to the copyrighted text and that all copies of the text contain the attribution "copyright University of Alaska Foundation, non-profit use permitted, all other rights reserved."

Accordingly, if the words and punctuation of the second verse are changed to conform to the copyrighted material and additional text is added to the bill that acknowledges the University of Alaska Foundation's copyright, all copyright issues should be resolved.

If you have questions, please do not hesitate to contact me.

TLAB:plm
10-193.plm

26-LS0259\R
Bullard
3/29/10

HOUSE CS FOR SENATE BILL NO. 43( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS MENARD, Egan, Hoffman, Paskvan, McGuire, Meyer, Stedman, Olson, Davis, Dyson, Coghill, Wagoner, Kookesh, Stevens

REPRESENTATIVES Kerttula, Muñoz

A BILL

FOR AN ACT ENTITLED

"An Act adding a second verse to the official Alaska state song."

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

*** Section 1.** AS 44.09.040 is amended to read:

Sec. 44.09.040. State song. The song "Alaska's Flag," with music composed by Elinor Dusenbury and words **to the first verse** by Marie Drake **and words to the second verse by Carol Beery Davis**, is the official song of the state. The words of the official song are as follows:

Alaska's Flag

Eight stars of gold on a field of blue -
Alaska's flag. May it mean to you
The blue of the sea, the evening sky,
The mountain lakes, and the flow'rs nearby;
The gold of the early sourdough's dreams,
The precious gold of the hills and streams;
The brilliant stars in the northern sky.

The "Bear" - the "Dipper" - and, shining high,
The great North Star with its steady light,
Over land and sea a beacon bright.
Alaska's flag - to Alaskans dear,
The simple flag of a last frontier.

A Native lad chose the Dipper's stars
For Alaska's flag that there be no bars
Among our culture. Let it be known
Through years the Native's past has grown
To share life's treasures, hand in hand,
To keep Alaska our Great-Land;
We love the northern midnight sky,
The mountains, lakes and streams nearby.
The great North Star with its steady light
Will guide all cultures, clear and bright,
With nature's flag to Alaskans dear,
The simple flag of the last frontier.

*** Sec. 2.** AS 44.09.040 is amended by adding a new subsection to read:

(b) A copy of "Alaska's Flag" produced for public use must have the following attribution and notice: "copyright University of Alaska Foundation, nonprofit use permitted, all other rights reserved."

Senator Linda Menard

Session
State Capitol, Room 9
Juneau, Alaska 99801
Phone: (907) 465-6600
Fax: (907) 465-3805

Interim
600 E. Railroad Ave.
Wasilla, Alaska 99654
Phone: (907) 376-3370
Fax: (907) 376-3157

Alaska State Legislature

To: Rep. Bob Lynn, Chair
House State Affairs Committee

From: Sen. Linda Menard

Re: Explanation of changes to SB 43

The committee substitute for Senate Bill 43 has three changes. These changes arose from concern about copyright infringement and exact language of the second verse of the Alaska Flag Song.

Under section one, line five, the words "to the first verse" were added to clarify the first verse of the Flag Song was composed by Elinor Dusenbury. Also beginning on line five, the phrase "and words to the second verse by Carol Beery Davis," make clear Ms. Davis is the composer of the song's second verse.

Beginning on page two, line seven, multiple words and punctuations have been changed to more accurately reflect the copyrighted version of the second verse of the Alaska Flag Song. This was done to correct oversights made by the drafter at the bill's inception.

This committee substitute adds a new subsection. On page two, section two, beginning on line 20, language dictates that the words "copyright University of Alaska Foundation, nonprofit use permitted, all other rights reserved," be attributed to all copies of Flag Song text.

These are the extent of the changes.

Senator_Linda_Menard@legis.state.ak.us

LEGAL SERVICES

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

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

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

MEMORANDUM March 29, 2010

SUBJECT: Alaska's Flag song, copyright issues
(CSSB 43( ) Work Order No. 26-LS0259\R)

TO: Senator Linda Menard
Attn: Michael Rovito

FROM: Alpheus Bullard
Legislative Counsel

This memorandum accompanies the committee substitute described above.

Concerned about copyright infringement, I asked Michael Rovito, of your office, whether permission had been secured for the use of the text of the second verse of the song "Alaska's Flag" from the copyright holder. Michael provided me with an email from Mary Rutherford of the University of Alaska Foundation, the copyright holder for the music and both verses of the song. Mary's email stated that the copyright holder had no objection to the addition of the song's second use in statute if there was no alteration to the copyrighted text and that all copies of the text contain the attribution "copyright University of Alaska Foundation, non-profit use permitted, all other rights reserved."

Accordingly, in this committee substitute, the words and punctuation of the second verse are changed to conform to the copyrighted material and a new subsection is added to the bill that acknowledges the University of Alaska Foundation's copyright.

If you have questions, please do not hesitate to contact me.

TLAB:plm
10-192.plm

Enclosure

Word and punctuation changes to second verse of AK Flag Song:

- Line 9- remove "s" from cultures.
- Line 9- add "Let" before "it" and "be"
- Line 12- add dash between "great" and "land"
- Line 13- remove comma between northern and midnight
- Line 14 – remove comma between "Lakes" and "and"

Last Updated: December 2006

IV.3 Policy on use of Alaska Flag Song

The copyright to the Alaska Flag Song is held by the Foundation for three general purposes, and with resulting obligations, in the following order: **1)** as a donated asset and thus, in order to meet its obligation to the donors, to insure that the song is used in a manner befitting its status when donated as the state song of the State of Alaska, **2)** as the state song of the State of Alaska and thus, in order to meet the Foundation's public obligation to the people of Alaska as a custodian of a portion of the state's patrimony, to promote, facilitate and assist in the legal use of the song; and **3)** as an asset of the University of Alaska Foundation and thus, in order to meet its corporate obligations, to protect the song from illegal use and copyright infringement and to obtain sufficient remuneration of use of the song as befits any other investment asset of the Foundation.

Licenses for use of the Alaska Flag Song will be issued under the following guidelines:

1. Licenses will be non-exclusive and will be of the shortest duration possible to accommodate the intended use - but in no case longer than one year.

2. Licenses may be issued for reasonable commercial uses.

2. Licenses will be issued for public performances, recordings, and the creation of new renditions for such purposes subject to these guidelines.

3. Licenses will not be issued for public performances, recordings or new renditions which are:

    a. satires, caricatures or humorous applications

    b. obviously not in keeping with the stature of the Song as the official state song of the State of Alaska as determined by the Alaska Legislature.

4. Licenses will be issued in accordance with the current fee structure which is substantially as follows:

    a. Commercial use (recordings, publications or performances for profit or in connection with commercial or profit making activities - e.g. cassette tapes, CD's, in performances, publications of sheet music etc.) and use in connection with political campaigns and activities = $200

b. Non profit uses (fundraising performances by non-profit groups, renditions by school bands etc.) = No Charge

5. Unlicensed users of the song, when discovered, will be informed of this policy and the requirements for legal use outlined herein.

FAQ ALASKA - Frequently Asked Questions About Alaska

State Symbols

Alaska Flag and Song The design for the Alaska flag was selected in a contest for Alaska students in grades seven through twelve in 1926. The winning design, submitted by 13-year-old Benny Benson, consisted of eight gold stars on a field of blue, representing the Big Dipper and the North Star.The Alaska Legislature adopted the design as the official flag for the Territory of Alaska on May 2, 1927. Later the drafters of the Alaska constitution stipulated that the territorial flag would become the official flag of the State of Alaska.The words to the song *Alaska's Flag* were written by Marie Drake, a long-time employee of the Alaska Department of Education, and first appeared as a poem in 1935. The poem was set to music composed by Elinor Dusenbury, whose husband was commander of Chilkoot Barracks at Haines from 1933-1936. The Territorial Legislature adopted *Alaska's Flag* as Alaska's official song in 1955.

Permission is not needed to reproduce the image of the state flag. However, The University of Alaska holds the copyright to the song. For further information, contact the University of Alaska Foundation, 910 Yukon Drive, Suite 206, PO Box 755080, Fairbanks, AK 99775.
phone: 907.450.8030
fax: 907.450.8031
Email: sdfnd@alaska.edu

State Motto

The official motto of the State of Alaska, *North to the Future,* was adopted by the legislature during Alaska's Purchase Centennial in 1967. Created by veteran newsman Richard Peter, the motto is meant to represent Alaska as a country of promise. According to Peter, the motto "...is a reminder that beyond the horizon of urban clutter there is a Great Land beneath our flag that can provide a new tomorrow for this century's 'huddled masses yearning to be free.' "

The Seal of the State of Alaska

When Congress provided for civil government for Alaska in 1884, the first governor designed, and had made, a seal for the District of Alaska. The seal was used until 1910 when Governor Walter E. Clark decided the design placed too much emphasis on icebergs, northern lights and Native people. The governor had a draftsman in Juneau sketch a new seal that incorporated the original features, plus symbols for mining, agriculture, fisheries, fur seal rookeries, and a railroad.The design was approved by the acting attorney general of the United States. A more refined drawing was made by an unknown person in the Department of the Interior, and the new seal was ready for use early in 1911. When Alaska changed from district to territorial status in 1912, the new designation was substituted on the seal.The Constitution of the State of Alaska provides that the territorial seal shall be the seal for the State of Alaska, with the word "territory" changed to that of "state." The seal is 2 1/8 inches in diameter.

The seal of the State of Alaska may be used only with the permission of the Lt. Governor.

Other State Symbols

- The State Bird, the Willow Ptarmigan, was adopted by the Territorial Legislature in 1955. It is a small (15-17 inches), arctic grouse that lives among willows and on open tundra and muskeg. Plumage is brown in summer, changing to white in winter. The Willow Ptarmigan is common in much of Alaska.
  The State Fish - King Salmon (adopted by the Alaska Legislature in 1962)
  The State Flower, the wild Forget-Me-Not, was adopted by the Territorial Legislature in 1917. It is a perennial that is found throughout Alaska, from Hyder to the Arctic Coast, and west to the Aleutians.
  The State Fossil - Woolly Mammoth (adopted by the Alaska Legislature in 1986)
  The State Gem - Jade (adopted by the Alaska Legislature in 1968)
  The State Insect - Four-spot skimmer dragonfly (adopted by the Alaska Legislature in 1995)
  The State Land Mammal - Moose (adopted by the Alaska Legislature in 1998)
  The State Marine Mammal - Bowhead Whale (adopted by the Alaska Legislature in 1983)
  The State Mineral - Gold (adopted by the Alaska Legislature on 1968)
  The State Sport - Dog mushing (adopted by the Alaska Legislature in 1972)
- The State Tree - Sitka spruce (adopted by the Alaska Legislature in 1962)

<< Back to FAQ ALASKA MAIN MENU

- *Source* : *Alaska Blue Book 1993-94*, 11th ed., Juneau, Department of Education, Division of State Libraries, Archives & Museums.

- Source: *Alaska Almanac*, 25th ed., 2001.

Last Modified: 17 January 2006
For further information about Alaska, contact your nearest library. For comments or corrections about this site, contact:

Alaska State Library: e-mail - asl@eed.state.ak.us

Font Size

Copyright 2004 University of Alaska Fairbanks. All Rights Reserved.

Senate flag song addition conflicts with copyrighted text

by dermotcole Dermot Cole

16 days ago | 1139 views | 27 | 10 | | permalink

The state Senate voted 18-2 to add a second verse to "Alaska's Flag," with supporters saying they did so because the state song, based on the words of flag designer Benny Benson, does not recognize Alaska Natives.

The three Fairbanks senators, Joe Thomas, Joe Paskvan and John Coghill, voted in favor of the measure. Unfortunately, they, along with most of the Senate, have opted to treat the state song as a political document, instead of a work of art.

The measure, which was opposed by Sens. Con Bunde and Charlie Huggins, now goes to the House.

Coghill said he supported adding a second verse for reasons of "harmony."

"As an official song, the idea of having a little harmony in it is a good thing because when we do have to deal with some of these tougher legal issues that are settling Alaska, this may very well be one good step forward," he said.

Missing from the Senate debate was any acknowledgment by proponents that the copyrighted text, written by Juneau poet Carol Beery Davis, who stayed up late one night at age 95 to compose her addition, is not what is contained in the bill.

Friends and family of Davis have said that approval of this bill would be an overdue honor for Davis, who was poet laureate of Alaska from 1967-69.

It appears that her friends and family, as well as our legislators, are willing to overlook or refuse to allow that there are shortcomings in the text. Former Rep. Fran Ulmer introduced the original bill to add the extra verbiage in 1987, at Davis' request.

The text approved by the Senate Wednesday is not identical to that Davis donated to the University of Alaska Foundation, which holds the copyright.

This could present a legal dilemma because the foundation controls the use of "Alaska's Flag" and the added words from Davis. I have asked Sen. Linda Menard, the sponsor of the bill, is she knows how or why the text was changed, but have not received a response.

The copyrighted version submitted by Davis in 1986, is as follows, according to the UA Foundation:

"A native lad chose our Dipper's stars

for Alaska's flag that there be no bars

among our cultures. Be it known

through years our natives' past has grown

to share our treasures, hand in hand,

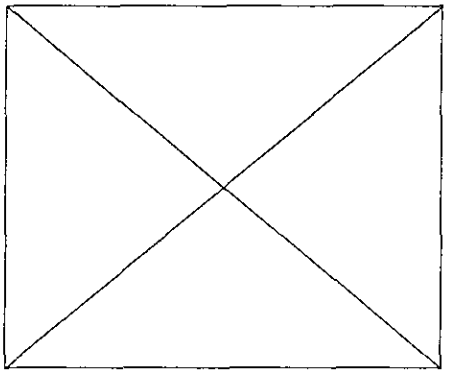
to keep Alaska our Great Land.

We love the northern midnight sky,

our mountains, lakes and the streams nearby,

Our Great North Star with its steady light





will guide our cultures clear and bright

with Nature's flag to Alaskans dear —

The simple flag of a Last Frontier."

There are nine changes, not counting capitalization and punctuation, between the copyrighted text and the second verse approved Wednesday. It's my guess that this was an attempt to improve a poem that wasn't deemed to be acceptable. The copyrighted text also has the title wrong. It says the title is "The Alaska Flag," but it really is "Alaska's Flag."

The revised language approved by the Senate is as follows:

"A Native lad chose the Dipper's stars

For Alaska's flag that there be no bars

Among our cultures. Be it known

Through years the Natives' past has grown

To share life's treasures, hand in hand,

To keep Alaska our Great Land;

We love the northern, midnight sky,

The mountains, lakes and streams nearby.

The great North Star with its steady light

Will guide all cultures, clear and bright,

With nature's flag to Alaskans dear,

The simple flag of the last frontier."

The flag song is a simple poem that is based on a short account written by Benny Benson, the Alaska Native student who designed the flag. It is a tribute to Benson in a real sense. In that text Benson did not say that he chose the Big Dipper stars for his design so "that there be no bars among our cultures."

What he actually said was this: "The blue field is for the Alaska sky and the forget-me-not, an Alaskan flower. The North Star is for the future state of Alaska, the most northerly in the union. The Dipper is for the Great Bear — symbolizing strength."

The state song does not need a second verse, no matter how well-intentioned the effort.

Also Inside Today's news / Photos / Local / Alaska / Sports / Opinion
Features Sundays / Health / Food / Outdoors / Latitude 65 / Youth / Business
newsminer.com Archives / About / Feedback / Privacy Policy / User Agreement / Hot Jobs / Contact / RSS Feeds / Twitter / YouTube
Submit Letters to the Editor / Applause / Events / Obituaries / Products

software copyright © 2010 matchbin inc. content copyright © 2010 Fairbanks
this software is in a public beta test phase **read our privacy policy**
Fairbanks - The voice of Interior Alaska since 1903 is in fairbanks, AK

post a comment

comments (27)

« Zinkdifferent wrote on Friday, Mar 12 at 11:19 AM »

Dermot: Why make a fuss about a trivial issue such as copyright rights? Society has already turned a blind eye to the trivial issue of the President's birth certificate. Those folks are called 'Birthers.' For journalists who fuss about copyright issues, I suggest a new category, 'copywriters.'

report abuse

« minor_epicycle wrote on Friday, Mar 12 at 10:34 AM »

Alaskans are unique in the country: we actually know and spontaneously sing the (existing version) of our state song. No fawning political embellishments needed.

Agree with "fairbanksfoever" that 2nd verse is paternalistic rather than respectful to Alaska Natives and to several citing absurdity of "past has grown."

Look forward to "bump's" 3rd verse. Cannot be worse and surely more amusing!

report abuse

« **ArcticWriter** wrote on Friday, Mar 12 at 06:09 AM »

Great. Way to ruin the sweetest and most beautiful state song of all of America.

The Alaska Flag song is about the state and its beauty, NOT about people and politics. The only mention of people in the song is the sourdough's dream, and that only briefly.

Shame on the State Senate for politicizing this song. This is right up there with flag burning legislation.

I have had the honor of being an anthem singer at sporting events and have always sung this song with joy, because of its simple beauty and its ability to portray our state. To make a political football out of this is a shame.

And yes I have Native members of my family and am active in supporting rights for all American Natives. But this is not the proper forum in which to do so.

Dermot is correct - leave our state song alone!

report abuse

« **Yukonjohn** wrote on Thursday, Mar 11 at 07:33 PM »

This is just a single symptom of the bigger problem. Other than Woodie Salmon, I am for getting rid of the whole lot of them. We need to hold a special election and vote them all out. They are a disgrace to our State, and a disgrace to themselves. Hell, the coke snorting, liquor drinking legislators of the 70s were head and shoulders above these clowns!! GET RID OF THEM NOW!! All except Woodie, one shining star amongst idiots!!!

report abuse

« **Dove** wrote on Thursday, Mar 11 at 06:51 PM »

Get over myself? There was a civilization here before the gold rush. A settlement? We're still paying? Good heavens, adding a 2nd verse to the Alaska song isn't about any settlement. Adding a 2nd verse is simple the right thing to do.

I'm not interested in arguing with you. If you can't grasp the importance of unity in a land we share with people, whose descendant's origins existed hundreds of years before the gold rush era, there's no educating the blind.

report abuse

« **morym** wrote on Thursday, Mar 11 at 06:47 PM »

I have seen it on these postings so many times...

There ain't no fixin' stupid!

Attach it to the freakin' gasline bill and move it the puck along.

report abuse

« **lalaleelou** wrote on Thursday, Mar 11 at 01:28 PM »

Dove,

Get over yourself, if you stop to think about it, the native population has received and continues to receive many, many benefits not offered to us "other" people. Apparently nobody understood the term "settlement" back in the 70's because we're still paying.

The only state song that warranted updating was that of Kentucky and now it's still rediculous; unless, of course, the entire population of Kentucky is gay.

report abuse

« **lalaleelou** wrote on Thursday, Mar 11 at 01:15 PM »

Well, Paskvan, Thomas and Coghill just lost any support I may have had for them. The Alaska Flag song was perfect as it was. The new verse is not only unnecessary, it's clumbsy.

Apparently in an effort to honor Benny Benson, they never considered the slap in the face to Marie Drake.

Here's an idea, get back to the real business of Alaska! It's no wonder they're having trouble getting their work done in the 90 days, which was also a very bad idea.

report abuse

« **longhornak** wrote on Thursday, Mar 11 at 10:53 AM »

Dove:

I personally don't have much of an issue with a second verse, or an Alaska state dog. (I must have missed that one...) My issue is with their prioritization. There will probably be a special session called for energy reasons. My question is: would a special session on the Alaska state song be worth it?

There are some things more important than others. Energy is more important than the state song or the state dog. Our politicians need to prioritize better.

report abuse

« **doc_powmiariders** wrote on Thursday, Mar 11 at 09:45 AM »

I am not sure why we want to change the words to the state song. DO our state representatives have nothing better to do? I do not care for the politically correct world we live in. Would you change the Declaration if Independence or the National Anthem just because it offends one person or culture. Too bad. Our country was founded on certain values. If you dont like them leave.

report abuse

« **oldakcuss** wrote on Thursday, Mar 11 at 08:53 AM »

Dove:

Check out the line in my first post..."Not only is this just a way to placate the native communities..." This is not one of those pieces of legislation that's being enacted because it's the will of the people. This fluff piece is to quiet the native community in order to gain the rural votes on significant and important pieces of legislation that really matter. Don't place more importance on this than is needed. Everyone knows why this is happening...we're just frustrated that it's happening when there are so many other pressing issues in the legislature that NEED to be worked on.

report abuse

« **bump** wrote on Thursday, Mar 11 at 08:48 AM »

I'm currently working on a 3rd stanza of the "Alaska's Flag" song. It will have to do with the pipeline days; buckets of money, the bars on 2 Street and 4th Ave., the workforce invasion, Jesse Carr, 798ers, cocaine, whiskey, and hookers.

I should have it ready in time for the next legislative session.

report abuse

« **Dove** wrote on Thursday, Mar 11 at 08:24 AM »

Of course it doesn't matter to you. Why should it? I think it does matter to many more people, or the Alaska legislature wouldn't be considering it.

1928

So much for the neys.

report abuse

« **Glacierwolf** wrote on Thursday, Mar 11 at 07:52 AM »

We have bigger fish to fry in Juneau.

It's crap like this - wasting time on the state song, state dog, etc etc when we have real issues to deal with that makes me mad at Juneau. This is why our legislature has no damn business being in Juneau - it should be in Anchorage - so when the legislature shows up for work in the morning they can be greeted by thousands of us telling them to move on to bigger issues!!!!!

report abuse

« **Dove** wrote on Thursday, Mar 11 at 07:20 AM »

"rediculous"? "silly"?

I think giving tribute and recognition to our fellow native Alaska citizens and neighbors is long overdue.

No one barked at naming the Alaska state dog.

I dare say that the early settler's descendants are more native than any other race. How can any of you ignore this oversight?

Of course there are other issues worth addressing in Juneau, but the single most respectful bill before Alaska legislature is the Alaska Flag song.

report abuse

« **blaqtie** wrote on Thursday, Mar 11 at 05:41 AM »

This has now become RIDICULOUS! Alaska's politicians will join J. Danforth Quayle in the "wtf" category of American political history. THE ALASKA STATE SONG is ALREADY THE MOST BEAUTIFUL STATE SONG in the union of the 50 United States! Once, twice, THRICE: "IT AIN'T BROKE, DON'T FIX IT!" Oy! Please, do not change the state song of Alaska. Do not make me come up there and open a can of Katie Couric. SHE knows the Vulcan peace sign.

report abuse

« **grace3** wrote on Thursday, Mar 11 at 03:25 AM »

All of these arguments - legal, musical, historical, and nonsensical - were made before they voted. It is clear that the opinion of the people in general is not important.

And, as mentioned before and now - they don't have a single spare minute during the session to waste on anything that is not directly tied to the economy, public safety, or resource management.

Do all these legislators attend some kind of brain drain ceremony after being elected?

report abuse

« **NotPc** wrote on Thursday, Mar 11 at 02:08 AM »

Just another instance of trying to be "PC".....

GET OVER IT.

report abuse

« **99712** wrote on Thursday, Mar 11 at 01:51 AM »

1929

Sen. Bunde pointed out in the debate today that there are many more important things for the legislature to be working on than this kind of silliness. Do we have affordable energy? No. A gasline? No. A new source of state revenue? No. New Hydro projects? No. A ten billion dollar obligation to the state retirement system? Yes.

The legislature is running out of time to tackle the improtant stuff- but rather than working on the hard issues they dunce around with this nonsense.

report abuse

« just-saying wrote on Thursday, Mar 11 at 01:13 AM »

Dermot is correct. The Alaska Flag Song does not need an additional verse.

The guys in Juneau need to get busy with important business, not this foolishness!

report abuse

view more comments

To follow up on our phone conversation:

The University of Alaska Foundation holds in trust, for the benefit of the university and the public, the copyright to the music and first verse of the Alaska Flag Song. The music and first verse were authored and generously donated to the university by Elinor Dusenbury and Marie C. Drake, and are presently recognized as the Alaska State Song.

The Foundation similarly holds in trust the copyright to the second verse of the Alaska Flag Song. That verse was authored and generously donated to the university by Carol Beery Davis, and is presently being considered by the Legislature for recognition as a second verse of the Alaska State Song.

The University and Foundation have been honored to protect these works for public, non-profit use as the state song, and as trust properties for the benefit of the university. The Foundation is unaware of any effect on copyright ownership resulting from recognition of a work as the state song with the permission of the copyright holder, and likewise is unaware of any legal impediment to appending a verse to a work with the permission of the affected copyright holder. Thus the Foundation has no objection to recognition of the Carol Beery Davis verse as the second verse of the Alaska State Song, should the Legislature choose to do so.

In order to protect the copyrights, the Foundation asks that there be no alteration to the original texts, and that a notation appear on all copies of the state song produced for public use stating: "copyright University of Alaska Foundation, non-profit use permitted, all other rights reserved."

I hope this is helpful. Please let me know if I can be of any further assistance.

Mary (Rutherford)

Senator Linda Menard

Session
State Capitol, Room 9
Juneau, Alaska 99801
Phone: (907) 465-6600
Fax: (907) 465-3805

Interim
600 E. Railroad Ave.
Wasilla, Alaska 99654
Phone: (907) 376-3370
Fax: (907) 376-3157

Alaska State Legislature

Senate Bill 43 Sponsor Statement

Senate Bill 43 will add a second verse to the Alaska Flag Song, finally giving recognition to the history of the state flag and the contributions of the wonderful Native community.

Written by the late **Carol Beery Davis**, the second verse of Alaska's Flag Song adds **12 lines** and pays tribute to not only the aforementioned subjects but, indirectly, to the young lad who designed the flag: **Benny Benson**. Benson, of course, came up with the **eventual design** of Alaska's flag, the **Big Dipper** and **North Star** against a **dark blue background**.

After Davis wrote the **second verse** she gifted the **words** to the **University of Alaska Foundation** in **1987**. This bill will effectively pull the second verse of Alaska's Flag Song from **obscurity** and bring it to the forefront of this great state's **heritage**.

Already, Fran Ulmer, the chancellor of the University of Alaska, has endorsed **Senate Bill 43**. Ulmer, who introduced **a similar bill** when she was in the **Legislature**, summed up a major intent of **my legislation**: the first verse of the song did not recognize the **contributions Alaska Native people have made to the state**. The bill sailed through the House of Representatives, but stalled in the Senate.

The Senate had the chance to hear the Flag Song performed with both versus as we **gaveled in** on the first day of session this year. I think we can all agree the **second verse not only added a special touch,** but highlighted **music teachers' desire** to have a second verse to **teach** their choirs.

Please join me in supporting a long overdue addition of a second verse to Alaska's Flag Song.

Senator_Linda_Menard@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **SB 43**
() Publish Date:

Identifier (file name): SB043-GOV-OMB-1-26-10
Dept. Affected: All
Title: Adding a second verse to the official Alaska state song
RDU
Component
Sponsor: Sen. Menard
Requester: Sen. Community & Regional Affairs Committee
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation will not have a significant fiscal impact on any State agency.

Prepared by: Jack Kreinheder, Senior Analyst — Phone 465-4676
Division: Office of Management and Budget — Date/Time 1/26/09 9:35 AM
Approved by: Karen Rehfeld, Director — Date 1/26/2009
Office of Management and Budget

(Revised 11/6/2009 OMB)

Dear Senator Menard,
I am delighted that you are proposing the second verse of the Alaska Flag song be adopted by the state as part of the official state song. I introduced that legislation many years ago; it passed the House but stalled in the Senate. I have long felt it important that both verses be sung on all occasions. Alaska Poet Laureate Carol Berry Davis wrote the second verse because she felt that the first verse did not recognize the contributions that Alaska Native people have made to our state. She asked me to introduce the bill, which I did and there were many people who supported it.

Years ago Carol Berry Davis gave the second verse to the University. I am not sure what rules might apply to the copyright. I am happy to have my staff look into this and help you with whatever contacts or permission is necessary in order to pursue this legislation.

Thank you so much for your work promoting the adoption of the second verse of the Alaska Flag song.

Best regards,
Fran Ulmer
Chancellor

"Alaska's Flag"

Written by Marie Drake
Composed by Elinor Dusenbury

Adopted on February 23 1955.

Sheet Music | MIDI Tune | Realaudio Song

1st Verse of Alaska's Flag Song

Eight stars of gold on a field of blue,
Alaska's flag, may it mean to you,
The blue of the sea, the evening sky,
The mountain lakes and the flowers nearby,
The gold of the early sourdough's dreams,
The precious gold of the hills and streams,
The brilliant stars in the northern sky,
The "Bear," the "Dipper," and shining high,
The great North Star with its steady light,
O'er land and sea a beacon bright,
Alaska's flag to Alaskans dear,
The simple flag of a last frontier.

2nd Verse of Alaska's Flag Song
-- Words by Carol Beery Davis

A Native lad chose the Dipper's stars
For Alaska's flag that there be no bars
Among our culture. Let it be known
Through years the Native's past has grown
To share life's treasures, hand in hand,
To keep Alaska our Great-Land;
We love the northern midnight sky,
The mountains, lakes and streams nearby.
The great North Star with its steady light
Will guide all cultures, clear and bright,
With nature's flag to Alaskans dear,
The simple flag of the last frontier.

• *Source : Alaska Blue Book 1993-94*, 11th ed., Juneau, Department of Education, Division of State Libraries, Archives &

Origin of Song:

The words to the song Alaska's Flag were written by Marie Drake, The Territorial Legislature adopted Alaska's Flag as Alaska's official song in 1955.

"Alaska's Flag" written by Marie Drake a long-time employee of the Alaska Department of Education, and set to music composed by Elinor Dusenbury, who husband was commander of Chilkoot Barracks at Haines from 1933 to 1936 was adopted as the official state song in 1955, and was gifted to the University of Alaska in April 1960. Carol Beery Davis wrote the second verse to "Alaska's Flag" and gifted the words (protected by copyright) to the University of Alaska Foundation in February 1987.

Carol Beery Davis, an Alaskan pioneer and poet laureate, as the maker of the second verse. While the official Alaska state song recognizes and describes Alaska's flag, the words of Davis in the second verse of "Alaska's Flag", "A Native lad chose the Dipper's stars, For Alaska's flag that there be no bars", provides recognition of Bennie Benson who designed Alaska's official flag in 1927. Benny Benson described his design of the flag:

"The blue field is for the Alaska Sky and the forget-me-not, an Alaskan flower. The North Star is for the future of Alaska, the most northerly in the union. The Dipper is for the Great Bear - symbolizing strength."

Marie Drake:

Marie Drake, author of the words to *Alaska's Flag*, the state song, was born Feburary 11, 1888. In 1907 she married James Drake in Van Wert, Ohio, where she was engaged in social work with the Y.W.C.A. and the Red

Museums. • Copyright for *Alaska's Flag* is held by the University of Alaska. For further information contact the University Archivist at the Rasmuson Library, University of Alaska Fairbanks, Fairbanks, Alaska 99775-6808. • Verse 2 by Carol Beery Davis. 1986.	Cross. They came to Alaska when her husband was assigned to work with the Bureau of Public Roads. In 1917, Lester Henderson was appointed first commissioner of education, and he hired Marie Drake as his secretary. She remained with the Department for 28 years, retiring July 1, 1945. Marie Drake assumed the post of assistant commissioner of education in 1934. She edited and wrote most of the material for the department's *School Bulletin*, that was circulated throughout the territorial school system. The poem that later provided the words for the official state song first appeared on the cover of the October 1935 *School Bulletin*. In recognition of her devotion to the young people of Alaska, Marie Drake received an honorary Doctor of Letters degree from the University of Alaska in 1958. She died March 5, 1963. • *Source : Alaska Blue Book 1993-94, 11th ed., Juneau, Department of Education, Division of State Libraries, Archives & Museums*

Benny Benson chose the background color of the flag to represent both the blue sky and the forget-me-not. The Legislature later named the forget-me-not as the official State flower. This provides another symbolic link, one between the official State flag, the official song and the official flower.

Carol Beery Davis, a longtime Juneau resident and musician, wrote a second verse to the Alaska Flag song and gifted the words (protected by copyright) to the University of Alaska Foundation in February 1987. It has been unsuccessfully proposed as an addition to the official lyrics twice. The last time, in 2002, House Bill 285 sought to officially incorporate Davis' second verse into the Alaska state song. The bill passed the Alaska House, but it died in the Senate. Because of the copyright restrictions, it is not shown here. Instead, a link to it and more detailed information is provided at the bottom of the page

Source: Wikipedia

SB

58

1938

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: March 27, 2009 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 4-11-09

The STATE AFFAIRS Committee considered: **SENATE BILL NO. 58**

"An Act establishing February 2 of each year as Marmot Day; and providing for an effective date."

SB 58 MARMOT DAY

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
Admin				↘

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson			X	
[illegible]	Gatto			!	
Mary Greenberg	Greenberg			–	
Bill Peterson	PETERSEN	X			
Peggy Wilson	WILSON	X			
Paul R. Seaton	SEATON	X			
Chair: [signature]	LYNN	X			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 58
() Publish Date:

Identifier (file name): HB019-GOV-OMB-3-02-09
Dept. Affected: All
Title: Establishing February 2 as Marmot Day
RDU
Component
Sponsor: Sen. Menard
Requester: Senate State Affairs Committee
Component Number

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

After burrowing into the details of this legislation, we have determined that the bill will not have a significant fiscal impact on any State agency.

Prepared by: Jack Kreinheder, Senior Analyst — Phone 465-4676
Division: Office of Management and Budget — Date/Time 3/2/09 11:45 AM
Approved by: Karen Rehfeld, Director — Date 3/2/2009
Office of Management and Budget

Senator Linda Menard

State Capitol, Room 9
Juneau, Alaska 99801

Phone: (907) 465-6600
Fax: (907) 465-3805

Alaska State Legislature

Sponsor Statement for SB 58

Senate Bill 58, an act establishing February 2nd of each year as Marmot Day, will create a localized, Alaska version of Groundhog Day.

While many people in the Lower 48 spend every February 2nd honoring Punxsutawney Phil, or some other incarnation of the famous groundhog, Alaska residents don't have the same representation.

The Marmot Day bill (SB 58) solves that, giving school children, public institutions and even adults the opportunity to use a local hire (the marmot) as their symbol.

Marmot Day can be celebrated in myriad ways, from special events at the Alaska Zoo to school celebrations with an educational angle so children can learn more about Alaska's furry ground squirrel.

Already, the Marmot Day bill has received support from the Alaska Zoo and the Mat-Su Borough School District.

I hope you will also support the Marmot Day bill.

Staff Person Assigned to Senate Bill 58: Michael Rovito

Contact Number: 465-5078

Hoary marmot

Marmota caligata

Distribution. From the Cascade and northern Rocky Mts. to Alaska. In locations where ranges overlap yellow-bellied marmots (e.g., Montana), hoary marmots are found at higher elevations.

Hoary marmot social organization varies geographically. In Alaska they live in monogamous social groups consisting of a pair of adults and pre-reproductive offspring. In the Rockies and Cascades, hoary marmots live in social organizations that resemble Olympic marmots (breeding male with two or three breeding females, non-breeding offspring from previous years). Hoary marmots are active about four and a half months each year. When females reproduce, litter size averages three pups. Their home ranges are relatively large for marmots (they can be around 10 hectares!) and marmots may wander around much of it in a day. Like their close relatives, the Olympic marmot, they have four alarm calls. Hoary marmot calls can be similarly described by the difference between the starting and ending frequencies. Calls may be ascending, descending, or relatively flat. Hoary marmots also trill. A summary of hoary marmot alarm calling is available. Hoary marmots can be easily seen in Mt. Rainier National Park around both the Sunrise and Paradise Visitor Centers.



Photo: K.B. Armitage

Return to The Marmot Burrow

Hoary Marmot

From Wikipedia, the free encyclopedia



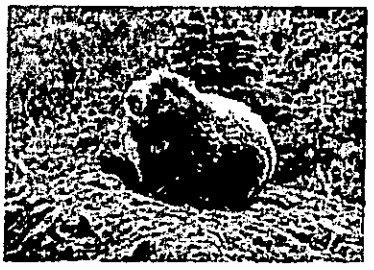
Basking behavior, Mount Rainier National Park

The **hoary marmot** (*Marmota caligata*) is a species of marmot that inhabits the mountains of northwest North America. The largest populations are in Alaska. In the northern part of that state they may live near sea level. Hoary marmots live near the tree line on slopes with grasses and forbs to eat and rocky areas for cover. It is the largest North American ground squirrel and is often nicknamed "the whistler" for its high-pitched warning issued to alert other members of the colony to possible danger. The animals are sometimes called "whistle pigs." Whistler, British Columbia, originally London Mountain because of its heavy fogs and rain, was renamed for these animals to help make it more marketable as a resort. [2]

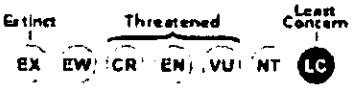
The "hoary" in their name refers to the silver-grey fur on their shoulders and upper back; the remainder of the upper parts are mainly covered in reddish brown fur. The underparts are greyish. They have a white patch on the muzzle and black feet and lower legs.

These animals hibernate 7 to 8 months a year in burrows that they excavate in the soil, often among or under boulders. Mating occurs after hibernation and 2 to 4 young are born in the spring. Males establish "harems," but may also visit females in other territories. Predators include golden eagles; grizzly and black bears; and wolves.

Hoary Marmot



Conservation status



Least Concern (IUCN 3.1)[1]

Scientific classification

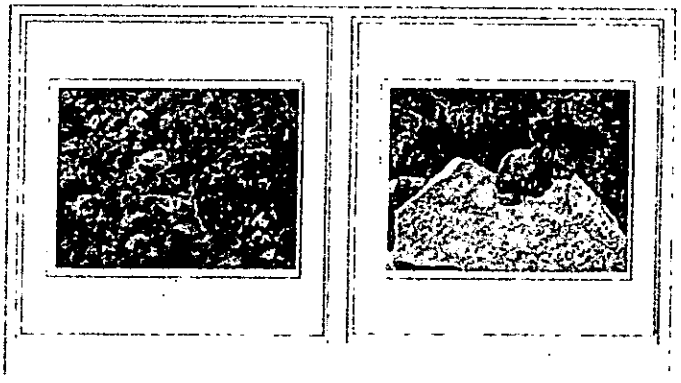
Kingdom:	Animalia
Phylum:	Chordata
Class:	Mammalia
Order:	Rodentia
Family:	Sciuridae
Genus:	*Marmota*
Subgenus:	*Petromarmota*
Species:	***M. caligata***

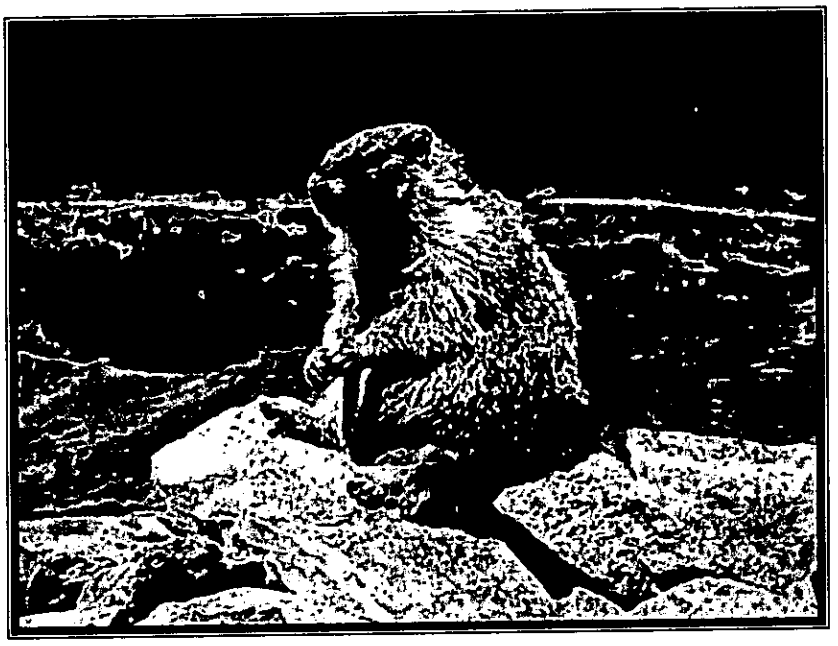
Binomial name

Marmota caligata
(Eschscholtz, 1829)

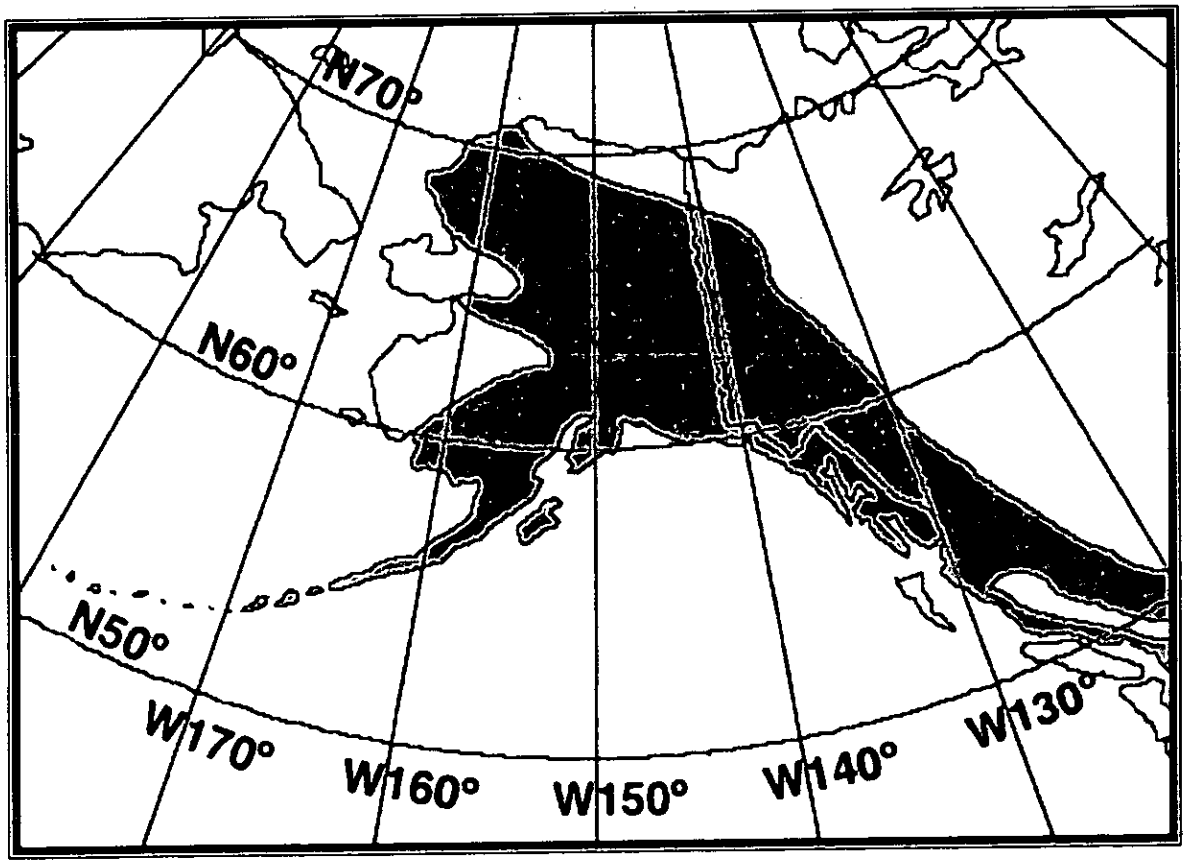
Unlike most animals their size, hoary marmots are not shy around humans. Rather than running away at first sight, they will often go about their business while being watched.

Gallery





Territory of the Marmot



MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT
OFFICE OF SUPERINTENDENT
501 NORTH GULKANA STREET
PALMER, ALASKA 99645

Phone: 907-746-9212 • Fax: 907-746-9292

January 27, 2009

Sen. Linda Menard
Room 9 Capital Building

RE: Letter of Support

Honorable Senator Menard,

I support your Bill for having Alaska recognize the marmot, rather than the ground hog, as the mascot for February 2. Across Alaska classrooms students recognize February 2 as the midpoint between the Winter Solstice and the Spring Equinox also known as the halfway point between winter and spring. Calendars across the country identify the day as Groundhog's Day. For our Alaskan students the groundhog is not a familiar animal, whereas, the marmot is.

The same story that holds for the groundhog would surely play out for the marmot, too. If a marmot took a break from hibernation and walked outside his/her den on February 2and did not see a shadow it would be a cloudy day which would probably be a warmer day than a sunny, high pressure midwinter day. Just as is true with the story of the ground hog, no shadow on a warm day for the marmot would presume a shorter winter ahead, but the bitter cold on the day the marmot sees his/her shadow would be the harbinger of winter to hang on longer.

This lesson on the calendar and earth rotation would assume more purpose with Alaskan students because of the familiar context of the marmot, while the ground hog has yet to experience witnessing the sun or a cloudy day in Alaska. I can only hope that our furry friend will enjoy a good South Central Alaska name like Matanuska Mike or Susitna Sally.

Thank you for considering my comments.

Sincerely,

George Troxel
Superintendent
Mat-Su Borough School District

Deena Paramo, Ed.D.
Assistant Superintendent Education
Mat-Su Borough School District

1/22/08

Sen. Linda Menard

State Capitol Room 9

Juneau, Alaska 99801

The Alaska Zoo supports the proposed "Marmot Day" bill. I think it would be a fun Alaskan version of groundhogs day and an opportunity to educate people on another species of Alaska's wildlife.

The Alaska Zoo currently does not have a marmot in residence, but we have had several in the past. It is on our wish list with the Alaska Department of Fish and Game should an orphaned or injured marmot come available.

Sincerely,

Patrick S. Lampi

Executive Director

Alaska Zoo

Alaska Zoo 4731 O'Malley, Anchorage, AK 99507 (907) 346-2133

Menard mad about marmot

By BRIAN O'DONOGHUE
Frontiersman staff

JUNEAU—A nefarious conspiracy is afoot among powerful members of the Legislature to deny a noble Alaskan its day in the sun.

Because of the conspiracy, Rep. Curt Menard said, next Tuesday the eyes of the nation will once again be drawn to a hole in Pennsylvania, instead of gazing with wonder at the Alaska Zoo.

"It's a disgrace to tourism," the representative declared over the phone from the state capital this week.

Menard's anguish stems from the Byzantine political fate of House Bill 181, his bold legislation to replace Groundhog Day with an occasion honoring an official state marmot.

House speaker Ben Grussendorf confirmed Menard's dire forecast.

"I don't think we're going to see the marmot's shadow out of committee and onto the floor by the time Groundhog Day rolls around," the speaker said.

Though he originally banished the bill to four committees, Grussendorf denied he is part of a crusade to deny marmots their due.

(Please see Marmot Back Page)



Marmot

(Continued from Front Page)

"I look at what we call local hire, or Alaska preference, and the marmot may well serve that purpose," he said. "I've no personal preference on it. If the bill comes out of committee it's fine with me."

Marmots living this far north are seldom seen this time of year, according to Alaska Zoo director Fammye Seawell. However, Smoke Alarm, the Zoo's senior hoary marmot, is apparently an exception.

"Every few weeks Smoke Alarm sticks his nose out," the zoo director said.

Groundskeepers say Smoke Alarm's restlessness is a matter of personal hygiene. In the halls of the Statehouse, however, the consensus holds the furry weathervane is actually sniffing out the political situation.

Pressed to explain the legislative logjam, Grussendorf shook his head.

"There's no leverage in the Marmot Bill," he said.

Nonetheless, this much is clear: Rep. John Sund is holding official recognition for Smoke Alarm hostage in his Judiciary Committee.

"We call it the dark hole," Menard said. "There's not a whole lot that comes out of that committee. I've talked to John a couple time about moving it. But he's not too big on the poor little critter."

So, I don't think the marmot's going to stick it's head out of the hole," Menard said, chuckling. "I think the speaker's right."

A lot of ribbing goes on about the Marmot Bill, but Menard said he takes it in stride.

"A lot of them are saying it's a joke thing, but there's a long-term value in terms of tourism. I thought it would give some promotion to the zoo. There's a town in Penn where the official Groundhog lives. They built a big tourist industry on that critter alone, selling shirts and all kinds of knickknacks. People go there for souvenirs.

"We always say we're different," he added. "If we're going to be different we don't have to drag all these traditional things up from the Lower 48."

Marmot Day: This is especially beneficial to the valley. Our community is sadled with a lot of embarrasing stereotypes (meth capitol of the state, etc.), which cause young people especially to be disrespectful of our community. Marmots are local and have been here all along; recoginzing their value with Marmot Day shows that we in the Valley have some local pride. Without that, it's impossible to maintain a sense of community identity.

Growing up in the Valley, I knew that our strip malls and box stores were nothing special. Independence Mine at Hatcher Pass, populated by marmots, is special. Marmot Day draws attention to the rich cultural resources preserved at Independence Mine and throughout the Talkeetna Mountains. The more we can do to imbue our community with a depth of history, the more the Mat-Su becomes somewhere we can be proud to live. I have watched the most talented members of my high school class leave the Valley with no plans of returning. Things like Marmot Day may be insignificant alone, but when we connect them together, they represent something important. The act of valuing local aspects like gold mines and marmots, or the Palmer Hay Flats and waterfowl, gives my generation a reason to stay-- or to come home again

-Will Elliot, Wasilla

mar 02 09 11:44p

Jasmine Riski
801 Valley St
Anchorage, AK
99504

Dear Senator Menard,

I am willing to support SB58 for naming February 2 "Marmot day in Alaska for three reasons. First, because it's a special day for Alaska to have fun. Second, because Alaska does not have Ground Hogs; we have Marmots. Last but not least, because Alaska will be the only state in the US that has Marmot day. Obviously I hope that Ground Hog Day gets changed to Marmot Day.

Sincerely,
Jasmine Riski

1951

6801 Pattie
Heights Dr.
Anchorage AK
99516.

To Whom it may concern,

I am writing to support SB58. I have been going to Arctic Valley my whole life and they celebrate "Merry Marmot Day." On that day a group of people arrange a bunch of activities and contests for the kids. Also we don't have Ground Hogs in Alaska. Anybody can see that this bill should be passed because it would give Alaskans a special day to celebrate.

Sincerely,
Raia Stamm

Joey Aist
4700 Marsh
Anchorage AK
March 2 2009

Dear Senator Menard

I support SB58 for these reasons. First, groundhogs don't even live in Alaska, but marmots live all over Alaska. Second, marmots are equivalent to groundhogs. Third, a lot of people in Alaska appreciate and like the marmot. Clearly marmots are Alaska's groundhogs, so a day to honor them makes sense.

Sincerely,
Joey Aist

10041 Hanley Cir.
Anchorage AK 99507
March 2nd 2009

Dear Senator Menard,

I am writing in support of SB 56. Every year during the spring the Artic Valley Ski Area hosts a "Merry Marmot Festival" and has many fun activities honoring the Marmot. During the festival many people come to celebrate the Marmot, so why not make it offical? The Marmot is very similar to the Groundhog, only Marmots live in Alaska and Groundhogs do not. Having February 2nd be Marmot Day would give Alaska another very unique quality.

Sincerely,
Ms. Ryan Terry

Mar 02 09 11:44p

P. H
3236 [illegible]
Anchorage [illegible]
March 2, 2009

Dear, Senator Menard,

I support SB58 to have a "Merry Marmot Day", every February 2nd. We should have a "Merry Marmot Day", instead of Ground Hogs' Day because, the Marmot is Alaska's Ground Hog. The kind of Marmot here is the Hoarey Marmot. The Marmot lives here, and the Ground Hog doesnt so why does the Ground Hog get a special day? As you can see the Marmot deserves their own special day.

Sincerely,
Caleena B. Shafer

[illegible] Valley Senate Dist
Anchorage AK 99507
March 2, 2009

Dear Senator Menard,

I am writing to support SB58. We should have a Marmot day because it would add to the uniqueness of Alaska. Also, we would be able to celebrate a cute, furry mammal, and many people love cute and furry mammals. One more thing is that marmots are afraid of their shadows, like groundhogs, so we will still be able to tell how much longer winter will last, instead of doing something else. All in All, Marmots are the groundhogs of Alaska, so a special day for them makes sense.

Sincerely,
Yungshu Wong

240 Penisula
Anchorage
AK 99515

Dear Senator Menard,

I support your bill and have agreed that the marmot day is a great day to have for alaska. We need our own special day, like the other states have.

Marmots are cute, kind, and gentle. They help keep alaska beautiful.

So I believe that the marmot would be a great day for alaskans.

Sincerley
Maddie Flores

Dear Senator Menard,
I support [illegible] Marmot Day [illegible]
[illegible] because it would be interesting
to have a unique animal to celebrate.
Second of all, Ground Hogs don't
even live here, marmots do. Finally,
we should choose an animal
That lives here unlike Ground Hogs.
To sum it all up, the marmot
deserves to have its special
day.

Sincerly,
Clara Brady

SB

72

1959

HOUSE COMMITTEE REPO

(7)

Date Referred to Committee: March 23, 2009 **FURTHER REFERRALS: Finance**

Date of Committee Action: 4-11-09

The STATE AFFAIRS Committee considered: **CS FOR SENATE BILL NO. 72(STA)**

"An Act relating to use of child safety seats and seat belts."

SB 72 CHILD SAFETY SEATS & SEAT BELTS

Recommends it be replaced with [ ] HCS *or* [X] CS *for* SB 72 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DOT				√

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	JOHNSON				X
Bill Seaton	SEATON	X			
Peggy Wilson	WILSON				X
Pete Peterson	PETERSEN	X			
Gabrielle LeDoux	GATTO				X
Mike Hawker	GRUENBERG			✓	
Chair:	LYNN	X			
Chair:					

HOUSE CS FOR CS FOR SENATE BILL NO. 72(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS FRENCH, Paskvan

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

"An Act relating to use of child safety seats and seat belts."

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

*** Section 1.** AS 19.10.095 is amended to read:

Sec. 19.10.095. Signs promoting the use of safety belts and child safety devices. The department may erect and maintain signs encouraging the use of safety belts **and child safety devices** at the site of a motor vehicle accident where a fatality occurred as the result of a person's failing to use a safety belt **or child safety device**. This section does not limit the authority of the department to erect or maintain signs to protect the public safety and welfare of persons using the highways of the state.

*** Sec. 2.** AS 28.05.095(b) is amended to read:

(b) Except as provided in (c) of this section, a driver may not transport a child under the age of 16 in a motor vehicle unless the driver has provided the required safety device and properly secured each child as described in this subsection. **A** [IF THE] child

(1) less than one year of age or a child one year of age or older who

weighs less than 20 pounds shall be properly secured in a rear-facing child safety seat that meets or exceeds [IS LESS THAN FOUR YEARS OF AGE, THE CHILD SHALL BE PROPERLY SECURED IN A CHILD SAFETY DEVICE MEETING THE] standards of the United States Department of Transportation **and is used in accordance with the manufacturer's instructions;**

(2) one or more years of age but less than five years of age who weighs 20 pounds or more shall be properly secured in a child restraint device that meets or exceeds the standards of the United States Department of Transportation and is used in accordance with the manufacturer's instructions;

(3) over four years of age but less than eight years of age who is less than 57 inches in height and weighs 20 or more pounds but less than 80 pounds shall be properly secured in a booster seat that is secured by a seat belt system or by another child passenger restraint system that meets or exceeds the standards of the United States Department of Transportation and is used in accordance with the manufacturer's instructions;

(4) over four years of age who exceeds the height and weight requirements in (3) of this subsection shall be properly secured in a seat belt;

(5) eight years of age [FOR A CHILD SAFETY DEVICE FOR INFANTS. IF THE CHILD IS FOUR] but **less than** [NOT YET] 16 years of age **who does not exceed the height and weight requirements in (3) of this subsection** [, THE CHILD] shall be properly secured in a child safety device approved for a child of that [AGE AND] size by the United States Department of Transportation or in a safety belt, whichever is appropriate for the particular child **as determined by the driver**.

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 2

Re House CS for CS for SB 72(TRA) 26-LS0376\P

Please draft a final CS for SB 72(TRA) that passed out of the House State Affairs Committee this morning amended as follows:

Conceptual Amendment#1 (Seaton)
Page 2 Line 23 after "child" *insert* **as determined by the driver**

Passed

Conceptual amendment #1

by Seaton

to HCS for CSSB 72 (TRA)

Insert on page 2 line 23 after child

~~"unable~~

"as determined by the driver."

HOUSE CS FOR CS FOR SENATE BILL NO. 72(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

amendment

Offered: 3/23/09
Referred: State Affairs, Finance

Sponsor(s): SENATORS FRENCH, Paskvan

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

"An Act relating to use of child safety seats and seat belts."

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

*** Section 1.** AS 19.10.095 is amended to read:

Sec. 19.10.095. Signs promoting the use of safety belts and child safety devices. The department may erect and maintain signs encouraging the use of safety belts **and child safety devices** at the site of a motor vehicle accident where a fatality occurred as the result of a person's failing to use a safety belt **or child safety device**. This section does not limit the authority of the department to erect or maintain signs to protect the public safety and welfare of persons using the highways of the state.

*** Sec. 2.** AS 28.05.095(b) is amended to read:

(b) Except as provided in (c) of this section, a driver may not transport a child under the age of 16 in a motor vehicle unless the driver has provided the required safety device and properly secured each child as described in this subsection. A [IF THE] child

(1) less than one year of age or a child one year of age or older who

weighs less than 20 pounds shall be properly secured in a rear-facing child safety seat that meets or exceeds [IS LESS THAN FOUR YEARS OF AGE, THE CHILD SHALL BE PROPERLY SECURED IN A CHILD SAFETY DEVICE MEETING THE] standards of the United States Department of Transportation **and is used in accordance with the manufacturer's instructions;**

(2) one or more years of age but less than five years of age who weighs ~~20 pounds or more~~ shall be properly secured in a ~~child restraint device~~ that meets or exceeds the standards of the United States Department of Transportation and is used in accordance with the manufacturer's instructions;

(3) over four years of age but less than ~~eight~~ years of age who is less than 57 inches in height ~~and weighs 20 or more pounds but less than 80 pounds~~ shall be properly secured in a booster seat that is secured by a seat belt system ~~or by another child passenger restraint system~~ that meets or exceeds the standards of the United States Department of Transportation and is used in accordance with the manufacturer's instructions;

(4) over four years of age who exceeds the height and weight requirements in (3) of this subsection shall be properly secured in a seat belt;

(5) eight years of age [FOR A CHILD SAFETY DEVICE FOR INFANTS. IF THE CHILD IS FOUR] but **less than** [NOT YET] 16 years of age **who does not exceed the height and weight requirements in (3) of this subsection** [, THE CHILD] shall be properly secured in a child safety device approved for a child of that [AGE AND] size by the United States Department of Transportation or in a safety belt, whichever is appropriate for the particular child.

HOUSE CS FOR CS FOR SENATE BILL NO. 72(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 3/23/09
Referred: State Affairs, Finance

Sponsor(s): SENATORS FRENCH, Paskvan

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

"An Act relating to use of child safety seats and seat belts."

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

*** Section 1.** AS 19.10.095 is amended to read:

Sec. 19.10.095. Signs promoting the use of safety belts and child safety devices. The department may erect and maintain signs encouraging the use of safety belts **and child safety devices** at the site of a motor vehicle accident where a fatality occurred as the result of a person's failing to use a safety belt **or child safety device**. This section does not limit the authority of the department to erect or maintain signs to protect the public safety and welfare of persons using the highways of the state.

*** Sec. 2.** AS 28.05.095(b) is amended to read:

(b) Except as provided in (c) of this section, a driver may not transport a child under the age of 16 in a motor vehicle unless the driver has provided the required safety device and properly secured each child as described in this subsection. **A** [IF THE] child

(1) less than one year of age or a child one year of age or older who

weighs less than 20 pounds shall be properly secured in a rear-facing child safety seat that meets or exceeds [IS LESS THAN FOUR YEARS OF AGE, THE CHILD SHALL BE PROPERLY SECURED IN A CHILD SAFETY DEVICE MEETING THE] standards of the United States Department of Transportation **and is used in accordance with the manufacturer's instructions;**

(2) one or more years of age but less than five years of age who weighs 20 pounds or more shall be properly secured in a child restraint device that meets or exceeds the standards of the United States Department of Transportation and is used in accordance with the manufacturer's instructions;

(3) over four years of age but less than eight years of age who is less than 57 inches in height and weighs 20 or more pounds but less than 80 pounds shall be properly secured in a booster seat that is secured by a seat belt system or by another child passenger restraint system that meets or exceeds the standards of the United States Department of Transportation and is used in accordance with the manufacturer's instructions;

(4) over four years of age who exceeds the height and weight requirements in (3) of this subsection shall be properly secured in a seat belt;

(5) eight years of age [FOR A CHILD SAFETY DEVICE FOR INFANTS. IF THE CHILD IS FOUR] but **less than** [NOT YET] 16 years of age **who does not exceed the height and weight requirements in (3) of this subsection** [, THE CHILD] shall be properly secured in a child safety device approved for a child of that [AGE AND] size by the United States Department of Transportation or in a safety belt, whichever is appropriate for the particular child.

SB 74 was done in H&T in last year,

Vague

Allison Does she want to leave as is,

who decides What is appropriate

If 8 year over

Laura Glaize Cindy Cashen

Child Passenger Safety

A PARENT'S PRIMER

When you're an expectant mother, it's important to always wear your seat belt to protect you and your unborn child. Wear the lap belt across your hips and below your belly with the shoulder belt across your chest (between your breasts). Once your baby is born, follow these important safety steps.

GROWING UP SAFE: It's a four-step process.

As children grow, how they sit in your car, truck or SUV should change.
Save your child from injury or death by observing all four steps:

REAR-FACING SEATS

For the best possible protection keep infants in the back seat, in rear-facing child safety seats, as long as possible up to the height or weight limit of the particular seat. At a minimum, keep infants rear-facing until a minimum of age 1 and at least 20 pounds.

FORWARD-FACING SEATS

When children outgrow their rear-facing seats (at a minimum age 1 and at least 20 pounds) they should ride in forward-facing child safety seats, in the back seat, until they reach the upper weight or height limit of the particular seat (usually around age 4 and 40 pounds).

BOOSTER SEATS

Once children outgrow their forward-facing seats (usually around age 4 and 40 pounds), they should ride in booster seats, in the back seat, until the vehicle seat belts fit properly. Seat belts fit properly when the lap belt lays across the upper thighs and the shoulder belt fits across the chest (usually at age 8 or when they are 4'9" tall).

SEAT BELTS

When children outgrow their booster seats, (usually at age 8 or when they are 4'9" tall) they can use the adult seat belt in the back seat, if it fits properly (lap belt lays across the upper thighs and the shoulder belt fits across the chest).

Get Help!

ON THE WEB

Go to **www.nhtsa.gov** and choose Child Safety Seat Information from the menu or click on the child passenger safety icon. The site includes child safety seat installation tips, product ratings, recalls, and other useful information.

BY PHONE

For more information about child safety seats, booster seats, inspection/fitting stations in your area, seat belts, air bags, and other highway safety issues, call the DOT Vehicle Safety Hotline at: 1-888-327-4236.

NEAR YOU

A certified child passenger safety technician can check your installation and answer questions. To find a technician or an inspection station near you, go to **www.nhtsa.gov**, click on the child passenger safety icon, and then click on the Fitting/Inspection Station link or go to **www.seatcheck.org.**

REMEMBER: All children under 13 should ride in the back seat.

Always read the child restraint instructions and the vehicle owner's manual.



NHTSA
www.nhtsa.gov

AMENDMENT EFFECT:

- Consistent use of child safety seat terms
- Aligns the weight/height grid with NHTSA published standards.
- Strikes a weight requirement when transitioning to a booster seat and to a seat belt

NHTSA Height/Weight Schedule for Child Safety Seats
Source: "Traffic Safety Facts August 2007", and also "Child Passenger Safety – A Parent's Primer" (undated)

AGE		HEIGHT		WEIGHT	PROPERLY SECURED IN A:
<less than 1 year old	-	-	and	less than 20 lbs.	"rear-facing child safety seat"
1 to 4 yrs old	-	-	and	less than 40 lbs.	"front-facing child safety seat"
Over 4 yrs. old	and	Less than 57" tall	-		"booster seat"
Over 7 yrs. old	and	Over 57" tall	-		"seat belt"

Note: the NHTSA refers to an approximate weight; i.e. "about 20 pounds" and "about 40 pounds," but specifies 57" inches as the target height.

remove weight restriction

People Saving People
www.nhtsa.dot.gov

Motor Vehicle Occupant Protection F A C T S

Appendix C – State Child Restraint Laws[1]

State	Rear Safety Belts Required[2]	Child Safety Seat Required	May Use Child Safety Seat or Safety Belt	Max Fine[4]	Points	Major Exemptions to Child Passenger Laws[6]	Children Allowed in Cargo Area of Pickups?
AL	<6 yrs	<4 yrs	Ages 4-5 yrs	$10		To trucks or buses weighing ≥1 ton	Yes
AK	<16 yrs	<4 yrs		$50	2	None	No
AZ	<16 yrs	<5 yrs	Age 5-15 yrs	$10		All vehicle belts in use	
AR	<15 yrs	Age 6 yrs & >60 lbs	Age 6 yrs or >60 lbs	$100		None	
CA	<16 yrs	<6 yrs or <60 lbs		$100	1	None	
CO	<16 yrs	<4 yrs & <40 lbs & ≥4 yrs & <6 yrs & <55" tall[17]	Ages 6-15 & >40 lbs & 55" tall	$56		Transported in motor vehicle as a result of a medical emergency	Yes, if sitting & tailgate closed
CT	<16 yrs	<4 yrs and <60 lbs	40 lbs & over	$60	2	None	No
DE	<16 yrs[3]	<6 yrs	60 lbs & over	$20	2	No major exemptions	No
DC	<16 yrs	<8 yrs	Ages 8 yrs-16 yrs	$150	3	All vehicle belts in use[7]	No
FL	<16 yrs	<4 yrs	Age 4-5 yrs	$60	3	None	No
GA	<16 yrs	<5 yrs	Not permissible	$50	1	May use belt if age 5 and over	If on non-interstate roadway
HI	<18 yrs	<3 yrs	Age 4 yrs	$100		All vehicle belts in use[7]	No[13]
ID	>4 and <18 yrs	<4 yrs or <40 lbs	>4 or >40 lbs	$60		All vehicle belts in use[7,8]	Yes
IL	<16 yrs	<8 yrs	Ages 4-15 yrs, all seating positions	$50		None	Yes
IN	<12 yrs	<4 yrs	Ages 4-16 yrs, all seating positions & vehicles	$25	4	Vehicle registered out of State	<16 yrs not allowed
IA	<11 yrs	<6 yrs[21]	Ages 6-10 yrs	$25		Motorcycles, school buses, emergency vehicles & medical reasons per physician	Yes
KS	<14 yrs	<4 yrs		$20		All vehicle belts in use	If >13 yrs
KY	<16 yrs	40" & Under		$50		None	Yes
LA	<13 yrs	<6 yrs or 60 lbs	Ages 3-13 yrs	$100		Ambulances, school buses, church buses, commerical	If >11 yrs

Table of Contents

Introduction

The Need To Promote Occupant Restraint Use for Children, Youth, and 16- to 20-Year-Olds

Facts About Children and Youth

Facts About Young Adults Ages 16 to 20

Appendices

- Appendix A: Persons Killed in Motor Vehicle Crashes, by State and Age Group, 2002
- Appendix B: Passenger Vehicle Occupants Killed in Motor Vehicle Crashes, by State and Restraint Use, 2002
- **Appendix C: State Child Restraint Laws**

For Additional Information

Charts

						vehicles	
ME	<12 yrs, <100 lbs	<8 yrs	Ages 4-17 yrs, <12 & 100 lbs	$60		All vehicle belts in use[9]	<16 yrs not allowed
MD	<16 yrs	≤6 yrs	>40 lbs	$25		All vehicle belts in use, vehicle registered out of State exempt	No
MA	<13 yrs	<5 yrs or <60 lbs	>Age 5 yrs	$25		None	If >16 yrs
MI	<16 yrs	<4 yrs		$15		All vehicle belts in use[7]	No[12,13]
MN	<11 yrs	<4 yrs		$50		Child being nursed	No[12,14]
MS	<8 yrs	<4 yrs		$25		See footnote[20]	Yes
MO	<16 yrs	<4 yrs	Ages 4-15 may use safety belts	$25			No
MT	<16 yrs	<2 yrs	Ages 2-6 or <60 lbs	Up to $100		No more than 3 CSS required in a vehicle; physical or medical reasons per physician	No[13,14]
NE	<16 yrs	<6 yrs		$25		Medical reasons per physician, emergency vehicles, taxi cabs	No
NV	<16 yrs	<6 yrs, <80 lbs, & <55"		$500		Public transportation	No
NH	<18 yrs	<6 yrs		$25		None	No
NJ	<18 yrs	<8 yrs or 80 lbs		$25		All vehicle belts in use[7]	No
NM	≤16 yrs	<1-4 yrs[18]	Ages 5-12 yrs	$25		All vehicle belts in use[19]	No, if <18
NY	<16 yrs	<4 yrs		$100	3	None	Yes[15]
NC	<16 yrs	<5 yrs, <40 lbs	Ages 5-15 yrs			Child's personal needs being attended to	If >11 yrs [12,14,16]
ND	<18 yrs	<4 yrs	Ages 4-17 yrs		1	All vehicle belts in use by family members, or transported in an emergency situation	Yes
OH	<4 yrs or <60 lbs	<4 yrs or <60 lbs		$100		Vehicle registered out of State	If traveling <25 mph[12]
OK	≤13	<6 yrs	≥6 but <13	$25		All vehicle belts in use	Yes
OR	<16 yrs[20]	<4 yrs or <40 lbs	Age 6 yrs & >60 lbs	$94		None unless all belted positions taken	Yes
PA	<16 yrs	<4 yrs		$25		None	Yes
RI	<17 yrs	<7 yrs & 54" & 80 lbs in Federally Approved Child Restraint System in back seat	Age 7 yrs or older	$75		All vehicle belts in use	No, up to age 16
SC	<17 yrs	≤5 yrs or <80 lbs	≥1 but <6 years	$25		If all vehicle belts in use	Yes
SD	<18 yrs	<5 yrs & <40 lbs	Ages 5-17, & > 40 lbs	$20		None	Yes
						All vehicle belts in	If >5 yrs or

TN	<18 yrs	<4 yrs[25]		$50[5]		use[8,10]	moving <20 mph
TX	≤17 yrs	<4 yrs or <36"	Ages 4-16 yrs	$200		All vehicle belts in use	<17 yrs not allowed
UT	<19 yrs	<5 yrs	Ages 5-18 yrs	$45		All vehicle belts in use, physical or medical reasons per physician	No
VT	<16 yrs	<8 yrs		$25		All vehicle belts in use[11]	Yes
VA	<16 yrs	≤5 yrs	Ages 6-15	$50	3	No major exemptions	Yes
WA	<16 yrs	<6 yrs or <60 lbs	Ages 6-16 yrs[23]	$101		No major exemptions[24]	Yes
WV	<16 yrs	<3 yrs	Ages 3-8 yrs	$20		All vehicle belts in use	No
WI	<8 yrs	<4 yrs	Ages 4-8 yrs	$75		Attending to child's personal needs	No[14]
WY	<12 yrs	<8 yrs & <80 lbs properly secured in CRS in back seat[22]	Ages 5-11 yrs	$50		Physician provides medical exemptions, rendering aid and or assistance to child by parent/guardian	Yes
PR	All persons, all ages, unless in a safety seat must wear a safety belt	<5 yrs	<12 must ride in back seat	$100		None	No

[1]This chart applies to children younger than age 19. As of the printing of this document, 24 States & DC have enacted legislation to address booster seat age children. Legislation varies from State to State.

[2]Front seat restraints are required for all children younger than 16.

[3]Children < 12 years old and < 66 inches may not occupy front seat if equipped with passenger-side air bag.

[4]Maximum fine for first offense of child safety seat laws. Fines may be different for older children.

[5]Or 30 days in jail.

[6]Major exemptions are considered to be exemptions in private passenger vehicles (cars, vans, or pickups). Many States have exemptions for buses, taxis, or other public transportation, children with medical conditions, and emergency situations.

[7]Unrestrained children must be in the rear.

[8]Law does not apply if the child's personal or physiological needs are being met.

[9]Only for children > 1 year old.

[10]Only for ages 4 through 11.

[11]Only for children older than age 4.

[12]Unless properly restrained in a safety belt or child safety seat.

[13]Unless number of children exceeds number of safety belts available.

[14]Unless used in farm work or farm activity.

[15]Unless there are more than five children younger than age 18 not accompanied by a person older than 18.

[16]Unless supervised by an adult.

[17]Effective 8/1/03, secondary enforcement and 1-year warning period.

[18]< 1yr rear-facing CSS; age 1-4 child passenger restraint device or < 40 lbs.

[19]Or riding in an emergency vehicle, public transportation, or school bus.

[20]If there are more passengers than available safety belts, the driver/passengers are not in violation; public carriers for hire are exempted.

[21]Enacted July 2004 with condition of an 18-month education phase-in period.

[22]Unless the vehicle has only one row of seats, then the child can be placed in the front, as of 7/1/03.

[23]May use safety belt only if properly adjusted and fastened.

[24]The CPS law does not apply if the child is booster seat age/size and the vehicle has lap-only safety belts.

[25]Beginning 7/1/04, child < 1 or < 20 pounds in rear-facing safety seat.

Back to Top

PROPOSED AGE / WEIGHT / HEIGHT GRID UNDER SB 72

26-LS0376\E

AGE		HEIGHT		WEIGHT	PROPERLY SECURED IN A:	Approx. % aged-children falling inside Ht/Wt parameters
Less than 1 year old		-	**and**	less than 20 lbs.	"rear-facing child safety seat"	99%
1 to 4 yrs old		-	**and**	More than 20 lbs.	"child restraint device"	99%
5 to 7 yrs. Old	**and**	<57"	**and**	21 to 79 lbs.	"booster seat that is secured by a seat belt system OR by another child passenger restraint system"	99%
Over 4 yrs. Old	**and**	>57"	**and**	Over 80 lbs.	"seat belt"	Age 11.5 yrs is the average soonest age to meet both Ht/Wt requirements
8 to 15 yrs. Old	**and**	<57"	**and**	Less than 80 lbs.	"child safety devise...or in a safety belt, whichever is appropriate"	Age 11.5 yrs is the average soonest age to meet both Ht/Wt requirements

Source: SB 72 bill text

95% of BOYS		
	Weight	**Height**
Age 5	34-52 lbs.	40-46"
Age 7	41-70 lbs.	44"-52"
Age 8	45-78 lbs.	47"-54"
Age 15	96-176 lbs.	62"-72"

95% of GIRLS		
	Weight	**Height**
Age 5	32-52lbs.	39"-46"
Age 7	40-70lbs.	44"-52"
Age 8	44-80lbs.	46"-54"
Age 15	90-166lbs.	60"-69"

Source: www.cdc.gov/growcharts

Questions pertaining to this bill / grid on next page

Questions re. the fast-moving SB

Why the varying vernacular: "child restraint devices", "child safety devices," and a "child passenger restraint system?" Why can't the language be consistent and easier to understand? The three basic seats are: rear-facing, front-facing, and backless booster child safety seats. Call it that accordingly.

If a parent decides it is "appropriate" for their child, who's say age 9, weighs 60lbs, and stands 50" tall, to wear a seatbelt, will that decision spare the parent from receiving a ticket for just using a seat belt, regardless of the fact that the child is under the height or weight parameters? If so, and we're indeed calling on parents' descretion, then why bother passing this law?

The National Highway Safety Administration shifts emphasis from WEIGHT to a HEIGHT requirement when transitioning to/from the booster seats. What does a child's weight have to do with improving safety and use of a booster seat over a seat belt?

NHTSA recommends a graduation from rear-facing safety seats, to front-facing safety seats, to booster seats, to seat belts as follows:

AGE		HEIGHT		WEIGHT	PROPERLY SECURED IN A:
<1 year		-	and	<20 lbs.	"rear-facing child safety seat"
1 to 4 yrs		-	and	<40 lbs.	"front-facing child safety seat"
>4 yrs.	and	<57"			"booster seat"
>7 yrs.	and	>57"			"seat belt"

This grid shows height and weight requirements. Why doesn't SB 218 reflect this easier-to-understand, and more conforming approach to the NHTSA's recommendations?

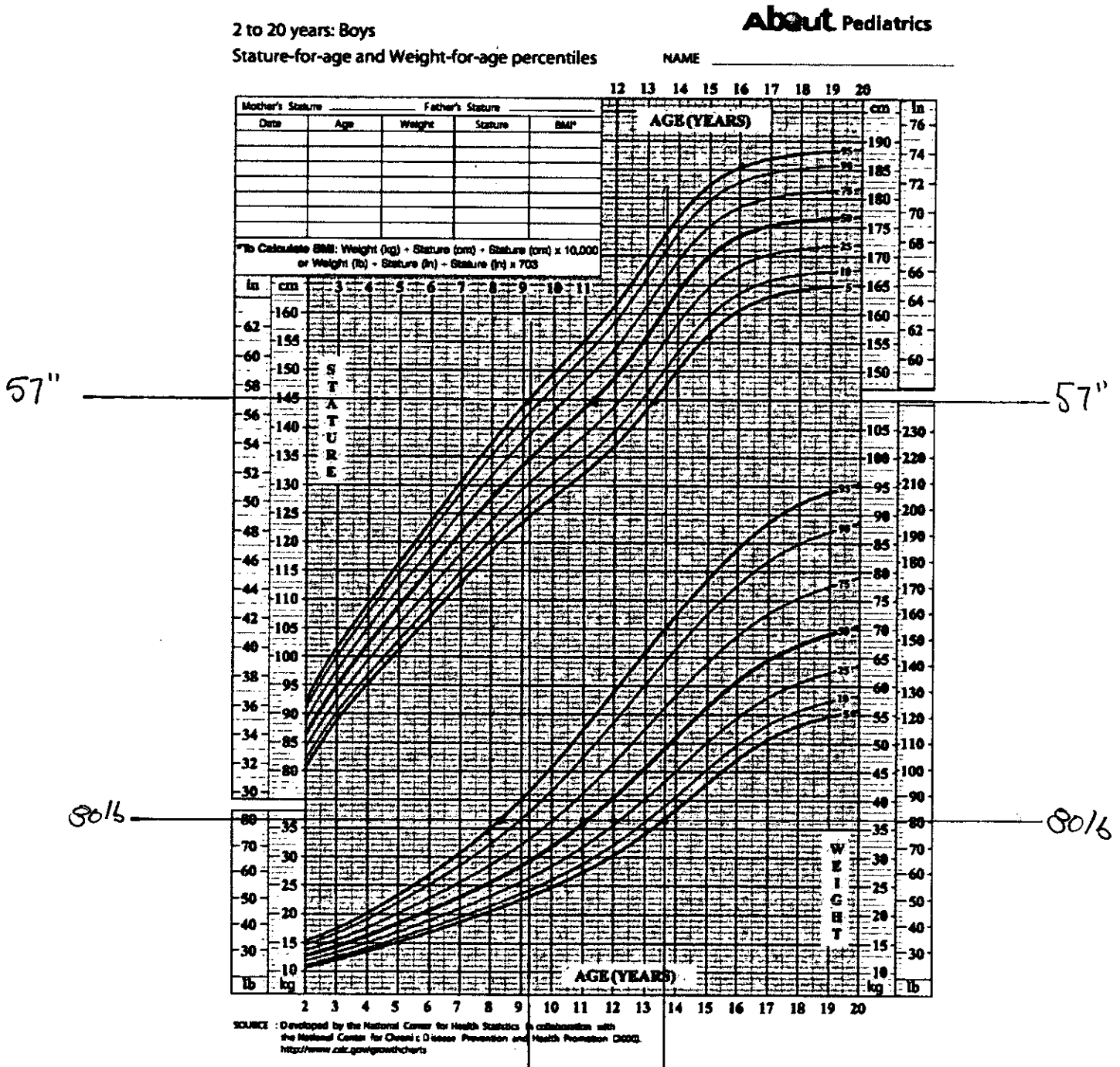
A sample of 50 high-back (front-facing) booster seat products was taken from a leading on-line retailer. The price ranged from $40 to $350, with an average of $98. Rear-facing (infant) safety seats were similar in price. The no-back boosters sample was of 14 products, ranging in price from $19 to $60, with an average price of $28. Considering that the NHTSA indicates children need to make graduations through the seat types as they grow, and that parents will ultimately have to buy all three types of seats, do you assert that the booster seat requirements will not be onerous on parents, particularly low-income parents?

There are accordingly several agencies in the state who sell "thousands" of child safety seats at reduced cost, or free. Please specify these agencies and explain exactly when and where parents can take advantage these free or reduced price safety seats.

Similarly, the fiscal note for SB 218 leverages passage of the bill to federal grant money amounting to $194K in the next two fiscal years, and 50% of which ($82K) "may be used to fund programs for purchasing and distributing child safety seats and restraints to low income families." However, assuming the safety seat requirement takes effect in July 2008, how long will it take before those federal grant monies are actually available to parents?

Since we passed the 2006 law making it a primary offense not to be wearing a seat belt, will it also be the case that children observed not being in a booster or safety seat will give cause to pull-over and ticket parents?

About.com: Pediatrics



57"

57"

80lb

80lb

back to the growth charts subject page

95%: AGE 9.5 → 13.5 YRS.
TO MEET BOTH

1977

About.com: Pediatrics

About Pediatrics

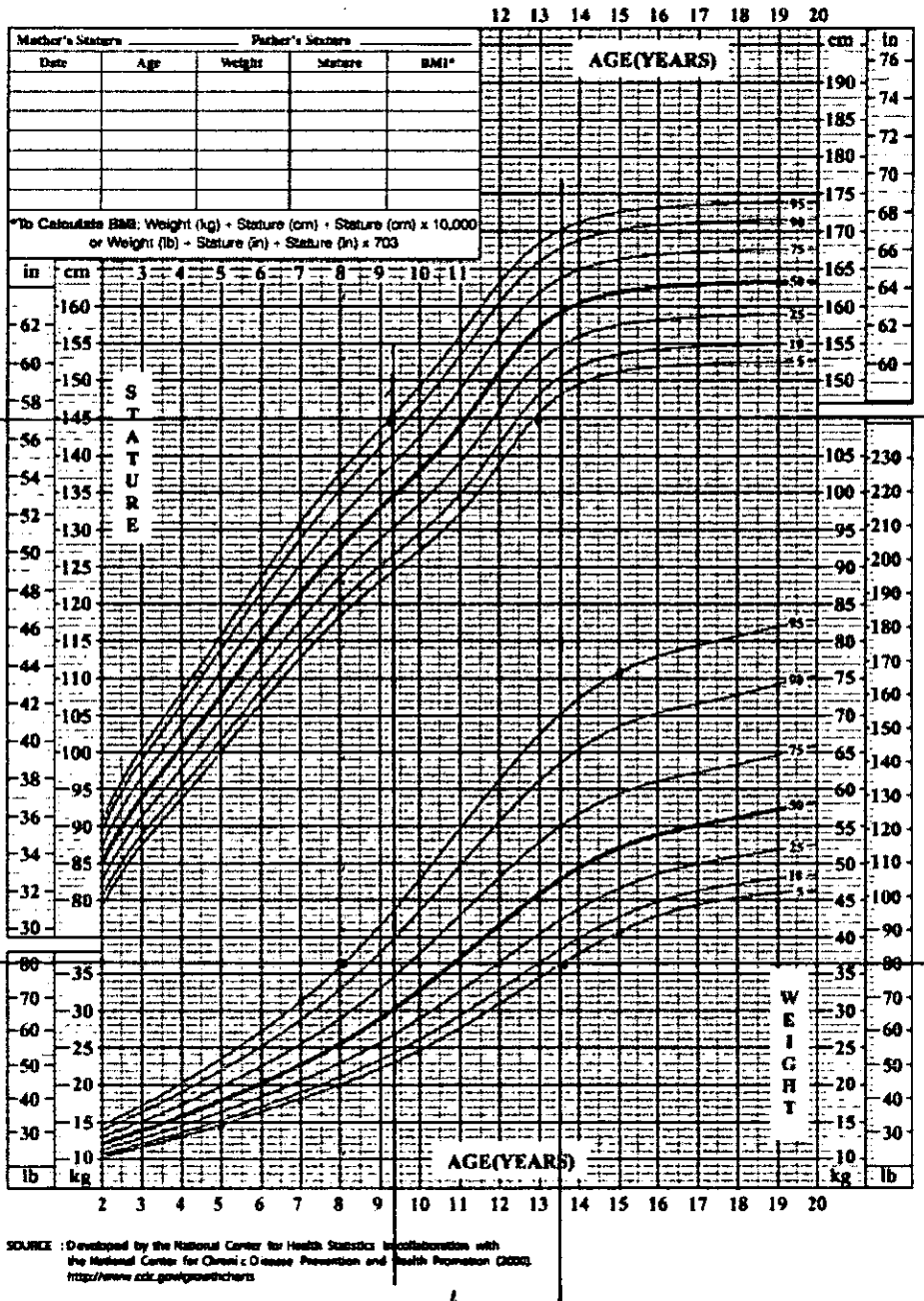
2 to 20 years: Girls
Stature-for-age and Weight-for-age percentiles

NAME _____

Mother's Stature _____ Father's Stature _____

Date	Age	Weight	Stature	BMI*

*To Calculate BMI: Weight (kg) ÷ Stature (cm) ÷ Stature (cm) x 10,000 or Weight (lb) ÷ Stature (in) ÷ Stature (in) x 703



57" 57"

80lb 80lb

SOURCE : Developed by the National Center for Health Statistics in collaboration with the National Center for Chronic Disease Prevention and Health Promotion (2000). http://www.cdc.gov/growthcharts

back to the growth charts subject page

95%

AGE 9.5 → 13.5 YRS TO MEET BOTH

Traffic Safety Facts

NHTSA
www.nhtsa.gov

DOT HS 810 798

August 2007

Child Restraint Use in 2006 – Use of Correct Restraint Types

Donna Glassbrenner, Ph.D., and Tony Jianqiang Ye

In the first-ever probability-based study of whether children in the United States are using restraints appropriate for their height and weight, NHTSA found that almost half (44%) of children between 20 and 40 pounds were not in front-facing child safety seats in 2006, the appropriate child restraint for this weight group. This result is from the National Survey of the Use of Booster Seats (NSUBS). The NSUBS is conducted by the National Center for Statistics and Analysis of the National Highway Traffic Safety Administration.

The NSUBS provides the best information to date on the extent to which children are "prematurely graduated" to restraints inappropriate for their height and weight. This is because the NSUBS is a probability-based national survey that not only observes child restraint use, but also records the ages, heights, and weights of children via face-to-face interviews.

The 2006 survey found substantial evidence of premature graduation for all restraint types. In the following sections, we present the 2006 findings in three areas:

- Premature graduation out of rear-facing safety seats;
- Premature graduation out of front-facing safety seats; and
- Premature graduation into seat belts.

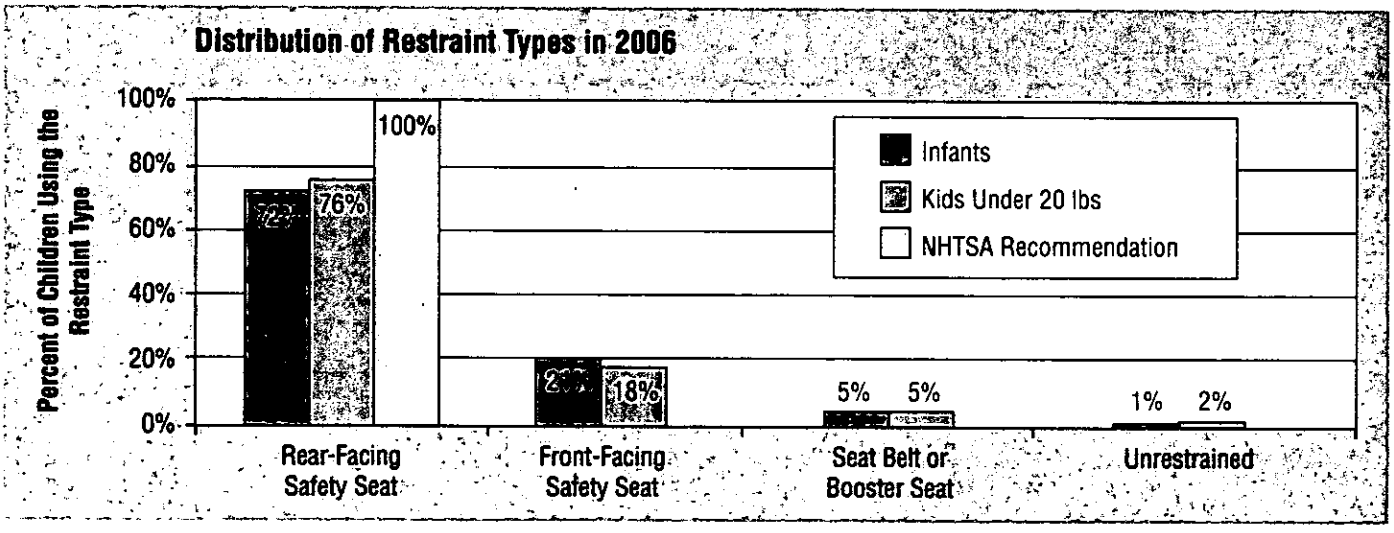
Premature Graduation Out of Rear-Facing Safety Seats

NHTSA recommends that for the best possible protection, infants should be kept in the back seat, in rear-facing child safety seats, as long as possible up to the height or weight limit of the particular seat. At a minimum, infants should be kept rear-facing until a minimum of age 1 and at least 20 pounds (source: www.boosterseat.gov).

In particular, children who are under age 1 or less than 20 pounds should be in rear-facing safety seats. However, the 2006 NSUBS found that

- Over one quarter (28%) of infants (less than 1 year) were not in rear-facing safety seats; and
- About one quarter (24%) of children less than 20 pounds (age 0 to 12) were not in rear-facing safety seats.

Most of the premature graduation for these children was to front-facing safety seats.



Note: Percentages may not total to 100% due to rounding
Source: The National Survey of the Use of Booster Seats, National Highway Traffic Safety Administration, National Center for Statistics and Analysis, 2006

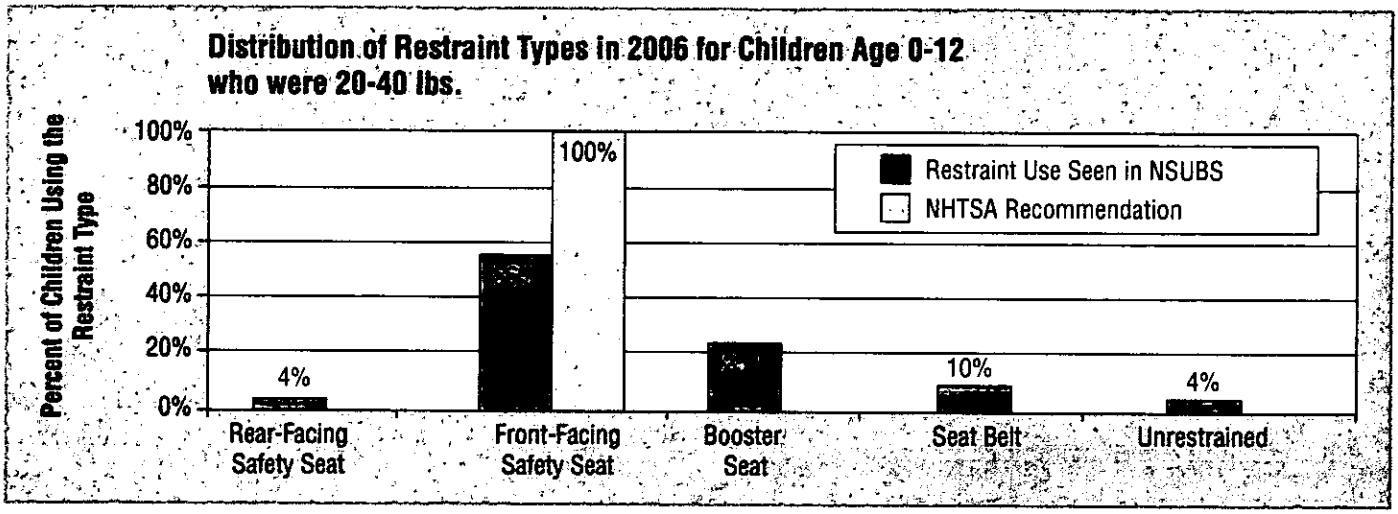
Premature Graduation Out of Front-Facing Safety Seats

NHTSA recommends that when children outgrow their rear-facing seats (at a minimum age 1 **and** at least 20 pounds) they should ride in forward-facing child safety seats, in the back seat, until they reach the upper weight or height limit of the particular seat (usually at around age 4 and 40 pounds). (Source: www.boosterseat.gov)

However, the 2006 NSUBS found that:

- Almost half (44%) of children age 0 to 12 who are 20-40 pounds were not in front-facing safety seats.

Some of the premature graduation for these children was to booster seats and some to seat belts.



Note: Percentages may not total to 100% due to rounding
Source: The National Survey of the Use of Booster Seats 2006, National Highway Traffic Safety Administration, National Center for Statistics and Analysis

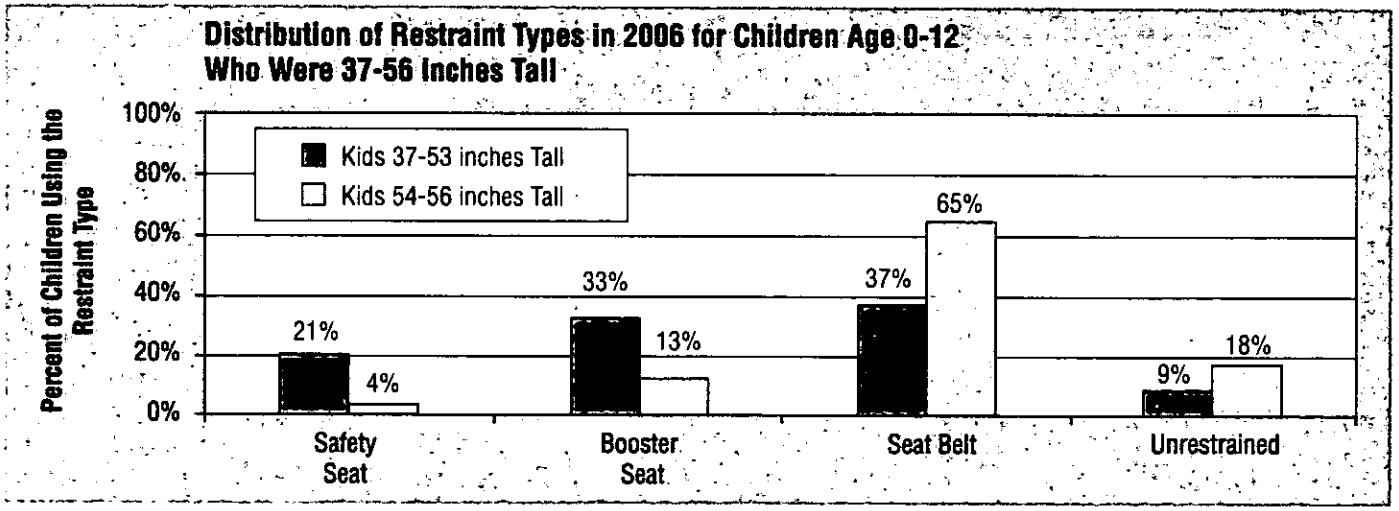
Premature Graduation to Seat Belts

NHTSA recommends that once children outgrow their forward-facing seats (usually at around age 4 and 40 pounds), they should ride in booster seats, in the back seat, until the vehicle seat belts fit properly. Seat belts fit properly when the lap belt lays across the upper thighs and the shoulder belt fits across the chest (usually at age 8 or when they are 4'9" tall). (Source: www.boosterseat.gov)

However, the 2006 NSUBS found that:

- About half (46%) of children (age 0-12) who are 37 to 53 inches tall were not in safety seats or booster seats;
- About 8 in 10 (83%) of children (age 0-12) who are 54 to 56 inches tall were not in safety seats or booster seats.

Many of these children were in seat belts and a fair number were unrestrained.



Source: The National Survey of the Use of Booster Seats 2006, National Highway Traffic Safety Administration, National Center for Statistics and Analysis

The Types of Restraints Used by Children Age 0-12, by Weight

Restraint Type[1]	Percentage of Children Observed Using the Restraint Type In 2006[2]	Standard Error
Children Who Weigh Less Than 20 Pounds		
Rear-Facing Child Safety Seat	76%	15%
Front-Facing Child Safety Seat	18%	13%
High-Backed Booster Seat	NA	NA
Backless Booster Seat	NA	NA
Seat Belt	4%	4%
No Restraint Observed	2%	1%
Children Who Weigh Between 20 and 40 Pounds		
Rear-Facing Child Safety Seat	4%	1%
Front-Facing Child Safety Seat	56%	5%
High-Backed Booster Seat	16%	7%
Backless Booster Seat	9%	5%
Seat Belt	10%	3%
No Restraint Observed	4%	1%
Children Who Weigh Between 41 and 60 Pounds		
Rear-Facing Child Safety Seat	NA	NA
Front-Facing Child Safety Seat	14%	6%
High-Backed Booster Seat	23%	6%
Backless Booster Seat	16%	5%
Seat Belt	35%	8%
No Restraint Observed	11%	3%
Children Who Weigh More Than 60 Pounds		
Rear-Facing Child Safety Seat	NA	NA
Front-Facing Child Safety Seat	0%	0%
High-Backed Booster Seat	4%	1%
Backless Booster Seat	4%	2%
Seat Belt	77%	4%
No Restraint Observed	15%	3%

[1] Survey data was obtained on children age 0 to 12 in passenger vehicles at a nationwide probability sample of gas stations, day care centers, recreation centers, and restaurants in five fast food chains.

[2] Restraint use is observed by trained data collectors prior to or just as the vehicle comes to a stop, except in the case of observation at fast food drive through lanes, where restraint use is observed prior to the vehicle reaching the drive-through window.

NA: Data not sufficient to produce a reliable estimate.

Source: The National Survey of the Use of Booster Seats, National Highway Traffic Safety Administration, National Center for Statistics and Analysis

1981

The Types of Restraints Used by Children Age 0-12, by Height

Restraint Type[1]	Percentage of Children Observed Using the Restraint Type in 2006[2]	Standard Error
Children Who Are at Most 36 Inches Tall		
Rear-Facing Child Safety Seat	14%	3%
Front-Facing Child Safety Seat	55%	4%
High-Backed Booster Seat	12%	7%
Backless Booster Seat	8%	6%
Seat Belt	6%	2%
No Restraint Observed	5%	1%
Children Who Are Between 37 and 53 Inches Tall		
Rear-Facing Child Safety Seat	0%	0%
Front-Facing Child Safety Seat	21%	5%
High-Backed Booster Seat	20%	4%
Backless Booster Seat	13%	3%
Seat Belt	37%	5%
No Restraint Observed	9%	3%
Children Who Are Between 54 and 56 Inches Tall		
Rear-Facing Child Safety Seat	NA	NA
Front-Facing Child Safety Seat	NA	NA
High-Backed Booster Seat	9%	5%
Backless Booster Seat	4%	5%
Seat Belt	65%	9%
No Restraint Observed	18%	5%
Children Who Are Taller Than 56 Inches		
Rear-Facing Child Safety Seat	NA	NA
Front-Facing Child Safety Seat	NA	NA
High-Backed Booster Seat	1%	1%
Backless Booster Seat	NA	NA
Seat Belt	84%	4%
No Restraint Observed	13%	4%

[1] Survey data was obtained on children age 0 to 12 in passenger vehicles at a nationwide probability sample of gas stations, day care centers, recreation centers, and restaurants in five fast food chains.

[2] Restraint use is observed by trained data collectors prior to or just as the vehicle comes to a stop, except in the case of observation at fast food drive through lanes, where restraint use is observed prior to the vehicle reaching the drive-through window.

NA: Data not sufficient to produce a reliable estimate.

Source: The National Survey of the Use of Booster Seats, National Highway Traffic Safety Administration, National Center for Statistics and Analysis

The Types of Restraints Used Children Age 0-12, by Age

Restraint Type[1]	Percentage of Children Observed Using the Restraint Type in 2006[2]	Standard Error
Children Age 0 (Less Than 1 Year Old)		
Rear-Facing Child Safety Seat	72%	10%
Front-Facing Child Safety Seat	21%	7%
Booster Seat	NA	NA
Seat Belt	2%	3%
No Restraint Observed	1%	1%
Children Age 1-3		
Rear-Facing Child Safety Seat	4%	2%
Front-Facing Child Safety Seat	69%	4%
Booster Seat	19%	3%
Seat Belt	5%	2%
No Restraint Observed	3%	1%
Children Age 4-7		
Rear-Facing Child Safety Seat	NA	NA
Front-Facing Child Safety Seat	17%	4%
Booster Seat	41%	6%
Seat Belt	33%	6%
No Restraint Observed	9%	2%
Children Age 8-12		
Rear-Facing Child Safety Seat	NA	NA
Front-Facing Child Safety Seat	0%	0%
Booster Seat	8%	3%
Seat Belt	75%	4%
No Restraint Observed	16%	3%

[1] Survey data was obtained on children age 0 to 12 in passenger vehicles at a nationwide probability sample of gas stations, day care centers, recreation centers, and restaurants in five fast food chains.

[2] Restraint use is observed by trained data collectors prior to or just as the vehicle comes to a stop, except in the case of observation at fast food drive through lanes, where restraint use is observed prior to the vehicle reaching the drive-through window.

NA: Data not sufficient to produce a reliable estimate.

Source: The National Survey of the Use of Booster Seats, National Highway Traffic Safety Administration, National Center for Statistics and Analysis

1983

Survey Methodology

The National Survey of the Use of Booster Seats obtains its data by sending trained data collectors to a probability sample of gas stations, day care centers, recreation centers, and restaurants in five national fast food chains across the United States. The choice of these types of data collection sites stems from the necessity of observing restraint use from a close range in a slow-moving or stopped vehicle (as is required in order to distinguish a seat belt being used in conjunction with a backless booster seat from a seat belt being used alone), combined with the desire to capture large numbers of children.

Data collectors approach passenger vehicles appearing to have child occupants under the age of 13, observe the restraint use of up to nine occupants in the first three rows of seats and conduct interviews to obtain the race and ethnicity of all occupants (obtained in compliance with OMB standards for such data) and the heights, weights, and ages of child occupants appearing to be under age 13. (The approximate ages of other occupants (expressed as an age range, such as 16 to 24 years old), and the genders of all occupants, are subjectively assessed by the data collectors.)

In order to capture restraint usage before children unfasten the restraints, restraint use is observed by the data collectors prior to or just as the vehicle comes to a stop, except in the case of observation at fast food drive through lanes, where restraint use is observed prior to the vehicle reaching the drive-through window.

In order to reach as wide an audience as possible, the NSUBS uses some Spanish-speaking data collectors.

The 2006 survey data is based on the observation of 10,000 occupants, 5,300 of whom were under age 13, in 3,500 vehicles at 28 day care centers, 107 fast food restaurants, 205 gas stations, and 43 recreation centers nationwide. The survey interviewed the drivers of 4,431 children under age 13, including 197 infants, 1,061 children age 1 to 3 years old, 1,685 children age 4 to 7 years old, and 1,488 children age 8 to 12 years old. The data was collected between July 17 and July 29, 2006.

The NSUBS uses a complex multistage probability sample, statistical data editing, imputation of unknown values and complex estimation and variance estimation procedure. See the NHTSA Technical Report referenced below for more information on these procedures, as well as for more information on the survey's data collection protocols.

The design of the survey, survey preparation activities, data collection, estimation, and variance estimation for the NSUBS were conducted by Westat, Inc., under the direction of the National Center for Statistics and Analysis in NHTSA under Federal contract number DTNH22-07-D-00057. The OMB clearance number for the NSUBS is 2127-0644.

What Do the Survey Results Tell Us? Are the Results Representative?

By design and necessity, the NSUBS survey data is obtained from a restricted set of site types, namely gas stations, day care centers, recreation centers, and restaurants in five fast food chains. However the survey uses a probability sample of these site types, and so its results are representative of children who frequent these types of sites.

For instance, the survey result that 37 percent of children between 37 and 53 inches tall were in seat belts means that among children in this height range who were taken by passenger vehicles to gas stations, day care centers, recreation centers, and fast food restaurants in 2006, 37 percent were in seat belts. Whether or not the seat belt use rate for children in this height range who do not frequent these site types is an open question, and not one that the NSUBS (or any other survey we know of) can answer.

How Do These Results Compare With NOPUS?

NHTSA conducts another survey, the National Occupant Protection Use Survey, which examines some aspects of premature graduation. The NOPUS observes children in vehicles stopped at stop signs and stop lights on a probability sample of roadways, and, as necessitated by roadside observation, assesses age subjectively, does not collect height nor weight, and its data collectors do not attempt to decipher whether a child in a shoulder belt is in a backless booster seat. Thus the NOPUS is conducted at a set of sites that is representative of U.S. roadways, but its age data is subject to observer misjudgment, its restraint type data is less complete, and it cannot provide restraint use distributions by height or weight.

The restraint use distributions NOPUS can provide (the distributions by age) are sometimes comparable to those in NSUBS, and sometimes not. Differences between the NOPUS and NSUBS estimates could be due to the different populations of vehicles captured by the two surveys (stemming from the different site types used) and/or different sources of age information (which is visually estimated in NOPUS versus obtained by interview in NSUBS). For more information on the NOPUS data, see the publication "Child Restraint Use in 2006" available at http://www-nrd.nhtsa.dot.gov/CMSWeb/ViewCatalogbyCategory.aspx.

Restraint Types and Definition of Use

The NSUBS uses the following definitions of restraint use:

Rear-Facing Child Safety Seat - The child occupant is in a seat that sits on top of the vehicle seat in such a way that the child faces the rear of the vehicle, and the harness straps are across the child's front. The harness straps might be secured or not.

Front-Facing Child Safety Seat - The child occupant is in a seat that sits on top of the vehicle seat in such a way that the child faces the front of the vehicle, and with harness straps that are across the child's front.

High-Backed Booster Seat - The child occupant is in a seat with a seat back that sits on top of the vehicle seat, and has a seat belt across the front of the child's body, whether lap or lap/shoulder. No harness is in use.

Backless Booster Seat - The child occupant is sitting on a platform with no seat back that sits on top of the vehicle seat, and has a seat belt across the front of the child's body, whether lap or lap/shoulder. No harness is in use.

Seat Belt - Child (or adult) is sitting on the vehicle seat and the seat belt is across front of the body (includes lap belts).

Unrestrained - All other cases

For More Information

The NSUBS has very rich information on the restraint use of all children under age 13. In particular, the NSUBS provides the agency's estimate of booster seat use among 4- to 7-year-olds and provides the best data to date on child restraint use by race and ethnicity. This publication is part of a series that presents overall results from the survey on these topics. Please see the companion publications "Booster Seat Use in 2006" and "Child Restraint Use in 2006—Demographic Results" for the latest data on these topics. Detailed information on the NSUBS survey design and analysis procedures are provided in the NHTSA Technical Report "The 2006 National Survey of the Use of Booster Seats— Methodology Report." These publications will be available at the Web site http://www-nrd.nhtsa.dot.gov/CMSWeb/ViewCatalogbyCategory.aspx in 2007.

For more information on NHTSA's recommended child restraint types for children of various heights and weights, and for information on the campaign by NHTSA to increase child restraint use, see www.nhtsa.gov.

U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

NHTSA's National Center for Statistics and Analysis 1200 New Jersey Avenue SE., Washington, DC 20590

Child restraint laws

March 2009

Overview | Safety belt use laws | Children not covered by safety belt or child restraint laws

	Who is covered?		
State	**Must be in child restraint**	**Adult safety belt permissible**	**Maximum fine 1st offense**
Alabama	younger than 1 or less than 20 pounds in a rear-facing infant seat; 1 through 4 years or 20-40 pounds in a forward-facing child safety seat; 5 but not yet 6 in a booster seat.	6 through 14 years	$25[1]
	law states no preference for rear seat		
Alaska	3 years and younger	4 through 15 years	$50[1]
	law states no preference for rear seat		
Arizona	4 years and younger	not permissible	$50
	law states no preference for rear seat		
Arkansas	5 years and younger and less than 60 pounds	6 through 14 years or 60+ pounds	$100
	law states no preference for rear seat		
California	5 years and younger or less than 60 pounds[2]	6 through 15 years or 60+ pounds	$100[1]
	children 5 years and younger or less than 60 pounds must be in the rear seat[2]		
Colorado	younger than 1 year and less than 20 pounds in a rear-facing infant seat; 1 through 3 years and 20-40 pounds in a forward-facing child safety seat; 4 through 5 years and less than 55 inches in a booster seat[3]	6 through 15 years or 55 inches or more	$50
	law states no preference for rear seat		
Connecticut	younger than 1 year or less than 20 pounds in a rear-facing restraint system; 1 through 6 years who is less than 60 pounds in a child restraint system (booster seats may only be used in a seating position with a lap and shoulder belt)	7 through 15 years and 60+ pounds[4]	$60[4]
	law states no preference for rear seat		
Delaware	7 years and younger and less than 66 pounds[5]	8 through 15 years or 66+ pounds[5]	$25
	children 11 years and younger and 65 inches or less must be in rear seat if passenger airbag is active[5]		
District of Columbia	7 years and younger	8 through 15 years	$75[1]
	law states no preference for rear seat		
Florida	3 years and younger	4 through 5 years	$60[1]
	law states no preference for rear seat		
Georgia	5 years and younger and 57 inches or less[6]	more than 57 inches	$50[1]
	5 years and younger must be in rear seat if available[6]		
Hawaii	3 years and younger in a child safety seat; 4 years through 7 years must be in a booster seat or child restraint	4 through 7 years who are taller than 4'9"; 4 through 7 years who are at least 40 pounds seated in a rear seat where if there are no available lap/shoulder belts, may be restrained by a lap belt	$100[7]

	law states no preference for rear seat		
Idaho	6 years and younger	not permissible	$100
	law states no preference for rear seat		
Illinois	7 years and younger	8 through 15 years; children who weigh more than 40 pounds seated in the rear where only a lap belt is available	$50
	law states no preference for rear seat		
Indiana	7 years and younger when driver holds an Indiana license[8]	8 through 15 years	$25[1]
	law states no preference for rear seat		
Iowa	younger than 1 year and less than 20 pounds in a rear-facing child seat; 1 through 5 years	6 through 10 years	$25
	law states no preference for rear seat		
Kansas	all children 3 and younger must be in a child restraint; children 4 through 7 who weigh less than 80 pounds and children 4 through 7 who are less than 57 inches tall must be in a child restraint or booster seat	all children 8 through 13 years; children 4 through 7 years who weigh more than 80 pounds, and children 4 through 7 years who are taller than 57 inches	$60
	law states no preference for rear seat		
Kentucky	40 inches or less in a child restraint; 6 and younger who are between 40 and 50 inches tall in a booster seat	6 and younger who are taller than 50 inches	$50 child restraint; $30 booster seat
	law states no preference for rear seat		
Louisiana	younger than 1 year or less than 20 pounds in a child safety seat; 1 through 3 years or 20-39 pounds in a forward-facing child safety seat; 4 through 5 years or 40-60 pounds in a child booster seat	6 through 12 years or greater than 60 pounds	$100
	law states no preference for rear seat		
Maine	less than 40 pounds in a child safety seat; 40-80 pounds and less than 8 years in a safety system that elevates the child so that an adult seat belt fits properly	8 through 17 years or less than 18 years and more than 4'9"	$50
	11 years and younger and less than 100 pounds must be in rear seat if available		
Maryland	7 years and younger and either less than 57 inches or 65 pounds or less	8 through 15 years; children who are at least 57 inches or 65 pounds	$25
	law states no preference for rear seat		
Massachusetts	7 years and younger and less than 57 inches	8 through 12 years; children who are at least 57 inches tall	$25
	law states no preference for rear seat		
Michigan	7 years and younger and less than 57 inches	8 through 15 years; children who are at least 57 inches tall	$10
	law states no preference for rear seat		
Minnesota	3 years and younger	not permissible	$50
	law states no preference for rear seat		
Mississippi	3 years and younger must be in a child restraint; 4 through 6 years and either less than 57 inches or less than 65 pounds must be in a booster seat	6 years and younger who either weigh 65 pounds or more or who are 57 inches or taller	$25
	law states no preference for rear seat		

Missouri	3 years and younger must be in a child restraint; all children who weigh less than 40 pounds must be in a CR; 4 through 7 years who weigh at least 40 pounds but less than 80 pounds and who are 4'9" or shorter must be in either a CR or booster seat; children 4 years and older who weigh at least 80 pounds or who are at least 4'9" tall must be in either a booster seat or safety belt	all children 8 through 16 years; all children 4 years and older who weigh 80 pounds or more or who are taller than 4'9"	$50; $10 for violations involving children taller than 4'9" or who weigh 80 pounds or more
	law states no preference for rear seat		
Montana	5 years and and younger and less than 60 pounds	not permissible	$100
	law states no preference for rear seat		
Nebraska	5 years and younger	6 through 17 years[9]	$25[1]
	law states no preference for rear seat		
Nevada	5 years and younger and 60 pounds or less	not permissible	$500[10]
	law states no preference for rear seat		
New Hampshire	5 years and younger who are less than 55 inches	6 through 17 years; younger than 6 who are at least 55 inches tall	$25
	law states no preference for rear seat		
New Jersey	7 years and younger and less than 80 pounds	not permissible	$25
	children 7 years and younger and less than 80 pounds must be in the rear seat if available		
New Mexico	younger than 1 year in a rear-facing infant seat; 1 through 4 years or less than 40 pounds in a child safety seat; 5 through 6 or less than 60 pounds in a booster seat	7 through 17 years	$25
	children younger than 1 year in a rear-facing infant seat must be in the rear seat if available		
New York	3 and younger unless they weigh more than 40 pounds and are seated where there is no available lap/shoulder belt; 4 through 6 years unless they are seated where there is no available lap/shoulder belt	7 through 15 years; children who weigh more than 40 pounds or children 4 through 6 years in a seating position where there is no available lap/shoulder belt	$100[1]
	law states no preference for rear seat		
North Carolina	7 years and younger and less than 80 pounds	8 through 15 years + children 40-80 pounds in seats without shoulder belts	$25[1]
	children 4 years and younger who weigh less than 40 pounds must be in the rear seat unless the front passenger airbag is deactivated or the restraint is designed for use with airbags		
North Dakota	6 years and younger and less than 57 inches or less than 80 pounds	7 through 17 years; 6 years and younger and at least 57 inches tall and at least 80 pounds; 6 years and younger and at least 40 pounds, if there are no available lap/shoulder belts, may be restrained by a lap belt	$25[1]
	law states no preference for rear seat		
Ohio	3 years and younger or less than 40 pounds in child restraint; 4 through 7 years who weigh 40 pounds or more and who are shorter than 57 inches in booster seat (effective 10/07/09)	8 through 14 years[11] (effective 10/07/09)	$75[11] (effective 10/07/09)
	law states no preference for rear seat		
Oklahoma	5 years and younger[12]	6 through 12 years	$25
	law states no preference for rear seat		

Oregon	younger than 1 year or 20 pounds or less must be in a rear facing child safety seat; 40 pounds or less must be in a child safety seat; more than 40 pounds but 4 feet and 9 inches or less must be in a safety system that elevates the child so that an adult seat belt fits properly	taller than 4 feet and 9 inches	$90
	law states no preference for rear seat		
Pennsylvania	7 years and younger[13]	not permissible	$100
	law states no preference for rear seat		
Rhode Island	6 years and younger and less than 54 inches and less than 80 pounds	6 years and younger who either weigh 80 pounds or more or who are at least 54 inches tall; 7 through 17	$75
	children 6 years and younger must be in rear seat if available		
South Carolina	younger than 1 year or less than 20 pounds in a rear-facing infant seat; 1 through 5 years and 20-39 pounds in a forward-facing child safety seat; 1 through 5 years and 40-80 pounds in a booster seat secured by lap-shoulder belt (lap belt alone is impermissible)	1 through 5 years and 80+ pounds or any child 5 years and younger if the child's knees bend over the seat edge when sitting up straight with his/her back firmly against the seat back	$150
	children 5 years and younger must be in rear seat if available		
South Dakota	4 years and younger and less than 40 pounds	5 through 17 years; all children 40+ pounds, regardless of age	$20
	law states no preference for rear seat		
Tennessee	younger than 1 year or 20 pounds or less in a rear-facing infant seat; 1 through 3 years and 20+ pounds in a forward-facing infant seat; 4 through 8 years and less than 4'9" in a booster seat	9 through 15 years or any child 12 or younger who is 4'9" or taller	$50
	children 8 years and younger and less than 4'9" must be in rear seat if available; rear seat recommended for children 9 through 12		
Texas	4 years and younger and less than 36 inches	not permissible	$200
	law states no preference for rear seat		
Utah	7 years and younger and shorter than 57 inches	8 through 15 years; all children 57 inches or taller	$45
	law states no preference for rear seat		
Vermont	younger than 1 year or less than 20 pounds in a rear-facing infant seat; 2 through 7 and more than 20 pounds	8 through 15 years and more than 20 pounds	$25
	children 1 year and younger or less than 20 pounds must be in the rear seat unless the front passenger airbag is deactivated		
Virginia	7 years and younger unless they have a physician exemption[14]	8-15 years[14]	$50
	children in rear-facing devices must be in a rear seat if available; if not available, they may be placed in front only if front passenger airbag is deactivated[14]		
Washington	7 years and younger and less than 4'9"	8 through 15; 7 years and younger and 4'9" or taller; children who weigh more than 40 pounds in a seating position where there is only a lap belt available	$124
	12 years and younger must be in rear seat if practical		
West Virginia	7 years and younger and less than 4'9"	7 years and younger and 4'9" or taller	$20
	law states no preference for rear seat		

1989

Wisconsin	children younger than 1 and all children who weigh less than 20 pounds are required to be in a rear-facing infant seat; children 1 through 3 years who weigh at least 20 pounds but less than 40 pounds are required to be in a forward-facing child safety seat; children 4 through 7 who both weigh at least 40 pounds but less than 80 pounds and who are less than 57 inches tall are required to be in a booster seat	8 years and younger and more than 80 pounds and 57 inches or taller	$75
	children 3 and younger must be in a rear seat, if available		
Wyoming	8 years and younger	not permissible	$50
	children 8 years and younger must be in the rear seat if available		

[1]This state assesses points for violations.

[2]In California, children weighing more than 40 pounds may be belted without a booster seat if they are seated in the rear seat of a vehicle not equipped with lap/shoulder belts. The California rear seat requirement does not apply if: there is no rear seat; the rear seats are side-facing jump seats; the rear seats are rear-facing seats; the child passenger restraint system cannot be installed properly in the rear seat; all rear seats are already occupied by children under 12 years; or medical reasons necessitate that the child not ride in the rear seat. A child may not ride in the front seat of a motor vehicle with an active pasenger airbag if the child is under 1 year of age, or weighs less than 20 pounds or is riding in a rear-facing child restraint system.

[3]In Colorado, if a child 4-5 years and less than 55 inches is being transported in a vehicle equipped with a lap belt only, then the child must be restrained with the lap belt. The law is secondary for children ages 4-5 years who must be in booster seats.

[4]The fine in Connecticut is $15 if the child is 4-16 years and 40 pounds or more. Connecticut also requires a mandatory child restraint education program for first or second violation.

[5]In Delaware, children younger than 12 years/65 inches or less must be restrained in a rear seat if a vehicle has a passenger airbag unless the airbag has been either deactivated or designed to accommodate smaller people. Exceptions: no rear seat or rear seat occupied by other children younger than 12 years/65 inches or less.

[6]In Georgia, children weighing more than 40 pounds are permitted to be restrained in the back seat of a vehicle by a lap belt if the vehicle is not equipped with lap and shoulder belts or when the lap and shoulder belts are being used by other children who weigh more than 40 pounds.

[7]Hawaii drivers are charged $50 for a mandatory child restraint education program and a $10 surcharge deposited into a neurotrauma special fund.

[8]In Indiana, children younger than 8 years must be restrained in adult belts if it's reasonably determined they cannot fit in child restraints. If the driver does not hold an Indiana driver's license, then children under 16 must be restrained by either a child restraint or a safety belt. Children weighing more than 40 pounds are permitted to be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts other than those in the front seat are being used to restrain other children who are younger than 16.

[9]Nebraska's law is secondary for those children who may be in safety belts and standard for those who must be in a child restraint device.

[10]In Nevada, the minimum fine is $100. An alternative to the fine is at least 10 but not more than 50 hours of community service.

[11]In Ohio, the law is secondary for children 4 through 14 years.

[12]In Oklahoma, children weighing more than 40 pounds are permitted to be restrained in the back seat of a vehicle by a lap belt if the vehicle is not equipped with lap and shoulder belts or when the lap and shoulder belts are being used by other children who weigh more than 40 pounds.

[13]In Pennsylvania, the law is secondary for children ages 4 through 7 years who must be in booster seats.

[14]In Virginia, children at least 4 years but less than 8 years may be belted if any licensed physician determines that use of a child restraint system by a particular child would be impractical by reason of the child's weight, physical fitness, or other medical reason, provided that any person transporting a child so exempted shall carry on his person or in the vehicle a signed written statement of the physician identifying the child so exempted and stating the grounds for the determination.

©1996-2009, Insurance Institute for Highway Safety, Highway Loss Data Institute
1005 N. Glebe Road, Suite 800, Arlington, VA 22201 USA | tel 703/247-1500 | fax 703/247-1588

1990

Dealing in safety

Auto dealers to promote child passenger safety

BY JOSH MAX

Wednesday, August 29th 2007, 4:00 AM

More than 40,000 automobile passengers under age 4 are injured or killed in car crashes annually, according to the National Highway Traffic Safety Administration (NHTSA). To get those numbers down, car dealers will run their annual education and inspection campaign throughout the month of September, which has been dubbed Child Passenger Safety month. Participating dealers will hold free child safety seat inspections at their showrooms as part of a national "Boost for Safety" campaign developed by the National Automobile Dealers Association (NADA) in partnership with NHTSA.

The September initiative coincides with the back-to-school period, when millions of kids will be on the roads each day.

"This will be the fifth consecutive year that we've sponsored a national child safety seat campaign," said Dale Willey, NADA chairman. "So far, dealers have checked more than 1 million seats and found nine out of 10 seats either improperly installed or in need of replacement." The organization said more than 50,000 children between 4 and 8 years old are injured or killed each year while riding in cars, and that approximately 40% of children under the age of 8 who die or suffer serious injuries in car crashes are completely unbelted.

For the uninitiated or expectant parents, there are two types of booster seats: a high-back booster and a low-back booster. A high-back booster seat uses the vehicle's lap/shoulder belt and provides head and neck support for the child if the car does not have a built-in head restraint. A low-back booster seat is for use in vehicles that have a built-in head restraint. This type of booster seat is also used with the lap/shoulder belt to properly secure the passenger.

To find a participating auto dealer in your neighborhood, go to www.nada.org/boostforsafety. And for more tips on child safety, visit www.nhtsa.dot.gov.

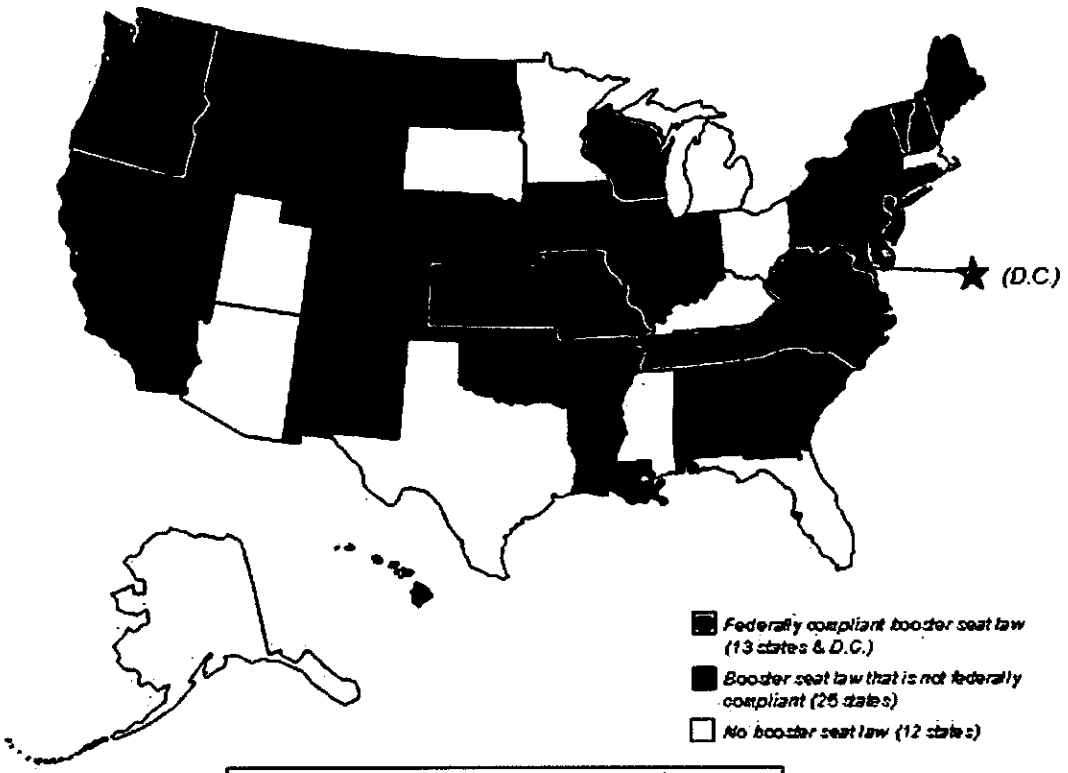
NADA offers the following guidelines:

• From birth to at least 1 year old and at least 20 pounds, children should be secured in the back seat in a rear-facing infant seat.

• Children between the ages of 1 and 4, weighing 20-40 pounds, should be secured in the back seat in a forward-facing toddler seat.

• Kids between the ages of 4 and 8 (or 40 to 80 pounds, unless 4 feet, 9 inches) should be properly restrained in the back seat in belt-positioning booster seats.

States with Booster Seat Laws
January 2008



38 states & D.C. have some form of a booster seat law

© 2009 National Conference of State Legislatures, All Rights Reserved

Denver Office: Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | Map
Washington Office: Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001



The Evolution of the Child Safety Seats

Online Extra

1962—The first safety seat for children was invented in England by Jean Ames. The design has straps that hold the padded seat against the rear passenger seat. Within the seat, the child is restrained by a Y-shaped harness slips over his head and shoulders and fastens between the legs.

1971—The National Highway Traffic Safety Administration (NHTSA) adopts the first federal standard for child seating systems. It requires the use of a safety belt to hold the car seat and a harness to hold the child in it. The standard does not cover rear-facing infant restraints or car beds.

1978—First child passenger restraint law goes into effect in Tennessee.

1981—Rhode Island becomes second state to pass a mandatory passenger restraint law.

1985—All states and the District of Columbia have some version of a child passenger restraint law.

1986—A NHTSA study shows that correctly used child restraint systems are 71 percent effective at reducing fatalities and 67 percent effective at reducing serious injuries. If the restraints are partially misused, effectiveness is reduced by 44 percent.

1993—Passenger air bags begin to be installed in increasing numbers. In April, the first child—a 6-year-old riding unbelted—is killed by a passenger air bag.

1996—NTSB concluds that passenger side air bags as designed are not acceptable as a protective device for children.

1999—1,997 children under 13 die in motor vehicle accidents, representing a 46 percent decline from the 3,643 deaths in 1975.

2000—Washington becomes the first state to pass a booster seat law requiring older children to be secured in safety seats. The law is named the Anton Skeen Act, after a 4-year-old boy who was ejected and killed in a car crash.

2002—Congress passes Anton's Law, which directs NHTSA to improve federal standards for child vehicle restraint systems. The law extends safety standards to children who weigh more than 50 pounds, typically children 4 to 8 years old.

2004—Child restraints save the lives of 451 children 4 and under. Among passengers over 4 years old, safety belts save an estimated 15,434 lives.

2008—This year marks the 30th anniversary of the first child passenger restraint law.

Map of Booster Seat Laws

1993

Appendix C. State Laws on Child Restraint Use

State/Jurisdiction	Must Be in Child Restraint	Adult Safety Belt Permissible	Maximum Fine First Offense
Alabama	Younger than 1 year or less than 20 lbs. must be in a rear-facing infant seat; 1 through 4 years or 20-40 lbs. in a forward-facing child safety seat; age 5 but not yet age 6 in a booster seat	6 through 14 years. Law states no preference for rear seat	$25[1]
Alaska	3 years and younger	4 through 15 years Law states no preference for rear seat	$50[1]
Arizona	5 years and younger	Not permissible.	$50
Arkansas	5 years and younger and less than 60 lbs.	6 through 14 years or 60+ lbs. Law states no preference for rear seat	$100
California	Younger than 1 year or less than 20 lbs. or in a rear-facing restraint system in rear seat only if front passenger air bag is active; 5 years and younger or less than 60 lbs. in a rear seat[2]	6 through 15 years or 60+ lbs.	$100[1]
Colorado	Younger than 1 year and less than 20 lbs. in a rear-facing infant seat; 1 through 4 years and 20-40 lbs. in a forward-facing child safety seat; 4 through 5 years and less than 55 inches in a booster seat[3]	6 through 15 years and 55 inches or more Law states no preference for rear seat.	$50
Connecticut	Younger than 1 year or less than 20 lbs. in rear-facing restraint; 1 through 6 years who is less than 60 lbs. in a child restraint system (booster seats may be used only in a seating position that has a lap and shoulder belt)	7 through 15 years and 60+ lbs. Law states no preference for rear seat.[4]	$60[4]
Delaware	7 years and younger and less than 66 lbs.[5]	7 through 16 years or 60+ lbs.[5] Law states no preference for rear seat.	$25
Florida	3 years and younger	4 through 5 years Law states no preference for rear seat.	$60[1]
Georgia	5 years and younger and 57 inches or less; must be in rear seat if available[6]	More than 57 inches	$50[1]
Hawaii	3 years and younger in a child safety seat; 4 years through 7 years must be in a booster seat or child restraint.	4 through 7 years who are taller than 4'9"; 4 through 7 years who are at least 40 lbs. seated in a rear seat where if there are no available lap/shoulder belts, may be restrained by a lap belt Law states no preference for rear seat.	$100[7]
Idaho	6 years and younger	Not permissible	$100

Illinois	7 years and younger, children who weigh more than 40 lbs. seated in rear where only a lap belt is available.	8 through 16 years Law states no preference for rear seat.	$50
Indiana	7 years and younger when driver holds Indiana license [8]	8 through 15 years Law states no preference for rear seat.	$25
Iowa	Younger than 1 year and less than 20 lbs. in a rear-facing seat; 1 through 5 years front facing child restraint	6 through 10 years Law states no preference for rear seat.	$25
Kansas	All children 3 years and younger must be in a child restraint; children 4 through 7 years who weigh less than 80 lbs. and children 4 through 7 years who are less than 57 inches tall must be in a child restraint or booster seat	All children 8 through 13; children 4 through 7 who weigh more than 80 lbs.; children who are taller than 57 inches Law states no preference for rear seat.	$20
Kentucky	40 inches or less	Not permissible	$50
Louisiana	Younger than 1 year or less than 20 lbs. in a child safety seat; 1 through 3 years or 20-39 lbs. in a forward-facing safety seat; 4 through 5 years or 40-60 lbs. in a child booster seat; under age 6 and under 60 lbs. must be in rear seat if available	6 through 12 years or more than 60 lbs. Law states no preference for rear seat.	$50
Maine	Less than 40 lbs. in a child safety seat; 40-80 lbs. and less than 8 years in a safety system that elevates the child so that an adult seat belt fits properly; 11 years and younger and less than 100 lbs. must be in rear seat if available	8 through 17 years or less than 18 years and more than 4'7"	$50
Maryland	5 years and younger or 40 lbs. or less [9]	6 years and more than 40 lbs. through 15 years Law states no preference for rear seat.	$25
Massachusetts	4 years and younger or 40 lbs. and less	5 through 11 years Law states no preference for rear seat.	$25
Michigan	3 years and younger	Not permissible	$10
Minnesota	3 years and younger	Not permissible	$50
Mississippi	3 years and younger	Not permissible	$25
Missouri	3 years and younger must be in child restraint; all children who weigh less than 40 lbs. must be in a child restraint; 4 through 7 years who weigh at least 40 lbs. but less than 80 lbs. and who are 4'9" or shorter must be in either a CR or booster seat; children 4 years and older who weigh at least 80 lbs. or who are at least 4'9" tall must be	All children 8 through 16 years; all children who weigh 80 lbs. or more or who are 4'9" tall or more Law states no preference for rear seat.	$10 for violations involving children taller than 4'9" or who weigh more than 80 lbs.

	in either a booster seat or safety belt		
Montana	Younger than 5 years and less than 60 lbs.	Not permissible	$100
Nebraska	5 years and younger	6 through 17 years [10] Law states no preference for rear seat.	$25
Nevada	5 years and younger and 60 lbs. or less	Not permissible	$100 [11]
New Hampshire	5 years and younger and less than 55 inches	6 through 17 years or less than 18 years and more than 55 inches Law states no preference for rear seat.	$25
New Jersey	7 years and younger and less than 80 lbs. seated in rear seat if available	Not permissible	$25
New Mexico	Younger than 1 year in a rear-facing infant seat, seated in the rear seat if available; children 1 through 4 years or less than 40 lbs.; 5 through 6 years or less than 60 lbs. in booster seat	7 through 17 years	$25
New York	6 years and younger in all seats	4 through 15 years; 7 through 15 years Law states no preference for rear seat.	$100
North Carolina	7 years and younger and less than 80 lbs. [12]	8 through 15 years and children 40-80 lbs. in seats without shoulder belts Law states no preference for rear seat.	$25
North Dakota	6 years and younger and less than 57 inches or less than 80 lbs.	7 through 17 years; 6 years and younger and at least 57 inches tall and at least 80 lbs.; 6 years and younger and at least 40 lbs.; if there are no available lap/shoulder belt, may be restrained by lap belt only Law states no preference for rear seat.	$25
Ohio	3 years and younger or less than 40 lbs.	4 through 14 years [13] Law states no preference for rear seat.	$100
Oklahoma	5 years and younger [14]	6 through 12 years Law states no preference for rear seat.	$25
Oregon	Child younger than 1 year or 20 lbs. must be in a rear facing child safety seat seat; 40 lbs. or less must be in child safety seat; more than 40 lbs. but 4' 9" or less must be in a safety system that elevates the child so that an adult seat belt fits properly.	Children taller than 4 feet 9 inches Law states no preference for rear seat.	$75
Pennsylvania	7 years and younger [15]	Not permissible	$100

Rhode Island	6 years and younger and less than 54 inches and 80 lbs.; children 6 years and younger must be in rear seat if available	Under 18 years who weigh 80 lbs. or more or who are taller than 54 inches	$75
South Carolina	Younger than 1 year or less than 20 lbs. in a rear-facing infant seat; 1 through 5 years and 20-39 lbs. in a forward-facing child safety seat; 1 through 5 years and 40-80 lbs. in a booster seat secured by lap-shoulder belt; children 5 years and younger must be in rear seat if available	1 through 5 years and 80+ lbs. or any child 5 years and younger if the child's knees bend over the seat edge when sitting up straight with his/her back firmly against the seat back	$150
South Dakota	4 years and younger and less than 40 lbs.	5 through 17 years; all children 40+ lbs., regardless of age Law states no preference for rear seat.	$20
Tennessee	Younger than 1 year or less than 20 lbs. in a rear-facing infant seat; 1 through 3 years and 20+ lbs. in a forward-facing infant seat; 4 through 8 years and less than 5' in a booster seat; children 8 years and younger and less than 5' must be in a rear seat if available	9 through 15 years or 12 years and younger and 5' or more	$50
Texas	4 years and younger or less than 36 inches	Not permissible	$200
Utah	4 years and younger	5 through 15 years Law states no preference for rear seat.	$45
Vermont	Younger than 1 year or less than 20 lbs. in a rear-facing infant seat; 2 through 7 years and more than 20 lbs. in child restraint	8 through 15 years and more than 20 lbs. Law states no preference for rear seat.	$25
Virginia	7 years and younger unless they have a physician exemption. Children in rear-facing devices must be in rear seat in available, if not available, they may be placed in front only if passenger airbag is deactivated.	8 through 15 years [16]	$50
Washington	Younger than 8 years and less than 4'9" (effective 6/1/07); 12 years and younger must be in rear seat if practical	8 through 15 years; younger than 8 and 4 feet or taller (effective 6/1/07)	$86
West Virginia	7 years and younger or less than 4'9"	7 years and younger and 4'9" and taller Law states no preference for rear seat.	$20
Wisconsin	Children younger than 1 and all children who weigh less than 20 lbs. are required to be in a rear-facing infant seat; children 1 through 3 years who weigh at least 20 lbs. but less than 40 lbs. are required to be in a forward-facing	8 years and younger and more than 80 lbs. and 57" or taller	$75

	child safety seat; children 4-7 who weigh at least 40 lbs. but less than 80 lbs. and who are less than 57" tall are required to be in a booster seat; children 3 and younger must be in a rear seat if available		
Wyoming	8 years and younger; must be in rear seat if available	Not permissible	$50
District of Columbia	7 years and younger	8 through 15 years Law states no preference for rear seat.	$75
Puerto Rico	4 years and younger	4 years and older	$100
U.S. Virgin Islands	5 years and younger	Children ages 3 through 5 may be restrained by only a seatbelt if they are in the rear seat.	$100

Notes:

1. This state assesses points for violations.
2. In California, children weighting more than 40 pounds may be belted without a booster seat if they are seated in the rear seat of a vehicle not equipped with lap/shoulder belts. The California rear seat requirement does not apply if: there is no rear seat; the rear seats are side-facing jump seats; the rear seats are rear-facing seats; the child passenger restraint system cannot be installed properly in the rear seat; all rear seats are already occupied by children under 12 years; or medical reasons necessitate that the child not ride in the rear seat. A child may not ride in the front seat of a motor vehicle with an active passenger airbag if the child is under 1 year of age, or weights less than 20 pounds or is riding in a rear-facing child restraint system.
3. In Colorado, if a child 4-5 years and less than 55 inches is being transported in a vehicle equipped with a lap belt only, then the child must be restrained with the lap belt. The law is secondary for children ages 4-5 years who must be in booster seats.
4. The fine in Connecticut is $15 if the child is 4-16 years and 40 pounds or more. Connecticut also requires a mandatory child restraint education program for first or second violation.
5. In Delaware, children younger than 12 years/65 inches or less must be restrained in a rear seat if a vehicle has a passenger airbag unless the airbag has been either deactivated or designed to accommodate smaller people. Exceptions: no rear seat or rear seat occupied by other children younger than 12 years/65 inches or less.
6. In Georgia, children weighing more than 40 pounds are permitted to be restrained in the back seat of a vehicle by a lap belt if the vehicle is not equipped with lap and shoulder belts or when the lap and shoulder belts are being used by other children who weigh more than 40 pounds.
7. Hawaii drivers are charged $50 for a mandatory child restraint education program and $10 surcharge deposited into a neurotrauma special fund.
8. In Indiana, children younger than 8 years must be restrained in adult belts if it's reasonably determined they cannot fit in child restraints. If the driver does not hold an Indiana driver's license, the children under 16 must be restrained by either a child restraint or a safety belt. Children weighting more than 40 pounds are permitted to be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts other than those in the front seat are being used to restrain other children who are younger than 16.
9. In Maryland, vehicles registered out of state are required to restrain children under the age of 4 years or 40 pounds or less in a child restraint.
10. Nebraska's law is secondary for those children who may be in safety belts and standard for those who must be in a child restraint device.
11. In Nevada, the minimum fine is $100. An alternative to the fine is at least 10 but not more than 50 hours of community service.
12. In North Carolina, children younger than 5 who weigh less than 40 pounds must be restrained in a child safety seat in the rear seat if the vehicle has a passenger airbag, unless the child restraint system is designed of use with airbags.
13. In Ohio, the law is secondary for children 4 through 14 years.
14. In Oklahoma, children weighing more than 40 pounds are permitted to be restrained in the back seat of a vehicle by a lap belt if the vehicle is not equipped with lap and shoulder belts or when the lap and shoulder belts are being used by other children who weigh more than 40 pounds.
15. In Pennsylvania, the law is secondary for children ages 4 through 7 years who must be in booster seats.
16. Children at least 4 years but less than 8 years may be belted if any licensed physician determines that use of child restraint system by a particular child would be impractical by reason of the child's weight, physical fitness, or other medical reason, provided that any person transporting a child so exempted shall carry on his person or in the vehicle a signed written statement of the physician identifying the child so exempted and stating the grounds for the determination.

17.

Source: Insurance Institute for Highway Safety, AAA and NCSL, 2007.



Programs
Impaired Driving
Speeding
X52
Seat Belts
Child Passenger Safety
Traffic Records
Corridor Safety
School Zone Safety
Pedestrian-Bike Safety
Motorcycle Safety
Truck Safety
Police Traffic Services
Safety Task Forces
Tribal Traffic Safety

Information:
621 8th Avenue SE
Suite 409
PO Box 40944
Olympia, WA 98504
Phone: (360) 753-6197
Fax: (360) 586-6489
sysop@wtsc.wa.gov

Bookmark this page

Access Washington
Official State Government Web Site

PROGRAMS

Child Passenger Safety

Overview

The goal of the Child Passenger Safety Program at the WTSC is to save the lives of and prevent injuries to children in Washington and to increase compliance with Washington's seat belt and child restraint laws.

To reach this goal the WTSC provides technical assistance, training, materials and other resources to child passenger safety teams and advocates throughout the state.

Download and print child passenger safety educational and activity materials

Issues

Traffic crashes are the leading cause of death for children in Washington. Over 85% of all child passenger restraint devices are misused, yet 60% of all children killed in traffic crashes were completely unrestrained.

If you need to have your child car seat checked for correct installation, please contact your local Child Passenger Safety Team or contact the Safety Restraint Coalition at (800) BUCK-L-UP (282-5587.)

Safety Guidelines &

Recommendations

Washington's Child Passenger Safety Law - Overview

- Children are required to be properly restrained in booster seats until their eighth birthday, unless they are 4' 9" tall or taller, when both lap and shoulder belts are available.
- Children under age thirteen (13) are required to ride in the back seat of a vehicle where practical to do so.

Click here to view Washington's Booster Seat Law - Effective June 1, 2007

National Highway Traffic Safety Administration and American Academy of Pediatrics "Best Practice" Recommendations

- Infants need to remain rear facing until at least one year AND at least 20 lbs.
- Keep the child in the convertible seat as long as they fall within the height/weight recommendations for the seat. Be careful not to graduate your child to the next seat too soon.
- Booster seats, used with lap and shoulder belts, are recommended until the child's eighth birthday unless they are 4' 9" tall. Be cautious not to graduate your child to a seat belt too soon.
- Children 13 and under are safer in the back seat regardless of the presence of an air bag.
- Always follow the manufacturers instructions and guidelines for both the safety seat and the vehicle.

Educational and Activity Materials

These materials can be downloaded, printed, and distributed as needed for educational purposes

English and Spanish Car Seat Flier

"The Love Seat" Booster Seat Poster

Guidelines for Parents To Keep Your Child Safe -

Poster

Parents Could Get A Ticket - Booster Seat Law Poster

Kids Coloring Pages with Car Seat and Booster Seat Tips

Kids Activity Place Mat Reminding Everyone to Buckle Up

Child Passenger Safety Quick Reference Card for Law Enforcement Officers

Resource Information

Seat Belt Use Rates By County

Contact Information

Fact Sheets
News Releases

Watch traffic safety educational videos and ads on YouTube. Visit www.youtube.com/trafficsafety

Child Passenger Safety Links

Washington Safety Restraint Coalition
www.800bucklup.org
(800) BUCK-L-UP (282-5587)
or in Kirkland, WA (425) 828-8975
Email: office@800bucklup.org

Washington State Auto Dealers Association (WSADA) teamed up with WTSC to promote child passenger safety and Washington's Booster Seat Law - Effective June 1, 2007.

Copyright © 2009 — Washington Traffic Safety Commission — All rights reserved
Last updated on 04/09/2009 13:42:06

Senator Hollis French

Capitol Room 417
465-3892
465-6595 fax

M E M O R A N D U M

Date: March 24, 2009

To: Representative Bob Lynn, Chair
House State Affairs Committee

From: Senator Hollis French

RE: SB 72 – List of Potential Witnesses

Gordon Glaser, Education Specialist/Safe Kids Liaison
State of Alaska, Division of Public Health

Cindy Cashen, Administrator
Alaska Highway Safety Office

Nancy Barros
Health Program Manager II, Division of Public Health

Jill Hodges, Executive Director
Alaska Brain Injury Network

Margaret (Peggy) Hayashi, R.N.
Private Citizen

Jon Cook, Legislative Director
Alaska Auto Dealer's Association

2004

Different kinds of Booster Seats





High back booster with 5-point harness

- For a child about 35 to 80 lbs
- This booster seat provides head and neck protection in back seats without head restraints. The 5-point harness provides full body protection. The harness can be used until a child reaches 40 lbs. The removable harness converts the booster seat to a belt-positioning booster in which a child uses the vehicle lap and shoulder belts for restraint.

Child seats improve continually. Visit the NHTSA Web site at www.nhtsa.dot.gov or call the DOT Auto Safety Hotline toll free at 1-888-DASH-2-DOT (1-888-327-4236) for the most current information.





Belt-positioning booster

- For a child 40 to 80 lbs
- The child sits in the booster seat and uses the vehicle lap and shoulder belts for restraint. Lap and shoulder belts together offer better protection than lap belts only.





Shield booster

- Some of these boosters have removable shields. When the shield is removed, the booster seat becomes a belt-positioning booster using the vehicle lap and shoulder belts for restraint. Never allow a child to sit in the booster seat without the shield while using only the lap belt. (Without shield for a child from 40 to 80 lbs)
- A shield booster seat, with the shield in place, is recommended for use when only a lap belt exists in the back seat. (For a child with maximum weight of 40 lbs)

Buying a booster seat

- All booster seats are required by law to comply with the same standards and guidelines as child safety seats.
- When buying a booster seat make sure that it has a label stating: This child restraint system conforms to all applicable U.S. Federal Motor Vehicle Safety Standards.
- Never use a booster seat that has been in a crash. The seat may have defects that are not visible.

All **children** ages 12 and under **should sit in the back seat, properly restrained** whenever possible. It's safer!



2005

Children who should use a booster seat

- For maximum protection, keep a child in a forward-facing child safety seat with full harness as long as the child fits in this seat. (See the instructions for your child safety seat for best fit.)
- A child who weighs between about 35 and 80 lbs
- A child who has outgrown a convertible child safety seat
- Usually a child who is about 4 to 8 years old and is at least 35" tall
- A child who cannot sit with his or her back straight against the vehicle seat back cushion or who cannot sit with knees bent over a vehicle's seat edge without slouching

Reasons to use a booster seat

- Generally, a child who is 4 to 8 years old is not big enough for lap and shoulder belts alone.
- A booster seat fills the gap between a convertible child safety seat and the vehicle lap and shoulder belt.
- The booster seat raises the child so the vehicle lap and shoulder belt fits well: the lap belt rests low across the upper thighs, and the shoulder belt rests snugly on the shoulder across the chest.
- Properly fitting lap and shoulder belts reduce the potential for belt-induced injury which can occur when a lap belt is a child's only restraint.

Installing a booster seat

- Read the booster seat instructions and your vehicle owner's manual before installing the booster seat.
- If the vehicle has only lap belts in the back seat, you may want to consider having shoulder belts installed by a dealer or repair facility. Most vehicle manufacturers offer retrofit shoulder belt kits for this purpose.

Remember

- All children ages 12 and under should sit, properly restrained in the back seat whenever possible. It's safer!
- Never use just a lap belt across a child sitting in a belt-positioning booster.
- Never put the shoulder belt behind a child's arm or back because it eliminates the protection for the upper part of the body and increases the risk of severe injury in a crash.
- Never use pillows, books, or towels to boost a child. They can slide around.
- State child passenger safety laws apply to infant, convertible, and booster child safety seats.

NHTSA
People Saving People
U.S. Department of Transportation

DOT HS 808 671
February 1998





A Parent's Guide to Booster Seats





based on additional information noted herein, the Administrator has determined that the random drug testing rate shall remain at 50 percent for 2006.

The Department has noted the proliferation of products to defraud the USDOT urine screens. Congressional hearings on these products and the GAO Report of 17 May 2005 are indicative of the potential adverse impact these products marketed as adulterate specimens may have on reported random rates and the reliability of those results.

The Secretary of Transportation's Office of Drug &Alcohol Policy & Compliance (ODAPC) has proposed to amend 49 CFR part 40 to require specimen validity tests for all urine specimens collected pursuant to part 40. The Department proposes that each DOT specimen be tested for products that can be used to adulterate and substitute a urine specimen (70 FR 209 October 31, 2005). The Department would require each HHS-certified laboratory to conduct specimen validity testing. This will have the effect of identifying more adulterated and substituted urine specimens and enhance the reliability of test results. The Department believes the safety concerns associated with random testing warrant a one year delay in order to analyze reported random rates after SVT testing has been implemented.

In 2005, the FTA retained the random alcohol testing rate of 10 percent (reduced previously from 25 percent) based on the "positive rate" for random alcohol test data from 2003 and 2004. Because the random alcohol violation rate was again lower than 0.5 percent for the two preceding consecutive years (0.20 percent for 2003 and 0.11 percent for 2004), the random alcohol testing rate will remain at 10 percent for 2006.

FTA detailed reports on the drug and alcohol testing data collected from transit employers may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW., Room 9301, Washington, DC 20590, (202) 366–2896 or at *http://transit-safety.volpe.dog.gov/Publications.*

Issued on: January 24, 2006.

Sandra K. Bushue,

Deputy Administrator.

[FR Doc. 06–859 Filed 1–30–06; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–23628]

Child Safety and Child Booster Seats Incentive Grants

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of grants for child safety and child booster seats.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a grant program under Section 2011 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy of Users (SAFETEA–LU) to implement programs to purchase and distribute child restraints, support enforcement of child restraint laws, train child passenger safety professionals concerning all aspects of child restraint use, and educate the public concerning the proper use and installation of child restraints. This notice solicits applications from the fifty States, the District of Columbia, and Puerto Rico.

DATES: Applications must be received by the office designated below on or before July 1 of the applicable fiscal year.

ADDRESSES: Applications must be submitted to the appropriate National Highway Traffic Safety Administration Regional Administrator.

FOR FURTHER INFORMATION CONTACT: For program issues: Judy Hammond, Injury Control Operations and Resources, NTI–200, telephone (202) 366–2121, fax (202) 366–7394. For legal issues: David Bonelli, Office of Chief Counsel, NCC–113, telephone (202) 366–1834, fax (202) 366–3820, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Incentive Grants for Child Safety Seats and Child Booster Seats

Section 2011 of SAFETEA–LU (Pub. L. 109–59) establishes an incentive grant program for child safety seats and child booster seats. To qualify for grant funds, States must "enforc[e] a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law." Prior to Anton's Law, NHTSA's performance requirements for child safety seats covered children weighing only up to 50 pounds.[1] Anton's Law (Pub. L. 107–318) was enacted to improve the safety and use of child restraints for children between the ages of 4 and 8. To accomplish these purposes, Congress directed the Department of Transportation, in Section 3 of Anton's Law, to make Federal performance requirements applicable to child restraints recommended for children weighing more than 50 pounds. On June 3, 2003, pursuant to this mandate, NHTSA published a final rule setting performance requirements for child restraints recommended for children weighing up to 65 pounds.[2]

The Section 2011 grant program advances the purposes of Anton's Law by awarding funds to States that extend their child restraint laws to cover children who are too large to fit in child safety seats. Based on the final rule promulgated under Section 3 of Anton's Law, Section 2011 requires States to enforce child restraint laws whose coverage extends to children weighing up to 65 lbs.

Virtually all State child restraint laws use the age of the child as a means of specifying the children required to be secured in child restraints. However, not all State laws use the weight of the child in defining coverage. Moreover, enforcing a child restraint law based on the age of the child is likely to be more practicable for State and local enforcement officials. For these reasons, we are defining our grant criteria according to the age that correlates to a 65-pound child. According to the most recent U.S. Department of Health & Human Services (DHHS) publication on average body weight for children, the average weight of a 7-year-old child is 59.8 pounds and the average weight of an 8-year-old child is 72 pounds.[3] On the basis of this information, we have selected 7 years old as the age that is reasonably representative of a 65-pound child for the purposes of this grant program.

Minimum Requirements for a Grant

To qualify for a grant under this program, therefore, a State must enact

[1] These performance requirements were established using a 6-year-old child dummy. The weight of the dummy is 51.6 pounds. According to U.S. Department of Health & Human Services statistics, 51.7 pounds is the average weight of a 6-year-old child. Cynthia L. Ogden, Ph.D., *et al*, U.S. Department of Health and Human Services, Mean Body Weight, Height, and Body Mass Index, United States 1960–2002 (2004).

[2] The 2003 performance requirements were established using a 6-year-old child dummy modified through the addition of weight (10.4 pounds) to represent approximately the weight of an 8-year-old child.

[3] OGDEN, supra note 1, at 3.

and enforce a law requiring that any child riding in a passenger motor vehicle (*i.e.*, a passenger car, pickup truck, van, minivan or sport utility vehicle) who is under 8 years of age be secured in a child restraint. A child restraint includes a child safety seat, as defined in 23 U.S.C. 405(f), and a booster seat, as defined in 49 CFR 571.213. The State child restraint law must allow enforcement officials to stop or detain a passenger motor vehicle and issue a citation upon observation that a child under 8 years of age is not properly secured in a child restraint, without the need for probable cause to believe that another violation has been committed.

Reading Section 2011 in conjunction with the findings under Anton's Law (Section 2), it is clear that Congress intended States to have continuous coverage for all children subject to the safety restraint requirement. Therefore, to qualify for a grant under this program, a State child restraint law must not leave any gaps in coverage for children under 8 years of age (*e.g.*, gaps between coverage by a child safety seat and a booster seat). Such gaps would be incongruous with the purpose of the grant program. Finally, while all States define coverage under their child restraint laws according to the age of the child, several States include weight and/or height requirements. These laws typically permit children who have attained a certain weight or height to be exempted from child restraint requirements regardless of age. Consistent with the final rule published under Section 3 of Anton's Law, a State law covering children under 8 years of age, but excluding children who have attained a weight in excess of 65 pounds, will not be deemed ineligible under this grant program. In addition, consistent with long-standing NHTSA guidance on booster seat usage, a State law covering children under 8 years of age, but excluding children who have attained a height of 4 feet, 9 inches or taller will not be deemed ineligible under this grant program.

Exemptions

While NHTSA does not require or encourage the adoption of exemptions, the agency notes that many existing child restraint laws contain a number of exemptions. The agency believes that the Section 2011 program's goal of increasing the use of child restraints would not be served by denying a grant to States whose laws contain exemptions, without regard to the nature of those exemptions. On the other hand, some exemptions would so severely undermine the safety considerations underlying the grant program as to render a State whose law contains such exemptions ineligible for a grant. The agency will review each State's child restraint law to determine the acceptability of any exemptions. In keeping with NHTSA's practice in 1998 to implement the Section 405 grant program under the Transportation Equity Act for the 21st Century (TEA–21), the agency has reviewed existing child restraint laws and has determined that the following exemptions are not incompatible with the requirements of SAFETEA–LU:

- Children with medical conditions who are unable to use a child restraint, provided there is written documentation from a physician;
- Children riding in a passenger motor vehicle that is not required to be equipped with safety belts.

The agency has accepted these exemptions by long-standing application in safety belt grant programs. A State that enacts a law with any exemption other than these should anticipate that the agency will review the exemption to determine whether its impact on traffic safety is minimal and it is, therefore, acceptable.

Eligibility

Each of the fifty United States, the District of Columbia and Puerto Rico ("States") may submit an application under this program.

Application Procedures

First Year Requirements

To apply for grant funds, a State must submit the certifications required by Appendix 1, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator no later than July 1 of the fiscal year.

Subsequent Year Requirements

To demonstrate compliance with this criterion in subsequent years a State receives grant funds:

(a) If the State's law has not changed, the State must submit the certifications required by Appendix 2, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator no later than July 1 of the fiscal year.

(b) If the State's law has changed, the State must submit the certifications required by Appendix 1, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator no later than July 1 of the fiscal year.

A State seeking to determine whether an existing or proposed child restraint law qualifies under the grant program may submit its law prior to July 1 for preliminary review by the agency.

Award Procedures

Each fiscal year (FY), a grant will be made to an eligible State upon submission and approval of the application required by this notice. As specified by SAFETEA–LU, the amount of a grant to a State in each fiscal year shall not exceed 25 percent of the amount apportioned to the State for FY 2003 under 23 U.S.C. 402. The release of grant funds shall be subject to the availability of funding for that fiscal year. As required by SAFETEA–LU, in the first 3 fiscal years for which a State receives a grant, it shall be reimbursed for up to 75 percent of the costs of programs and activities authorized by Section 2011(d) of SAFETEA–LU, and in the fourth fiscal year for which a State receives a grant, it shall be reimbursed for up to 50 percent of the costs of programs and activities authorized by Section 2011(d) of SAFETEA–LU.

Use of Grant Funds

As specified by SAFETEA–LU, eligible uses of grant funds may include any of the following:

1. Programs for Purchasing and Distributing Child Restraints to Low-Income Families

States may use grant funds for programs to purchase and distribute child restraints to low-income families. However, as required by SAFETEA–LU, not more than 50 percent of the funds received in a fiscal year may be used for these programs. The child restraints purchased and distributed must be certified to meet applicable Federal Motor Vehicle Safety Standards. Low income is calculated at 185 percent of the Federal poverty level. A certified child passenger safety technician/instructor should supervise all child restraint distribution programs and ensure that adequate training based on the Standardized Curriculum is provided to those distributing the selected seats. The certified child passenger safety technician/instructor should also ensure that appropriate training is provided to the recipients of the seats.

2. Programs to Support Enforcement of Child Restraint Laws

States may use grant funds to carry out a program to support enforcement of child restraint laws. A successful enforcement program should increase enforcement efforts during national high-visibility law enforcement

mobilization campaigns and Child Passenger Safety (CPS) week.

3. Programs To Train Child Safety Professionals, Police Officers, Fire and Emergency Medical Personnel, Educators, and Parents Concerning All Aspects of the Use of Child Restraints

States may use grant funds to carry out a program to train child passenger safety professionals, police officers, fire and emergency medical personnel, educators, parents, and caregivers concerning all aspects of the use of child restraints. When training participants to become national Child Passenger Safety Technicians and/or Instructors, States must use the NHTSA Standardized Child Passenger Safety Training Program with training certification through the national certifying body. States are encouraged to conduct Child Passenger Safety awareness training using NHTSA approved courses.

4. Programs To Educate the Public Concerning the Proper Use and Installation of Child Restraints

States may use grant funds to carry out a program to educate the public concerning the proper use and installation of child restraints. States should develop and sustain a cadre of current nationally certified Child Passenger Safety Technicians to serve the public by staffing inspection stations/check-up events/clinics. States should distribute public information and education materials to the public. States should use NHTSA-developed materials that provide information on all the "steps" of child restraints, including infant seats, convertible seats, forward-facing seats, booster seats and safety belts, and should include information on selection, direction, installation and location.

Financial Requirements

Within 30 days after notification of an award, but in no event later than September 12, a State must submit electronically to the agency a Program Cost Summary (HS Form 217) obligating the funds to this program. A Program Cost Summary is necessary to ensure proper accounting for the Federal funds and is a precondition to receiving grant funds. Additionally, each fiscal year until all grant funds are expended, the State must document how it intends to use the funds in the Highway Safety Plan it submits pursuant to 23 U.S.C. 402 (or in an amendment to that plan).

Reporting Requirements

A State that receives a grant is required by SAFETEA–LU to submit a report describing how funds were obligated and expended. Each fiscal year until all Child Restraint grant funds are expended, a State must include this report in the Annual Report it submits for its highway safety program pursuant to 23 CFR 1200.33. For each of the eligible uses of grant funds selected by the State, include the following:

1. For programs to purchase and distribute child restraints for low-income families:
   a. A description of the programs used to purchase and distribute child restraints for low-income families.
   b. The number of child restraints distributed.
2. For programs to support enforcement of child restraint laws:
   a. A description of the programs used to support enforcement of child restraint laws.
   b. A list of participating law enforcement agencies and the counties they serve.
3. For programs to train child passenger safety professionals:
   a. A description of the training classes conducted and the curricula used to train individuals and groups.
   b. The number and location of training classes conducted and the individuals or groups trained.
   c. The number of child passenger safety technicians certified.
4. For programs to educate the public:
   a. A description of the programs used to educate the public concerning the proper use and installation of child restraints.
   b. A list of child restraint inspection stations/check-up events/clinics, including their locations.
   c. An estimate of the number of child restraints checked at inspection stations/check-up events/clinics.

APPENDIX 1—CHILD RESTRAINT PROGRAM CETIFICATION FORM—NEW OR CHANGED LAW

State: _____

Fiscal Year: _____

I hereby certify that the child restaint law, available at

_____

(include legal citations to all relevant provisions)

is (check one):

☐ in effect and being enforced,

☐ will be in effect on

_____

(date)

and will be enforced on

_____

(date)

and that the State (or Commonwealth) of:

_____

- will use the child restraint grant funds awarded exclusively to implement programs in accordance with the requirements of Section 2011(d) of SAFETEA–LU, Pub. L. 109–59;
- will administer the child restraint grant funds in accordance with 49 CFR Part 18;
- will provide to the NHTSA Regional Administrator a report describing the activities executed with child restraint grant funds and the accomplishments of the fiscal year; and
- will maintain its aggregate expenditures from all other sources for child restraint programs at or above the average level of such expenditures in State or Federal fiscal years (FY) 2003 and 2004.

_____

Governor's Highway Safety Representative

Date: _____

APPENDIX 2—CHILD RESTRAINT PROGRAM CERTIFICATION FORM—UNCHANGED LAW

State: _____

Fiscal Year: _____

I hereby certify that the State (or Commonwealth) of

_____

- is enforcing a child restraint law that has been approved by NHTSA to conform to the requirements of Section 2011(d) of SAFETEA–LU, Pub. L. 109–59 and that has remained unchanged since that approval;
- will use the child restraint grant funds awarded exclusively to implement programs in accordance with the requirements of Section 2011(d) of SAFETEA–LU, Pub. L. 109–59;
- will administer the child restraint grant funds in accordance with 49 CFR Part 18;
- will provide to the NHTSA Regional Administrator a report describing the activities executed with child restraint grant funds and the accomplishments of the fiscal year; and
- will maintain its aggregate expenditures from all other sources for child restraint programs at or above the average level of such expenditures in State or Federal fiscal years (FY) 2003 and 2004.

_____

Governor's Highway Safety Representative

Date: _____

Issued on: January 25, 2006.

Jacqueline Glassman,

Deputy Administrator.

[FR Doc. E6–1156 Filed 1–30–06; 8:45 am]

BILLING CODE 4910–59–P

SB

184

2009

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: April 12, 2010 **FURTHER REFERRALS: Finance**

Date of Committee Action: 4-15-10

The STATE AFFAIRS Committee considered: **SENATE BILL NO. 184**

"An Act relating to public access to legislative committee meetings during regular legislative sessions by Internet broadcast."

SB 184-INTERNET ACCESS TO LEG COMMITTEE MTGS

Recommends it be replaced with [ ] HCS *or* [X] CS *for* SB 184 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
Leg	1	X		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
	Gatto			X	
	Gruenberg				–
	WILSON	X			
	PETERSEN	X			
	Seaton	X			
Chair:	LYNN	X			
Chair:					

2010

HOUSE CS FOR SENATE BILL NO. 184(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS FRENCH, Egan

REPRESENTATIVE Kerttula

A BILL

FOR AN ACT ENTITLED

"An Act relating to public access to legislative committee meetings during regular legislative sessions by Internet broadcast."

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

*** Section 1.** AS 24.05 is amended by adding a new section to read:

Sec. 24.05.186. Access to committee meetings by Internet broadcast. Each room that is regularly used during regular legislative sessions for meetings of committees of the legislature shall be equipped with a fixed camera capable of producing an audio and video feed without an operator once turned on. During regular sessions of the legislature, each meeting of a standing, special, joint, or permanent interim committee that is held in a room with a fixed camera shall be recorded and the live feed made immediately available to the public through Internet broadcast so that the public may easily observe and listen to the meeting while it is in progress. However, periods when a committee is in executive session, in recess, or at ease may not be recorded, nor may a live audio or video feed of those periods be made available

to the public through Internet broadcast. The electronic recordings produced by a fixed camera under this section are not public records and are not required to be retained or stored.

26-LS0833\A.1
Cook
4/14/10

AMENDMENT #1

OFFERED IN THE HOUSE BY REPRESENTATIVE SEATON

TO: SB 184

Page 1, line 10:

Delete ", except for executive sessions,"

Page 1, line 13, following "progress.":

Insert "However, periods when a committee is in executive session, in recess, or at ease may not be recorded, nor may a live audio or video feed of those periods be made available to the public through Internet broadcast."

2013

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re Draft final CS for SB 184

4/15/10

SB 184 moved from House State Affairs Committee this morning amended. Please draft a final CS incorporating the following amendment.

Amendment #1 (Seaton)
26-LS0833\A.1

Alaska State Legislature

Senator Hollis French

SB 184 – INTERNET ACCESS TO LEGISLATIVE COMMITTEE MEETINGS

Sponsor Statement

Senate Bill 184 is meant to bring the workings of the legislature to every computer in Alaska. The legislation would place a webcam in every room where committee meetings are held in the State Capitol. This would ensure that Alaskans can see their legislature in action, live via internet, whenever a scheduled meeting takes place.

These webcams will add to currently available media resources in the capitol. Gavel to Gavel - partly funded by the city of Juneau – provides excellent video coverage of select committee meetings, but the service doesn't have the capacity to cover all proceedings. The current draft of the bill won't replace or duplicate the valuable service provided by Gavel to Gavel, which can be viewed on cable TV networks across the state. Instead, it will ensure that all meetings have video coverage, while also providing a broadcast to anyone with internet access.

Washington, Florida and Texas have recently implemented similar web based initiatives. We know the technology is available. Senate Bill 184 would put this technology to work for Alaskans who want to follow their state government in action.

KTOO

PUBLIC BROADCASTING
FROM ALASKA'S CAPITAL

January 27, 2010

Senator Linda Menard
Senate State Affairs Committee
Alaska State Capitol
Juneau, Alaska 99801

Dear Senator Menard:

I am writing regarding SB 184, Internet Access to Legislative Committee Hearings. We understand that the bill would provide for the installation of webcams and live video streams from committee rooms.

As the producer of Gavel to Gavel Alaska, we support steps to improve electronic access to state government. One of our long term goals is to install broadcast quality television cameras throughout the capitol, to enable us to provide video on demand of all official Legislative proceedings. SB 184 would provide a good demonstration of such a service, and we stand ready to work with Legislative staff on the project, to provide a seamless, easy to use service for Alaska citizens.

Please don't hesitate to contact me if I can provide more information.

Sincerely,

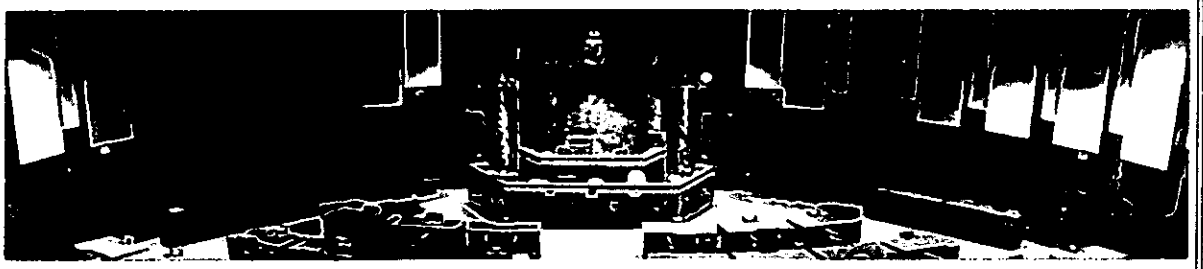
Bill Legere

Bill Legere
President and General Manager

360 Egan Drive Juneau, Alaska 99801-1748 Phone: 907-586-1670 FAX: 907-586-3612

Arizona House of Representatives

Bill Search:



House Navigation
- Home
- Representatives
- Committees
- Schedule
- Worksite Enforcement
- Live Proceedings
- Search Bills
- Press Releases
- Speakers Bureau
- Career Opportunities
- Air Quality Forecast
- Disability Access
- Video Archives
- Weekly Schedule
- Arizona House Republicans
- Caucus Websites Policy

Click a link to watch the live proceedings of the Arizona House of Representatives.

Floor Session and Hearing Room 1
Hearing Room 2
Hearing Room 3
Hearing Room 4
Hearing Room 5

Use Windows Media Player to play the video.

©2006 Arizona State Legislature. privacy statment

Colorado General Assembly

Live Legislative Video

Colorado Channel
Home Page

Watch the House Chambers
House of Representatives

Watch the Senate Chambers
Colorado Senate

Live Legislative Audio

The audio broadcast of proceedings of the Colorado General Assembly is provided only as an informational service. Please be advised that the time and place for scheduled hearings is subject to change. The broadcasts will only occur when the committees are in session. In addition, technical difficulties could result in loss of audio signals or in the impairment of the quality of transmission. (Note: To listen to legislative audio within this site requires you to have Windows Media Player installed on your computer).

Listen to the House and Senate Chambers

House of Representatives | Colorado State Senate

Listen to House Committee Rooms

House Committee Room 0107 | House Committee Room 0109 | House Committee Room 0111 | House Committee Room 0112

Listen to Senate Committee Rooms

Senate Committee Room 352 | Senate Committee Room 353 | Senate Committee Room 354 | Senate Committee Room 356

Listen to Other Committee Rooms

Joint Budget Committee Room | Legislative Audit Committee Room | Legislative Services Building Hearing Room A | Old Supreme Court Chambers

Press Room

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: **SB 184**
(S) Publish Date: 4/10/10

Identifier (file name):
Dept. Affected: Legislature
Title: Relating to public access to legislative committee meetings during regular legislative sessions by Internet...
RDU: Legislative Council
Component: Administrative Services
Sponsor: Sen. French
Requester: Senate Finance Committee
Component Number: 780

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Senate Finance Committee
Co-Chair Bert Stedman/Co-Chair Lyman Hoffman
Phone 465-3873/465-4453
Date/Time

Approved by:
Date 4/6/2010

(Revised 11/6/2009 OMB)

2019

Senator Hollis French

Capitol Room 417
465-3892
465-6595 fax

MEMORANDUM

Date: 4/12/10

To: Representative Bob Lynn, Chair
House State Affairs Committee

From: Senator Hollis French HSF

RE: Request for Hearing -- SB 184

This is a request that you schedule a hearing on SB 184 "Internet Access to Legislative Committee Meetings" at the earliest possible date.

I have attached a sponsor statement, fiscal note, a sectional summary, a copy of the bill, and additional support materials for your use.

If you have any questions, please don't hesitate to contact Kate Herring in my office at 465-4923. I appreciate your consideration.

Attachments

SB 194

2021

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 23, 2010 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3-16-10

The STATE AFFAIRS Committee considered: **CS FOR SENATE BILL NO. 194(JUD)**

"An Act relating to penalties and civil damages for certain alcohol violations."
SB 194-ALCOHOL VIOLATIONS: PENALTY/CIVIL DAMAGES

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

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

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
Law	1			X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Carl Gatto	Gatto			X	
Tom Seaton	SEATON	X			
Mary Greenberg	Greenberg	—			
Peggy Wilson	WILSON	↘			
Chair: Pat Lynn	LYNN	X			
Chair:					

Alaska State Legislature

Interim:
716 West 4th Ave.
Anchorage, Alaska 99501
(907) 269-0199

Session:
State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-4945

Senator Kevin Meyer
Senate District O

TO: Senator Kevin Meyer
FROM: Christine R. Marasigan, Legislative Aide
DATE: February 18, 2010
RE: Explanation of changes to SB 194

SB 194 underwent two substantive changes in the Senate since introduction

Senate State Affairs Committee added three new sections to the original bill.

Over the 2009 interim, Anchorage CHARR had expressed the need to mandate some kind of alcohol education course for the minors licensees were bringing civil actions against. After consulting with Legislative Legal, it was determined that because a civil action is between two independent parties, a court couldn't really mandate an alcohol education course. As a result, a compromise was made by making the sentencing of a Juvenile Alcohol Safety Action program or similar program, optional at the discretion of the civil court.

The second substantive change to the bill was in the Senate Judiciary Committee.

The first change was a housekeeping issue, which corrected two cross references to AS 04.16.050 to AS 04.16.050(1)(2). The second change increased the civil damages from $1,000 to $1,500 on persons with restrictions on purchasing alcohol who knowingly enter or remain on premises licensed to sell alcohol.

ALASKA STATE LEGISLATURE

Interim:
716 West 4th Avenue
Anchorage, Alaska 99501-2133
Phone: (907) 269-0199
Fax (907) 269-0197
Senator_Kevin_Meyer@legis.state.ak.us

Session:
Alaska State Capitol
Juneau, Alaska 99801-1182
Phone: (907) 465-4945
Fax: (907) 465-3476
Toll Free: (866) 465-4945

SENATOR KEVIN MEYER
SENATE DISTRICT O

SPONSOR STATEMENT FOR CSSB 194

"An Act relating to penalties and civil damages for certain alcohol violations."

CSSB 194 increases civil damages from $1,000 to $1,500 for three alcohol violations.

1) Minors who knowingly enter or remain in premises licensed to sell alcohol.

2) People who purchase or deliver alcohol to persons under the age of 21.

3) Persons with restrictions on purchasing alcohol who knowingly enter or remain on premises licensed to sell alcohol.

Additionally, CSSB 194 may also require a person who is under 21 years of age and convicted of the aforementioned offenses to pay for and enroll in a juvenile alcohol safety action program or similar education or treatment program if one is available.

Underage drinking is a problem in Alaska. According to the State of Alaska's Plan to Reduce & Prevent Underage Drinking (October 2009), 11 percent of all treatment admissions for alcohol abuse in the state were youth aged 12-20. There are currently 2,133 alcohol restricted licenses issued in the state.

An increase in civil damages would reinforce the message to youth that underage drinking will not be tolerated. The increased civil penalty would also be a financial deterrent for those who purchase alcohol for minors as well as adults holding a restricted license who are tempted to purchase alcohol.

Passing CSSB 194 will encourage licensees to continue their enforcement of underage and restricted license drinking laws. This bill will also serve as a deterrent to underage and restricted consumers of alcohol.

LEGAL SERVICES

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

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

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

MEMORANDUM February 22, 2010

SUBJECT: Cross-References to Repealed Subsection (CSSB 194(JUD))
(Work Order No. 26-LS0895\P)

TO: Senator Kevin Meyer

FROM: Gerald P. Luckhaupt
Legislative Counsel

You have asked me to explain the impact of secs. 6 and 7 of the CS(JUD). Sections 6 and 7 do not have any substantive impact but merely fix cross-references to the definition of "juvenile alcohol safety action program," which is being moved from AS 04.16.050 (see repeal in sec. 8) to AS 04.21.080 (see sec. 5). The definition is being moved so that a judge may require a minor to participate in such a program for any alcohol violation of AS 04.

GPL:ljw
10-122.ljw

LEGAL SERVICES

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

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

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

MEMORANDUM October 20, 2009

SUBJECT: Requiring Alcohol Education and Assessment for Minors in Civil Actions Brought by Licensees (Work Order No. 26-LS0895\R)

TO: Senator Kevin Meyer
Attn: Christine Marasigan

FROM: Gerald P. Luckhaupt
Legislative Counsel

You have requested that mandatory alcohol education be required for persons subject to civil suits by licensees under AS 04.16.049(e) and 04.16.065(a). These civil suits are brought by licensees against persons under the age of 21 who attempt to use fake ids or otherwise access premises or purchase alcohol when they are underage. These civil suits are lawsuits between two private parties and do not involve the state or other prosecuting authority and criminal and other penalties may not be imposed. Imposition of criminal sanctions including attendance at alcohol education[1] is inappropriate and unavailable to civil litigants. I do not see how one civil litigant can be authorized to impose a potential criminal sanction on the other civil litigant.

What I did do is provide that a court may require a person under the age of 21 to participate in a juvenile alcohol action safety program whenever the person is convicted of an offense under AS 04.16. Currently we only require this for minor in possession under AS 04.16.050. While this does not directly satisfy your request it does allow alcohol education programs to be required of minors when they are prosecuted and convicted of offenses under AS 04.16.049 and 04.16.065 and other offenses under AS 04.16.

GPL:ljw
09-354.ljw

Enclosure

[1] I assume by this you mean a juvenile alcohol safety action program as is currently required for minor in possession convictions under AS 04.16.050.

Alaska Cabaret, Hotel,
Restaurant & Retailers Association

1503 W. 31st Ave., Suite 202 • Anchorage, Alaska 99503
(907) 274-8133 • Fax: (907) 274-8640
Toll Free In Alaska (800) 478-2427

The Honorable Kevin Meyer
State Senate
Alaska State Capitol
Juneau, AK 99801-1182

February 12, 2010

Dear Senator Meyer,

I am writing to you regarding Senate Bill 194, an act relating to civil damages for certain alcohol violations.

As you may know, one of Alaska CHARR's top legislative priorities is fighting underage drinking. We appreciate your efforts to increase the civil penalty for underage persons attempting to purchase alcohol to $1,500.00. We believe this will encourage licensees to pursue the civil liability penalty making the penalty a stronger deterrent and sending a stronger message to underage persons that their criminal actions will not be taken lightly.

Alaska CHARR fully supports SB194, and would like to thank you for helping the hospitality industry send a stronger message to kids that attempting to buy alcohol is a serious offense.

Please let me know if I can be of additional assistance.

Dale G. Fox, CAE
President & CEO, Alaska CHARR

ANCHORAGE CHARR
CABARET, HOTEL, RESTAURANT & RETAILERS ASSOCIATION

January 26, 2010

Senator Kevin Meyer
Alaska State Capitol
Juneau, AK 99801

Re: SB 194

Dear Senator Meyer:

Underage drinking in Alaska has long been a concern in our communities and for this reason we support legislation to increase penalties for underage drinking through the civil penalties process.

As responsible owners and operators, we do not want to contribute to the problem of underage drinking. When a licensee is caught serving or selling alcoholic beverages to a minor the consequences and penalties are severe. We believe the minor should be held primarily responsible for his/her actions; the current $1,000 civil penalty is not enough. There should be steps for offenses to include increasing the $1,000 to $1,500, required or mandatory education and prevention and delaying access to the driver license at the age of 21.

In 2006, the Alaska Federation of Natives (AFN) with funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) report highlights the current status of underage drinking throughout rural and urban Alaska from a youth's perspective. The problem of underage drinking is statewide and impacts families, communities, social, health, medical, justice, law enforcement, education and economic bodies.

Anchorage CHARR assists members by processing civil penalty cases against minors on behalf of the licensee and providing information about minor civil penalty law. We compile information from our member about the civil case against the minor, prepare all required legal documents and coordinate third party notification for court appearance.

Currently our office has processed 42 minor cases with 15 pending court filing.

We urge you to please consider supporting SB 194.

Sincerely,

Silvia Villamides,
Executive Director

ABL Drink Responsibly. Drive Responsibly.

P.O. Box 242023
Anchorage, AK 99524
907.646.4628
anchoragechar@gci.net

STATE OF ALASKA
Plan to Reduce & Prevent Underage Drinking
October 2009, pages 5-7 (28 pages total)
http://www.hss.state.ak.us/DBH/prevention/docs/2009_underagedrinkplan.pdf

Executive Summary

Childhood and underage drinking has been shown to be a causal factor in homicide, suicide, traumatic injury, traffic fatalities, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning and the need for treatment for alcohol abuse and dependence.[ii] The research shows that early onset alcohol use is strongly associated with adult alcohol dependence.[iii] While there are no significant differences between national and Alaskan trends for heavy drinking[a], the prevalence of binge drinking[b] among Alaska's adults is consistently higher than the national average.[c iv]

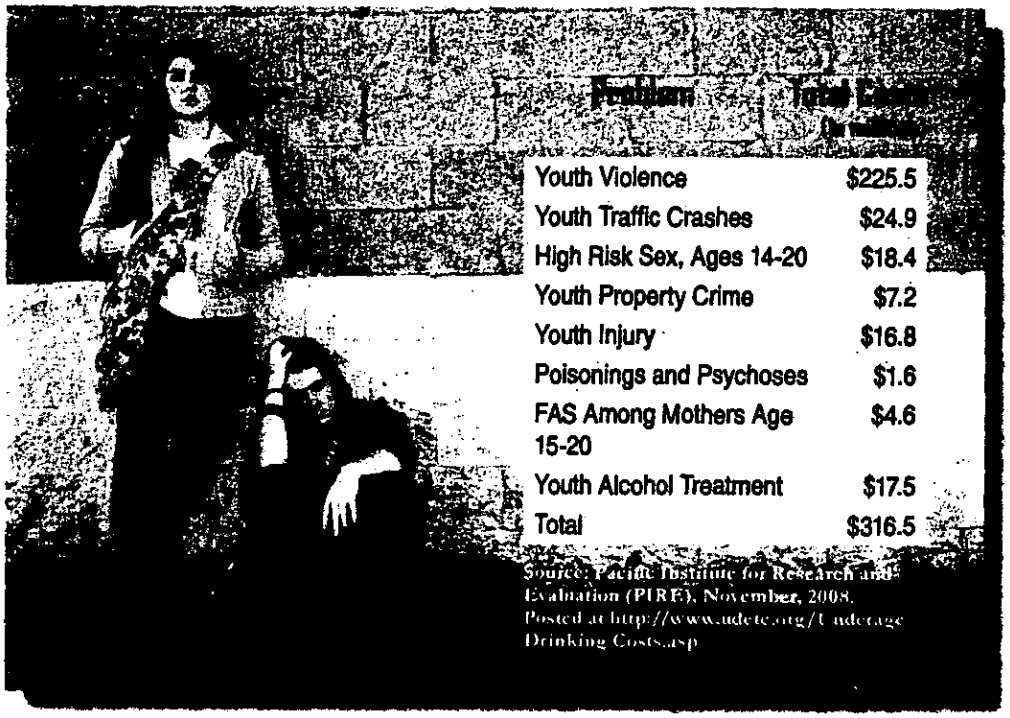
Further, excessive alcohol use by youth causes damage to the developing brain.[v] There exists a perception that adolescents can easily recover from drinking because their bodies are more resilient; however, the opposite is true. According to the American Medical Association, alcohol can seriously damage long and short term growth processes of the brain during adolescence. Frontal lobe development and the refinement of pathways and connections continue until the age of 16, and a high rate of energy is used as the brain matures until the age of 23. Damage from alcohol prior to age 23 can be long-term and irreversible. Furthermore, even moderate drinking impairs learning and memory in youth.[vi]

A myriad of catastrophic health, social and economic problems resultant from underage drinking has impacted Alaska's youth. In 2000, the Alaska Department of Health and Social Services, Division of Juvenile Justice sponsored an assessment of underage drinking in Alaska. Investigators examined statewide efforts and data and conducted more detailed inquiries by interviewing 203 key informants from 17 rural and urban sample communities. The consequences of underage drinking in Alaska are reflected in an increase in the number of alcohol-related accidents among youth requiring hospitalization of 66.3 percent between 1991 and 1998. Over this period, Alaska averaged 30 suicide attempts annually among youth where alcohol was a factor.[vii]

The cost of underage drinking to the citizens of Alaska was $317 million in 2005, inclusive of medical care, work loss, and pain and suffering.[viii] This is equivalent to $3,944 per year for each youth in the State. Based on these figures, per capita, Alaska is second among the fifty states for the cost of underage drinking.

As demonstrated in the table below, the largest costs to the State of Alaska can be attributed to youth violence and traffic crashes by underage youth under the influence of alcohol. Furthermore, a multitude of other problems contribute significantly to the overall cost. For example, among teen mothers, fetal alcohol syndrome (FAS) costs Alaska $4.6 million. Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21.[ix] In 2003, 366 youth 12-20 years old were admitted for alcohol treatment in Alaska, accounting for 11 percent of all treatment admissions for alcohol abuse in the State.[x]

Costs of Underage Drinking by Problem, Alaska 2005



Problem	Total Costs (in millions)
Youth Violence	$225.5
Youth Traffic Crashes	$24.9
High Risk Sex, Ages 14-20	$18.4
Youth Property Crime	$7.2
Youth Injury	$16.8
Poisonings and Psychoses	$1.6
FAS Among Mothers Age 15-20	$4.6
Youth Alcohol Treatment	$17.5
Total	$316.5

Source: Pacific Institute for Research and Evaluation (PIRE), November, 2008. Posted at http://www.udetc.org/Underage Drinking Costs..asp

The Alaska Departments of Education and Early Development and Health and Social Services conduct a biannual statewide student survey on health behavior. Alaska uses the Alaska Youth Risk Behavior Survey (YRBS), based upon the U.S. Centers for Disease Control and Prevention's (CDC) epidemiological surveillance system.[xi] This survey was established to monitor the prevalence of behaviors that not only influence adolescent health, but also put youth at risk for the most significant health and social problems. Participating school

[a] Defined as 2 drinks per day for men and 1 drink for women.
[b] Defined as 5 or more drinks on one occasion.
[c] Thirty-nine percent higher for women and 14 percent higher for men.

Executive Summary

districts may receive a full report of their local data, which can be the centerpiece of their own local needs assessments, adding other data such as the Alaska School Boards' School Climate and Connectedness survey and local law enforcement data.

In 2007, 43 high schools were scientifically selected to be included in the survey. Thirty-eight (88 percent) schools participated and 1,318 (68 percent) students (from a total of 1, 952 selected) completed the survey resulting in an overall response rate of 60 percent (P. Owen, personal communication, October 27, 2008).

According to self-reports by Alaskan students in grades 9-12:[xii]

- 74% had at least one drink of alcohol on one or more days during their life.
- 20% had their first drink of alcohol, other than a few sips, before age 13.
- 40% had at least one drink of alcohol on one or more occasion in the past 30 days.
- 26% had five or more drinks of alcohol in a row (i.e. binge drinking) in the past 30 days.

The 2007 YRBS also shows that 10 percent of Alaska youth self-reported drinking and driving within the past 30 days. According to the Alaska Highway Safety Office 2006 Annual Report, a third of alcohol impaired drivers and 47 percent of speeding drivers were under the age of 26.[xiii] Additionally, in 2006 there were 102 traffic accidents with alcohol impaired youth drivers ages 11-20.[xiv]

The state-wide YRBS demonstrates that underage drinking is widespread in Alaska, but it does not include all age appropriate youth. There are more youth at risk than are represented. Alaska state law requires that students have active consent[d] from parents to participate in school surveys, which excludes students who do not return a signed permission slip. In addition, alternative high school students were excluded from the state-wide YRBS report and students who have dropped out of school were not represented. Studies have shown that alternative high school students are at significantly higher risk for engaging in risky behaviors[xv] and substance use is correlated with school dropout.[xvi] As such, the risk behaviors of youth are likely underrepresented with the Alaska state-wide YRBS.

However, in 2007, with support from community partners, the Anchorage School District was able to administer the YRBS in alternative schools.[xvii] While they were not able to obtain the 60 percent response rate needed to generalize the findings to all alternative high school students,[e] the findings are important to consider as we plan prevention measures. The table below compares the responses from the Anchorage traditional high schools that were included with the state-wide YRBS and those Anchorage students who participated in the alternative school YRBS.[f]



Comparison of Traditional vs Alternative High Schools in Anchorage 2007

	Traditional High Schools	Alternative High Schools	McLaughlin High School
Percentage of students who had their first drink of alcohol other than a few sips before age 13	20.6%	30.8%	41.3%
Percentage of students who had at least one drink of alcohol on one or more of the past 30 days	40.8%	54%	76.4%
Percentage of students who had 5 or more drinks of alcohol in a row within a couple hours on one or more of the past 30 days	26.2%	37.3%	63.8%

Executive Summary

The alternative high schools participating in the 2007 Anchorage Youth Risk Behavior Survey included the following:

- *McLaughlin Secondary School* serves students who have been incarcerated at the McLaughlin Youth Center, a state detention center for juveniles.
- *AVAIL* (Anchorage Vocational Academic Institute of Learning) is an alternative high school program devoted to students who have dropped out of traditional schools.
- *Benson/Search* is an alternative school serving the educational needs of students who have been deemed "at risk."
- *COHO* (Creating Optimal High School Opportunities) offers students in the Chugiak and Eagle River area an alternative to the traditional high school classroom.
- *Continuation Program* is a self-directed alternative education program for students who are expelled, on a long-term suspension, or are in need of a transitional education placement.
- *Crossroads* is the Anchorage School District's school for pregnant and parenting teens.
- *SAVE* is an accredited comprehensive alternative high school that provides the opportunity for credit recovery, and is designed to meet the requirements for high school graduation.

These findings both highlight the need for further evaluation of alternative school students' risk behaviors in an effort to better plan prevention measures for these students and illustrate the strong likelihood that current reports of underage drinking in Alaska are under representative of the actual trend.

Despite the toll that underage drinking brings to bear on all citizens of Alaska — be it physical, mental, social, or economic — social norms remain static leaving the overall impression that underage drinking in Alaska "isn't a problem". Alaska has made great strides in the prevention of underage tobacco use and the parallels between the two drugs, alcohol and tobacco, are remarkable. That being said, enforcement efforts within the Departments of Health and Social Services and Public Safety have been coordinated for both tobacco and alcohol. As a result, an interesting pattern has emerged, which clearly demonstrates exactly where social attitudes lie. For example, in FY 2007, 9.2 percent of all retailers investigated sold tobacco to underage buyers whereas 22 percent of all retailers investigated sold alcohol to underage buyers.



Holding youth solely responsible for underage drinking is unreasonable. As the national report concluded, "Youth drink within the context of a society in which alcohol use is normative behavior and images about alcohol are pervasive." Efforts to reduce and prevent underage drinking, therefore, need to focus on a variety of environmental strategies that engage adults, youth, and the society at large. Alaska's plan employs a variety of strategies, including, but not limited to: public awareness; alcohol advertising; education; limiting access; collaboration; governmental assistance; and research and evaluation.

The problem of underage drinking in Alaska is significant but not insurmountable. It will, however, require determination and commitment to a long-term effort on the part of our citizens, state and community leaders to get involved and to take the action necessary to make a difference.

The national and Alaska-specific information and recommendations contained herein provide a blueprint for a range of science-based state and community actions that are necessary in order to successfully reduce underage drinking in Alaska. These recommendations are based on the IOM/NAS Report: *Reducing Underage Drinking: A Collective Responsibility.* **Each recommendation is categorized as national (N), state (S), or local (L).** The national recommendations are numbered based on the location within the IOM/NAS report. The numbering of the state and local recommendations is specific to this plan.

[d] Parents must sign a permission slip (versus passive consent in which the parent can exclude the student from participating with a written request).

[e] There were 230 respondents from Anchorage alternative schools and 75 respondents from McLaughlin High School.

[f] The Anchorage alternative school YRBS is only representative of those students who participated in the survey as the response rate was not high enough to generalize it to all alternative school students.

2031

Juvenile Alcohol Safety Action Program (ASAP)

In cooperation with other state or local agencies, a juvenile alcohol safety action program provides substance abuse screening, referral, and monitoring of persons under 18 years of age who have been referred to it by the court, Division of Juvenile Justice, and/or Department of Motor Vehicles (DMV). The typical cases that are ordered to juvenile ASAP are minor consuming, minor in possessions and tobacco violations.

The benefits of screening, referral and monitoring include:

- Increased accountability of offenders;
- Reduced recidivism resulting from successful completion of required education or treatment;
- Significant reductions in the amount of resources spent by prosecutors, law enforcement officers, judges, attorneys and corrections officers enforcing court-ordered conditions; and
- Increased safety for victims and the larger community because offenders are more likely to be receiving treatment, making court appearances, and complying with other probation conditions.

On July 1, 2001, the juvenile ASAP program was formally established in 4 communities throughout the state: Fairbanks, Juneau, Kotzebue and Ketchikan through the passage of HB 179 - Underage Drinking and Drug Offenses. Since the passage of the legislation, the program has expanded into several other communities in the state - Anchorage, Kodiak, Kenai and Mat-Su.

A list of the current juvenile ASAP locations and FY '06 case totals for are below.

	Minor Consuming/ Minor in Possession	Tobacco Violations	Other	Total Cases
Anchorage	1223	0	0	1223
Fairbanks	243	0	0	243
Juneau	145	68	4	217
Kenai	5	2	12	19
Ketchikan	97	0	0	97
Kodiak	143	0	0	143
Kotzebue	48	0	0	48
Mat-Su	186	0	11	197
TOTAL				2187

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER
FINANCE AND MANAGEMENT SERVICES

SEAN PARNELL, GOVERNOR

P.O. Box 110601
Juneau, AK 99811-0601
Phone: (907) 465-1630
Fax: (907) 465-2499

February 3, 2010

The Honorable Donald C. Olson, Chair
Senate Finance Subcommittee
State Capitol, Room 508
Juneau, AK 99801-1182

Dear Senator Olson:

In response to a question from Representative Meyer's Office on Wednesday, January 27th, regarding Juvenile alcohol safety action programs, please see our response below:

- ***I would like to know how much the Juvenile alcohol safety action program developed by DHSS under AS 47.37 costs and how active they are throughout the state. Just need a quick, one sentence answer.***

In FY09 the Division of Behavioral Health (DBH) awarded a total of $534,527 to 11 Juvenile alcohol safety action programs (JSAPs) in the following communities: Mat-Su, Homer, Kotzebue, Fairbanks, Juneau, Kenai, Kodiak, Ketchikan, Dillingham, Seward, and Anchorage. An additional $200,000 was available in FY09 for programs to use to assist juveniles with service access. Total JSAP client new cases for FY09 were 1,917. During FY09 a total of 1,290 cases were completed and closed (this number includes cases that were opened in FY08 and closed in FY09).

In FY10, an additional $87,607 was awarded to two new JSAPs; Bethel ($46,000) and Nome ($41,607), and an additional $30,000 was available in juvenile treatment dollars. The JSAPs are very successful, with juveniles entering these programs completing their assigned service of alcohol and drug information school (using the Prime for Life Curriculum) or substance use treatment services in a timely manner, with few repeat clients.

If you have additional questions regarding this issue, please contact me at 465-1630.

Sincerely,

Alison Elgee
Assistant Commissioner

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 194(STA)
(S) Publish Date: 1/29/10

Identifier (file name): SB194-LAW-CRIM-1-25-10
Title: An Act relating to civil damages for certain alcohol violations
Sponsor: Senator Meyer
Requester: Senator Meyer

Dept. Affected: Law
RDU: CRIMINAL
Component: Criminal Justice Litigation
Component Number: 2202

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill raises the possible civil penalty a licensee can get from a minor who tries to buy alcohol on the licensee's premises from $1,000 to $1,500. The department does not anticipate any significant fiscal impact

Prepared by: Eileen Donahue, Division Operations Manager — Phone 465-5427
Division: Administrative Services — Date/Time 1/25/10 12:00 AM
Approved by: Daniel S. Sullivan, Attorney General — Date 1/25/2010
Department of Law

(Revised 11/6/2009 OMB)

Alaska State Legislature

Interim:
716 West 4th Ave.
Anchorage, Alaska 99501
(907) 269-0199

Session:
State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-4945

Senator Kevin Meyer
Senate District O

TO: Representative Bob Lynn
House State Affairs Committee

FROM: Senator Kevin Meyer

DATE: February 24, 2010

RE: House State Affairs Committee Hearing Request for CSSB 194

This is a request for a House State Affairs Committee hearing for CSSB 194, "An act relating to penalties and civil damages for certain alcohol violations."

The following documents are attached and will be sent electronically:

- Sponsor Statement
- Current version of the bill
- A memo detailing the changes the bill has gone through since introduction
- Legal Memo, Oct. 2009
- Legal Memo, Feb. 2010
- Letters of support
  - Alaska CHARR
  - Anchorage CHARR
- Back up information
  - Excerpt from "Plan to Reduce & Prevent Underage Drinking," Oct. 2009
  - Excerpt from "Prevention eNotes," May/June 2009
  - Letter from DHSS regarding the Juvenile Alcohol Action Safety Program, Feb. 2010
- Fiscal Notes
- Witness/Testimony:
  - OC Madden, Brown Jug
- Staff member assigned to the bill: Christine R. Marasigan, 465-6876

This bill would increase the civil damages under AS 4.16.047(b), AS 4.16.049(e), and AS 4.16.065(a) from $1,000 to $1,500 and would make it possible for a person under 21 years of age convicted of one of these offenses to pay for and attend a juvenile alcohol safety action program if available.

Please contact Christine if you have any questions regarding this legislation.

SB 215

ALASKA STATE LEGISLATURE

Session
State Capitol, Rm. 115
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

Interim
716 W. 4th Ave, Ste. 540
Anchorage, AK 99501
(907) 269-0120
Fax: (907) 269-0122

Senator_Bill_Wielechowski@legis.state.ak.us



Co-chair
Joint Armed Services Committee
Resources Committee

Member
Energy Committee
Judiciary Committee
World Trade Committee

SENATOR BILL WIELECHOWSKI

Sponsor Statement: SB 215
Maintaining Federal Prescription Benefits at Pioneer Homes

The intent of SB 215 is to ensure residents of Alaska's Pioneer Homes continue to receive their Federal prescription drug benefits.

This past spring, Veteran residents of Alaska's Pioneer Homes were caught in the middle of a bureaucratic dispute. Officials at the Pioneer Homes would no longer accept prescription medications from the Veterans Administration because of safety concerns with how those medications are packaged and labeled. The VA will not change the packaging or labeling of medications sent to the Pioneer Homes and the Pioneer Homes cannot repackage the medications. Therefore, Veterans who were unable to self-administer medications had no choice but to pay the Pioneer Homes' pharmacy out-of-pocket for necessary medications that they were supposed to receive for free from the VA.

Thanks to a joint effort between the Department of Health and Social Services, the Department of Military and Veterans Affairs, local public veterans' advocates and state legislators, a policy level solution was reached with the Department of Health and Social Services. State administrators found a way to safely administer prescription medications received from the VA and Veterans began to receive their free medications again.

SB 215 will prevent this type of problem from recurring by ensuring that federal prescription benefits will continue to be honored into the future. If state administrators identify a safety concern associated with providing federal prescription benefits, SB 215 will require the Pioneer Homes to cover the value of the denied benefit, so that residents can continue to receive the benefits that they have earned.

This bill would protect not only Veterans, but all Pioneer Home residents receiving Federal prescription benefits, including those from Indian Health Services. The Pioneer Homes have always worked with residents eligible for IHS benefits to ensure they receive their medications. However, if something changes in the future with the distribution of IHS drugs, SB 215 would ensure that Pioneer Homes would continue accepting these Federal benefits or cover the cost for affected residents.

With the passage of SB 215, Veterans and other groups who have earned Federal prescription benefits will no longer have to worry about not receiving their prescription medications because bureaucrats are unable reach, what should be, a simple agreement.

Please join me in supporting this legislation to ensure eligible Alaskans continue to receive the benefits they have earned.

SB 215 – Maintaining Federal Prescription Benefits at Pioneer Homes

Fact Sheet

PROBLEM:

- In April 2009, Veterans in the Pioneer Homes who can no longer administer their own medications stopped receiving the free or low cost medications which they are entitled through the VA.

- These veterans were forced to purchase the same medications from the Pioneer Homes pharmacy.

- The Pioneer Homes pharmacy prepares medications in blister packs so that nurse aides can safely and accurately administer medications to patients.

- The VA cannot provide medications in blister packs – the preferred method of disbursing medicine at the Pioneer Homes.

- VA doctors cannot write prescriptions to the Pioneer Homes because the Pioneer Homes are outside the VA system.

- The Pioneer Homes cannot repackage VA medications because the lot number and expiration would change upon repackaging.

- The Pioneer Homes claimed they did not have enough qualified nursing staff to administer medicine from a bottle (using the VA packaging).

SOLUTION:

- **Pioneer Homes involved all interested parties to determine appropriate protocol for ordering, receiving, storing, administering and disposing of medications.**

- **The Alaska VA Healthcare System and Regional Office Chief Pharmacist and Chief of Staff conducted in-service visits to the Pioneer Homes to ensure nurses are properly administering medications directly from original VA bottles.**

STATUTORY NEED:

- **SB 215 will ensure that the solution put in place by the Pioneer Homes will remain in statute.**

- **If the Pioneer Homes identify a safety precaution that prevents them from disbursing medications as they currently are, the state run Pioneer Homes would cover the costs of the medications.**

- **The Pioneer Homes does not anticipate any changes to what they are doing currently.**

- **SB 215 prevents the need to "re-create the wheel" and ensures that individuals who have earned federal prescription benefits will continue to receive their benefits, even in the face of future administrative staffing changes.**

MEMORANDUM for the STATE OF ALASKA

To: Senator Bill Wielechowski **Date:** 5 Feb 2010

From: Verdie Bowen
Director, Office of Veterans Affairs **Phone:** 907-428-6016

Subject: Senate Bill No. 215

I support Senate Bill No. 215 in its entirety. The problem experienced this past year to issue prescription medication through the Veterans Administration Pharmacy to the veterans population at the Alaska Pioneer Home should have been an easy one, but when federal and state governments are involved it becomes very complicated. Each time a solution was reached between the government agencies, a new reason was found not to issue the medications. Several work a rounds were attained until finally a good solution was reached. The time that passed between solution and implementation was way too long for the veterans and their families. The stress caused on the family members was enormous.

The basic issue of this problem was it affected the veterans who could not speak for themselves. I am speaking of those veterans with severe Alzheimer's and Dementia. I know a good solution was attained in the end and it does help the veterans who live in the Pioneer Homes now. But, I fear when we are all gone and this problem arises again no one will have the corporate knowledge to help these veterans again. By enacting Senate Bill 215 this will take the administration solution today and make it law and the concern I have about this issue arising again will be unfounded.

Thanks you for your support of SB 215.

v/r

Verdie A. Bowen

Verdie A. Bowen
Director, Office of Veterans Affairs
State of Alaska
Po Box 5800 B216
Ft Richardson, AK 99505-5800
907.428.6016 (Office)
907.354.752 (Cell)
907.428.6019 (Fax)
Verdie.bowen@alaska.gov



ALASKA STATE COUNCIL

February 5, 2010
Senator Wielechowski
REF: SB215

Senator:

As one of the Veteran Service Organizations that worked through a number of meetings last year with you and other Members of our State Legislature including Rep Les Gara and Rep Nancy Dahlstrom and staff, I wanted to ensure each of you know how appreciated for your efforts and your willingness to step up for our veterans is as they face ongoing issues in relation to their care both at our State Pioneer Homes and the Alaska Veterans Home.

Each of you became intimately aware of the knot veterans face with differing government agencies attempting to untie their regulatory webs to meet the real day-to-day needs of our veterans. It was difficult, complex, and troubling. The leadership of this team of Legislators and the Commissioner of Health and Social Services in finding a solution was most welcome and appreciated. It will be remembered.

We are delighted you have decided to formally codify this new understanding in state law by the introduction of SB215. We have read the bill and discussed it with your staff and others and wanted you to know that you have the full support and appreciation of the veterans of Alaska, and specifically those Vietnam Veterans we represent here in Alaska and nationally. We will be forwarding this bill to other states who also face similar challenges.

I hope to be able to testify in support of this bill when it is before the various committees, but travel and work may keep me away. Please advise the members of any committee this bill is heard before that SB215 has our strong support and is listed as one of our top state legislative priorities for 2010.

If there is anything we can do to assist in moving this bill through this session, just ask.

It is an honor.

Ric Davidge
President

3705 Arctic Blvd #415, Anchorage, Alaska 99503
907 222 6945 907 222 6933 fax 907 229 5328 Chairman's Cell 907 748 1722 Ex Dir

adn.com
Anchorage Daily News

Print Page | Close Window

Veterans caught in dispute over medicines

By ROSEMARY SHINOHARA
rshinohara@adn.com
(11/03/09 22:26:20)

Military veterans living in the state-run Alaska Pioneer Homes are losing out on free or low-cost prescription benefits they are entitled to for serving their country because two medical bureaucracies can't seem to figure out how to get VA drugs to them.

The problem -- mostly about the packaging the medicines come in -- affects those veterans who need help from staff to take their meds.

Instead of pill bottles, the Pioneer Homes want the medicine to come in blister packs -- foil on one side, plastic on the other, name of pill and patient on the package, with each pill ready to be individually popped out.

That's for safety, says Dave Cote, head of the Pioneer Homes.

But the Veterans Administration isn't set up to make blister packs, says Marcia Hoffman-Devoe, spokeswoman for the agency. "We don't have the space to do that. We do not have the capability to do that."

Bea Combs's stepfather, a Navy man from 1943 to 1945, was affected when the Anchorage Pioneers' Home quit accepting medicine from the VA last spring. So she's trying to get the problem taken care of for all veterans.

"I was very upset when they notified me I had to get drugs from the Pioneer Home pharmacy," she said. That change came with a bill for $120, on top of the $6,178 monthly her family is already paying for care of Melvin Ertwine, who is 86.

Ertwine was a yeoman 3rd class. He went on to become an engineer for the Alaska Railroad. He drove trains, including the engine that sits on the Delaney Park Strip downtown, Combs said.

Between the VA and Ertwine's Blue Cross retirement insurance, Combs didn't have to pay anything for her stepdad's medications until all the Pioneer Homes stopped accepting VA drugs in mid-April, she said.

A PACKAGING DIFFERENCE

Veterans can get prescriptions for free if they are considered more than 50 percent disabled from their service, and the most any honorably discharged veteran has to pay is $8 for a month's prescription.

Many veterans in Pioneer Homes were not taking advantage of VA benefits but instead used private insurance or the Medicare Part D prescription benefit, Cote said. A dozen of the 36 veterans in the Anchorage Pioneers' Home were getting their medicines from the VA, he said. A couple veterans in Palmer may also have been getting VA medicines, but that's about the extent

of the number of people affected, he said.

The state has Pioneer Homes, which are assisted-living facilities, in Anchorage, Palmer, Fairbanks, Juneau, Ketchikan, Palmer and Sitka. There are 114 veterans in Pioneer Home beds statewide, Cote said.

Until last spring, the Pioneer Homes received medicine packaged by the VA pharmacy in bottles. Pioneer Homes nurses would transfer the pills to pill boxes for each resident who needs assistance with medications. All the pills for a particular resident on a particular day and time would be mingled together in the pill boxes, which are similar to the pill boxes, or medi-sets, people might have at home.

Pioneer Homes nurses complained that wasn't safe enough, said Cote.

Once a medicine is in the pill box, it's not easy to identify which pill is what, Cote said. And besides, medication in medi-sets is supposed to be administered only by nurses, not nurse assistants, under state regulation, Cote says. The Pioneer Homes want to be able to use nurse assistants, which is OK if the drugs are in blister packs, he said.

In blister packs, "it's easy to tell if you're supposed to take a medicine on the 27 th of October at noon. If it's not punched out and gone, you can assume it's not administered," he said.

SEEKING A REFEREE

Bea Combs at first went to Cote trying to get her stepdad's VA drugs reinstated, then called Anchorage state Rep. Les Gara's office. Gara, Rep. Nancy Dahlstrom of Eagle River and Sen. Bill Wielechowski of Anchorage began sending letters and meeting with the Pioneer Homes officials.

One possible solution the legislators and Pioneer Homes came up with last week, said Cote, is for the state to contract with a provider to prescribe the medicines the dozen or so veterans who used VA prescriptions in Anchorage need; the state, in consideration of these veterans being unable to use their VA benefits, would then pick up the cost of the medicines. Cote is going to investigate this idea.

Combs doesn't see why it's such a difficult problem to solve.

The pills go from one pharmacy, unopened, to another pharmacy, she said. "To me, the liability doesn't make sense," she said. "Is there something else going on that I don't know?"

The two bureaucracies -- the VA and the Pioneer Homes -- both say they want to resolve the issue somehow.

Find Rosemary Shinohara online at adn.com/contact/rshinohara or call her at 257-4340.

Print Page | Close Window

Copyright © Thu Nov 05 2009 10:41:21 GMT-0900 (Alaskan Standard Time)1900 The Anchorage Daily News (www.adn.com)

adn.com
Anchorage Daily News

Veterans in Pioneer Homes will get their medicines from VA

FREE OR LOW COST: Issue of distribution safety resolved.

By ROSEMARY SHINOHARA
rshinohara@adn.com

(11/13/09 23:47:55)

The state announced Friday that it has found a solution that will allow veterans who live in state-run Alaska Pioneer Homes to get the free or low-cost medicines they are entitled to from the VA, but have been denied in recent months.

The state will also refund the money the affected veterans had to pay to fill prescriptions through the Pioneer Homes pharmacy, according to officials from the state Department of Health and Social Services.

The Pioneer Homes quit accepting medicine from the VA last April for veterans who need help from staff to take their pills. The decision affected about a dozen veterans in the Anchorage Pioneers' Home, and perhaps a couple of veterans at the Palmer home.

Pioneer Homes director Dave Cote said the VA medicine wasn't packaged in the right kind of packs to make sure staff could safely distribute it. The Pioneer Homes wanted the medicine to come in blister packs labeled with the patient's name, with foil on one side and plastic on the other and each pill ready to be popped out individually. That way it would be easy to tell if the pill had been administered.

But Cote said after a high-level meeting with Veterans Administration last week, it became clear "they could not be flexible. ... There was not anything they were going to do on their side of things."

Ken Strum, pharmacy chief for the Veterans Administration in Anchorage, said the VA doesn't have equipment needed to package medicine in blister packs as the Pioneer Homes wanted. And, Strum said, it would be against state regulation for the Pioneer Homes pharmacy to repackage in blister packs medicine it receives from the VA pharmacy.

So Cote and the Pioneer Homes nurses instead figured out the safest way to distribute VA medicine from the bottles it comes in, Cote said. Basically, they're going to be more careful.

The Pioneer Homes nursing staff will keep the pills in the original bottles, instead of transferring all of a veteran's pills into a pill box where all meds to be taken at a time would be mixed together. That's to prevent a problem in case certain prescriptions are discontinued, which happens often with older folks, Cote said.

Also, instead of allowing aides to dispense VA pills, nurses will do it, he said.

The dispute between the VA and the Pioneer Homes gained attention this fall after Bea Combs, stepdaughter of Pioneers Homes veteran Melvin Ertwine, went to a legislator's office seeking to get the free or low-cost medicines re-instated.

State Reps. Les Gara of Anchorage and Nancy Dahlstrom of Eagle River and Sen. Bill Wielechowski of Anchorage began sending letters and meeting with state administrators about it.

"I think it's a great solution," Wielechowski said Friday. "It was sort of two large bureaucracies clashing with each other. Somebody had to give."

The state was able to be "a little more nimble," he said. "One reason we were able to do it is it's a small number of people."

Find Rosemary Shinohara online at adn.com/contact/rshinohara or call her at 257-4340.

Print Page | Close Window

Copyright © Thu Feb 04 2010 21:37:37 GMT-0900 (Alaskan Standard Time)1900 The Anchorage Daily News (www.adn.com)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **SB215**
() Publish Date:

Identifier (file name): SB215-DHSS-PH-02-02-10
Dept. Affected: Health & Social Services

Title: Pioneers Home Rx Drug Benefit
RDU: Alaska Pioneer Homes
Component: Pioneer Homes

Sponsor: Wielechowski, Olson

Requester: Senate HSS
Component Number: 2671

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

SB 215 ensures that eligible Pioneer Home residents will continue to have access to federal prescripton drug benefits available from the Veterans Administration or Indian Health Services. There is no fiscal impact to this bill as the Pioneer Homes are already allowing residents to access their federal prescription benefits.

Prepared by: Dave Cote, Director
Division: Alaska Pioneer Homes
Phone: 465-5737
Date/Time: 1/21/10 12:00 AM

Approved by: Alison Elgee, Assistant Commissioner
DHSS Finance & Management Services
Date: 2/2/2010

2046

(Revised 11/6/2009 OMB)

SB 244

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: March 19, 2010 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 4-8-10

The STATE AFFAIRS Committee considered: **SENATE BILL NO. 244**

"An Act providing that, during the governor's term of office, the duty station of the governor is Juneau, and prohibiting payment of certain travel allowances for use of the governor's personal residence."

SB 244-GOVERNOR'S DUTY STATION/TRAVEL ALLOWANCES

Recommends it be replaced with [ ] HCS *or* [X] CS *for* SB 244 (STA)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[ ] Same Title [X] 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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES

List by Dept(s):	FN#	Fiscal	Indet.	Zero
OOG				X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
	Gatto		X		
	SEATON	X			
	Greenberg	—			
	WILSON	X			
	PETERSEN	X			
Chair:	LYNN	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794 NM
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 1

Re SB 244 Governor's Duty Station/Travel Allowances

4/8/10

SB 244 Version P moved out of the House State Affairs Committee amended. Please draft a final CS with the following changes:

Conceptual Amendment #1 (Wilson)

Page 2 Line 9 after the 2nd "allowance" *insert* , (a comma)

(title change) Conceptual Amendment #2 (Johnson)

Page 1 Line 2 *delete* "Juneau" and *insert* **the state capital**

Conceptual Amendment #3 (Johnson)

Page 2 Line 6 *delete* "Juneau" and *insert* **the state capital**

2049

LEGAL SERVICES

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

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

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

MEMORANDUM April 8, 2010

SUBJECT: HCS SB 244(STA): change in the content of the bill with corresponding change in the bill title in the second house (Work Order No. 26-LS1322\C)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee

FROM: Jack Chenoweth
Assistant Revisor

The State Affairs Committee's adoption of the second (title change) and third amendments to the above-captioned bill makes a change to the contents of the measure as it is to be considered in the second house and a directed change in the bill title; those changes appear in the accompanying measure.

The proposed bill changes are disallowed by the second sentence of Uniform Rule 35: "A motion or proposition on a subject that requires a change in the title of the bill as enacted in the house of origin, other than a clerical or technical change, is not in order in the second house." The changes that the committee has agreed to make in the draft are substantive, not clerical or technical, and do not fall within the exception that is set within the text of the rule, and are, by the terms of the rule, out of order.

This memo is provided to remind you of the operation of the rule and the need for a concurrent resolution waiving the limitation of Uniform Rule 35 and other appropriate provisions that would accommodate the proposed changes, including the title change, as set out in the bill.

JBC:ljw
10-249.ljw

Enclosure

HOUSE CS FOR SENATE BILL NO. 244(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS STEDMAN, Egan, French, Thomas

REPRESENTATIVE Kerttula

A BILL

FOR AN ACT ENTITLED

"An Act providing that, during the governor's term of office, the duty station of the governor is the state capital, and prohibiting payment of certain travel allowances for use of the governor's personal residence."

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

*** Section 1.** AS 39.20.060 is amended to read:

Sec. 39.20.060. Exclusion of governor and lieutenant governor from personnel laws. **Except as provided in (b) of this section with respect to the calculation and payment of travel allowances to the governor, and notwithstanding** [NOTWITHSTANDING] the provisions of any other law, the governor and lieutenant governor are not considered employees of the state for the purpose of state personnel laws relating to hours of employment, annual leave, sick leave, overtime, compensatory time, and travel allowances. This section does not deprive the governor and lieutenant governor of the right to participate in the state retirement system or in state group insurance plans.

*** Sec. 2.** AS 39.20.060 is amended by adding a new subsection to read:

(b) For purposes of calculation and payment of travel allowances due the governor during the governor's term of office,

(1) notwithstanding the governor's residence in another location, the governor's duty station, defined as the location where the governor spends the major portion of time assigned to fulfill the duties of the office, is considered to be the state capital; and

(2) the governor is not entitled to, and may not claim as a travel allowance, a lodging allowance, when staying in the governor's personal residence while in travel status away from the governor's designated duty station.

*** Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PROVISIONS OF ACT MADE EXPRESSLY APPLICABLE. In consideration of the requirement of AS 39.20.070, the amendment of AS 39.20.060 by sec. 1 of this Act and the enactment of AS 39.20.060(b) by sec. 2 of this Act expressly modify laws applicable to the calculation and payment of certain benefits that apply to the governor.

LEGAL SERVICES

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

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

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

MEMORANDUM April 8, 2010

SUBJECT: HCS SB 244(STA): change in the content of the bill with corresponding change in the bill title in the second house (Work Order No. 26-LS1322\C)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee

FROM: Jack Chenoweth
Assistant Revisor

The State Affairs Committee's adoption of the second (title change) and third amendments to the above-captioned bill makes a change to the contents of the measure as it is to be considered in the second house and a directed change in the bill title; those changes appear in the accompanying measure.

The proposed bill changes are disallowed by the second sentence of Uniform Rule 35: "A motion or proposition on a subject that requires a change in the title of the bill as enacted in the house of origin, other than a clerical or technical change, is not in order in the second house." The changes that the committee has agreed to make in the draft are substantive, not clerical or technical, and do not fall within the exception that is set within the text of the rule, and are, by the terms of the rule, out of order.

This memo is provided to remind you of the operation of the rule and the need for a concurrent resolution waiving the limitation of Uniform Rule 35 and other appropriate provisions that would accommodate the proposed changes, including the title change, as set out in the bill.

JBC:ljw
10-249.ljw

Enclosure

ALASKA STATE LEGISLATURE

SESSION
State Capitol, Rm 516
Juneau, Alaska 99801-1182
(907) 465-3873 Phone
(907) 465-3922 Fax
(877) 463-3873 Toll Free
Senator_Bert_Stedman@legis.state.ak.us

INTERIM
50 Front Street
Suite 203
Ketchikan, AK 99901-6442
Phone (907) 225-8088
Fax (907) 225-0713

SENATOR BERT K. STEDMAN

MEMORANDUM

To: Representative Bob Lynn, Chair
House State Affairs Committee

From: Senator Bert Stedman

Date: March 22, 2010

Re: Hearing request for SB 244

I respectfully request that Senate Bill 244, An Act relating to the governor's duty station and travel allowance, be scheduled for a hearing in the House State Affairs Committee at your earliest convenience.

Attached is the following documentation:

- SB 244
- Zero fiscal note from the Office of the Governor
- Sponsor Statement
- Sectional Analysis
- Alaska Administrative Manual on Travel

If you have any questions or need more information, feel free to contact me or my aide Darwin Peterson at 465-3873. Thank you for your consideration.

SB

261

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: March 24, 2010 **FURTHER REFERRALS:**

Date of Committee Action: 4-6-10

The STATE AFFAIRS Committee considered: **CS FOR SENATE BILL NO. 261(L&C)**

"An Act relating to the membership of the Alcoholic Beverage Control Board; and providing for an effective date."

SB 261-ALCOHOLIC BEVERAGE CONTROL BD MEMBERS

Recommends it be replaced with [ ] HCS *or* [X] CS *for* SB 261 (STA)
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
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DPS				X

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Craig Johnson	Johnson				X
Gabrielle LeDoux	Gatto			X	
Mike Hawker	Gruenberg			~	
Peggy Wilson	WILSON	X			
Pete Peterson	PETERSEN	X			
Vice Chair: Paul Seaton	Seaton	X			
Chair:					

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

Phone: 907-465-4931
Fax: 907-465-4316

# of Pages (including cover): 4

Re SB 261 26-LS1406\P

04/06/2010

state affairs

The House Finance Committee moved SB 261 Version P as amended. Please draft a final CS with the following amendments. A paragraph, written on Version P, was adopted with the CS and later, under Amendment 3, that paragraph had a portion ***deleted***)

"Is an established village that is located in a borough or in the unorganized borough; ***for purposes of this subparagraph, "established village" has the meaning given in AS.04.21.080.***"

Conceptual Amendment #1 (Johnson)
Failed

Conceptual Amendment #2 (Johnson)
See attached

Amendment #3 (Gruenberg)
Page 2, portion of bill the was written in, after semi-colon – ***delete*** "for purposes of this subparagraph, "established village" has the meaning given in AS.04.21.080"

Conceptual Amendment #4 (Seaton)
The number used for the community population for determining the 6000 cutoff will be the number used for Community Revenue Sharing program by the State of Alaska.

26-LS1406\P
Cook
4/5/10

HOUSE CS FOR CS FOR SENATE BILL NO. 261( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR OLSON

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alcoholic Beverage Control Board; and providing for an effective date."

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

*** Section 1.** AS 04.06.020 is amended to read:

Sec. 04.06.020. Appointment and qualifications. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. **Not more than two** [NO THREE] members of the board may be engaged in the same business, occupation, or profession. **Three** [AT LEAST THREE] members of the board**, at least one of whom shall reside in a rural area,** shall represent the general public. A board member representing the general

2058

public or an immediate family member of a board member representing the general public may not have any financial interest in the alcoholic beverage industry. In this section,

(1) "immediate family member" means a spouse, child, or parent;

(2) "rural area" means a community with a population of 6,000 or less that is not connected by road or rail to Anchorage or Fairbanks, and that is

(A) a city; for purposes of this subparagraph, "city" has the meaning given in AS 29.71.800; or

(B) ~~an established village~~.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. The requirement that at least one member of the Alcoholic Beverage Control Board be a resident of a rural area added in AS 04.06.020, as amended by sec. 1 of this Act, first applies on the date the first term of office of a board member who represents the general public expires, and applies thereafter.

*** Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

(B) IS AN ESTABLISHED VILLAGE THAT IS LOCATED IN A BOROUGH OR IN THE UNORGANIZED BOROUGH; FOR PURPOSES OF THIS SUBPARAGRAPH, "ESTABLISHED VILLAGE" HAS THE MEANING GIVEN IN AS 04.21.080.

This language was adopted with CS version P Later a portion was deleted.

2059

CONCEPTUAL AMENDMENT #2

TO: LS 1406 / P
Page 2, Line 6, following "Fairbanks,"

ADD: "or a community of more than 6,000 that is not connected by road or rail to Anchorage or Fairbanks and has participated in a local-option election,"

Pg 2 Line 5

HOUSE CS FOR CS FOR SENATE BILL NO. 261(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR OLSON

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alcoholic Beverage Control Board; and providing for an effective date."

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

*** Section 1.** AS 04.06.020 is amended to read:

Sec. 04.06.020. Appointment and qualifications. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. **Not more than two** [NO THREE] members of the board may be engaged in the same business, occupation, or profession. **Three** [AT LEAST THREE] members of the board**, at least one of whom shall reside in a rural area,** shall represent the general public. A board member representing the general

public or an immediate family member of a board member representing the general public may not have any financial interest in the alcoholic beverage industry. In this section,

(1) "immediate family member" means a spouse, child, or parent**;**

(2) "rural area" means a community that is not connected by road or rail to Anchorage or Fairbanks, that has a population of 6,000 or less or that has a population of more than 6,000 and has participated in a local option election under AS 04.11.491, and that is

(A) a city; for purposes of this subparagraph, "city" has the meaning given in AS 29.71.800; or

(B) an established village that is located in a borough or in the unorganized borough.

*** Sec. 2.** AS 04.06.020 is amended by adding a new subsection to read:

(b) For purposes of (a)(2) of this section, the population of a community is the population for that community as determined under AS 29.60.860(c).

*** Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. The requirement that at least one member of the Alcoholic Beverage Control Board be a resident of a rural area added in AS 04.06.020, as amended by secs. 1 and 2 of this Act, first applies on the date the first term of office of a board member who represents the general public expires, and applies thereafter.

*** Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

Sec. ⏭29.60.860⏮

(b) The per capita amount distributed to each community in the unorganized borough [illegible] shall be added to the basic community revenue sharing payment for the [illegible]

(c) For purposes of this section, the population of a municipality, reserve, or community shall be determined by using the numbers of permanent fund dividend recipients or other population data that the department determines is reliable. For purposes of determining the population of a borough, the population of each city in the borough shall be deducted from the total borough population.

Alaska Cabaret, Hotel,
Restaurant and Retailer's Association

1503 W. 31st Avenue, Suite 202
Anchorage, AK 99503
(907) 274-8133 • Fax (907) 274-8640
Toll Free In Alaska (800) 478-2427

April 2, 2010

The Honorable Bob Lynn
House of Representatives
Alaska State Capitol
Juneau, AK 99801

Dear Representative Lynn,

Alaska CHARR remains concerned about Senate Bill 261, a bill relating to ABC Board Members.

This bill would require that one of the five members of the Alcoholic Beverage Control Board the governor appoints be from a small portion of the population.

As written, SB261 would only allow the governor to consider people from unorganized boroughs who have held a local option election which would result in the governor being restricted to just a couple of percent of the state's populations for this appointment.

I understand there may be an amendment that would allow any community that has held a local option election, whether inside or outside of a borough, to be considered. This is also a very small percentage of Alaska's population.

Attached is the list of communities that have had local option elections which shows the total population of those communities. Those eligible for appointment to the seat represent approximately 6% of Alaska's population.

We believe the governors of the State of Alaska have always done an excellent job ensuring fair representation for all Alaskans on this very important board, and that this legislation will make it more difficult for future governors.

There was discussion about the current rural representative, Belen Cook, who as mentioned in our testimony, works for the Native Village of Eyak as a domestic violence and substance abuse case manager and is the chair of their Annual Sobriety Celebration. Ms. Cook's term does not expire until 2013 and if we were following the proposed law, she would not qualify as an appropriate candidate because her community has not had a local option election.

Representative Lynn, I urge you to oppose Senate Bill 261 because board appointments should be made based on qualifications and ability to best represent all Alaskans.

Sincerely,

Dale Fox

Dale G. Fox, CAE
President & CEO, Alaska CHARR

This document has been sent from the Alaska CHARR Headquarters Building. Sitka CHARR Office

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON

ALASKA
STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

MEMORANDUM

DATE: March 24, 2010

TO: Representative Bob Lynn, Chairman
House State Affairs Committee

FROM: Senator Donald Olson D.O.
Senate District T

SUBJ: Request for Committee Hearing - CSSB 261 (L&C)

I request your consideration for scheduling a committee hearing for this bill, which would identify one of the three public members of the Alcoholic Beverage Control Board, as a rural public member.

Attached are two bill versions, sponsor statement/sectional, ZERO fiscal note, and support letters from Kawerak, and the Regional Wellness Forum. No public opposition has been discovered.

SB 261 has received seven DO-PASS recommendations in the Senate, and passed the floor vote 18 YEA, 1 NAY, 1 excused.

If there are any questions, contact Tim Benintendi of my office at 465-4989. Thank you.

4-6-10

Communities in Alaska under 6000 population

Community	Population
King Island	0
Mary's Igloo	0
Ekuk	0
Bill Moore's Slough	0
Chuloonawick	0
Hamilton	0
Napaimute	0
Ohogamiut	0
Umkumiute	0
Flat	0
Belkofski	0
Pauloff Harbor	0
Unga	0
Ivanof Bay	0
Afognak	0
Kaguyak	0
Kanatak	0
Woody Island	0
Port William	0
Cube Cove	0
Hobart Bay	1
Solomon	2
Paimiut	2
Georgetown	3
Telida	3
Pope-Vannoy Landing	5
Council	6
Portage Creek	7
Excursion Inlet	12
Evansville	14
Attu Station	15
Ugashik	15
Rampart	16
Lake Minchumina	17
Meyers Chuck	17
Game Creek	18
Bettles	22
Port Clarence	23
Halibut Cove	23
Beluga	24
Nikolski	27
Kupreanof	27
Point Baker	27
Alatna	28
Elfin Cove	30
Lime Village	32

Birch Creek	34
New Allakaket	35
Karluk	38
False Pass	39
Jakolof Bay	39
Edna Bay	40
Igiugig	40
Pedro Bay	44
Chiniak	44
Takotna	46
Platinum	47
Red Devil	48
Whale Pass	48
Akhiok	48
Lutak	49
Port Alexander	51
Stony River	51
Clark's Point	54
Kasaan	54
Aleneva	56
Stevens Village	57
Chignik	59
Egegik	62
Beaver	65
Nelson Lagoon	65
Port Protection	66
Larsen Bay	67
South Naknek	68
Sleetmute	70
Levelock	70
Chalkyitsik	71
Chignik Lagoon	71
Hyder	72
Pilot Point	72
Atka	73
Twin Hills	75
Chenega Bay	76
Skwentna	80
Hughes	81
Anvik	84
Koyukuk	88
Nikolai	90
Cold Bay	90
Port Heiden	90
Oscarville	95
Iliamna	95
Allakaket	96

Tenakee Springs	99
Shageluk	102
Tatitlek	102
Klukwan	102
Chignik Lake	105
Kobuk	109
Chuathbaluk	111
Saint George	112
Pelican	113
Ekwok	121
Naukati Bay	124
Port Alsworth	125
Pitkas Point	126
Diomede	128
Crooked Creek	132
Deering	133
Perryville	133
Port Graham	136
Andreafsky	137
Eyak	137
Wales	138
Coffman Cove	141
Mud Bay	143
Tyonek	154
Arctic Village	158
Golovin	160
Ruby	160
Newhalen	162
Ouzinkie	167
Mosquito Lake	167
Grayling	168
Hollis	172
Koliganek	174
Venetie	177
Adak	178
Kokhanok	179
Old Harbor	184
Kaltag	188
Port Lions	190
White Mountain	191
Holy Cross	194
Mekoryuk	195
Nondalton	202
Nunam Iqua	207
Atqasuk	219
Shaktoolik	223
Goodnews Bay	225

Nanwalek	229
Upper Kalskag	235
Aleknagik	242
Nightmute	249
Tanana	252
Lower Kalskag	256
Point Lay	257
Ambler	259
Teller	260
Eek	272
Kaktovik	272
Shungnak	272
Nulato	274
Huslia	277
Anaktuvuk Pass	284
Elim	297
Atmautluak	306
McGrath	317
Tununak	332
Koyuk	333
Akiak	341
Hydaburg	341
Napakiak	348
Brevig Mission	350
Kwigillingok	352
Covenant Life	355
Newtok	357
Russian Mission	362
Kiana	383
Kivalina	406
King Salmon	409
Marshall	417
Tuntutuliak	417
Saxman	420
Nuiqsut	424
Manokotak	430
Angoon	430
Saint Michael	434
Napaskiak	435
Thorne Bay	440
Kongiganak	445
Gustavus	448
Saint Paul	450
Buckland	458
Chefornak	470
New Stuyahok	491
Aniak	494

Tuluksak	500
Noatak	512
Kake	519
Scammon Bay	533
Wainwright	534
Nunapitchuk	540
Saint Mary's	549
Naknek	552
Stebbins	577
Kasigluk	578
Galena	580
Shishmaref	587
Pilot Station	587
Fort Yukon	587
City and Borough of Yakutat	590
Toksook Bay	605
Kotlik	610
Noorvik	642
Akiachak	659
Quinhagak	661
Alakanuk	670
Gambell	673
Kipnuk	696
Womens Bay	701
Point Hope	713
Savoonga	722
Unalakleet	723
King Cove	750
Kwethluk	764
Mountain Village	765
Klawock	785
Emmonak	794
Akutan	796
Togiak	802
Hoonah	823
Selawik	846
Skagway Borough	846
Chevak	922
Sand Point	958
Craig	1,117
Hooper Bay	1,160
Metlakatla	1,318
Haines	1,475
City and Borough of Wrangell	2,112
Cordova	2,161
Dillingham	2,347
Petersburg	3,009

Kotzebue	3,126
Unalaska	3,551
Nome	3,570
Barrow	4,054
Bethel	5,665
Kodiak	5,974
Population Total	**94,044**

Bill Sponsor: Donny Olson

26-LS1406\P
Cook
4/5/10

HOUSE CS FOR CS FOR SENATE BILL NO. 261( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR OLSON

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alcoholic Beverage Control Board; and providing for an effective date."

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

*** Section 1.** AS 04.06.020 is amended to read:

Sec. 04.06.020. Appointment and qualifications. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. **Not more than two** [NO THREE] members of the board may be engaged in the same business, occupation, or profession. **Three** [AT LEAST THREE] members of the board**, at least one of whom shall reside in a rural area,** shall represent the general public. A board member representing the general

2072

CONCEPTUAL AMENDMENT #2

TO: LS 1406 / P
Page 2, Line 6, following "Fairbanks,"

ADD: "or a community of more than 6,000 that is not connected by road or rail to Anchorage or Fairbanks and has participated in a local-option election,"

~~Gatto~~
~~Wilson~~
Arnenberg

CONCEPTUAL AMENDMENT #1

TO: LS 1406 / P
Page 2, following (B)

ADD: (C) but a rural area does not mean a community, city, or established village which is dry or damp under provisions of a local-option election.

~~Seaton~~
Wilson
~~Guenberg~~
Wilson
Gaetz



public or an immediate family member of a board member representing the general public may not have any financial interest in the alcoholic beverage industry. In this section,

(1) "immediate family member" means a spouse, child, or parent;

(2) "rural area" means a community with a population of 6,000 or less that is not connected by road or rail to Anchorage or Fairbanks, and that is

(A) a city; for purposes of this subparagraph, "city" has the meaning given in AS 29.71.800; or

(B) ~~an established village~~.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. The requirement that at least one member of the Alcoholic Beverage Control Board be a resident of a rural area added in AS 04.06.020, as amended by sec. 1 of this Act, first applies on the date the first term of office of a board member who represents the general public expires, and applies thereafter.

*** Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

Amend #3

(B) IS AN ESTABLISHED VILLAGE THAT IS LOCATED IN A BOROUGH OR IN THE UNORGANIZED BOROUGH; FOR PURPOSES OF THIS SUBPARAGRAPH, "ESTABLISHED VILLAGE" HAS THE MEANING GIVEN IN AS 04.21.080.

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON

ALASKA
STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

CSSB 261 (L&C) – Rural Seat on ABC Board

Version 26-LS1406/S, March 17, 2010
STAFF: Tim Benintendi, 465-4989

SPONSOR STATEMENT and SECTIONAL ANALYSIS

SPONSOR STATEMENT:

Alcohol problems of every shade are well known throughout Alaska, especially in Rural Alaska. Availability issues, illegal sales, underage consumption, the social, medical, and criminal dimensions of excessive consumption, and the public cost associated with remedial programs. All these greatly reduce the quality of life for rural residents. Wellness services cannot keep up with, let alone contain, the adverse impacts of alcohol consumption in our smallest communities.

The state's Alcoholic Beverage Control Board is composed of five members, two of whom must be actively engaged in the alcoholic beverage industry, and three of whom must represent the general public.

CSSB 261 (L&C) would redefine one of the general public seats specifically to be a resident of a rural area. The Committee Substitute defines a "rural area" as a community that is not connected by road or rail to Anchorage or Fairbanks, and that has participated in a local-option election, is a small city, or is an established village that is located in a borough, including the unorganized borough.

The intent of the bill is to raise the profile of the problem in an agency where more specific attention and action may be brought to address problems in our small, rural communities. CSSB 261 (L&C) chose to redefine one of the

public member seats, as opposed to raising the number of overall seats, so as not to affect other ABC Board dynamics, including voting dynamics.

SECTIONAL ANALYSIS:

SECTION 1: Would amend AS 04.06.020 to provide for one of the three members representing the general public, to be a resident of a rural area.

This section also defines "rural area" to mean a community which is not connected by road or rail to Anchorage or Fairbanks, which has held a local-option election, and is a city, or an established village located in a borough, including the unorganized borough.

"Established village" means an area containing a social unit of 25 or more permanent residents, not part of an incorporated city or another established village, and is in an organized borough, or is in the unorganized borough.

SECTION 2: Adds a new section to provide for the first appointment of a member from a rural area, to take place when the next public member seat is expired and available for appointment.

SECTION 3: The effective date is immediate.



KAWERAK, INC.

P.O. BOX 948 • NOME, ALASKA 99762

TELEPHONE: (907) 443-5231 • FAX: (907) 443-3708

SERVING THE VILLAGES OF:

BREVIG MISSION
COUNCIL
DIOMEDE
ELIM
GAMBELL
GOLOVIN
KING ISLAND
KOYUK
MARY'S IGLOO
NOME
SAVOONGA
SHAKTOOLIK
SHISHMAREF
SOLOMON
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

SB 261

February 8, 2010

Re: **Proposed Amendment to AS 04.06.020**

Dear Senator Donald Olson and Legislative Staff:

On behalf of Kawerak, Inc. this letter is in support of the proposed amendment to AS 04.06.020 to include at least one member of the Alcoholic Beverage Control Board to be a resident of a rural area.

Many factors contribute to the devastation caused by substance abuse in our region. While we are grateful for the continued efforts of the Alcoholic Beverage Control Board and many other individuals/entities in the region committed to addressing substance abuse, our region continues to suffer from extremely high rates of substance abuse and related problems.

We believe that rural areas such as the Bering Strait region would benefit significantly from having sustained rural representation on the ABC Board that is not affiliated with the alcoholic beverage industry and is focused specifically on rural issues and concerns.

If you should have any questions, or would like to discuss this further, please contact Bridie Trainor of Kawerak Wellness at (907) 443-4393. Thank you for your consideration.

Sincerely,

KAWERAK, INC.

Loretta Bullard, President

Regional Wellness Forum

To Provide a Forum for the Region, to address efforts to reduce Alcohol and Drug Abuse, and to Promote Wellness

P.O. Box 948, Nome AK, 99762

SB 261

February 8, 2010

Re: **Proposed Amendment to AS 04.06.020**

Dear Senator Donald Olson and Legislative Staff:

The purpose of this correspondence is to support the proposed amendment to include at least one member of the Alcoholic Beverage Control Board be a resident of a rural area added in AS 04.06.020.

This request is made by the Regional Wellness Forum formed in 1999 to address substance abuse problems in Nome and the Bering Strait region. The RWF includes representatives from many diverse entities (as you will note from the signatories to this correspondence). The RWF successfully established and has maintained a community safety patrol and many other worthwhile efforts since its inception to address substance abuse and its many tragic consequences in the region.

Despite the efforts of the RWF and many other individuals/entities in the region committed to addressing substance abuse, our region continues to suffer from extremely high rates of substance abuse and resultant problems. For example, in 2007, the Nome Police Department transported a total of 877 intoxicated persons as Title 47 holds to the hospital. This is in a community of approximately 3800 people. As a "wet" hub community, rural residents from surrounding villages travel to Nome to drink, and become homeless. This year alone, two intoxicated individuals froze to death, and this problem of homeless death or injury due to intoxication has always been a significant problem in our community.

There are many factors which contribute to the high rate of substance abuse problems in our region. Continuing to serve liquor to overly intoxicated individuals and allowing such persons to remain in drinking establishments, and selling liquor to such individuals from liquor stores when they are clearly too intoxicated under state law to be provided any further alcohol, are contributing factors in this region to the high rate of substance abuse and its consequences.

The Alcoholic Beverage Control (ABC) Board is a critical component of any effort to enforce State laws regarding serving and selling liquor to intoxicated persons. While

we applaud past efforts of the ABC Board to conduct sting operations in our community, we believe that rural areas such as the Bering Strait region would benefit significantly from having sustained rural representation on the ABC Board that is not affiliated with the alcoholic beverage industry and is focused specifically on rural issues and concerns.

If you should have any questions, or would like to discuss this further, please consider Berda Willson, RWF Chair, to be the contact person for this proposal. She can be reached at (907) 443-5312 or bwillson@gci.net. Thank you for your consideration.

CC: Alaska Legislature

Regional Wellness Forum Members:

Jacob Ahwinona, Kawerak Elder Representative
Gina Appolloni, Kawerak Director of Village Public Safety Office
Simon Bekoalok, Norton Sound Health Corporation
Melanie Edward Kawerak Vice President
John Bioff, Norton Sound Health Corporation
Judge Ben Esch (Not Representing)
Dorcas Bloom, Norton Sound Health Corporation

Angie Gorn, Norton Sound Health Corporation
Loretta Bullard, Kawerak President
Mike Hannigan, Northwest Campus University of Alaska Fairbanks
Bob Frochle, Nome Youth Facility
Emily Hughes, Norton Sound Health Corporation
Carol Gales, Northwest Campus University of Alaska Fairbanks
Sgt. Andrew Merrill, Nome Police Department
Kathy Johnson, Norton Sound Health Corporation
Carl White, Bering Strait School District
Breanne MacFarland, Sitnasuak Native Corporation
Rahnia Parker, Norton Sound Health Corporation
Barb Nickels, Kawerak Director of Community Planning
Berda Willson, Regional Wellness Forum Chairperson
Jason Hymer, Norton Sound Health Corporation
Michael Dunham, Anvil Mountain Correctional Center
Kari Van Delden, North West Campus
Carol Piscoya, Norton Sound Health Corporation
Aprille Pitt, Kawerak Wellness Program
Helen Pootoogooluk, Norton Sound Health Corporation
Bridie Trainor, Director of Kawerak Wellness Program
Jon Wehde, Nome Public Schools

To Provide a Forum for the Region, to address efforts to reduce Alcohol and Drug Abuse, and to Promote Wellness

John Papasodora, Nome Police Department
Melissa Boeckmann, Norton Sound Health Corporation
Robert Keith, Kawerak Board
Samaria Ross, Bering Sea Women's Group
Lance Johnson, Nome Community Center
Julie Renwick, Norton Sound Health Corporation
Roy Agloinga, Norton Sound Health Corporation

Signed on behalf of the Regional Wellness Forum,

Berda Wilson
Signature
Chair Regional Wellness Forum
Title
February 8, 2010
Date

To Provide a Forum for the Region, to address efforts to reduce Alcohol and Drug Abuse, and to Promote Wellness

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **SB261**
() Publish Date:

Identifier (file name): SB261-DPS-ABCB-02-16-10
Dept. Affected: DPS
Title: ALCOHOLIC BEVERAGE CONTROL BD MEMBERS
RDU: Statewide Support (165)
Component: Alcohol Beverage Control Board
Sponsor: Senator Olson
Requester: Senate State Affairs
Component Number:

Expenditures/Revenues $0

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							
FUND SOURCE				$0			
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation requires at least one of the three public members of the Alcohol Beverage Control Board reside in a rural area with a population of 4,500 or less that is not connected by road or rail to Anchorage or Fairbanks.

SB 261 does not increase the number of board members. The ABC Board currently has a rural member serving as a public member, therefore, this legislation does not require additional funds.

Prepared by: Shirley A. Gifford, Director
Phone 269-0351
Division: ABC Board
Date/Time 2-16-10 8:11 a.m.
Approved by: Joe Masters
Date 2/16/2010
Commissioner

(Revised 11/6/2009 OMB)

26-LS1406\P
Cook
4/5/10

HOUSE CS FOR CS FOR SENATE BILL NO. 261( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR OLSON

A BILL

FOR AN ACT ENTITLED

"An Act relating to the membership of the Alcoholic Beverage Control Board; and providing for an effective date."

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

*** Section 1.** AS 04.06.020 is amended to read:

Sec. 04.06.020. Appointment and qualifications. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. **Not more than two** [NO THREE] members of the board may be engaged in the same business, occupation, or profession. **Three** [AT LEAST THREE] members of the board**, at least one of whom shall reside in a rural area,** shall represent the general public. A board member representing the general

public or an immediate family member of a board member representing the general public may not have any financial interest in the alcoholic beverage industry. In this section,

(1) "immediate family member" means a spouse, child, or parent;

(2) "rural area" means a community with a population of 6,000 or less that is not connected by road or rail to Anchorage or Fairbanks, and that is

(A) a city; for purposes of this subparagraph, "city" has the meaning given in AS 29.71.800; or

(B) ~~an established village~~.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. The requirement that at least one member of the Alcoholic Beverage Control Board be a resident of a rural area added in AS 04.06.020, as amended by sec. 1 of this Act, first applies on the date the first term of office of a board member who represents the general public expires, and applies thereafter.

*** Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

(B) IS AN ESTABLISHED VILLAGE THAT IS LOCATED IN A BOROUGH OR IN THE UNORGANIZED BOROUGH; FOR PURPOSES OF THIS SUBPARAGRAPH, "ESTABLISHED VILLAGE" HAS THE MEANING GIVEN IN AS 04.21.080.

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON

ALASKA
STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

MEMORANDUM

DATE: April 5, 2010

TO: Representative Bob Lynn, Chairman
House State Affairs Committee

FROM: Senator Donald Olson DO
Senate District T

SUBJ: Draft Committee Substitute for CSSB 261 (L&C)

I am providing a draft committee substitute, attached, in response to committee deliberations on this bill last week. For your consideration, the following changes appear in this draft CS:

Page 1, Line 11: Revised language says, "No more than two members....."

Page 2, Lines 5-6: Definition of "rural area" deletes the reference to participation in a local-option election, and retrieves the definition from the original version of the bill. Further, it raises the population number in the original version from 4,500 to 6,000. This adds to the universe of the applicant pool, and would include a community like Bethel, where before, it was excluded in the original bill.

Also on Page 2, at line 7, inclusion of cities is supplemented by adding the statute reference AS 29.71.800 (4).

Also on Page 2, Line 9, the description of an "established village" is retained, and a clearer reference that an established village may be in an organized borough, or in the unorganized borough, is made.

My interests and those of the constituents who brought this issue forward, are retained in this draft committee substitute, while attending to the expressed concerns of committee members.

Our objective remains to identify one of the public member seats for an applicant from a small community with significant alcohol problems. SB 261 would mandate the governor apply this criteria for appointment to a public member seat, and not rely on a governor's discretion. The other two public member seats remain available for other interest sectors.

Under this bill, Cordova, for example, would formally qualify as a community from which an applicant or our desired profile could come.

If there are any questions, contact Tim Benintendi of my office at 465-4989. Thank you.

(h) In this section,

(1) "agricultural products" includes dairy products, timber and lumber, and products manufactured from timber and lumber;

(2) "state money" includes state reimbursement to municipalities for school or related construction, foundation funding for education, municipal assistance, revenue sharing, and state funds for capital projects. (§ 2 ch 64 SLA 1988)

Sec. 29.71.050. Procurement preferences for recycled Alaska products. (a) Alaska recycled products shall be used in municipal procurements when the products are of comparable quality, of equivalent price, and appropriate for the intended use.

(b) Unless the procurement is governed by AS 29.71.040, in the evaluation of a bid or proposal for a procurement by a municipality, if a bid or proposal designates the use of recycled Alaska products for the products identified in the contract specifications, and if the recycled Alaska products meet the contract specifications, the bid or offer shall be decreased by the percentage of preference given to the recycled Alaska products under AS 36.30.332.

(c) The contract specifications for a municipal procurement must include a provision that describes the preference granted under (b) of this section.

(d) If a successful bidder or offeror who receives the preference under (b) of this section fails to use the designated recycled Alaska product for a reason within the control of the successful bidder or offeror, each payment under the contract shall be reduced by the percentage reduction scheduled under AS 36.30.330(a) for the classification the product has received under AS 36.30.332.

(e) In the evaluation of a bid or proposal for a municipal procurement, a person is not a responsible bidder or offeror if, during two contracts for which the person received a preference under (b) of this section during the preceding three years, the person failed to use the recycled Alaska product designated in the person's bids or proposals for the contracts for reasons within the control of the bidder or offeror.

(f) This section applies to home rule and general law municipalities.

(g) In this section, "recycled Alaska product" has the meaning given in AS 36.30.338. (§ 3 ch 63 SLA 1988)

Revisor's notes. — Enacted as AS 29.71.040. Renumbered in 1988. Also in 1988, a reference to "AS 29.71.040" in (b) of this section was substituted for a reference to "AS 36.15.050" to reflect the amendment to AS 36.15.050 and enactment of AS 29.71.040 by ch. 64, SLA 1988.

Sec. 29.71.060. Copyrights in computer software. A municipality may hold the copyright for software created by the municipality or developed by a contractor for the municipality, and may enforce its rights to protect the copyright. (§ 13 ch 200 SLA 1990)

Collateral references. — Copyright protection of computer programs. 180 ALR Fed. 1.

Sec. 29.71.800. Definitions. In this title, unless otherwise provided or the context otherwise requires,

(1) "areawide" means throughout a borough, both inside and outside all cities in the borough;

(2) "assembly" means the governing body of a borough;

(3) "borough" means a general law borough or a home rule borough;

(4) "city" means a general law first or second class city or a home rule city;

(5) "commissioner" means the commissioner of commerce, community, and economic development;

(6) "consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality;

(7) "council" means the governing body of a city;

circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the person's conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had the person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had the person not been intoxicated acts recklessly with respect to that risk.

(b) In this title,

(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

(2) "board" means the Alcoholic Beverage Control Board;

(3) "bottling" means to put into a bottle, can, or other container;

(4) "community work" means and is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public land, forests, parks, roads, highways, facilities, or education; community work may not confer a private benefit on a person except as may be incidental to the public benefit;

(5) "designated premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee for the purpose for which the permit is issued by the board at the location of the site for which the permit is issued;

(6) "director" means the director of the Alcoholic Beverage Control Board;

(7) "distributing point" means a location where alcoholic beverages are distributed from a warehouse;

(8) "drunken person" means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the overconsumption of alcoholic beverages;

(9) "established village" means an area that does not contain any part of an incorporated city or another established village and that is

(A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or

(B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version:
() Publish Date:

Identifier (file name): CSSB261(L&C)-DPS-ABCB-02-16-10
Title: ALCOHOLIC BEVERAGE CONTROL BD MEMBERS
Sponsor: Senator Olson
Requester: Senate State Affairs

Dept. Affected: DPS
RDU: Statewide Support (165)
Component: Alcohol Beverage Control Board
Component Number:

Expenditures/Revenues $0

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							
FUND SOURCE				$0			
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation requires at least one of the three public members of the Alcohol Beverage Control Board reside in a rural area that is not connected by road or rail to Anchorage or Fairbanks, that has participated in a local option election under AS 04.11.491, and is a city; or is an established cillage that is located in the unorganized borough.

CSSB 261 does not increase the number of board members. The ABC Board currently has a rural member serving as a public member, therefore, this legislation does not require additional funds.

Prepared by: Shirley A. Gifford, Director
Division: ABC Board
Phone 269-0351
Date/Time 4-2-10 8:11 a.m.

Approved by: Joe Masters
Commissioner
Date 4/2/2010

(Revised 11/6/2009 OMB)

SCR

14

SENATOR DENNIS EGAN

Senate Concurrent Resolution 14: "Filipino American History Month

Senate Concurrent Resolution 14 intends to dedicate October as Filipino American History Month in Alaska, commemorating the contributions of Filipino-Americans to the history and heritage of our state and nation.

Filipinos have a rich history and culture in Alaska. The first recorded Filipino in Alaska came aboard a ship from the Philippines in 1788. In early Alaska history, Filipinos worked on whaling ships, in the Alaska-Juneau and Treadwell mines, and in the canneries. The Filipino-American community now is the largest Asian-American group in Alaska, with 18,000 people.

Filipinos enrich our history and heritage. I've introduced Senate Resolution 14 to celebrate October 2010 as Filipino American History Month in Alaska. I urge your support of this legislation.

ALASKA SENATE
STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108
SENATOR.DENNIS.EGAN@LEGIS.STATE.AK.US

FILIPINO COMMUNITY, INC.

251 South Franklin Street, Juneau, Alaska 99801 · (907) 586-4116

Mach 9, 2010

Senator Dennis Egan
Alaska State Senate
State Capitol, Room 510
Juneau, Alaska 99801-1182

Dear Senator Egan,

On behalf of the Filipino Community, Inc. in Juneau, Alaska I would like to extend our gratitude for your introduction of Senate Concurrent Resolution No. 14, recognizing October 2010 as Filipino American History Month.

It is indeed an honor for Filipinos to be recognized for their contributions to the State of Alaska, especially here in Juneau; and likewise across the nation by the U.S. Congress in recently proclaiming October as Filipino American History Month.

The Articles of Incorporation of the Filipino Community, Inc. identifies our purpose as to *"foster better and harmonious relationships, understanding and brotherhood among ourselves and with other ethnic groups, and to keep alive our Filipino heritage, culture, customs and traditions...".*

SCR 14 adds significant emphasis to our purpose and we gratefully and wholeheartedly extend our support for its passage. We respectfully request all of the Alaska State Legislature to grant favorable consideration of its passage.

Sincerely,

//s//

Jenny Gomez Strickler
President

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SCR 14
(S) Publish Date: 3/16/10

Identifier (file name): SCR14-LEG-COU-3-16-10
Dept. Affected: Legislature
Title: Recognizing October 2010 as Filipino American History Month
RDU: Legislative Council
Component: Council and Subcommittees
Sponsor: Senators Egan, Davis, Stevens, French, Olson,..."
Requester: Senate State Affairs
Component Number: 783

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2011**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This Legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
Phone 465-6626
Division: Legislative Affairs Agency
Date/Time 3/16/10 8:47 AM
Approved by: Pamela Varni, Executive Director
Date 3/16/2010
Legislative Affairs Agency

(Revised 11/6/2009 OMB)

SJR

5

HOUSE COMMITTEE REPC T

(7)
Date Referred to Committee: February 18, 2009 **FURTHER REFERRALS:**

Date of Committee Action: 3-3-09

The STATE AFFAIRS Committee considered: **CS FOR SENATE JOINT RESOLUTION NO. 5(FIN)**

Urging the United States Department of Defense to continue to provide retirement benefits for members of the Alaska Territorial Guard who served during World War II.

SJR 5 AK TERRITORIAL GUARD RETIREMENT BENEFITS

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

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero
All Depts				X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Paul Seaton	Seaton	✓			
Mary Greenberg	Greenberg	—			
Chair: Bob L	LYNN	X			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 116**
() Publish Date:

Identifier (file name): **HB116-DOA-DMV-03-03-09**
Title "An Act relating to Iditarod finisher special request license plates."
Sponsor Rep. Neuman
Requester H(STA)

Dept. Affected: Administration
RDU Motor Vehicles
Component Division of Motor Vehicles
Component Number 2348

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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**	**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 Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill does not fiscally impact the Division of Motor Vehicles (DMV). Revenue derived from the sale of the Iditarod Finisher Plate is expected to be minimal.

Prepared by: Whitney Brewster
Division Motor Vehicles
Approved by: Kevin Brooks
Deputy Commissioner

Phone 907-269-5559
Date/Time 3/3/09 8:55 AM
Date 3/3/2009

(Revised 9/10/2008 OMB)

2096

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSJR 5(FIN)
(S) Publish Date: 2/4/09

Dept. Affected: All Departments
RDU
Component
Component Number

Title: SJR 5-AK TERRITORIAL GUARD RETIREMENT BENEFITS
Sponsor: Senate Rules Committee
Requester: Senate Finance Committee

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2010**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Senate Finance Committee — Date/Time 2/2/2009

Approved by: Senator Bert Stedman, Co-Chair — Phone 465-3873
Senator Lyman Hoffman, Co-Chair — Phone 465-4453

ALASKA STATE LEGISLATURE

Senate District H
600 E. Railroad Avenue
Wasilla AK 99654
907-376-4866
907-373-4724 :Fax

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Rules Committee

SPONSOR STATEMENT

CS for SJR 5 (FIN)

A RESOLUTION

Urging the United States Department of Defense to continue to provide retirement benefits for members of the Alaska Territorial Guard who served during World War II.

In the middle of January 2009, the U.S. Army Human Resources Command mailed letters to approximately 25 elderly Alaskans, telling them that the Army has changed its mind, based on a legal interpretation, about whether their service in the Alaska Territorial Guard (ATG) during World War II -- defending the United States from Japanese invasion -- counts toward military retirement. The effect of this abrupt reversal in position is to reduce the monthly retirement payments to each of these elderly Alaskans by an average of $386 per month. Six will lose more than $500 a month in retirement pay. These reductions were to take effect on February 1, 2009, during the middle of a very cold winter in communities where resources are scarce and the cost of fuel has risen to levels that most people simply cannot afford.

Since the news broke of the Army's decision, there has been significant critical response from Alaskans and citizens across the country directed towards the Army and Congress. Our Alaska delegation in Washington immediately fought to bring this tragic decision to the attention of the President and the rest of Congress.

Since this resolution was first introduced, at the urging of Alaska's Congressional delegation, the U.S. Army has agreed to provide immediate temporary 60-day financial assistance to these elderly ATG members out of the "emergency and extraordinary expense fund".

We thank the Alaska delegation for introducing legislation on January 28, 2009 that would permanently clarify that service in the ATG is credible toward military retirement. We support S. 342 and H.R. 744, and it is our hope that this legislation will move swiftly through Congress and pass within the 60-day reprieve by the Army.

In an effort to further encourage immediate action, SJR 5 urges the Department of the Defense to continue to use their "emergency and extraordinary expense funds" to provide retirement benefits for these ATG members until either Congress passes S.342 or H.R. 744; or the Department of the Defense reverses their decision made in January.

Contact: Karen Sawyer
465-3878
26-LS0468\E
2/6/09

NEWS FROM THE OFFICE OF

SENATOR LISA MURKOWSKI

United States Senate

MURKOWSKI FIGHTS FOR ALASKA TERRITORIAL GUARD RETIREMENT PAY

Friday, January 23, 2009

Mr. President, sometime this week letters will be mailed from the U.S. Army Human Resources Command in St. Louis, MO, to 25 elderly Alaskans. Those letters will tell these 25 elderly Alaskans that the Army has changed its mind--it has changed its mind--about whether their service in the Alaska Territorial Guard during World War II counts toward military retirement. The effect of this abrupt reversal in position is to reduce the monthly retirement payments to each of these 25 elderly Alaskans. These retirement payments will be reduced by an average of $386 a month. Six will lose more than $500 a month in retirement pay. These reductions will take effect on February 1.

So in less than 10 days, these individuals who have been receiving these payments--these elderly Alaskans who served us during World War II--will be receiving a letter, maybe before their benefits are cut off, but they will be receiving a letter saying: Sorry, your service doesn't count toward military retirement.

Mr. President, I state again: None of these 25 elderly Alaskans knows this is coming. It will come as a complete surprise to them, possibly, when they receive that letter. Whether they are tuning in to C-SPAN and hear my comments tonight, we don't know.

It is going to take a while for these letters coming out of St. Louis, MO, to reach their destinations because these letters are being sent to some of the remotest parts of our State, of rural Alaska. Four of these letters are destined for the village of Noatak. This is an Inupiat Eskimo village of 489 people in northwest Alaska. I would suggest, Mr. President, that outside of you and I, there is probably nobody in Washington, DC, who could identify Noatak on a map. Four of these letters are destined for the village of Kwigillingok. We call it Kwig because it is so difficult to pronounce. This is a Yupik Eskimo community of 361 people.

[redacted]ld, these letters are being sent to elders in 15 Alaska Native communities in interior and western Alaska. The poster board that I have behind me indicates some of the elderly gentlemen who may be receiving these letters in the next several weeks.

This decision is tragic. It is tragic because it affects veterans who defended Alaska and who defended the United States from the Japanese during World War II. It is a tragedy because these people were led to believe they would be compensated for their service to our Nation. It is a tragedy because most of the people I am talking about, most of these gentlemen, are Eskimos--among the first people of the United States, members of a class of people to whom the United States Government has broken its promises time and time again. It is a tragedy because they were misled into believing their retirement pay was increasing. It is a further tragedy because this bad news is going to be communicated in a letter signed by a b ranch chief in the Army Human Resources Command. These people deserve an apology from the Secretary of Defense. They do not need to be receiving this news about this error from a branch chief in the Army Human Resources Command.

It is also a tragedy because some of these people in the Department of Defense chose to implement this decision in the dead of an Alaska winter, when we know that our Native elders in rural Alaska are most vulnerable. Right now, in the village of Kwig and in Noatak and in the ot her communities, it is dark, it is cold, and resources are scarce. The increase in retirement pay, which was implemented just this last June, was very welcome news to those who were receiving it. It came at a time when the cost of fuel was rising to levels in our rural communities that people simply could not pay.

If you will recall, back home in June and July, in the cities, we were paying $4.50, $5 a gallon for our fuel. But out in the villages they were paying $7, $8 a gallon, and in some areas even higher than that. Throughout the State, but particularly in rural Alaska last summer, folks were anxious about whether they were going to be able to afford to heat their homes this winter.

Last week, in the Indian Affairs Committee, the Presiding Officer had an opportunity to join us, and I was able to put on the record the plight of some of the Native people in the community of Emmonak who have literally had to choose between buying stove oil to heat their homes or whether they should buy food for their families.

I guess some of the good news we have learned is that none of these letters informing these elders that they will see a reduction in benefits is going to the village of Emmonak, but I would suspect many of the villages to which these letters are going are no better off. You just have to ask the question: How can our government be so insensitive--taking money, taking retirement benefits out of the pockets of [redacted]ders, of our seniors, at a time of the year when they are absolutely the most vulnerable?

I hope I have gained the attention of some, and with the indulgence of my colleagues, I would like to fill in a little bit of the background. I will not be talking too long--I know one of our Senators is waiting--but it is an interesting story, and I think he will appreciate it.

The Alaska Territorial Guard was created in June of 1942 in response to increasing Japanese activity and attacks on and around Alaska. At the time, the U.S. Army was reassigning our Alaska National Guard soldie rs away from the State, and so there were no ground troops left to protect Alaska. So Earnest Gruening, who was the territorial governor at the time, called for volunteers to defend our great land up there in the north. Some 6,389 Alaskans answered the call. These volunteers came to be known as the Eskimo Scouts, but they were representative of all of Alaska. They were Inupiat Eskimos, Yupik Eskimos, Aleut people, Athabascan and Tlingit Indians, and there were [redacted]asians.

With no pay and very little equipment, these volunteers--these Eskimo Scouts--patrolled 5,400 miles of coastline to fend off a possible Japanese invasion. They shot down Japanese air balloons carrying bombs and eavesdropping radios. They rescued downed airmen, they transported equipment and supplies, they constructed airstrips and support facilities, they manned the field hospital outpost, and they engaged the enemy in combat.

You see the picture behind me of the Eskimo Scout in his snowshoes standing guard, standing ready. These men answered the call of our country and they defended our homeland. The Territorial Guard stood as the first line of defense for the terrain around the Lend-Lease area, the route from America to Russia, and it was this vital lifeline that allowed the United States to supply our Russian ally with essential military aircraft and proved essentially crucial to Russia's defense against Hitler's Germany.
In March of 1947, the Eskimo Scouts were disbanded, but many of them went on to continue to serve our Nation in the Army and the Alaska National Guard. For more than half a century after the Territorial Guard was disbanded, these brave and truly dedicated volunteers received not one ounce of recognition from our Federal Government for the service they had performed. It wasn't until the year 2000 that Senator Stevens succeeded in adding language to the Defense appropriations bill to recognize the Territorial Guard, and that legislation required the Secretary of Defense to treat the Alaska Territorial Guard just like any other soldiers and to require them to issue discharge certificates to those who remain alive.

I was privileged to be at a couple of ceremonies where some of these elders received their official discharge certificates, and it was incredibly moving to be with them when, after decades, their Government finally recognized their service. The Secretary o f Veterans Affairs was also directed to treat these people as any other veteran of the Armed Forces of the United States.

I do understand and we are told that the Department of Defense was slow to implement the mandate of this legislation. I can tell you from my own experience in dealing with many of the veterans and their families, the efforts to get these discharge certificates in a timely fashion has been very frustrating--frustrating for the families, frustrating for those who have served, most certa inly, and frustrating for those of us who have been trying to make it happen. Some former members of the Territorial Guard are still waiting to get their discharge certificates. We have been assisted by a wonderful volunteer, Bob Goodman, who lives in Anchorage. He helps the former members of the Territorial Guard document their service, and he tells me that unless we can get this turned around, unless we can kind of move through this roadblock, we are going to see more of these fine Americans who will pass on before they get their long-awaited recognition.

I [redacted] don't understand. I can't understand why it took nearly 8 years--8 years--for the Defense Department to recognize the Alaska Territorial Guard's service for military retirement benefits. But, as I mentioned, back in June of 2008, they did it. Apparently, that decision did not please some at the Defense Department. Between Thanksgiving and Christmas, we learned they made a case that the members of the Territorial Guard are not eligible for retirement benefits. This was all happening over there at the Department under the radar of Secretary Geren here in Washington. The Secretary says there is nothing we can do at this point in time; the retirement benefits have been reduced on the computers of the Defense Finance and Accounting Service and the payments are going to go down effective February 1.

I am not going to stand here and blame the lawyers for telling their clients that the policy of crediting Alaska Territorial Guard service toward retirement pay doesn't comport with the law. But at the same time, the Defense Department hasn't released that legal opinion, so I can't judge--the presiding officer can't judge--whether this conclusion is really compelled by the law. If the conclusion was compelled by the law, I suppose we can't call out the lawyers for saying so. But I do fault their clients, the leaders who knew this was coming. They knew it was coming, but they didn't bother to tell any of the members of the Alaska Congressional Delegation.

I was not notified; you were not notified, Mr. President; our Member in the House of Representatives--nobody came to us late last year and said: Hey, we have a problem. We have a problem, and it requires a legislative fix. Can we work together, can we do something either at the end of the 110th Congress or immediately at the outset of this new Congress?

The senior leaders in the Army and DOD didn't even acknowledge that there was a problem until you and I contacted the Secretary of the Army and asked: Is there a problem? We hear there is stuff floating around. What is going on?

As far as I was concerned, the reason we suspected there was a problem was because the adjutant general of Alaska, after trying to work through this problem at his level and through the chain of command, told us something was coming and it was going to be coming imminently.

Then just last week, Army Secretary Geren confirmed those fears, the fear that it will be real, that the retirement pay will be cut effective February 1. He says there is nothing he can do about it.

This afternoon, the members of the Alaska Congressional Delegation are writing to the administration, asking that he intervene to ensure t[redacted]hose Native elders who are affected by this tragic series of events do not lose this safety net.

Senator Begich and I are also preparing legislation that clarifies that service in the Alaska Territorial Guard is to be regarded as Active-Duty service for purposes of calculating retirement pay. We need to clear up that vagueness in the statutes.

I would just say, as I am able to speak here on the floor of the Senate, to Secretary Gates, if you are within the sound of my voice, I believe

you owe an apology to these people. It was just a month ago that the Army Chief of Staff sent a letter of apology to 7,000 surviving families of the global war on terror who received letters addressed to John Doe. The blunder I speak of today affects far fewer people, but it is certainly no less of a blunder. I think we recognize we have just gone through a transition, moving from one administration to the other. Things happen during a transition period--things just happen. Sometimes policy blunders can occur. These things do happen, and then it falls upon Congress and the administration to come back and fix things.

I pledge to the Alaskans, and I know the Presiding Officer and our colleague in the House, Representative Young--I think we all make the commitment to do everything we can to clean up what we are dealing with here. But I am left to wonder, what kind of a government, what kind of a Cruella, could cut retirement benefits to a group of Eskimos in their eighties, in the dead of an Alaskan winter, and say: Sorry, there is nothing we can do.

It is time for some soul searching at the Pentagon. I am looking for answers. I know you are looking for answers. We are looking for solutions, and there is really very little time left.

I thank the Presiding Officer. Know that we will find positive solutions for those who have served us honorably.

January 23, 2009

Honorable Barack H. Obama
President of the United States
The White House
Washington, DC 20500

Mr. President:

We are writing to express our deep disappointment over a decision of the Department of Defense to reverse a determination that service in the Alaska Territorial Guard during World War II is to be regarded as active duty service for purposes of military retirement. The effect of the initial decision was to increase the military retirement pay disbursed to 25 Alaska Native Elders. The effect of the reversal is to reduce retirement pay to these Native people effective February 1, 2009. Some will lose income in excess of $500 a month. Those affected live in the remotest villages of rural Alaska. Communities with names transliterated into English from Alaska Native languages like Akiachak, Kwigillingok, Kongiganak, Kwethluk and Shaktoolik. These communities suffer from some of the highest living costs anywhere in our Nation. We are gravely concerned that this abrupt change of position, coming in the dead of Alaskan winter, will weaken the safety net for these Elders at a time of the year that they are most vulnerable.

The Alaska Territorial Guard was formed in June 1942 by Territorial Governor Ernest Gruening in response to increasing Japanese activity around Alaska. The Alaska National Guard was deploying away from Alaska at the time leaving no ground troops to protect the State. It was an uncompensated volunteer force of 6,389 Alaskans. While the Territorial Guard took on the moniker "Eskimo Scouts," the force included Aleut people, Alaska Indians, and Caucasians as well as Eskimos. From 1942 – 1947 members of the Territorial Guard shot down Japanese air balloons, rescued downed airmen, protected the Lend-Lease route from America to Russia, and engaged in combat with the enemy. When the Territorial Guard disbanded in 1947, many of its members were absorbed into the Army and the Alaska National Guard. The 25 Alaska Native Elders referenced in this letter earned military retirement benefits as a result of this service.

From 1947 until 2000 America did not recognize the sacrifices of the Alaska Territorial Guard members as service to America. Section 8147 of the Defense Appropriations Act for Fiscal Year 2001, Public Law 106-259, attempted to correct this injustice. It required the Secretary of Defense to issue certificates of discharge to members of the Alaska Territorial Guard and it required the Secretary of Veterans Affairs to make veterans benefits available to these individuals.

The Defense Department initially concluded that the issuance of the certificate of discharge entitled members of the Alaska Territorial Guard to military retirement credit for their years of service in that organization. That policy has been reversed effective February 1, 2009, leading to an impending reduction in retirement benefits to the 25 Alaska Native Elders. We are told that the decision is the result of legal review, but we have neither been provided with a copy of the legal opinion nor have we been briefed on the deliberative process that led to the shift in policy.

Little effort has been made to outreach to the affected Native Elders and address the consequences of this sudden loss of income. We are informed that the Elders will first learn that their benefits have been reduced by a letter from the Army Human Resources Command, St. Louis, mailed on or about January 22, 2009.

Ideally, the Defense Department would find a way to continue to credit Alaska Territorial Guard service for retirement purposes without further legislative action. However, if this is not possible, we believe it is only fair that the administration works expeditiously to send legislation to Congress before the reduction in benefits takes effect and works with us to enact that legislation. The legislation would end all doubt that Alaska Territorial Guard service is to be credited for military retirement and clarify that benefits are to be paid retroactive to the effective date of Section 8147. The Native Elders whose benefits have been reduced deserve an apology from a senior Defense Department official. Outreach needs to be done to assess the impact that the abrupt loss of income will have on the Elders and thought should be given to whether this difference can be made up through payments from other federal programs or donations from military oriented charities.

It is unfortunate that your administration inherited this issue in its initial days in office. We are disappointed that the Defense Department did not bring this issue to our attention at the same time it was working to eliminate the enhanced retirement benefit for former members of the Alaska Territorial Guard. It was not until we brought the issue to the attention of the Department that our worst fears were confirmed. As you instill a new sense of responsiveness and responsibility within federal agencies, we look forward to working with you to resolve this problem for these brave Alaskans.

Respectfully,

Lisa Murkowski	Mark Begich	Don Young
United States Senator	United States Senator	Congressman for All Alaska

cc: Honorable Robert M. Gates, Secretary of Defense
Honorable Pete Geren, Secretary of the Army

Courant.com

Army cuts off retirement pay for members of World War II Alaska militia

By RACHEL D'ORO

Associated Press Writer

10:29 PM EST, January 22, 2009

ANCHORAGE, Alaska (AP) — The Army has decided to cut off retirement pay for veterans of a largely Native militia formed to guard the territory of Alaska from the threat of Japanese attack during World War II.



The change means 26 surviving members of the Alaska Territorial Guard — most in their 80s and long retired — will lose as much as $557 in monthly retirement pay, a state veterans officer said Thursday. The payments end Feb. 1.

Applications for retirement pay from 37 others have been suspended.

The state is pursuing a remedy for "these brave Alaskans, who did so much for the cause of freedom during a time of great national peril," Gov. Sarah Palin said.

The action comes almost a decade after Congress passed a law qualifying time served in the unpaid guard as active federal service. The Army agreed in 2004 to grant official military discharge certificates to members or their survivors.

An Army official said the law was misinterpreted. The law applies to military benefits, including medical benefits, but not retirement pay, said Lt. Col. Richard McNorton, with the Army's human resources command in Alexandria, Va.

"The focus is to follow the law," he said. "We can't choose whether to follow the law."

The Army doesn't intend to seek to recoup past pay, he said.

About 300 members are still living from the original 6,600-member unit called up from 1942 to 1947 to scout patrols, build military airstrips and perform other duties. But only a fraction had enough other military service to reach the 20-year requirement for retirement pay.

Among those who did is 88-year-old Paul Kiunya in the western Alaska village of Kipnuk. Kiunya was 16 when he joined the territorial guard and worked in communications, reporting by radio any unusual noises or the direction of aircraft, including some Japanese planes he spotted.

"We did not get one cent being in the territorial guard," he said. "And we worked hard."

Kiunya — who later put in 22 years in the National Guard and another decade in the Guard reserves — will lose more

than $358 a month in his retirement package because of the Army's decision. With gasoline in his village at almost $10 a gallon, that's a huge amount to lose.

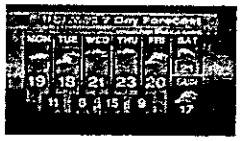
"I don't know why they trying to cut the pay. It's not good for us right now," he said in a phone interview. "It's not t."

U.S. Sen. Lisa Murkowski said she and fellow Alaska Sen. Mark Begich are preparing legislation clarifying that service in the territorial guard counts as active duty for calculating retirement pay.

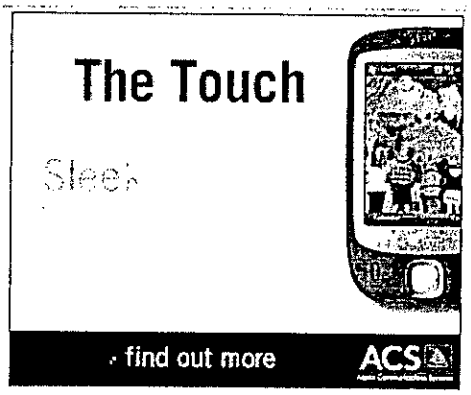
Murkowski said Alaska's congressional delegation has sent a letter to President Barack Obama, asking him to intervene so that those affected by "this tragic, tragic series of events do not lose the safety net."

Copyright 2009 Associated Press. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.













BOOKMARK

Print Email A A A Font Resize

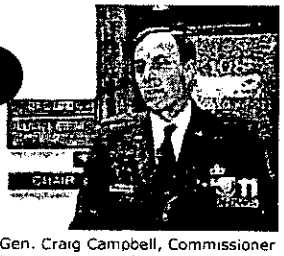
Army ends retirement payments to Alaska Territorial Guard members

Todd Walker
Updated: 01/23/2009 02:43:39 PM AKST

They served Alaska and America in their time of need in World War II. Just recently, members of the Alaska Territorial Guard were recognized for that service, but now, surviving members are about to lose a major lifeline.


(KTVA)

"We've been informed that the Army intends to stop payments for retirement benefits for those members of the ATG," said Lt. Gen. Craig Campbell, Commissioner of the Department of Military and Veterans Affairs.


Lt. Gen. Craig Campbell, Commissioner of the Department of Military and Veterans Affairs, explained the Army's reasoning, Thursday, January 22, 2009. *(KTVA)*

Those retirement benefits paid up to $1,000 per month to the 27 surviving servicemen. Exactly why the payments are being taken away has not been made clear.

"(The Army) believes the current program isn't compliant with public law," Campbell said.

That law was written by Sen. Ted Stevens in 2000. It provided honorable discharges for ATG members, but the only specification about benefits says they would not be paid retro-actively, nothing requiring a benefit payment.

"If this is the way we are going to treat our veterans, our WWII veterans," said Bob Goodman, president of the Alaska Territorial Guard Association, Inc.. "Seniors that are 80 and 90 years old, and their surviving spouses, we are pretty sick."

Goodman has been fighting for ATG members for years.

"Once they started issuing the discharges," he said. "I don't see how they can take the entitlements away from the people who have already drawn the discharges."

Goodman said Lt. Gen. Campbell and Gov. Palin have been dragging their feet for years in regards to ATG issues and that it wasn't a priority of Campbell's.

Campbell said it's unconscionable the Army would take this kind of action. It's so unconscionable that it made it's way to the floor of the U.S. Senate. Sen. Lisa Murkowski said she and the rest of Alaska's congressional delegation are working to shore up any vagaries in the law and is disappointed in Defense Secretary Robert Gates.

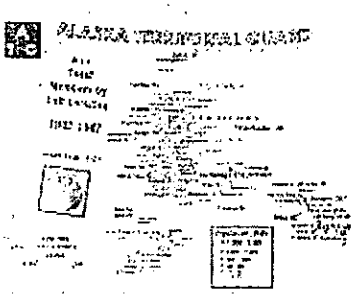
"I believe you owe an apology to these people," she said.

ATG members who received the checks may owe the money back to the federal government. Any other benefits they currently get, like healthcare, may also be cut off.


Bob Goodman, president of the Alaska Territorial Guard Association, Inc., denounced the Army's actions. Thursday, January 22, 2009. *(KTVA)*

Alaska Territorial Guard

From Wikipedia, the free encyclopedia



Map showing the locations of Alaska Territorial Guard units (with membership counts), major military bases, and evacuated Aleutian villages

The **Alaska Territorial Guard (ATG)** or **Eskimo Scouts** was a military reserve force component of the US Army, organized in 1942 in response to attacks on American soil in Hawaii and Alaska by Japan during World War II. The ATG operated until 1947. 6,368 volunteers who served without pay were enrolled from 107 communities throughout Alaska in addition to a paid staff of 21, according to an official roster[1]. The ATG brought together for the first time into a joint effort members of these ethnic groups: Aleut, Athabaskan, European, Inupiaq, Haida, Jewish, Tlingit, Tsimshian, Yupik, and most likely others. In later years, all members of some native units scored expert sharpshooter rankings[2]. Among the 27 or more women members were at least one whose riflery skills exceeded the men[3]. The ages of members at enrollment ranged from 80 years old[4] to as young as twelve[5] (both extremes occurring mostly in sparsely populated areas).

One first-hand estimate states that around 20,000 Alaskans participated, officially or otherwise, in ATG reconnaissance or support activities[6].

The ATG served at least two vital strategic purposes to the entire Allied effort during World War II:

- They safeguarded the only source of the strategic metal platinum in the Western Hemisphere against Japanese attack[7].
- They secured the terrain around the vital Lend-Lease air route between the United States and Russia.

In addition to official duties, ATG members are noted for actively and successfully promoting racial integration within US military forces[8][9], and racial equality within the communities they protected[10].

Several former members of the ATG were instrumental in achieving Alaska Statehood in 1959, as members of the Alaska Statehood Committee and/or delegates to the Alaska Constitutional Convention.

In 2000 all ATG members were granted US veteran status by law, finally acknowledging the contribution of these American heroes, a surprising number of whom are still living[11]. But efforts to find the surviving ATG members and assist them through the application process have been stymied by years of bureaucratic evasiveness and a generally neglectful attitude among those that have benefited most from their sacrifice[11].

Contents

- 1 Conditions leading up to the ATG
- 2 Creation of the ATG
- 3 Organization of the ATG
  - 3.1 Authority
  - 3.2 Mission
  - 3.3 By Date
  - 3.4 By Geographic Area
  - 3.5 By Ethnic Group
  - 3.6 By Rank
  - 3.7 By Workload and Pay
  - 3.8 By Sex
  - 3.9 By Age

- 3.10 By Number
- 3.11 Unofficial tally
- 4 ATG Activities
- 5 ATG Artists
- 6 ATG influences
- 7 Recent developments
- 8 Timeline of ATG-related events
- 9 Noted ATG members
- 10 See also
- 11 References
- 12 External links

Conditions leading up to the ATG

Before World War II, Alaska was regarded by US military decision makers as too distant from the contiguous United States to effectively protect, and of little strategic importance[12].

> "...the mainland of Alaska is so remote from the strategic areas of the Pacific that it is difficult to conceive of circumstances in which air operations therefrom would contribute materially to the national defense." - General Malin Craig, US Army Chief of Staff, November 1937[13]

This stands in marked contrast to the attitudes of US military leaders during the Cold War immediately after World War II:

> "...as I continue to correspond and to talk with people throughout the United States and the Department of Defense, they too can see clearly the importance of these two battalions which you make up. The real honest-to-God and real-world first line of defense in Alaska ... nearer our opponent, Communist Russia, than any other armed troops in the United States." - General James F Hollingsworth, Commanding General, US Army Alaska (USARAL), February 1971 [14]

True to the earlier viewpoint, the US Army reassigned all Alaska National Guard units out of Alaska to Washington State in August 1941[15]. Alaska was now without military reserves or any form of Home Guard. In the face of an encroaching enemy, the defense of nearly 34,000 miles (55,000 km) of US coastline was left to the best efforts of unorganized local citizens and already overworked seasonal laborers.

That enemy was demonstrating a definite interest in taking Alaska. In the early months of 1942, a Japanese Navy reconnaissance unit was caught on film making detailed surveys of Alaska coastline.

Enemy combatants strode unopposed onto American soil and made inquiries among the populace about the local economy. [16] Enemy aircraft and submarine sightings were common, inspiring great fear among the locals[17], and culminating in the raid on Dutch Harbor and the occupation of the Aleutian Islands of Attu, Kiska and Adak that June.

Creation of the ATG

By the time of the Dutch Harbor bombing, a Major Marvin R Marston had submitted a new plan to defend the entire Alaska coast by enlisting the local citizens[18]. He had conceived this plan while visiting Saint Lawrence Island and contemplating the fate of the locals he'd met[19]. Marston's proposal finally met with favor when word of it got to Alaska territorial governor Ernest Gruening[20]. Gruening had sought to organize a new guard for Alaska, including every able man and boy, since he got word that the US Army would reassign the Alaska National Guard[15].

Motivated by the recent Dutch Harbor attack, the Alaska Command assigned Major Marston and Captain Carl Schreibner within days to serve as military aides to Governor Gruening. Shortly after, Gruening and Marston flew a chartered plane to begin setting up units of the new **Alaska Territorial Guard (ATG)**. This included one of the most strategically important sites in all Alaska, a tiny mining town called Platinum -- the only source of that strategic metal in all the Western Hemisphere. [21]

The enrollment drive continued into early 1943, the organizers travelling in all kinds of weather and by every available mode of transport, including plane, boat, snowmobile, foot, and the most reliable means in the region, dogsled. When a promised plane failed to arrive after a week, Major Marston set out by dogsled on an epic 680-mile (1,090 km) trip around the Seward Peninsula, during the coldest winter in 25 years[22]. He survived by foregoing standard military survival training in favor of the native methods of his Eskimo guide, Sammy Mogg[23].

Thanks to Marston and Mogg's heroic effort, the **ATG** stood as a first line of defense for the terrain around the Lend-Lease route from America to Russia, against attack by Japan and the Axis Powers. This vital lifeline allowed the US to supply its Russian ally with essential military aircraft[24]. This lifeline had proven to be crucial to Russia's survival during Hitler's Operation Barbarossa[_].

Organization of the ATG

Authority

The **Alaska Territorial Guard (ATG)** was organized in June 1942 under the authority of the office of the territorial governor, Ernest Gruening, who served as Commander-In-Chief. All members took an oath to obey the Governor's orders. The governor was directly supported by the **ATG** Adjutant General, J P Williams. Headquarters was in the territorial capital, Juneau.

Mission

The mission of the **ATG** was to play a defensive role for the entire coast of Alaska[25]. Offensive action was the responsibility of the Pacific Theatre commanders, operating from large bases at Dutch Harbor, Cold Bay and Anchorage.

Explicit within the **ATG** mission was that of protecting the terrain around the American terminus of the Lend-Lease air route to Russia on which warplanes were flown from Great Falls, Montana to Whitehorse, Yukon Territory, Canada, then to Ladd Field, Alaska (now Eielson AFB) and on to Nome. Here, Russian pilots flew the planes on to their intended use, combat against Hitler's Third Reich. [24]

By Date

The Alaska Territorial Guard operated from its inception in June 1942[26] until it was officially disbanded on 31 March 1947[27].

By Geographic Area

The Territory of Alaska was divided vertically by the 156th Parallel[28] into Eastern and Western Areas. To the Eastern Area was added Southwest Alaska, including the Aleutian Islands, which had been evacuated of non-combatants[29].

The Western Area had a Field Headquarters in Nome, with the offices of the Commander, Quartermaster, Instructors, Public Relations Officer and Chaplains. Other field staff were located in Anchorage, Koyuk, Selawik and Gambell

(on Saint Lawrence Island, where Major Marston first conceived his plan).

The Eastern Area was headquartered in Juneau and held the offices of Property Officer (a role filled by the Adjutant General) and Instructors. Field staff were assigned to Glacier Highway, |, |, Palmer, | and Sitka.

By Ethnic Group

The **Alaska Territorial Guard** was drawn from 107 communities and from these ethnic groups: Aleut, Athabaskan, European, Inupiaq, Haida, Jewish, Tlingit, Tsimshian, Yupik, and probably more.

By Rank

The **ATG**, being organized by US Army officers[30], made use of the same US Army rank structure, with these exceptions:

- Throughout the duration of the **ATG**, no member rose above the rank of Lieutenant Colonel, including the Adjutant *General*.
- The designation "Private" appears to have been little used, though most members were in fact of Private rank.[1]

By Workload and Pay

The 21 staff officers were all full-time, paid positions (except for the governor, whose **ATG** duties were in addition to his regular office and without added salary). All other positions were strictly part-time volunteer, without pay.

By Sex

That total includes at least 27 **ATG** members who were women. Most women served as nurses at the field hospital in Kotzebue, although at least one woman served the **ATG**'s primary mission alongside the men. Laura Beltz Wright of Haycock is also noted for being the best sharpshooter in her company, scoring 98% bulls-eyes. She was chosen Queen of Fairbanks in a beauty contest, an honor her daughter later shared. One of her sons rose to become an airline vice president. [3]

By Age

The age of **ATG** members at enrollment ranged from 80 years old[31] to as young as twelve[20][5], even though official regulations put the minimum age at sixteen.

By Number

All told, there were 6,389 members of the **Alaska Territorial Guard (ATG)**, according to an official roster[1].

Unofficial tally

Alongside those who served in the **ATG**, many others worked to support them, including food service, providing equipment and supplies to the Quartermaster, repair work, etc. Major Marston put the estimate at 20,000 Alaskans who materially participated in **ATG** activities, in his Western Area alone[6].

ATG Activities

All **ATG** members except the 21 staff officers served without pay, and had to perform their new ATG duties in

addition to the often difficult challenges of subsisting in Arctic and extreme marine environments.

The **ATG** trained for and/or actively carried out the following:

- Issuing of weapons and ammunition[32]
- Instruction, drill and target practice[33]
- Transport of equipment and supplies[34]
- Construction of ATG buildings and facilities[35]
- Construction of airstrips and support facilities for other military agencies as needed[36]
- Coastal and inland scouting patrols
- Breaking hundreds of miles of wilderness trails[37]
- Setup and repair of dozens of emergency shelter cabins[37]
- Distribution of emergency food and ammunition containers for the US Navy[38]
- Firefighting[37]
- Land and sea rescue[37]
- Enemy combat

The **ATG** received commendations for:

- Shooting down Japanese air balloons carrying bombs and eavesdropping radios[39]
- Rescue of a downed airman[37]

In addition, some **ATG** members performed the following:

- Medical care at the field hospital in Kotzebue[40]

ATG Artists

During the 1930s, as part of FDR's New Deal programs to ease the country out of Great Depression, the Works Progress Administration (WPA) hired many noted American artists. On the US entry into World War II, several WPA artists took work with the War Department. A few of these artists made their way to Alaska to help document the Aleutian Campaign and other Alaskan military operations, including the new **Alaska Territorial Guard**. Some of their work was featured nationwide on a number of wartime posters. The artists included:

- Magnus Colcord "Rusty" Heurlin - An ATG lieutenant, his painting was reproduced as the posters "Back the Attack"[41] and "From Metlakatla to Barrow - The Territorial Guard"[42][43]. [44]
- Joe Jones[45][46]
- Henry Varnum Poor - His "Major Muktuk Marston Signs Up Soldiers" now hangs in the Pentagon's Hall of Fame[47].

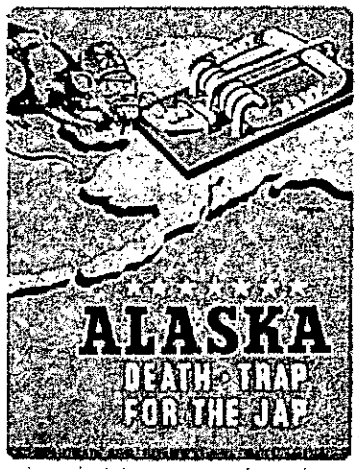
Other artists, born in Alaska and already well-known, gained further exposure through contact with **ATG** members and artists:

- Florence Nupok Melewotkuk[1] - a Siberian Yupik from Saint Lawrence Island. Her work was promoted in the 1920s by Otto Geist[2], later an **ATG** major[48].
- George Aden Ahgupuk[3] - a Shishmaref artist since boyhood, he was befriended by Major Marston, who wrote and spoke of his artistry within and outside the **ATG**. [49]

ATG influences

Several former members of the ATG were instrumental in achieving Alaska Statehood. In 1958 three of the eleven

- 1939 - Ernest Gruening is appointed Alaska territorial governor by his friend, US President Franklin D Roosevelt (FDR). Gruening gets four National Guard units organized in the Alaska Territory.
- 1940, Mar - A bill for an air base in Alaska failes to pass in the US House[13].
- 1940, April - Hitler invades Norway and Denmark (whose territory includes Greenland).
- 1940, May - US Congress approves an air base in Alaska[13]. Air raids from northern Alaska would help counter any Nazi bases built in Greenland, as a polar projection map will attest).
- 1941, Mar - Marvin Marston is commissioned at the Pentagon as a major with orders to Alaska[54].
- Mid-1941 - Ernest Gruening seeks a new guard organization for Alaska, anticipating the reassignment of the Alaska National Guard[15].
- 1941, August - The US Army reassigns Alaska National Guard soldiers away from Alaska, leaving the state with no military reserves or Home Guard[15].
- 1941, December 7 - The Imperial Japanese Navy bombs the USA at Pearl Harbor, Hawaii, sinking most of the US Pacific Fleet. Soldiers' families are ordered evacuated from Alaska[55].



U.S government poster from WWII

- 1942, Feb-Mar - A Japanese Navy reconnaissance unit is filmed making detailed surveys of the Alaska coastline. Japanese crewmen (enemy combatants) came ashore and questioned the locals about the area. [16]
- 1942, Mar - Major Marston realizes the practicality of a 'tundra army' to defend the entire Alaskan coast.
- 1942, Mar - Japanese aircraft are sighted over Saint Lawrence Island[56].
- 1942, Mar/April - Major Marston presents a formal plan for the defense of Alaska shoreline[57].
- 1942, Jun - Japanese forces raid Dutch Harbor and take control of Attu, Kiska and Adak.
- 1942, Jun - The Alaska Command assigns Major Marvin Marston and Captain Carl Schreibner as military aides to Governor Gruening. Gruening and Marston soon embark on a trip to form the first units of the new **Alaska Territorial Guard**[58].
- 1942 - Major Marston (by now known as "Muktuk" after an eating contest with a village headman) opts to make an **ATG** recruiting run by dogsled when a promised plane fails to show up[59].
- 1943, Jan - Major Marston completes his circuit around the Seward Peninsula by dogsled during the coldest winter in 25 years[22]. Living by native methods, he continues to travel the Arctic through 1945.
- 1945, August - VJ Day, The Empire of Japan surrenders.
- 1947 - The **Alaska Territorial Guard** is disbanded[27].
- 1966 - The State of Alaska awards a medal to all **ATG** members[27].
- 2000 - US Senator Ted Stevens' (R-AK) bill granting **ATG** members full veteran status is passed into law. Little is done to find and inform surviving **ATG** members and spouses, many of whom relocated numerous times in the intervening 53 years. [11]
- 2003 - Robert A "Bob" Goodman, Colonel (Retired), Alaska Air National Guard, takes up the task of finding as many former **ATG** members as possible, to help them apply for recognition as US veterans[11].
- 2006 - Bob Goodman founds the Alaska Territorial Guard Organization, a 501(c)(3) non-profit, to support his efforts on behalf of all former **ATG** members. To date, they have found and helped gain approval for about 150 **ATG** veterans[11].

Noted ATG members

- Atwood, Robert - Editor and publisher of the Anchorage Times, **ATG** lieutenant, Statehood Committee chair
- Egan, William A - territorial & state representative, **ATG** corporal, Constitutional Convention president, state governor
- Geist, Otto William - Pioneer Alaskan archaeologist, promoter of Alaskan artist Florence Nupok Malewoktuk, **ATG** major and quartermaster[60]. The University of Alaska Museum's main building is named for him.
- Gruening, Ernest - Friend of FDR, territorial governor, **ATG** founder[61], Statehood Committee member, US Senator
- Heurlin, Magnus Colcord "Rusty" - WPA artist, **ATG** lieutenant, famed Alaskan artist, first art teacher at the

University of Alaska Fairbanks, influenced fellow artist Fred Machetanz

- Ipalook, Fred - Inupiaq native, **ATG** lieutenant, teacher for 39 years[62].
- Ipalook, Percy - Inupiaq native, **ATG** chaplain, territorial & state legislator[63], Statehood Committee member
- Johnson, Maurice Theodore - **ATG** member, Constitutional Convention delegate
- Jorgensen, Holger - **ATG** sergeant, commercial airline pilot[64]
- Knight, William Wellington - **ATG** member, Constitutional Convention delegate
- Lisbourne, Daniel - **ATG** member, mayor
- Marston, Marvin R "Muktuk", Major, US Army - **ATG** organizer of Western Alaska, Constitutional Convention delegate, author of the book **Men of the Tundra: Alaska Eskimos at War**
- McNealy, Robert J - **ATG corporal**, Constitutional Convention delegate
- Mogg, Samuel Snell "Sammy" - **ATG** lieutenant, guide who led Major Marston by dogsled on an epic 680-mile (1,090 km) mid-winter organizing circuit around the Seward Peninsula.
- Nolan, James - **ATG** member, Constitutional Convention delegate
- Peratrovich, Frank J - Tlingit native; **ATG** captain; mayor; territorial & state representative; senator & senate president; Statehood Committee member; Constitutional Convention first vice president
- Reader, Peter L - **ATG** member, Constitutional Convention delegate
- Schreibner, Carl, Captain, US Army - **ATG** organizer of Eastern Alaska
- Wright, Laura Beltz - **ATG** member, best sharpshooter in her company, shooting 98% bulls-eyes, former Queen of Fairbanks

See also

Former United States special operations units Gutierrez, Fermin "Rocky"

References

1. ^ *Roster of the Alaska Territorial Guard*, Alaska Territorial Guard, 1947
2. ^ Gruening, Ernest (1969), *Introduction - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 7-8
3. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 104e
4. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 127-128
5. ^ Gruening, Ernest (1969), *Introduction - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 5
6. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 190
7. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 51,54-57
8. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 210-212
9. ^ Necrason, C F (1969), *Epilogue - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 210-212,215-217
10. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 130-140
11. ^ *Alaska Territorial Guard Organization*, http://www.goodmanforatg.com
12. ^ Gruening, Ernest (1969), *Introduction to Men of the Tundra: Alaska Eskimos at War*, October House, pp. 2-3
13. ^ Gruening, Ernest (1969), *Introduction - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 3
14. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 209-212
15. ^ Gruening, Ernest (1969), *Introduction - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 3-4
16. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 32-33
17. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 33-34,54-57
18. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 37-48
19. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 31-32
20. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 45-47
21. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 51,54-57
22. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 123
23. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 66-70
24. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 401,65-66
25. ^ Blakeney, Thomas (1969), *Appendix A - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 221-222
26. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 44-47,50-52
27. ^ Necrason, C F (1969), *Epilogue - Men of the Tundra: Alaska Eskimos at War*, October House, pp. 190
28. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 50
29. ^ Marston, Marvin (1969), *Men of the Tundra: Alaska Eskimos at War*, October House, pp. 207
30. ^ Gruening, Ernest (1969), *Introduction to Men of the Tundra: Alaska Eskimos at War*, October House, pp. 4

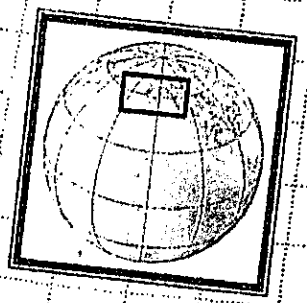
2115

ATGO,Inc. 200 W.34th Ave. Suite 333
Anchorage, AK 99503 (907) 279-0270
ragent@gci.net Prepared by Jay Griffin

ALASKA TERRITORIAL GUARD

MAP
Total Members by Unit Location
1942-1947

Grand Total: 6,122



ENEMY OCCUPIED ZONE

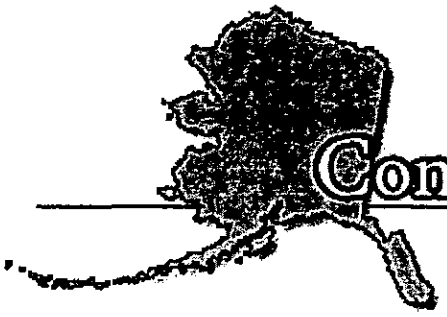
Barrow-104
Wainwright-68
Point Lay-16
Point Hope-62
Noatak-85
Kivalina-40
Noorvik-48
Kiana-39
Shungnak-33
Kotzebue-108
Selawik-99
Shishmaref-65
Deering-49
Candle-56
Wales-33
Diomede-39
Teller-27
White Mtn.-84
HC-19
Koyuk-29
King Island-49
Igloo-52
Elim-19
Ruby-40
Galena-12
Golovin-33
Nulato-63
Sinuk-7
Solomon
Nome-287
Shaktoolik-37
Savoonga-50
Gambell-99
Stebbins-33
Unalakleet-104
Hamilton-17
Michael-44
Kwiguk-49
Pastolik-18
McGrath-24
Alakanuk-32
Pitkas Point-35
Flat-59
Mountain Village-45
Pilot Station-40
Marshall-16
Palmuit-30
Tuck-chuck-41
Russian Msn-24
Ohogamute-23
Hooper Bay-128
Nunapit-chuk-47
Akiachak-44
Akiak-17
Tununak Nelson Island-45
Napak-iak-46
Kwethluk-23
Nunivak Island-58
Akulurak-22
Bethel-165
Eek-42
Kipnuk-24
Goodnews Bay-57
Kwigillingok-59
Quinhagak-67
Platinum-2
Egegik-30
Naknek-77
Dillingham-114
Seldovia-44
Homer-90
Seward-71
Wasilla-36
Palmer-117
Valdez-33
Anchorage-324
Cordova-72
Yakutat-74
Skagway-86
Haines-1
Glacier Hwy-54
Hoonah-77
Juneau-207
Douglas-65
Pelican City-34
Petersburg-85
Kodiak-25
Sitka-207
Wrangell-9
Klawock-34
Craig-31
Ketchikan
-188
Hydaburg-44
Metlakatla
-82
Saint Paul Island-78
Saint George Island-46
Fort Randall (Cold Bay) U.S Army
Belkofski
Ikalan-False Pass-25
King Cove-28
Unga-39
Sanak Island-29
Dutch Harbor U.S.Navy U.S Army
Attu
Kiska
Amchitka Island
Adak

ALASKA TERRITORY (USA)
Fairbanks-106

Population (1940):
- 2,000 - 5,000
- 1,000 - 2,000
- 500 - 1,000
- 200 – 500
- 100 – 200
- Under 100

(Source: Alaska Dep't of CCED)

JAY GRIFFIN 907-248-2022



Alaska Congressional Delegation

Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young

Michael Brumas
Senator Murkowski
(202) 224-9301

Julie Hasquet
Senator Begich
(907) 271-5915

Meredith M. Kenny
Congressman Young
(202) 225-5765

FOR IMMEDIATE RELEASE
January 28, 2009

Sec. of Army Authorizes Emergency Payments to Alaska's ATG

Delegation continues to work on legislative long-term solution

At the urging of Alaska's Congressional delegation, the U.S. Army has agreed to provide temporary financial assistance to 26 members of Alaska's Territorial Guard (ATG) whose retirement checks will be reduced on February 1 following a legal interpretation that ATG service does not count toward military retirement.

Secretary of the Army Pete Geren has authorized a two-month payment for each member, giving the delegation time to ask Congress to revisit the issue. Sec. Geren told delegation members early today the Army will use the "emergency and extraordinary expense fund" to bridge the shortfall through the end of March.

The move comes after the Army announced that it misinterpreted a section of federal law when it allowed service in the ATG to be counted toward military retirement.

"This is great news for these Alaska Territorial Guardsmen who fought bravely to defend our country during World War II," Sen. Begich said. "I appreciate Secretary Geren's intervention on this issue and giving it the priority attention it deserves. These emergency payments will give us some time to get the problem resolved while making sure these brave Alaskans get the retirement pay they so deserve."

"I am grateful that the Secretary of the Army has agreed to use emergency funds under his control to provide a temporary safety net for these 26 Native Elders who served Alaska and our Nation with distinction during World War II. In this era of high fuel and food costs, it would be tragic to reduce the retirement checks of these Elders who have done so much for our nation," Sen. Murkowski said. "This decision in no way lessens my resolve to ensure that their service in

the Alaska Territorial Guard is respected as active duty service and fully credited toward military retirement. This is an earned benefit and it must be restored."

"I truly appreciate the assistance of my former colleague, Secretary Geren," Rep. Young said. "The loss of retirement benefits for the brave Alaskans who served in the Alaska Territorial Guard is disgraceful and a huge misstep by the Department of Defense. I understand budgetary concerns, but cutting the retirement benefits of 26 Alaskans who fought for their country is not near the answer. Back in 2001, when we worked in getting recognition and benefits for members of the Territorial Guard, the intention was that it would be for life, not until the DOD reinterpreted legislative language to suit their needs. I spoke with Secretary Geren and am grateful that he was able to recognize this as a problem and is granting us the two-month extension while we work out a solution."

When Alaska's delegation members received word last week that the ATG retirement payments had been suspended, Sens. Begich and Murkowski and Congressman Don Young immediately sent a letter to President Barack Obama asking the administration to intervene on the matter.

The delegation today introduced legislation that would permanently clarify that service in the ATG is credible toward military retirement.

With Sen. Begich presiding over the Senate, Sen. Murkowski last Thursday evening spoke about the issue on the Senate floor criticizing the Defense Department for reducing the retirement pay of the former Territorial Guardsmen, most of whom are in their 80s, during the harsh Alaska winter. Sen. Begich brought the issue up Tuesday at the Armed Services Committee meeting with Sec. of Defense Robert Gates.

Sec. Geren has told the delegation the checks could be sent as soon as today.

###

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

111TH CONGRESS
1ST SESSION

S. 342

To provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2009

Ms. MURKOWSKI (for herself, Mr. BEGICH, and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Committee on Armed Services

---

A BILL

To provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT AS ACTIVE SERVICE FOR RETIRED PAY PURPOSES OF SERVICE AS A MEMBER OF THE ALASKA TERRITORIAL GUARD DURING WORLD WAR II.

(a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any indi-

vidual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 705) shall be treated as active service for purposes of the computation under chapter 71, 371, or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after August 9, 2000. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

(c) WORLD WAR II DEFINED.—In this section, the term "World War II" has the meaning given that term in section 101(8) of title 38, United States Code.

○

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

111TH CONGRESS
1ST SESSION

H. R. 744

To provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2009

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Armed Services

---

A BILL

To provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT AS ACTIVE SERVICE FOR RETIRED PAY PURPOSES OF SERVICE AS A MEMBER OF THE ALASKA TERRITORIAL GUARD DURING WORLD WAR II.

(a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any indi-

vidual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 705) shall be treated as active service for purposes of the computation under chapter 71, 371, or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after August 9, 2000. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

(c) WORLD WAR II DEFINED.—In this section, the term "World War II" has the meaning given that term in section 101(8) of title 38, United States Code.

○

Karen Sawyer

From: Rowland, Mindy B (GOV) [mindy.rowland@alaska.gov]
Sent: Wednesday, January 28, 2009 5:44 PM
To: GOV Legislators All; GOV Legislators Staff Partial
Subject: Governor Palin Pleased with Army Payments to ATG Veterans

Dear Legislator,

Our valued AK Territorial Guard Veterans will be able to continue receiving their retirement benefits. Let me know if you have any questions.

Thank you
Mindy

Mindy Rowland
Deputy Legislative Director
Office of Governor Sarah Palin
465-3994

Governor Palin Pleased with Army Payments to ATG Veterans

Letter urges President Obama to permanently reinstate benefits

January 28, 2009, Juneau, Alaska – Governor Sarah Palin applauded Secretary of the Army Pete Geren's decision to continue retirement payments to the Alaska Territorial Guard members on a temporary basis. A congressional fix will be needed to fully reinstate the retirement money rightfully earned by these veterans.

The Alaska Territorial Guard members are primarily Alaska Natives living in rural areas.

"Rural Alaskans face the highest food and energy costs in the nation, and these veterans need their retirement checks now more than ever," Governor Palin said. "Using the emergency fund to provide monetary protection for these 26 veterans is the right thing to do."

Governor Palin sent a letter directly to President Barack Obama asking him to honor these Native Alaskan veterans who gave their service without question during World War II, and asked for nothing in return. She urged the president to immediately reinstate their retirement benefits.

"The nation is in an economic downturn, and this is the worst time for the Army to cut these retirement checks to veterans who are in their late 80's and early 90's," said Palin.

A copy of Governor Palin's letter to President Obama can be found at:
http://gov.state.ak.us/pdf/GovernorJan29-PresObama.pdf

<<Back



Army provides pay to militia members

by Rachel D'Oro
The Associated Press
Wednesday, January 28, 2009

ANCHORAGE, Alaska -- Sen. Mark Begich says the Secretary of the Army has decided to provide emergency funds to surviving members of a World War II Alaska militia whose retirement pay was being cut off because of a legal technicality.

Army officials last week said a military analysis determined the law recognizing the Alaska Territorial Guard's service as federal active duty had initially been misinterpreted.

Julie Hasquet, a spokesperson for Begich, said Army Secretary Pete Geren will dip into an emergency fund to cover the pay for 26 former members of the largely Alaska Native guard for two months while Congress works on legislation to fix the law.

Hasquet said the survivors will receive a one-time emergency payment equal to two months pay.

The benefits amount to as much as $557 a month.

WorldNow

All content © Copyright 2000 - 2009 WorldNow and KTUU. All Rights Reserved.
For more information on this site, please read our Privacy Policy, Terms of Service, Meet the News Team, Employment Opportunities, Contact Us and Public Filings.

Karen Sawyer

From: Esther Brown [ebrown@loweryukon.org]
Sent: Tuesday, January 27, 2009 4:52 PM
To: Sen. Charlie Huggins
Subject: AK Territorial Guard Ltr 1-27-09
Importance: High

My name is Mr. Andrew Brown Sr. of Mountain Village, Alaska. I am a 79 year Alaska Territorial Guard Veteran and proudly served our country in a time of great crisis when our nation faced two world wars against Japan and Germany from 1941 to 1947. I and my native comrades were recruited with no pay by Muktuk Marston. With no hesitation we knew it was critical as Mr. Marston made every effort to recruit every capable man state-wide at a time when we were most needed. I even had to forego my high school education to defend our country which I did not mind. The only benefits we received at that time were rifles, steel head ammunition, and uniforms. What we were most grateful of was the armed forces aggressively protecting our nation and allies in an extremely difficult position. We were assigned to patrol the coast line to look out for enemy aircrafts, ships, or unusual activities at sea.

Our service to our country cannot and should not be ignored at that time or any other time. We were willing to sacrifice our lives for the freedom that is always our nation's privilege. As you may be aware we were finally recognized for our service just last spring 2008 at Hooper Bay, AK; we had finally received our discharge papers and were told we can apply for veteran's benefits. And then just recently we discovered our pensions were impermissible which brings forth my purpose in writing this letter asking you to kindly please recognize us territorial guards with fairness and honor and to develop new legislation that allows our right to receive benefits that are well deserved.

It is known other veteran soldiers receive veteran's benefits with no restrictions. The territorial guards were predominately native and we live in a country where discrimination is not allowed. To brush us aside is neither proper nor patriotic. Please find it in your heart to bring honor to us territorial guards that are still surviving and to those that passed away and give us the benefits we surely deserve. Your time and efforts would be very much appreciated. Thank you again.

Sincerely,
Andrew Brown Sr.
P.O. Box 32187
Mtn. Village, Alaska 99632
907-591-2735

Karen Sawyer

From: Ron and Judy Hills [judynron@mtaonline.net]
Sent: Tuesday, January 27, 2009 6:57 PM
To: Sen. Charlie Huggins
Subject: Alaska Territorial Guard
Follow Up Flag: Follow up
Flag Status: Blue

Hi there-I saw you on t.v. tonight speaking about the Territorial Guard. Thanks for standing up for them. Everyone I know is furious about the decision to stop their benefits. Is there anything that anyone of us can do to to help with this?
As Mr. Nugen from Nugens Ranch said several years ago about the longevity bonus------we are dying as fast as we can!!! I am ashamed of iur government for this decision. Thanks again. Judy Hills

ALASKA MUNICIPAL LEAGUE
Alaska Conference of Mayors

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

ALASKA MUNICIPAL LEAGUE
BOARD OF DIRECTORS

RESOLUTION #BOD2009-03

A RESOLUTION REQUESTING THE ARMY TO REINSTATE THE RETIREMENT PAY TO THE FORMER MEMBERS OF THE ALASKA TERRITORIAL GUARD

WHEREAS, retired surviving members of the Alaska Territorial Guard served with honor during WWII, defending the United States and the State of Alaska from the threat of Japanese attack; and

WHEREAS, this action comes even though a law was passed qualifying time served in the unpaid guard as active federal service; and

WHEREAS, the Alaska Territorial Guard members served their country for free and were never paid for their service; and

WHEREAS, many of these former guard members live in small, remote Alaskan villages where expenses are high, services are few and jobs are scarce (especially in light of the fact that most of these former Guard members are in their 80s); and

WHEREAS, Senator Murkowski and Senator Begich are preparing legislation clarifying the service in the territorial guard counts as active duty for calculating retirement pay; and

WHEREAS, Alaska's U.S. delegation has also sent a letter to President Barack Obama, asking him to "ensure that those affected by this series fo events do not lose the safety net."

NOW, THEREFORE BE IT RESOLVED that the Alaska Municipal League Board of Directors requests of the U.S. Army that pay be reinstated to the former members of the Alaska Territorial Guard.

PASSED AND APPROVED by the Alaska Municipal League Board of Directors on this 30th day of January, 2009.

Signed: _____
Denise Michels, President, Alaska Municipal League

Attest: Kathie Wasserman
Kathie Wasserman, Executive Director, Alaska Municipal League

ALASKA STATE LEGISLATURE

Senate District H
600 E. Railroad Avenue
Wasilla AK 99654
907-376-4866
907-373-4724 - Fax
Senator_Charlie_Huggins@legis.state.ak.us

State Capitol, Room 417
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878
www.akrepublicans.org/huggins/

Charlie Huggins
Senator

MEMORANDUM

Date: February 24, 2009

To: Representative Bob Lynn, Chairman
House State Affairs Committee

From: Senator Charlie Huggins

Subject: Hearing Request for CS for Senate Joint Resolution 5 (FIN)

I respectfully request a hearing for the CSSJR 5, which has unanimously passed the Senate.

We would appreciate this resolution being scheduled in your committee as soon as possible.

Attached please find the updated sponsor statement, legislation, fiscal statement, and background information. If you have any questions, please call my staff person, Karen Sawyer, at 465-3878.

Thank you.

Sincerely,

Charlie Huggins
Senator

Attachments