

ALASKA LEGISLATURE

1776

HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998

SB

103

FINISH

WILL

SENATE FINANCE COMMITTEE REPORT

DATE: 4/16/97

FURTHER: 4/29/97

DATE TURNED
IN TO OFFICE: 4/29/97

Finance Committee considered SENATE BILL NO. 103

"An Act relating to hearings before and authorizing fees for the State Commission for Human Rights; and providing for an effective date."

and recommends:

- be replaced with CS SB 103 (STA)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Rock E. ...</i>	✓				
<i>Alan R. ...</i>	✓				
<i>Lee Adams</i>	✓				
<i>W. ...</i>	✓				
Co-Chair: _____		Co-Chair: _____			
Co-Chair: <i>Bob ...</i>	✓	Co-Chair: _____			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
Gov./Human Rights Comm.	4/29/97	0	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

REPORTED OUT OF
SEC 4/29/97

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS SB103 (STA)

Revisor's Date April 29, 1997 Dept. Affected Office of the Governor
 Title 'An Act relating to hearings and BRU Commissions/Special Offices
 authorizing fees for the State Comm. on Human Rights Component Human Rights Commission
 Sponsor Senate Rules
 Requester Senate Finance Component Serial No. 1

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 00	FY 01	FY 02	FY 03
Personal Services	22.2	24.7	24.7	27.2	27.2	27.2
Travel	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)
Contractual	(3.8)	(3.8)	(3.8)	(3.8)	(3.8)	(3.8)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	2.5	2.5	5.0	5.0	5.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES []						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GI						
1005 GF/Program Receipts	0.0	2.5	2.5	5.0	5.0	5.0
1037 GI/Mental Health						
All other funds						
TOTAL	0.0	2.5	2.5	5.0	5.0	5.0

Estimate of any current year (FY97) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 SB103 would reduce the Commission's travel and contractual costs associated with conducting public hearings. Funds currently required for the HRC advocate and hearing examiner to travel to the site of alleged discrimination and for transcription costs would be transferred to the personal services line to allow for investigator overtime costs and potential temporary help to work on the Commission's substantial case back-log. Fees that may be generated for educational services and training would also be utilized to provide additional resources to the investigative unit. These changes are being pursued to assist the Commission in meeting the public demand with their current budgetary resources.

The figures above are estimates based on the existing hearing schedule from July 1, 1997 through May 1998. Future hearings are not possible to estimate and are directly impacted by the investigative unit production, settlements prior to hearings, etc. FY97 costs for hearing travel/transcriptions est. 18.0. Investigator OT average cost is \$44/hr.

Prepared by Paula M. Haley, Executive Director Phone 276-7474
 Division Human Rights Commission Date 4/28/97
 Approved by Jim Ayers, Chief of Staff Date 4/29/97
 Agency Office of the Governor

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FISCAL NOTE

No. 1
 Bill Version: SB103
 (S) Publish Date: 2/24/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: "An Act relating to hearings before and authorizing BRU: Commissions and Special Offices
fees for the State Commission for Human Rights:" Component: Human Rights Commission
 Sponsor: Rules Committee
 Requester: Governor COMPONENT SERIAL NO. 1

Expenditures/Revenues (in thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Commission has seen a dramatic increase in the number of Alaskans requesting services at a time when the Commission is operating with fewer staff. As a result, the Commission now has more cases in its inventory than ever before in its 33-year history and Alaskans must wait upwards of eight (8) months prior to cases reaching an investigator's desk. Passage of this bill will assist the Commission by reducing costs and allowing it to reallocate these resources to investigations.

This legislation will provide the Commission with authorization to conduct hearings at its office, rather than incur the expense of travel for the Hearing Advocate, and Hearing Examiner to the place where the unlawful conduct is alleged to have occurred. Any savings resulting from passage of this bill will be utilized in responding to the public's increased demand for services.

This bill also provides authorization for the Commission to charge fees for certain services. After legislative authorization is provided and required regulations are promulgated, the Commission will estimate the level of fees to be collected and seek the appropriate level of authority for receipts in the budget process.

Prepared by: Paula M. Haley, Executive Director *Paula M. Haley* Phone: 278-7474
 Division: Human Rights Commission Date: 11-19-96
 Approved by Commissioner: Jim Ayers, Chief of Staff *J. Ayers* Date: 11-20-96
 Agency: Office of the Governor

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TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

February 24, 1997

The Honorable Mike Miller
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Miller:

In our efforts to reduce budgets, some actions that save money also create efficiencies which better meet public service goals. That is the case with this bill regarding the Human Rights Commission. This proposal provides the Commission more flexibility in its operations and helps the body perform its essential work for the state.

The bill would allow the Human Rights Commission to hold hearings at its office in Anchorage rather than where the alleged discrimination occurred, as is required under current law. This will save time and money in travel costs. The Commission would continue to ensure that complainants may participate in the hearings.

This bill would also allow the Commission to charge fees to cover the costs of services, information and materials and to provide tapes rather than transcriptions of the hearings, as currently required.

These changes would reduce the cost and time involved in resolving cases, helping the Commission to work through its tremendous backlog of cases, and better respond to the public's increased requests for its services. The result will be better human rights protection for Alaskans.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

SB

104

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 1, 1997

FURTHER REFERRALS:

Date of Committee Action: 5/6/97

The FINANCE Committee considered:

CSSB 104(FIN) am

CS FOR SENATE BILL NO. 104(FIN) am

OMNIBUS INSURANCE REFORM

"An Act relating to regulation and examination of insurers and insurance agents; relating to kinds of insurance; relating to payment of insurance taxes and to required insurance reserves; relating to insurance policies; relating to regulation of capital, surplus, and investments by insurers; relating to hospital and medical service corporations; relating to the portability and availability of health care insurance; making amendments to the insurance statutes to conform to federal requirements regarding health insurance; relating to the repeal of certain small employer health care insurance provisions; requiring that uninsured and underinsured motor vehicle insurance apply to claims of an insured even if other policy limits are not exhausted; repealing delayed provisions relating to dental, vision, and hearing insurance in secs. 3 and 4, ch. 101, SLA 1992; repealing delayed provisions relating to small employer health care insurance in secs. 4, 7, 9, and 12, ch. 39, SLA 1993; repealing the delayed effective date in sec. 5, ch. 101, SLA 1992, and in sec. 13, ch. 39, SLA 1993; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CS SB 104 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Rev _____ fiscal note(s) _____

zero fiscal note(s) DCED _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Don Ward</i>	✓			
<i>Terry Martin</i>	✓			
<i>Walt Kohring</i>	X			
<i>J. Davics</i>			+	
<i>G. Davis</i>	X			
<i>Kelly</i>			✓	
<i>FOSTER</i>			X	

Acting CHAIR'S SIGNATURE *E. J. ...*
MURDER

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 104 (FIN) AM

Revision Date: April 28, 1997
 Title: An Act relating to regulation and examination of
insurers and insurance agents
 Sponsor: Senate Rules
 Requestor: _____

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Insurance

COMPONENT SERIAL NO. 354

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
---------------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ \$0.00

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 There is no fiscal impact on the component.

Prepared by: Mananne K. Burke, Director
 Division: Insurance
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2515
 Date: April 28, 1997
 Date: 4/28/97

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Revision Date: _____ Cept. Affected: Revenue
 Title: Omnibus Insurance Bill BRU: Revenue Operations
 Component: Treasury
 Sponsor: (S) RLS
 Requestor: (S) FIN COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	65.5	485.1	485.1	485.1	435.1	485.1

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The legislation allows the annual payment date to be changed to a quarterly payment date. The anticipated change in revenue is based upon receiving interest income in the general fund on approximately \$28.0 million in tax from 28 to 243 days earlier than at present.

Prepared by: Vern Voss
 Division: Treasury
 Approved by Commissioner: Wilson L. Condon *Russ L. Krumm*
 Agency: Revenue

Phone: 465-2360
 Date: April 29, 1997
 Date: April 29, 1997

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adopted NO OBJ 5/6/97

A M E N D M E N T

#1

OFFERED IN THE HOUSE

TO: CSSB 104(FIN) am

1 Page 74, line 31, through page 75, line 14:

2 Delete all material and insert:

3 **** Sec. 114.** AS 28.40.100(a)(22) is amended to read:

4 (22) "underinsured motor vehicle" means a motor vehicle licensed for
5 highway use with respect to ownership, operation, maintenance, or use for which there
6 is a bodily injury or property damage insurance policy or a bond applicable at the
7 time of an accident and the amount of insurance or bond

8 [(A)] is less than the amount the covered person is legally
9 entitled to recover for bodily injury or property damage from the owner
10 or operator of the underinsured motor vehicle [LIMIT FOR UNINSURED
11 AND UNDERINSURED COVERAGE OF THE INSURED'S POLICY; OR

12 (B) HAS BEEN REDUCED BY PAYMENTS TO PERSONS
13 OTHER THAN AN INSURED, INJURED IN AN ACCIDENT, TO LESS
14 THAN THE LIMIT FOR UNINSURED AND UNDERINSURED
15 COVERAGE OF THE INSURED'S POLICY];"

16 Page 75, lines 16 - 17:

17 Delete "AS 28.20.445(c), 28.20.445(h); AS 28.22.211; and AS 28.40.100(a)(22)"

18 Insert "AS 28.20.445(h); and AS 28.22.211"



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

May 5, 1997

Representative Gene Therriault
Co-Chair, House Finance Committee
State Capitol Room 511
Juneau, AK 99801

Dear Representative Therriault:

On May 2nd I sent you a letter requesting your support for an amendment (0-LS0407KA.1 - Ford) to Senate Bill 104 (The Insurance Omnibus Bill) which if adopted would fix an unintended consequence in the language of the bill.

Upon further review, State Farm actuarial and legal staff have suggested two changes to the amendment which I agree should be made. I have included a letter from Michael Lessmeier, State Farm lobbyist, and a memorandum from Mike Ford with Legislative Legal which explain the differences in the two amendments. The revised amendment (0-LS0407KA.4 - Ford) still avoids the unintended consequences concerning when an insurer is required to pay covered claims and I request the House Finance Committee adopt it.

As I mentioned in my earlier letter, Section 114 of CSSB 104(FIN) am is intended to require that uninsured and underinsured insurance coverage apply whenever the injured person is legally entitled to recover damages that exceed the available coverage under other provisions of the policy. However, the current language in the section may have unintended consequences concerning when an insurer is required to pay covered claims.

The revised amendment to Section 114 of CSSB 104(FIN) am is intended to require that uninsured and underinsured insurance coverage apply whenever the injured person is legally entitled to recover damages that exceed the available coverage under other provisions of the policy. The revised amendment to Section 114 still avoids this problem while maintaining the intent of the Senate provision regarding uninsured and underinsured coverage.

Additionally, I have given the revised amendment to House Labor & Commerce Chairman Norm Rokeberg and requested his support for the inclusion of (0-LS0407KA.4 - Ford) to Senate Bill 104.

I have included a copy of the original amendment and the revised amendment for your review. I appreciate your consideration of this request. Please call me at 465-3892 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Dave Donley".

Senator Dave Donley

Attachments:

4

DD/jja

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

LEGAL SERVICES

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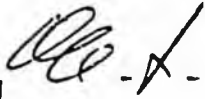
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

May 5, 1997

SUBJECT: Motor vehicle insurance - (CSSB 104(FIN) am)

TO: Senator Dave Donley
Attn: James

FROM: Michael F. Ford 
Legislative Counsel

You have asked if the latest refinement to the "stacking" issue, amendment 20-LS0407\KA.4, is consistent with the earlier versions. I believe that it is. This amendment contains two changes from the prior version (20-LS0407\KA.1), but these changes do not affect the basic purpose of the amendment which is to have underinsured coverage available when other policy limits are exhausted.

Please contact me if you have further questions.

MFF:glc
97-299.glc

Enclosure

LESSMEIER & WINTERS

LAWYERS - LLC

ONE SEALASKA PLAZA
SUITE 303
JUNEAU, ALASKA 99801-1249

TELEPHONE: (907) 586-5912
FACSIMILE: (907) 463-3020

MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELOON E. WINTERS
BETH LEIBOWITZ

MICHIGAN

VIA FACSIMILE

May 5, 1997

Senator Dave Donley
Senate
State Capital, Room 508
Juneau, AK 99801-1182

Re: Proposed Amendment to CSSB 104 (FIN)

Dear Senator Donley:

I was able to discuss the proposed amendment with State Farm actuarial and legal staff this morning. They suggested that paragraph 22(a) be redrafted from:

"is less than the amount the covered person is legally entitled to recover for bodily injury or property damage from the person who is uninsured or underinsured and"

to

"is less than the amount the covered person is legally entitled to recover for bodily injury or property damage from the owner or operator of the underinsured vehicle".

Adding the "owner or operator" language simply insures, consistent with the main body of paragraph 22, that the third-party liability we are talking about is from the owner or operator of the underinsured vehicle. It is not, for example the third-party liability of a product manufacturer or other such person. Although paragraph 22 already makes this clear, making this change to subsection (A) will maintain consistency.

The other change that should be made is the reference to "uninsured" should be deleted. An "underinsured motor vehicle" as defined in this amendment is a vehicle for which insurance exists, but the insurance is insufficient. An "uninsured" motor vehicle is a vehicle for which there is no insurance. The trigger issue you are trying to correct has nothing to do with an uninsured motorist, but rather can arise only where there is an underinsured motorist. Although uninsured and underinsured motorist coverage is a single, combined coverage in Alaska, we think it very confusing to define an underinsured motorist as including an uninsured motorist.

Indeed, we can think of no good reason why one would want to define an underinsured motorist as an uninsured motorist. Situations involving an uninsured motorist do not present the

Senator Dave Donley
Senate
May 5, 1997
Page 2

issues of triggering this amendment is intended to cure. A motorist is either insured or not. If a motorist is not insured, the coverage is triggered. If the motorist is insured, but in an amount less than the damages the covered person is legally entitled to recover from the owner or operator, the underinsured motorist coverage is triggered. It should be clear that although UM/UIM coverage is a single, combined coverage in Alaska, an uninsured motorist is different than an underinsured motorist.

In sum, we think that rather than simplifying the issue, defining an "underinsured motorist" as an uninsured motorist is unnecessary, contradictory and confusing. We urge this not be done.

Sincerely,

LESSMEIER & WINTERS

By: 
Michael L. Lessmeier

MLL/blw

cc: Mike Ford

SECTIONAL ANALYSIS
CSSB 104(FIN) AM

Section 1. PURPOSE. The purpose of sections 3, 11, 12, 31-34, 43-57, 59-90, 99-102, 108, 111-112, 115-119, and 122 of this Act is to implement the minimum federal standards for health care insurance enacted under P.L. 104-191 (Health Insurance Portability and Accountability Act of 1996).

Sec. 2. AS 21.06.030. Deputies and assistants.

This section reaffirms that persons participating on division advisory committees do not receive payment for transportation or per diem expense. The Division of Insurance has routinely secured public input on insurance regulatory issues using a variety of advisory committees. Volunteers, including many insurance professionals providing technical input, have served without compensation from the state, recognizing that if transportation or per diem expenses were paid by the division the costs would be passed back to them through higher licensee fees or higher insurance premiums reflecting increased administrative costs. The possibility that payment might be required under AS 39.20.180 has recently been brought to the division's attention.

Sec. 3. AS 21.06.085. Uniform data and procedures for health claims.

The changes to this section make the terms consistent with the newly defined health insurance terms under the federal law(HIPAA)

Sec. 4. AS 21.06.110. Director's annual report.

Updates information required to be included in the division's annual report to reflect current practices regarding issuance of certificates of authority and primary regulation of domestic insurers.

Sec 5. AS 21.06.160(a). Examination Cost.

Clarifies this subsection to allow the calculation of a reasonable per hour charge for examination services to include approximated division overhead expenses such as word processing services, facilities and supplies, computer systems, etc. and that out-of-pocket expenses including travel costs shall be paid by the person being examined.

Sec 6. AS 21.09.210(b). Premium Tax Payment - Admitted Insurers.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Sec 7. AS 21.09.210(d). Premium Tax Payment - Admitted Wet Marine and Transportation Insurers.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Sec 8. AS 21.09.245. Amendments to Certificate of Authority.

This is a new section that requires an authorized insurer to file with the division within

30 days a name change, domiciliary state change, or other information on its certificate of authority. Amendment to the insurer's articles of incorporation or bylaws, a change of business address or phone number, and other information as designated by the director must be filed within 90 days, and provide for penalties for noncompliance.

Sec 9. AS 21.09.320. Maintenance of Records.

This new section that identifies which records are required to be kept by admitted insurers domiciled in another state. Retention times are specified. Domestic insurers are subject to existing and unchanged provisions. The lack of requirements for other admitted insurers has impeded the division's regulatory oversight including examinations and other investigations.

Sec 10. AS 21.12.020(a)(4)(A)(iii). Accredited Reinsurer Qualifications.

Removes a requirement for a certification of insurer solvency from an insurer's domiciliary regulator because some foreign countries do not provide such certifications. Certification will still be required from the insurer's public accountant.

Sec. 11. AS 21.12.050. Health insurance defined.

This section defines "health care insurance" which is consistent with the definition of "health insurance coverage" in P.L. 104-191 adding Sec. 2791(b) (42 U.S.C. 300gg-91(b)). The federal definition differs from the current state definition and since Alaska's definition is more broad, the federal definition was defined as a subset of the Alaska definition. This section all adds stop loss insurance to the definition of health insurance to affirm that life and health insurers are permitted to write stop loss coverage.

Sec 12. AS 21.12.050.

Definition of health care insurance and stop-loss insurance as referenced in Sec. 11 AS 21.12.050.

Section 13. AS 21.14.010(a). Risk Based Capital Filing.

Clarifies that a domestic insurer must submit its risk based capital report to the director without a specific request.

Section 14. AS 21.14.200(18). Risk Based Capital Instructions.

Clarifies that instructions can be adopted by order of the director after an open meeting since the complexity of the calculation, its continual refinement, and insurer need for nationwide consistency, regulations are an inappropriate way to provide instructions to insurers.

Section 15. AS 21.18.050(4). Capital stock and liabilities charged against assets.

Requires that the minimum reserves for health insurance established in AS 21.18.080-21.18.086 be charged against an insurer's admitted assets for the purpose of determining the insurer's statutory financial condition.

Section 16. AS 21.18.080. Reserve standards for health insurance.

Adopts a more well defined and appropriate standard for minimum reserves for health insurance. Requires that reserve adequacy be determined by a gross premium valuation considering the sum of policy reserves, claims reserves, and premium reserves established under AS 21.18.082-AS 21.18.086.

Section 17. New sections are added to provide for minimum health insurance reserve standards.

AS 21.18.082. Policy reserves for health insurance.

This section defines which policies require a policy reserve and how to calculate the reserve based on minimum standards relating to interest rates, policy termination, morbidity, and reserve method.

AS 21.18.084. Claim reserves for health insurance.

This section establishes that claim reserves are required for all incurred and unpaid claims, including associated expenses, on health insurance policies.

AS 21.18.086. Premium reserves for health insurance.

This section establishes premium reserve requirements that include standards for accounting, discounting, methodology, and minimums levels of unearned premium reserves as they relate to policy reserves.

Section 18. AS 21.21.410. Custodian Agreements.

Requires that a written agreement exist between an insurer and the custodian of its assets, securities, or investments. The agreement must require that the custodian will indemnify for losses if loss results from theft, mysterious disappearance, damage or destruction, or negligence or dishonesty of the custodian's officers, employees, or agents. The agreement must require the custodian to promptly replace an asset or value of the asset. A bank, trust company, or securities firm may serve as custodian if authorized by the insurer and approved by the director.

Section 19. AS 21.27.010(f)(2)(B). License required.

Editorial revision to make "or" the appropriate connector consistent with identical language in (g)(1) of the section.

Section 20. AS 21.27.010(I). Attorney-in-fact License Exemption.

Clarifies that an attorney-in-fact of a reciprocal insurer who meets the qualifications to be exempt from licensure as an attorney-in-fact is not required to be licensed under AS 21.27 as a managing general agent.

Section 21. AS 21.27.040(a). Application for License.

Codifies current procedure that requires an applicant to certify under oath that the information provided on a license application is true and correct.

Section 22. AS 21.27.370(b). Shared Commissions.

Reaffirms that an unlicensed person may not share or receive a commission or any form of remuneration for business transacted in this state, nor may a licensee share commission or other form of remuneration with an unlicensed person.

Section 23. AS 21.27.390(b). Temporary License.

Conforms AS 21.27 with the requirement to issue a temporary license under AS 25.27.244 (Welfare Reform).

Section 24. AS 21.27.405(b). Investigation; cease and desist order.

Updates procedures to allow the director the flexibility to provide service of notice to a person in the most effective and efficient way.

Section 25. AS 21.27.440(a). Fines.

Provides authority for the director to fine an unlicensed person who illegally transacted the business of insurance and received a commission or other form of remuneration.

Section 26. AS 21.27.640(b)(5)(D). Third Party Administrator License Application.

Gives a third-party administrator applicant an option to submit certified financial statements for its period of operation if operations have been for less than two years in order to remove a barrier to start up operations for an applicant who would otherwise be qualified to act as a third-party administrator.

Section 27. AS 21.34.040(c)(4). Unauthorized Insurers - Lloyd's Syndicates.

Establishes solvency requirements for each syndicate or insurer of Lloyds or a similar operation.

Section 28. AS 21.34.040(c)(5). Unauthorized Insurers - Insurance Exchange.

Establishes solvency requirements for each syndicate of an insurance exchange created by the laws of another state.

Section 29. AS 21.34.180(b). Premium Tax Payment - Unauthorized.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Section 30. AS 21.34.190(a). Unauthorized Filing Fee.

Clarifies that the one percent fee on gross premiums is calculated on the gross premiums reported on the statement of surplus lines tax required under AS 21.34.180(b), which has been amended to allow the director to require reporting more often than annually.

Sec. 31. - Sec. 34., Sec. 43. - Sec. 56. Required Coverages or Offers of Coverage.

References to health insurance terms in these sections were changed to be consistent with the new definitions, "health care insurance" in AS 21.12.050 and "health care insurer" in

AS 21.54.900.

Use of the terms "health care insurance plan" and "health care insurer" generally clarifies that the applicability of these sections include MEWAs and, in three provisions, HMOs. This results from the use of the term "health care insurer" which is defined very broadly to include all entities that transact health care insurance. Note that the definition of "health care insurance plan" excludes limited benefit policies and supplemental coverages. In the cases where the provision is to apply to these types of policies it is explicitly added.

The changes to these sections were intended to make the sections consistent with each other in terms of applicability and with the newly defined health insurance terms under the federal law.

Note that:

Sec. 43. AS 21.42.345 was modified to conform with the minimum federal standards pursuant to P.L. 104-191 amending the Public Health Service Act (PHSA) to add Sec. 2701(f) (42 U.S.C. 300gg(f)) regarding enrollment periods for dependents. The current provision applies to both individual and group plans while the federal law applies only to group plans. However, for simplicity the changes made to conform to the federal law were made to both individual and group policies.

Sec. 45. - Sec. 46. AS 21.42.347 relating to costs of childbirth was modified to conform with the minimum federal standards pursuant to P.L. 104-191 adding Sec 2751 to PHSA (42 U.S.C. 300gg-51).

Sec. 35. AS 21.36.185. Maintenance of complaint handling records.

Establishes a requirement based on the NAIC Model Unfair Trade Practices Act for an insurer to maintain records regarding the complaints it receives. The record will assist the division in evaluating an insurer's consumer practices.

Sec. 36. AS 21.36.240. Failure to renew.

Clarifies that an insurance policy may only be non-renewed on its annual anniversary. This only applies to personal property and casualty insurance.

Sec. 37. AS 21.36.290. Policy period.

In conjunction with AS 21.36.240, clarifies the annual policy period and assures that rates for personal auto insurance may only be changed once every 6 months, even if the policy is written for a shorter time period.

Sec. 38. AS 21.36.390. Notice to director.

Adds a requirement that insurers and other licensees report producer defalcations, embezzlements, or violations to the director in much the manner as currently is required for reporting claim fraud. Lack of timely reports to the division has resulted in situations

in which harm to the public or other insurers has been exacerbated. Requires licensees as well as insurers to report fraudulent claims.

Sec. 39. AS 21.39.045(b)-- Risk classification: construction industry.

Clarifies that the credit scale recognizing differences in wages paid applies only to the construction industry.

Sec. 40. AS 21.42.130(5). Disapproval of forms.

Clarifies that rates for individual health insurance are not subject to approval consistent with current statutes that do not provide a mechanism or guidelines for such rate review.

Sec. 41. AS 21.42.205. Coordination of benefits.

Requires that benefits provided under health insurance contracts be coordinated. This coordination is applicable only when an individual is covered under more than one health insurance contract.

Sec. 42. AS 21.42.265. Effective date of coverage.

Clarifies that insurance coverage changes required by a law change become effective at renewal unless the law provides an earlier effective date for the changes.

Sec. 57. Sec. 21.53.090. Required regulations.

Under federal law long term care contracts with certain federally defined characteristics may receive favorable tax treatment. Since this creates a separate class of long term care policies and need for additional protections, the amendments to this section expand the director's authority to write specific regulations for this purpose.

Sec. 58. AS 21.54.015. Rate requirements.

Requires that rates for group health insurance contracts not be excessive, inadequate, or unfairly discriminatory to provide a consistent standard for all group health insurers.

Sec. 59.

This section adds several new sections to AS 21.54 to conform with the minimum federal standards for health care insurance in the group market as follows:

Sec. 21.54.100. Unfair discrimination.

This section is added to conform with the minimum federal standards pursuant to P.L. 104-191 adding Sec. 2702 to PHSA (42 U.S.C. 300gg-1) regarding unfair discrimination in the offer of or enrollment under a health care insurance plan.

Sec. 21.54.110. Preexisting condition exclusion.

This section is added to conform with the minimum federal standards pursuant to P.L. 104-191 Sec. 2701(a)-(b) to PHSA (42 U.S.C. 300gg(a)-(b)) relating to preexisting condition exclusions.

Sec. 21.54.120. Creditable coverage.

This section is added to conform with the minimum federal standards pursuant to P.L. 104-191 adding Sec. 2701(c)-(e) to PHSA (42 U.S.C. 300gg(c)-(e)) relating to

creditable coverage. Creditable coverage is used in determining the allowable preexisting condition waiting period or exclusion. Note that the federal law allows the states discretion in determining an allowable break in coverage in determining creditable coverage. AS 21.56 allowed a 90 day break in coverage for small employer groups and this was maintained in this section and as a result would apply to large employers as well.

Sec. 21.54.130. Renewability, termination, and modification of coverage.

This section is added to conform with the minimum federal standards pursuant to P.L. 104-191 adding Sec. 2712 to PHSA (42 U.S.C. 300gg-12) relating to guaranteed renewability, modification and termination of coverage. Subsection (f) of this section was added to allow an insurer to terminate an individual's coverage if the individual has committed fraud or intentional misrepresentation. This is not part of the federal law but was considered an oversight by the NAIC and HCFA.

Sec. 21.54.140. Renewability of coverage for a multiple employer welfare arrangement.

This section is added to conform with the minimum federal standards pursuant to P.L. 104-191 adding Sec. 703 to ERISA (29 U.S.C. 1183) relating to guaranteed renewability for MEWA plans.

Sec. 21.54.150. Mental health benefits.

This section is added to conform with the minimum federal standards relating to mental health benefits parity pursuant to the amendment to P.L. 104-191 adding Sec. 2705 to PHSA (42 U.S.C. 300gg-5).

Sec. 21.54.160. Excepted benefits defined.

This section defines the health plans that are not subject to the minimum federal standards and are termed "excepted benefits" in the federal law. These "excepted benefits" are explicitly defined in P.L. 104-191 adding Sec. 2791(c) to PHSA (42 U.S.C. 300gg-91(c)). These health plans are basically limited benefit and supplemental health insurance plans. The definition of "health care insurance plan" as proposed in this bill excludes "excepted benefits".

Sec. 21.54.170. Determination of size of employer.

This section describes how the size of an employer is to be determined as described in P.L. 104-191 adding Sec. 2791(e)(6) to PHSA (42 U.S.C. 300gg-91(e)).

Article 3. Sec. 21.54.500. Definitions.

This section adds new definitions necessary to conform with the minimum federal standards. The definitions are consistent with the definitions in P.L. 104-191 adding Sec. 2701(b), Sec. 2701(e), Sec. 2705(e) and Sec. 2791 to PHSA (42 U.S.C. 300gg(b), 42 U.S.C. 300gg(e), 42 U.S.C. 300gg-5(e), 42 U.S.C. 300gg-91 respectively)

Sec. 60. - Sec. 68. Comprehensive Health Insurance Association.

These sections amend AS 21.55 relating to the Comprehensive Health Insurance Association. P.L. 104-191 adding Sec. 2744 to PHSA (42 U.S.C. 300gg-44) allows a state to use a qualified high risk pool to guarantee portability of health insurance coverage to federally eligible individuals. The amendments to this section allow a "federally defined

eligible individual" defined in P.L. 104-191 adding Sec. 2741(b) to PHSA (42 U.S.C. 300gg-41(b)) to participate in the CHIA. Use of Alaska's high risk pool (CHIA) would be the least disruptive mechanism allowed under the federal law to reform the individual health insurance market in Alaska and therefore was the selected mechanism. Experience in other states such as Washington, New Jersey, and New York relating to the alternative mechanisms allowed in the federal law has resulted in significant increases in claims and premiums and decreases in the number of individuals insured and the number of insurance companies writing individual health insurance.

Sec. 69. - Sec. 90 Small Employer Health Reinsurance Association.

These sections amend AS 21.56 relating to health insurance coverage for small employers to remove any conflicts with the minimum federal requirements under P.L. 104-191.

Certain sections of AS 21.56 were repealed and reenacted under AS 21.54 because under federal law those provisions apply to both large and small employer groups. The sections in AS 21.56 relating to guaranteed issue were amended to conform with the federal minimums for small employer groups pursuant to P.L. 104-191 adding Sec. 2711 to PHSA (42 U.S.C. 300gg-11). To the extent possible the provisions in AS 21.56 were not modified unless they would prevent application of the federal minimums.

Also, several sections are amended to change the term "association" to "reinsurance association" in order to avoid confusion with a "bona fide association" as defined in the federal law.

Sec. 77. AS 21.56.075. Premium report.

This is a new section that requires members of the Small Employer Reinsurance Association to report to the director on an annual basis the total amount of small employer health insurance premiums written in the state. While not required by federal law, this section will significantly improve the ability of the Association to assess Association members for losses.

Sec. 91. AS 21.66.110(a). Premium Tax Payment - Title Insurance.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Sec. 92. AS 21.66.390(a). Making of rates.

Adds investment income as one of the elements to be considered when evaluating the rates charged by title insurers.

Sec. 93. AS 21.69.310(a). Annual Meeting Location.

Allows the director upon show of good cause to approve a domestic insurer's request to hold its required annual meeting in a city outside of the location of its principal office or place of business.

Sec. 94. AS 21.69.520(a). Borrowed Funds.

Requires director approval for an insurer to borrow funds when a written agreement requires that the money be repaid only out of the insurer's excess surplus and removes permission for an insurer to borrow money in this manner for any purpose of the insurer's business.

Sec. 95. AS 21.75.045(a). Attorney-in-fact License Exemption.

Expands the exception for being licensed as an attorney-in-fact to all reciprocal insurers. The exemption is allowed when the attorney-in-fact is a wholly-owned subsidiary of the reciprocal insurer who only acts for the one reciprocal. Attorneys-in-fact who operate more than one reciprocal insurer must be licensed under this section.

Sec. 96. AS 21.76.020(b). Joint Insurance Arrangement Reporting.

Specifies that the report prepared by a joint insurance arrangement and filed with the legislative budget and audit committee shall also be filed with the director.

Sec. 97. AS 21.76.080(e). Joint Insurance Arrangement Reporting.

Allows for the report filed by the joint insurance arrangement with its board of directors and the director to be an audit based on generally accepted accounting principles rather than requirements established by the director. A report filed with the director is open to public inspection unless specifically precluded by statute.

Sec. 98. AS 21.78.293(b). Receiver's recommendation to the court.

In order to reduce litigation over claims and thereby expedite the closure of a receivership estate (to the benefit of insurance policyholders and other claimants), the superior court shall review and adopt the receiver's report on claims by using the substantial evidence standard. The period of disapproving claims is extended to 120 days.

Sec. 99. AS 21.84.590. Other provisions applicable.

This amendment clarifies that the minimum federal standards apply to Fraternal Benefit Societies.

Sec. 100. - Sec. 102. Health Maintenance Organizations.

These sections amend AS 21.86 relating to HMOs in order to conform with the minimum federal standards pursuant to P.L. 104-191 adding Sec. 2701(g) to PHSA (42 U.S.C. 300gg(g)).

Sec. 103. AS 21.87.140(c)(1). Medical service agreements.

Updates terminology of participant provider contract requirements to reflect managed care compensation arrangements as well as traditional indemnity reimbursement.

Sec. 104. AS 21.87.150(c)(1). Hospital service agreements.

Updates terminology of participant hospital contract requirements to reflect managed care compensation arrangements as well as traditional indemnity reimbursement.

Sec. 105. AS 21.87.180(a). Filing and approval of agreements and contracts.
Conforms form filing requirements for medical and hospital service corporations to similar requirements for other insurers subject to form filing.

Sec. 106. AS 21.87.190(b). Subscription rates, fees, and payments.
Clarifies rate filing requirements. Allows the director discretion to protect medical and hospital service corporations from competitive disadvantage that may arise from disclosing rating formulas when other health insurers are not required to file rates for approval and disclose rating formulas.

Sec. 107. AS 21.87.200. Reserves.
Requires that hospital or medical service corporations have minimum reserve standards and reporting consistent with other health insurers.

Sec. 108. AS 21.87.340. Other provisions applicable.
Amendments in this section clarify that the minimum federal standards apply to Hospital and Medical Service Corporations.

Sec. 109. AS 21.89.020(f). Minimum coverages for automobile liability insurance.
The amendment to this section clarifies the priority in which liability and physical damage payments under automobile insurance policies for rented motor vehicles are made. The required priority would be that payments would first be made from the operator's policy purchased from the person renting the vehicle, then from any other policy covering the operator but not purchased from the person renting the vehicle, and finally from a policy of the person renting the vehicle.

Sec. 110. AS 21.89.020(g) -- Short term auto policy.
Clarifies that the requirements of AS 21.36.210 - 21.36.310 do not apply to seven-day policies.

Sec. 111. AS 21.90.900(29). Definitions for title.
The definition of policy is modified to extend to group certificates issued in Alaska when the group policy is issued and delivered outside of Alaska to ensure consistency in application of state law to all group health care plans covering individuals resident in Alaska. The new minimum federal standards apply to such certificates and without this amendment Alaska may have difficulty asserting regulatory authority over such certificates. Failure to regulate group certificates could result in the federal government determining that Alaska is not substantially enforcing the minimum federal standards resulting in federal regulation of Alaska's health insurance market.

Sec. 112. AS 21.90.900. Definitions for title.
This section adds two new definitions. The term "certified financial statement" is added to clarify its meaning in relation to licensing requirements. This term "medical care" as defined in P.L. 104-191 adding Sec. 2791(a)(2) to PHSA (42 U.S.C. 300gg-91(a)(2)) is

added since it is needed in order to define "health care insurance".

Sec. 113. AS 28.20.440

This is a new section that would allow an insured upon request to exclude from their auto insurance coverage a person who resides in the same household as the insured or a person who is a relative of the insured.

Sec. 114. AS 28.22.201(a).

This section provides that coverage for uninsured and underinsured motorists be provided even if the limits of liability bonds and policies that apply have not been used up by payments, judgements or settlements. The insurer shall receive credit for any payments received by the insured for claims from other sources.

Sec. 115. Repeal.

This section repeals the sections in AS 21.56 relating to small employer health insurance that conflict with federal law. As stated above many of the provisions were modified and moved to AS 21.54 since they apply to both large and small groups under the federal law.

AS 21.42.375(d) (mammography) and AS 21.42.395(d) (prostate and cervical cancer screening) exclude limited and supplemental benefit plans from the applicability of the provisions and since these are excluded by use of the newly defined term "health care insurance plan" these sections were repealed.

Also this section corrects an oversight by repealing Chapter 81 that was superseded by legislation enacted in 1995 (AS 21.09.310).

AS 28.20.445(c), AS 28.20.445(h), AS 28.22.211, and AS 28.40.100(a)(22) are repealed as related to uninsured and underinsured motorists coverage in Sec. 114.

Sec. 116, Sec. 119, and Sec. 122. Mental health insurance effective dates.

These sections establish the effective date of January 1, 1998 and sunset on September 20, 2001 of the mental health insurance provisions required under the federal law.

Sec. 117. and Sec. 118. Repeal of sunset provisions.

These sections repeal the sunset provisions in AS 21.56 relating to Small Employer Health Insurance and the Dental, Vision and Hearing provision in AS 21.42.385. The repeal of AS 21.56 is necessary since the availability provisions in AS 21.56 are required by federal law which do not sunset.

Sec. 120. and Sec. 121. Effective dates.

Sec. 6, 7, 27-30, and 91 take effect on January 1, 1998. All other sections take effect on July 1, 1997.

Sponsor Statement CSSB 104(FIN)

This bill was requested by the Division of Insurance and contains numerous provisions that will enhance the effectiveness, efficiency and quality of insurance regulation for the Alaskan consumer and industry. The majority of the provisions in this bill implement the minimum federal standards for individual and group health insurance plans as established under the federal Health Insurance Portability and Accountability Act of 1996 (commonly referred to as the Kassebaum/Kennedy bill) which **must become effective in Alaska by July 1, 1997**. If these provisions are not enacted in this legislative session the federal Department of Health and Human Services will take over regulation of these standards in individual and group health insurance market in Alaska.

Summary of the federal Health Insurance Portability and Accountability Act of 1996 minimum standards in this bill:

- In August 1996 the Health Insurance Portability and Accountability Act of 1996 was signed into federal law. The Act received wide bipartisan support in Congress and many organizations including the American Medical Association, the Independent Insurance Agents of America, U.S. Chamber of Commerce, American Hospital Association and many others.
- The federal law establishes minimum standards for all individual and group health care plans that must become effective July 1, 1997. These standards ensure that health coverage is portable, available and renewable for many individuals.
- **If Alaska fails to enact the federal reforms or otherwise provide for enforcement of the federal reforms, the federal government will enforce compliance in Alaska beginning January 1, 1998.**
- Alaska has the option to implement an alternative to the minimum individual health insurance standards in the federal law. This legislation provides for the necessary amendments to the insurance code to implement such an alternative as well as other amendments necessary to implement the minimum group reforms.
- This bill provides for a federally acceptable alternative by modifying the eligibility requirements for the Comprehensive Health Insurance Association(CHIA). This alternative is the least disruptive to Alaska's small individual health insurance market.
- **Alternatively, without this legislation the more restrictive federal individual market reforms will be enforced on all health insurers writing business in the Alaska individual market including the CHIA.**
- By the required federal deadline of April 1, 1997 Alaska filed with the U.S.

Department of Health and Human Services that it intends to enact the necessary legislation to provide an alternative.

- **The minimum standards proposed in this bill have wide support by both insurers and consumers and result in no additional cost to the state.**
- **Again, if Alaska wants to avoid federal regulation of the health insurance market in Alaska, legislation must be passed in this session.**

The miscellaneous insurance provisions in this bill will:

- Establish procedural requirements designed to ensure that insurers conducting the business of insurance in this state are solvent, records are properly maintained, and appropriate reports are made to the division.
- Eliminate unintentional barriers to companies seeking to transact business in this state
- Clarify licensing statutes which are consistent with child support enforcement legislation enacted in 1996
- Require insurers and licensees to report any suspected producer defalcation or embezzlement immediately to the director.
- Require insurers to report any pertinent corporate changes.
- Clarify joint insurance arrangement reporting and risk based capital filings
- Require insurers to maintain records at its principal place of business regarding assets, transactions, complaints and other corporate affairs for all lines of business
- Establish minimum reserve and premium rate standards for all health insurers thereby providing for a more level playing field in the health insurance market in Alaska as well as eliminating archaic hospital and medical service corporation health reserve standards.
- Add stop-loss insurance to the definition of health insurance in order to allow life and health insurers to write this coverage in the state. Under current law only property and casualty insurers may write this coverage.
- Provide that the superior court shall review and adopt the receiver's report on claims by using the substantial evidence standard and extend the period for disapproving claims to 120 days, which will reduce litigation over claims and expedite the closure of a receivership estate.

- Establish the payment priority for liability and physical damage under automobile policies for rented motor vehicles.
- Allow an insured to exclude a relative or person living in the same household as the insured from their automobile insurance coverage.
- Require that coverage for uninsured and underinsured motorists be provided even if the limits of liability bonds and policies that apply have not been used up by payments, judgements or settlements. The insurer will receive credit for any payments received by the insured for claims from other sources.

EXECUTIVE SUMMARY
KASSENBAUM/KENNEDY BILL

Presented by
Marianne K. Burke, Director
Division of Insurance

Health Insurance Portability and Accountability Act of 1996 (HIPAA, or Kassenbaum/Kennedy)

- signed by the President on August 21, 1996
- most sweeping health care legislation since passage of Employee Retirement Income Security Act (ERISA) in 1974

General Structure of HIPAA:

- 1) amendments to ERISA. One reason the law is so sweeping is it affects self-funded plans, and helps level the playing field by imposing standards on plans over which the states have no jurisdiction
- 2) parallel amendments to the Public Health Service Act (PHSA) that affect health carriers
- 3) amendments to the tax code for long-term care insurance, medical savings accounts and deductibility for the self-employed

Our bill focuses on number 2 - amendments to our insurance code.

Insurance Code amendments fall into three areas:

- **small group market reforms**
- **large group market reforms**
- **individual market reforms**

Essential elements of HIPAA:

Small group market:

- 1) **guaranteed issue to**
 - **all small employers** (defined as those having an average number of employees during the prior year of 2-50)
 - **all eligible employees**
 - **all products** offered by a carrier in the small group market, not just the standard and basis plans as in current law

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



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Central Microfilm Services
Department of Education
State of Alaska

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Essential elements of HIPAA:

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- 1) **guaranteed issue to**
 - **all small employers** (defined as those having an average number of employees during the prior year of 2-50)
 - **all eligible employees**
 - **all products** offered by a carrier in the small group market, not just the standard and basis plans as in current law

- 2) **guaranteed renewability** of all policies with certain enumerated exceptions
- 3) **preexisting condition exclusion limitations** - limited to 6/12 (lookback/exclusion) with credit for prior coverage as long as there has been no gap in coverage greater than 63 days; current Alaska law allows a gap no longer than 90 days

Large Group market:

- 1) **guaranteed renewability** of all policies with certain enumerated exceptions
- 2) **preexisting condition exclusion limitations** - limited to 6/12 (lookback/exclusion) with credit for prior coverage as long as there has been no gap in coverage greater than 63 days

The bill calls for a study of availability in the large group market; no guaranteed issue requirements in this market.

Individual market:

- 1) **guaranteed issue** to eligible individuals (those with 18 months creditable coverage, most recently in a group plan, with no break in coverage greater than 63 days)
- 2) **guaranteed renewability** of all policies with certain enumerated exceptions
- 3) **no preexisting condition exclusions** may be imposed on eligible individuals

Pregnancy and genetic testing in absence of the condition are not allowed as preexisting conditions in the group market, and are not allowed for eligible individuals in the individual market.

HIPAA creates federal standards in the area of health insurance by essentially creating a floor in certain areas, below which state standards may not fall.

- however, state flexibility exists
- certain state laws are specifically preempted if not in compliance with the federal standards, for example preexisting condition exclusion provisions

With respect to the individual market, the federal standards will not apply if the state enacts what is called an **acceptable alternative mechanism**. There is a four-pronged test for an acceptable alternative mechanism, and the states are given many options as to how to comply.

HIPAA requires that an **acceptable alternative mechanism** meet **four requirements**:

1. It must provide eligible individuals with a **choice** of coverage;

2. It cannot impose any **preexisting condition exclusions** for eligible individuals;
3. The choice must include **at least one policy form** that is:
 - (i) comparable to **comprehensive coverage** in the individual market in the state; **or**
 - (ii) comparable to the **standard** plan under the state's small group or individual laws;

-AND-

4. The state must be implementing **one of three things**:
 - (a) one of **two specified NAIC models laws** on individual market reform;
 - (b) a qualified **high risk pool** as defined in the law; or
 - (c)
 - (i) a mechanism providing for **risk adjustment, risk spreading, or a risk spreading mechanism** or otherwise provides for some **financial subsidization** of eligible individuals; or
 - (ii) a mechanism allowing eligible individuals a **choice of all available** individual health insurance coverage.

Amendment History of SB 104

Senate Finance:

Two amendments were added to SB 104 in Senate Finance.

The most significant amendment was the amendment to include the minimum federal standards in the Health Insurance Portability and Accountability Act of 1996. **These minimum standards must become effective in Alaska by July 1, 1997.** If these provisions are not enacted in this legislative session the federal Department of Health and Human Services will take over regulation of these standards in individual and group health insurance market in Alaska. The amendment added almost 50 pages to the bill. However, the provisions in this amendment make only the minimum required changes in order to meet the minimum federal standards. (note section 1 of version CSSB 104(FIN) am outlines the specific sections in the bill relating to this amendment)

The other amendment was sponsored by Senator Donley and has the effect of establishing the payment priority for liability and physical damage under automobile policies for rented motor vehicles. (note this amendment is in section 109 of version CSSB 104(FIN) am)

Senate Floor:

Two amendments were added to CSSB 104(FIN) on the Senate floor.

One amendment was sponsored by Senator Donley. The amendment modified the underinsured/uninsured motorist coverage provisions to require that coverage for uninsured and underinsured motorists be provided even if the limits of liability bonds and policies that apply have not been used up by payments, judgements or settlements. This amendment is in sections 114 and 115 of version CSSB 104(FIN) am.

Another amendment was sponsored by Senator Duncan. The amendment allows an insured to exclude a relative or person living in the same household as the insured from their automobile insurance coverage. This amendment is in section 113 of version CSSB 104(FIN) am.

OVERVIEW
KASSEBAUM/KENNEDY BILL

Presented by
Marianne K. Burke, Director
Division of Insurance

I. General Points

Overview: P.L. 104-191, commonly called Kassebaum/Kennedy (K/K), creates federal standards for both the individual and group health insurance markets, but it does permit substantial state flexibility for compliance. The law requires insurers to offer coverage to **all small employers** that apply for coverage and to **individuals** meeting certain requirements (**guaranteed issue**); to guarantee renew coverage in both the group and individual markets (**guaranteed renewal**); and to **limit the use of preexisting condition exclusions in the group market and eliminate them in the individual market for eligible individuals**. However, the federal law does not limit the premiums that issuers can charge for any type of coverage.

Preemption: The **test for preemption** in all cases **EXCEPT** for provisions relating to preexisting condition exclusions is: whether the state's standards and requirements would **prevent the application of the federal law**.

The **test for preemption** for provisions affecting **preexisting condition exclusions** is: The federal law **DOES "supersede any provision of State law** which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by the law (in ERISA section 701 or PHSa section 2701) which **differs** from the standards or requirements in those sections, **UNLESS** the State provision meets one of seven **specific exceptions**.

II. Group Market

K/K requires **guaranteed issue of all products in the small group market**. This is a relatively radical requirement for a number of states. The federal law is also very specific that a **small group is a group of 2 to at least 50**. States may extend the law's guaranteed issue protection to larger groups, and include groups of 1 if they cover the self-employed in the small group rather than the individual market.

The **guaranteed renewability** requirement applies to **groups of all sizes**.

The rules restricting the use of **preexisting conditions exclusions** and prohibiting the use of **health status-related factors** for purposes of issuing and renewing coverage apply to **groups of all sizes**.

NAIC 1992 Small Group Model

Alaska adopted a modified version of the NAIC's 1992 Small Group Model.

The 1992 Small Group Model only requires guaranteed issue of a basic and standard health benefit plan by all health carriers doing business in a state's

small group market. A state with this model will therefore need to expand the guaranteed issue requirement to all products offered by the insurer. K/K requires guaranteed issue of all products in the small group market.

The 1992 Small Group Model requires guaranteed renewability, subject to certain exceptions. In general these exceptions are consistent with the federal law, but need the revisions suggested by the P.L. 104-191 States Implementation Working Group.

The 1992 Small Group Model allows a preexisting condition exclusion of twelve months. This is consistent with K/K, except that the model requires certain revisions to prohibit preexisting condition exclusions based on pregnancy as a preexisting condition and to extend the permissible period for a gap in coverage to 63 days.

Another key issue is the definition of "small employer." The federal law is very specific that there is guaranteed issue for groups of 2 to at least 50, and it sets forth the method of calculating that group. The 1992 Model must be modified as suggested to conform to the federal requirements.

The 1992 Model must also be revised to ensure that its concept of "qualifying previous coverage" and "qualifying existing coverage" are consistent with the federal law's concept of "creditable coverage."

III. Individual Market

We would like to review the possible scenarios for implementing an acceptable alternative mechanism to meet the requirements of K/K for the individual market.

The law requires that an **acceptable alternative mechanism** meet **four requirements**:

1. It must provide eligible individuals with a **choice** of coverage;
2. It cannot impose any **preexisting condition exclusions** for eligible individuals;
3. The choice must include at least one policy form that is:
 - (i) comparable to **comprehensive coverage** in the individual market in the state; **or**
 - (ii) comparable to the **standard** plan under the state's small group or individual laws;

-AND-

4. The state must be implementing **one of three** things:
 - (a) one of the **two NAIC models** laws on individual market reform;
 - (b) a qualified **high risk pool** as defined in the law; **or**
 - (c) (i) a mechanism providing for **risk adjustment, risk spreading**, or a risk spreading mechanism or otherwise provides for some **financial subsidization** of eligible individuals; **or**
(ii) a mechanism allowing eligible individuals a **choice of all available** individual health insurance coverage.

Under the federal law, an eligible individual:

- (1) has had, in the aggregate, at least 18 months of creditable coverage;
- (2) the most recent coverage is under a group, governmental, or church plan including a self insured group;
- (3) is not eligible for any other coverage, including Medicare, Medicaid, etc.;
- (4) has not had coverage terminated for nonpayment of premiums or fraud;
- (5) has exhausted a COBRA continuation option if one was available;
- (6) has had no gap in coverage exceeding 63 days.

Given these requirements, what are a state's options?

Option 1: Guaranteed issue of all products in the individual market.

States that already have guaranteed issue of all products in the individual market will have to do little to comply with the federal law's requirements. However, even these states must ensure that any state restrictions limiting the individuals eligible for guaranteed issue do not prevent those individuals who are eligible for guaranteed issue under the federal law from obtaining coverage. The state must also ensure that its high risk pool does not impose any preexisting condition exclusions for federally defined eligible individuals.

Option 2: High risk pool.

The federal law defines a qualified high risk pool as one that:

- (1) Provides coverage to all eligible individuals.
- (2) Does not impose a preexisting condition on an eligible individual;
- (3) Provides for premium rates and covered benefits for such coverage consistent with the NAIC's Model Health Plan for Uninsurable Individuals Model Act (i.e., premium rates do not exceed 200 percent of standard risk rates);

States that choose this option will have to make sure that their risk pool meets the requirements above. Other issues raised by the high risk pool:

- (1) Can state residency requirements stand?
- (2) Must the high risk pool provide a choice of more than one policy? Will one policy with a choice of deductibles suffice?
- (3) What is a "comprehensive" policy with respect to a state's individual market?

Option 3: Adopt one of the two NAIC individual market models.

K/K references the two NAIC models addressing individual market reform: (1) the Small Employer and Individual Health Insurance Availability Model Act, as it relates to the individual market ("Availability" Model); and (2) the Individual Health Insurance Portability Model Act ("Portability" Model).

Adoption of one of these models will constitute an acceptable alternative mechanism, provided that the other three criteria are met: a choice of coverage for all federally defined eligible individuals, which includes a choice of a comprehensive policy, and no preexisting condition exclusions for these individuals.

These two models are being reviewed and revised by the NAIC P.L. 104-191 States Implementation Working Group to make the revisions required for compliance with K/K.

General Structure of the Availability Model

In the small group market, the Availability Model requires guaranteed issue of all products, including a standard and basic plan. In the individual market it also requires guaranteed issue of all products, including a standard and basic plan, but sets out two options: a year-round guaranteed issue requirement, or a rolling open enrollment option which guarantees an individual one-month each year in which to obtain a product. It requires adjusted community rating, with variations allowed only for geographic area, family composition, and age.

It requires guaranteed renewability for both small group and individual products, subject to standard exceptions such as fraud or misrepresentation, nonpayment of premiums, etc. In general these exceptions are consistent with the requirements of the federal law, subject to some deviations.

In general the Availability Model's provisions for preexisting condition exclusions, definition of preexisting condition, eligible individual, etc. are similar to the requirements of the federal law. However, it allows a twelve-month preexisting condition exclusion and therefore must be modified to prohibit any exclusions for federally defined eligible individuals. Also, the concept of "crediting" coverage and shortening preexisting condition exclusions accordingly differs somewhat, as do some slight elements of the phrasing of the definitions. Because of the very preemptive language of the federal law for state provisions that address preexisting condition exclusions, some revisions have been made to the language of this model.

General Structure of the Portability Model

The Portability Model addresses only the individual market. It requires guaranteed issue of a basic and a standard plan by all health carriers doing business in the state's individual market. The director establishes by regulation the form and level of coverage of the basic and standard health benefit plans. It permits rating bands, subject to certain requirements.

The Portability Model requires guaranteed renewability of individual health benefit plans.

It allows a twelve-month preexisting condition exclusion and therefore must be modified to prohibit any exclusions for federally defined eligible individuals.

Option 4: Mandatory group conversion policies.

Some states have mandatory group conversion policies. These policies will not apply to individuals covered by self-funded ERISA plans. Therefore, such laws alone will not enable a state to comply with K/K because they will not protect many individuals who are entitled to protection under the federal law. Alaska does not have mandatory group conversion policies.

Option 5: Open enrollment by one or more health insurance issuers.

States that have implemented open enrollment by one or more insurers have in place a broader protection than that afforded by the rolling open enrollment option of the NAIC Availability Model. However, the rolling open enrollment option as set forth in the revised NAIC model is sufficient for compliance with K/K's guaranteed issue requirements because it would allow federally defined eligible individuals to have 63 days to obtain coverage and would not require them to wait until the month of their birthday. Under the NAIC model, other individuals with previous coverage could obtain coverage within 31 days of the termination of the previous coverage. Not available in Alaska.

Option 6: Some combination of the 4 options above.

The federal law permits states to have some combination of permissible mechanism. (Section 2744(a)(2).) The law does not specify whether a state must offer every eligible individual the same choices, or whether it may provide different groups with different choices.

Another point is that some mechanisms already contained in state law will not protect individuals whose previous coverage was in a self-funded ERISA plan. This is a problem with mandatory conversion laws, as noted above.

Option 7: Rely on federal fallback standards instead of implementing an alternative mechanism.

Guaranteed Availability: Federal standards apply if there is No State Alternative Mechanism. (Section 2741(c)). Therefore, in states that do NOT implement an acceptable alternative mechanism under Section 2744, the following standards and exceptions apply:

- A. The **health insurance issuer** may elect to limit coverage to eligible persons to a **choice** of only **two different policy forms** (Section 2741(c)), both of which must:
- (1) be designed for, made generally available to, are actively marketed to, and enroll both eligible and other individuals; **and**
 - (2) Either:
 - (a) be the "most popular policy forms:" The forms with the largest and second largest **premium volume** in the state or applicable marketing or service area (as defined in regulation); **or**
 - (b) be "policy forms with representative coverage:" Be a lower level and a higher level form, each of which contains benefits substantially similar to other individual coverage offered by the issuer **AND** each of which is covered under some risk spreading mechanism.
 - (i) Lower level coverage is defined as having an actuarial value of 85--100% of the weighted average;
 - (ii) Higher level coverage is defined as having an actuarial value of at least 15% greater than lower level coverage and between 100--120% of the weighted average;

(iii) A risk spreading mechanism must provide for risk adjustment, risk spreading, or a risk spreading mechanism (either among issuers or among the policies of an issuer); or must otherwise provide for some financial subsidization for eligible individuals, including through assistance to participating issuers. (Sec. 2744(c)(3)(A).)

(3) For purposes of Section 2741(c), policy forms which have different cost-sharing arrangements or different riders shall be considered different policy forms.

B. Special Rules for Network Plans: (These apply if the state does not implement an alternative mechanism):

(1) A network plan may limit enrollees to those who live, reside or work in the service area;

(2) A network plan may deny coverage based on the plan's enrollment capacity limits, as long as coverage is denied uniformly without regard to health status-related factors;

(3) If coverage is denied based on service capacity, the issuer is suspended from offering new coverage in the service area for 180 days;

C. Exception for Financial Capacity: (This applies if the state does not implement an alternative mechanism.)

(1) Health insurance issuer may deny health insurance coverage in the individual market to an eligible individual if the issuer demonstrates to the director that:

(a) It lacks financial reserves necessary to underwrite additional coverage; AND

(b) Is applying this denial uniformly to all individuals in the state's individual market, consistently with state law and without regard to health status-related factors and without regard to whether individuals are eligible individuals.

(2) If an issuer denies coverage based on financial capacity, it is suspended from offering coverage in the individual market in that service area for the later of: 180 days from the date of denial; or until the issuer demonstrates to the director, if required under state law, that it has sufficient financial reserves to underwrite additional coverage.

Guaranteed Renewability

A. Federal Standards apply REGARDLESS of whether the state is implementing an alternative mechanism for guaranteed issue.

B. All individuals enjoy guaranteed renewability, not just individuals eligible for guaranteed issue.

C. Exceptions to guaranteed renewability requirement:

- (1) Nonpayment of premiums;
- (2) Fraud or intentional misrepresentation of a material fact by an individual;
- (3) Termination of a product: Issuer must provide notice to enrollee 90 days before termination, offer option to purchase any other individual product offered by the issuer, and act uniformly without regard to health status-related factors;
- (4) Discontinuance of all individual coverage: Issuer must provide notice to the director and enrollees 180 days before termination, and is prohibited from market reentry for 5 years after date of last discontinuation due to nonrenewal.
- (5) Network plans: Issuer may nonrenew if the individual no longer resides, lives, or works in the service area, provided that the issuer nonrenews uniformly, without regard to health status-related factors.
- (6) Association membership ceases: Issuer may nonrenew if the individual ceases to be a member of the association through which coverage is obtained, provided that the issuer nonrenews uniformly, without regard to health status-related factors.
- (7) Modification of coverage: At the time of coverage renewal, issuer may modify the policy form consistent with state law and provided that modification is effective on uniform basis among all individuals having that policy form.

IV. Other Issues

Mandatory Maternity Coverage

The Newborns' and Mothers' Health Protection Act of 1996 is an amendment to the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). It applies to health care coverage sold in both the small and large group markets and the individual market.

The Act prohibits group health plans and health insurance issuers from restricting hospital coverage in connection with childbirth to less than 48 hours for a normal vaginal delivery and less than 96 hours for a cesarean section. It also prohibits plans from requiring the provider to obtain authorization for stays of this length. However, these exceptions do not apply to any case in which the decision to discharge the mother earlier than these minimum periods is made "by an attending provider in consultation with the mother."

The law also prohibits a group health plan or health insurance issuer from denying coverage to a mother or child to avoid the law's requirements, or from offering them financial incentives to reduce the length of stay. Nor may group health plans and health insurance issuers penalize attending providers for complying with the law or create financial incentives for providers that are inconsistent with the law.

The law contains three broad exceptions to the preemption of state law addressing hospital stays for childbirth. State law is NOT preempted if: (1) the state law requires coverage for a minimum of 48 hours for normal vaginal delivery and 96 hours for cesarean section; or (2) the state law requires coverage for maternity and pediatric care in accordance with guidelines issued either by the American College of Obstetricians and Gynecologists, or the American Academy of Pediatrics, "or other established professional medical associations"; or (3) the state law requires that, in connection with coverage for maternity care, the decision about the hospital length of stay is left to (or required to be made by) the attending provider in consultation with the mother.

The law also directs the Secretary of the U.S. Department of Health and Human Services to appoint an advisory panel to review studies that the Act requires the Secretary to undertake and to develop a consensus about the appropriateness of the Act's requirements. The advisory panel is to include representation from number of specified entities, including states and entities having expertise in consumer issues.

Because this Act is an amendment to P.L. 104-191 (Kassenbaum-Kennedy), the enforcement provisions of that act also apply to this law. States will enforce the maternity provisions against insurance carriers and entities under state jurisdiction unless the HHS Secretary determines that a state has failed to substantially enforce a provision, in which case the HHS Secretary will enforce the law. The Secretary of the U.S. Department of Labor will enforce the law with respect to ERISA plans.

The Act is effective January 1, 1998.

Mental Health Parity

The Mental Health Parity Act of 1996 is an amendment to the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). It applies only to health care coverage sold through the large group market (groups of 51 or more).

The law provides that if a group plan does **not impose an aggregate lifetime limit on medical and surgical benefits**, it may **not impose such a limit on mental health benefits**. If the plan does impose an aggregate lifetime limit, the Act requires the plan to include mental health benefits with medical/surgical benefits in the aggregate limit and not distinguish between the two; or in the alternative, to offer an aggregate limit for mental health benefits that is not less than the aggregate limit for medical/surgical benefits. For plans that categorize among different types of medical and surgical benefits for the purpose of applying limits, the Secretary of the U.S. Department of Health and Human Services (or, for self-funded ERISA plans, the Secretary of the U.S. Department of Labor) is authorized to promulgate regulations for determining the aggregate lifetime limit. The law specifies the method for computing this limit.

The Act imposes **identical rules for annual limits**. If a plan does not include an annual limit on medical and surgical benefits, it may not impose such a limit on mental health benefits. If the plan does impose an annual limit, it must either include mental health benefits in the aggregate and not distinguish between medical/surgical and mental health benefits, or in the alternative, not impose any limit on mental health benefits that is less than the medical/surgical benefits limit. Again, for plans that categorize medical/surgical benefits and apply different limits per category, the HHS Secretary (or Labor Secretary) is required

to promulgate regulations for computing the aggregate annual limit as specified in the Act.

The Act does not require a group health plan to offer any mental health benefit, and does not affect the terms and conditions relating to the scope of any mental health benefit that is provided, except as described above with respect to limits.

The scope of this Act is limited by four of its provisions. First, as noted above, there is an exemption for small employers, defined as those having two to fifty employees. Second, there is an exemption if a group health plan experiences "an increase in the cost under the plan (or for such coverage) of at least 1 percent." The law does not make clear how this provision would be determined or enforced. Third, mental health benefits as defined in the law do not include substance abuse or chemical dependency services. Fourth, there is a sunset provision.

Without additional Congressional action, this law is only in effect from Jan. 1, 1998 through Sept. 30, 2001.

Because this Act is an amendment to P.L. 104-191 (Kassenbaum-Kennedy), the enforcement provisions of that act also apply to this law. States will enforce the mental health parity provisions against insurance carriers and entities under state jurisdiction unless the HHS Secretary determines that a state has failed to substantially enforce a provision, in which case the HHS Secretary will enforce the law. The Secretary of the U.S. Department of Labor will enforce the law with respect to ERISA plans.

SB

104

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/4/97

FURTHER: REPORTED OUT OF
SFC 4-22-97

DATE TURNED
IN TO OFFICE: 4-24-97

Finance Committee considered SENATE BILL NO. 104

OMNIBUS INSURANCE REFORM

and recommends:

- be replaced with CS SB 104 (FIN)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Ed C. ...</i>	✓		
		<i>Paul ...</i>	✓		
		<i>Al ...</i>	✓		
		<i>John ...</i>	✓		
		<i>Dave ...</i>			✓
Co-Chair: <i>Deane</i>	✓	Co-Chair: _____			
Co-Chair: _____		Co-Chair: <i>...</i>			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Revenue	4/8			65.5

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

#2 DCED	3/11			

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

STATE OF ALASKA
1997 LEGISLATIVE SESSION

FISCAL NOTE

REPORTED OUT OF
APR 22 1997

BILL NO: CS SB 104
(LAC)

Revision Date: _____ Dept. Affected: Revenue
 Title: Omnibus Insurance Reform BRU: Revenue Operations
 Component: Treasury
 Sponsor: Senate Rules
 Requester: (S) FIN COMPONENT SERIAL NO. 121

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	65.5	485.1	485.1	485.1	485.1	485.1
------------------------	------	-------	-------	-------	-------	-------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

The legislation allows the annual payment date to be changed to a quarterly payment date. The anticipated change in revenue is based upon receiving interest income in the general fund on approximately \$28.0 million in tax from 28 to 243 days earlier than at present.

Prepared by: Vom Voss, Cash Manager and Investment Officer Phone: 465-2360
 Division: Treasury Date: April 8, 1997
 Approved by Commissioner: Ross Kinney, Deputy Commissioner Date: April 8, 1997
 Agency: Department of Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

Revision Date: _____ Dept. Affected: Revenue
 Title: Omnibus Insurance Reform BRU: Revenue Operations
 Component: Treasury
 Sponsor: Senate Rules
 Requester: (S) L&C COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	65.5	485.1	485.1	485.1	485.1	485.1

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The legislation allows the annual payment date to be changed to a quarterly payment date. The anticipated change in revenue is based upon receiving approximately \$28.0 million in tax from 28 to 243 days earlier than at present.

Prepared by: Vern Voss, Cash Manager and Investment Officer Phone: 465-2360
 Division: Treasury Date: March 24, 1997
 Approved by Commissioner: Ross Kinney, Deputy Commissioner Date: March 24, 1997
 Agency: Department of Revenue

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FISCAL NOTE

REPORTED OUT OF
APR 22 1997

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. FC2
Bill Version: SB 104
(S) Publish Date: 4-4-97

Revision Date: _____
Title: An Act relating to regulation and examination of
insurers and insurance agents
Sponsor: Senate Rules
Requestor: _____

Department: Commerce and Economic Development
BRU: Insurance
Component: Insurance

COMPONENT SERIAL NO. 354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ \$0.00

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on the component.

Prepared by: Marianne K. Burke, Director
Division: Insurance
Approved by Commissioner: William L. Hensley
Agency: Commerce and Economic Development

Phone: 465-2515
Date: March 11, 1997
Date: 3-11-97

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Donley Model
Admitted w/o
ADMITTED W/O
0-LS0407/H.3

SENATE FINANCE
COMMITTEE

Ford
4/22/97

Amendment Number: 2
Bill Number: SB104

Sponsor: _____ Date: 4-22-97

A M E N D M E N T
Filed In By: PS

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: CSSB 104(FIN) ("H" Version, Dated 4/14/97)

- 1 Page 2, line 4:
- 2 Delete "110 - 116"
- 3 Insert "111 - 117"

4 Page 73, following line 6:

5 Insert a new bill section to read:

6 **** Sec. 109.** AS 21.89.020(f) is amended to read:

7 (f) An automobile liability insurance policy must provide

8 (1) that all expenses and fees, not including counsel fees or adjuster
9 fees, incurred because of arbitration or mediation shall be paid as determined by the
10 arbitrator;

11 (2) liability coverage in the amount set out in AS 28.22.101(d) for
12 motor vehicles rented in the United States or Canada by a person insured under the
13 policy;

14 (3) physical damage coverage for motor vehicles rented in the United
15 States or Canada, if the policy provides physical damage coverage; if the insured
16 declines physical damage coverage, the insurer shall offer physical damage coverage
17 for rented vehicles;

18 (4) that payments from applicable coverage provided under (2) and
19 (3) of this subsection will be made in the following order of priority:

20 (A) from a policy or coverage purchased by the operator
21 from the person who has the vehicle available for rent;

22 (B) from a policy or coverage covering the operator of a
23 rented vehicle but not purchased from the person who has the vehicle
24 available for rent; and

1 (C) from a policy or coverage of the person who has the
2 vehicle available for rent."

3 Renumber the following bill sections accordingly.

4 Page 74, line 9:

5 Delete "secs. 116, 117, and 119"

6 Insert "secs. 117, 118, and 120"

7 Page 74, line 11:

8 Delete "Section 113"

9 Insert "Section 114"

SENATE FINANCE
COMMITTEE

Amendment Number: 1

Bill Number: SB104

Sponsor: _____ Date: 4-22-97

AMENDMENT BY PJ

Donley Moved
Adonis Object
FAILED 3/14 Vote
0-LS0407H.2

Ford
4/21/97

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: CSSB 104(FIN) ("H" Version, Dated 4/14/97)

1 Page 1, line 8, following "provisions;":

2 Insert "requiring that uninsured and underinsured motor vehicle insurance apply
3 to claims of an insured even if other policy limits are not exhausted;"

4 Page 2, line 4:

5 Delete "and 110 - 116"

6 Insert "110, 111, and 113 - 117"

7 Page 74, following line 1:

8 Insert a new bill section to read:

9 **** Sec. 112.** AS 28.22.201(a) is amended to read:

10 (a) The uninsured and underinsured motorists coverage required under this
11 chapter

12 (1) applies [DOES NOT APPLY] to bodily injury, sickness, disease,
13 or death of an insured or damage to or destruction of property of an insured even if
14 [UNTIL] the limits of liability bonds and policies that apply have not been used up
15 by payments or judgments or settlements; however, the insurer shall, in each
16 instance, receive a credit against the insured's total damages for amounts actually
17 received by the insured for covered claims from other sources, including liability
18 bonds, other insurance policies, judgments, or settlements;

19 (2) must be a single combined coverage; and

20 (3) may be rejected by the insured in writing; if the insured has
21 rejected uninsured or underinsured coverage, the coverage may not be included in a
22 supplemental, renewal, or replacement policy unless the insured subsequently requests
23 uninsured or underinsured coverage in writing."

1 Renumber the following bill sections accordingly.

2 Page 74, line 3:

3 Delete "and AS 21.81"

4 Insert "AS 21.81; AS 28.20.445(c), 28.20.445(h); AS 28.22.211; and
5 AS 28.40.100(a)(22)"

6 Page 74, line 9:

7 Delete "secs. 116, 117, and 119"

8 Insert "secs. 117, 118, and 120"

9 Page 74, line 11:

10 Delete "Section 113"

11 Insert "Section 114"

SB

105

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 23, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/5/98

The FINANCE Committee considered:

CSSB 105(FIN) am

CS FOR SENATE BILL NO. 105(FIN) am

ETHICS/LOBBYING/CAMPAIGN FINANCE

"An Act relating to legislative and executive branch ethics; relating to campaign finances for candidates for state office; relating to the conduct and regulation of lobbyists with respect to public officials; relating to the filing of disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official' for employment security statutes; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CSSB 105 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) law 4/23/98

zero fiscal note(s) HFC

2 zero fiscal note(s) DOA 4/23/98

Sen. Com. on leg. Ethics 4/23/98

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Therrienault</i>	Therrienault			R	
<i>Mulder</i>	Mulder	X			
<i>Martin</i>	Martin	X			
<i>Kohns</i>	Kohns				X
<i>J. Davis</i>	J. Davis	X			
<i>Grossindot</i>	Grossindot			X	
<i>J. Davis</i>	J. Davis			X	
<i>Kelly</i>	Kelly				X

CO CHAIR'S SIGNATURE *Therrienault*
 Therrienault

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HCS CSSB 105 (FIN)

Revision Date: _____
 Title: "An Act relating to legislative ethics; relating to the
 filing of disclosures by certain legislative..."
 Sponsor: Senate Rules Committee
 Requester: _____

Dept. Affected Legislative Affairs Agency
 BRU All
 Component All
 Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

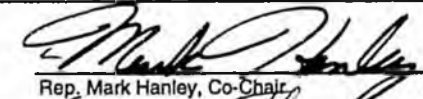
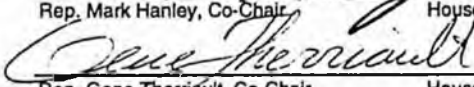
Estimate of any current year (FY97) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by


 Rep. Mark Hanley, Co-Chair House Finance Committee

 Rep. Gene Theriault, Co-Chair House Finance Committee

Phone 465-4939
 Phone 465-4797
 Date 5/5/98

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HCS CSSB 105 (STA)

Revision Date: 4/21/98
 Title: "An Act relating to legislative and executive branch ethics, . . ."
 Sponsor: (S) Rules
 Requestor: (rl) STA

Department Affected: Administration
 BRU: Personnel
 Component: Personnel
 COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	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						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 97) 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 Personnel.

Prepared by: Beverly Reaume
 Division: Division of Personnel

Phone: 465-4429
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 4/23/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILLNO. HCS CSSB 105(STA)

Revision Date: 4/23/98
 Title: "An act relating to legislative and executive branch ethics..."
 Sponsor: (S) Rules
 Requestor: (H) STA

Department Affected: Administration
 BRU: AK Public Offices Commission
 Component: AK Public Office Commission
 COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL	1.7	1.7	0.7	0.7	0.7	0.7
CONTRACTUAL	17.5	2.1	2.1	2.1	2.1	2.1
SUPPLIES	1.4	0.7	0.7	0.7	0.7	0.7
EQUIPMENT	0.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	21.1	4.5	3.5	3.5	3.5	3.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.1	4.5	3.5	3.5	3.5	3.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	21.1	4.5	3.5	3.5	3.5	3.5

Estimate of any current year (FY 98) cost: \$ none

POSITION: :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

(See attached)

Prepared by: Karen Boorman, Director
 Division: Alaska Public Office Commission

Phone: 276-4176
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 4/23/98

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FISCAL NOTE
STATE OF ALASKA

BILL NO. HCS CSSB 105(STA)

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

Additional Public officials must file Conflict of Interest Statements (COI). Public members of the Select Committee on Legislative Ethics (SCLE) must file Legislative Financial Disclosure Statements (LFD). Some Public Officials must file a Disclosures of Close Economic Association.

There are several parts of this bill which would impact the four laws the Alaska Public Offices Commission administers. Section 55, amending AS 24.60.200, requires the five public members of the SCLE and Section 70, amending AS 39.50.200(a), requires additional employees of the executive branch to file personal financial disclosure statements. Section 68 adding AS 39.50.030(d) requires that public officials of the executive branch, other than state boards or commission members, who file personal financial disclosure statements also file disclosures of close economic association with the APOC. The date for filing all financial disclosure statements is changed from April 15th, which it has been the deadline since 1974, to March 15.

Currently, the Commission receives about 800 personal financial disclosure statements from all state filers including 65 from legislators and legislative directors. Approximately 1100 municipal officials file municipal financial disclosure statements. Under the proposed changes to AS 24.60 the 5 public members of SCLE would be required to file annual Legislative Financial Disclosure (LFD) Reports. Approximately 180 additional state employees plus 10% annual turnover would be required to file annual Conflict of Interest (COI) Statements under AS 39.50. Under AS 39.50.030(d), up to 400 new and experienced state employee filers would be required to file annual disclosures of close economic association and update them within sixty days of forming new close economic associations, or in the case of a public official married to a lobbyist, within 48 hours.

Current staffing to advise and train filers, provide manuals and forms, review completed statements, assess penalties and report to the Commission is provided by one Paralegal Assistant. At current staffing levels, review of all municipal filings is not possible and review of state filings is sometimes delayed. However, no additional staff are requested with this fiscal note.

Most of these provisions will take effect midway through FY 99, on January 1, 1999. The first filing deadline for personal financial disclosure filers under the new requirements would be March 15th. Approximately 205 new Financial Disclosure Statements would be due. Additional manuals and forms will be necessary to provide immediate help. To provide long term guidance and enforcement, the Commission would provide advisory opinions, assess civil penalties and adjudicate complaints. Approximately 400 new and existing state official filers would have to file "disclosures of close economic association" with APOC. These filings would be available to the public upon request.

The significant changes to the Conflict of Interest and Legislative Financial Disclosure laws as well as amendments to the Lobbying and Campaign Disclosure (laws) will require extensive education of all disclosure filers and other participants in the political process. Additional funds are requested for travel and training of new filers (in Juneau) through seminars in the first two years (FY99 & FY00) of implementation and video training materials available long term. Equipment costs in FY99 cover one filing cabinet. Contractual and supply costs cover printing and mailing of new manuals, forms and other necessary correspondence for FY99 and subsequent years. FY99 contractual costs also include upgrading and reprogramming the financial disclosure database, streamlining filing procedures and the development of video training materials.

FISCAL NOTE

No: 8

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

Bill Version: HCSCSSB 105 (STA)
BILL NO. (H) Publish Date: 4/23/98

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>	_____
Title <u>An Act relating to legislative and executive branch ethics</u>	BRU <u>Civil</u>	_____
Sponsor <u>Senate Rules</u>	Component <u>Commercial Section</u>	_____
Requester <u>House State Affairs</u>	Component Serial No. _____	_____

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	5.0	5.0	5.0	5.0	5.0	5.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	5.0	5.0	5.0	5.0	5.0

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

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

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	5.0	5.0	5.0	5.0	5.0	5.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

HCS CSSB 105(STA) concerns campaign finance, APOC reporting, legislative ethics, and executive ethics. Its fiscal impact on the Department of Law stems largely from the amendments to the Executive Branch Ethics Act, AS 39.52, which is administered by the Department. Although several sections of the bill will require increased attorney time—for example, in enforcement, training, and attending Personnel Board meetings, the Department will manage these increases in attorney time without seeking an increased appropriation.

HCS CSSB 105(STA), however, also greatly increases the reporting functions of the Department. Under this bill, the Department will now receive self-reports of potential violations, and the designated supervisor's response to the reports. Sections 79, 80, & 81. The Department will also now receive reports of potential violations from third parties. Section 82. Section 83 gives the Department has a new duty to submit copies of quarterly reports to the Personnel

Prepared by <u>Josh Kasson</u>	Phone <u>465-3600</u>
Division <u>Attorney General's Office</u>	Date <u>4/21/98</u>
Approved by Commissioner <u>Bruce M. Botelho</u> , Attorney General	Date _____
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HCS CSSB 105(STA)

ANALYSIS CONTINUATION

89 requires the Department to forward complaints to the Personnel Board and prepare a monthly status report of outstanding complaints for the Personnel Board to Review.

Current reporting duties under the Ethics Act are not performed by attorneys, but are assigned to a paraprofessional in the department. A paralegal can perform these duties more efficiently and at much less cost than an attorney. HCS CSSB 105(STA) will significantly increase the reporting duties of the department, but there are no general funds available to pay a paralegal for these tasks.

We estimate that increased reporting duties will require approximately 5.8 hours of paralegal time per month. Paralegal time currently costs the department \$71.94 per hour. This translates into a fiscal note of \$5,000 per year. First-year costs will be significantly greater due to the requirement of training and creation of new forms. Given that the bill does not become effective until the middle of the fiscal year, however, a \$5,000 fiscal note for FY99 should cover paralegal start-up expenses.

FISCAL NOTE

No: 7

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. Bill Version: HSCSSB 105 (STA)
 (H) Publish Date: 4/23/98

Title: Relating to Legislative and executive
branch ethics...
Sponsor: Senate Rules
Requestor:

Dept. Affected: Select Comm on Legislative Ethics
BRU:
Components:
Serial #:

EXPENDITURE&REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Prepared by: Susan Barnett staff
Select Comm on Legis. Ethics

Date: 4.21.98
Phone: (907) 258-8172
Phone:

FISCAL NOTE

Bill Version: CS SB 105 (F.M.)
 (S) Publish Date: 4/16/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: *An Act relating to legislative and executive BRU: Civil Division
branch ethics; relating to the conduct of lobbyists . . . Component: General Legal Services
 Sponsor: Senate Rules Committee
 Requester: Senate Finance Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 105 (STA) makes numerous amendments to the legislative and executive branch ethics acts, expands the reporting requirements of lobbyists, requires exempt and partially exempt state employees above range 19 to file reports under the conflict of interest statutes (AS 39.50), and makes a conforming amendment to the definition of "public official" for employment security statutes. In amending the executive branch ethics act, the bill transfers certain responsibilities for enforcing the act from the Attorney General to the Personnel Board. The Attorney General retains prosecutorial authority in formal proceedings before the Board, and responsibility for enforcing the Board's decisions. CSSB 105 (STA) also adds new prohibitions, new reporting requirements, new disclosures, and expands list of persons affected by the act.

This bill will have no fiscal impact on the Department of Law. When the Executive Ethics Act was passed in 1986, the legislature did not provide funding to the Department of Law to perform its new responsibilities. Consequently, the department has largely relied on ethics supervisors in the appropriate state agencies to

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 4/9/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho* Date: 4/9/97
 Agency: Department of Law

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ANALYSIS CONTINUATION:

perform investigations; where possible, charged other agencies through interagency agreements for work performed under the act on their behalf; and when necessary to undertake the department's duties with scarce general funds, performed them at the expense of other work.

The Department of Law retains responsibility for certain functions under the State Affairs Committee Substitute including prosecuting ethics violations before the Board, seeking civil and criminal penalties, where appropriate, and as a practical matter, continuing to provide informal advice on the Ethics Act to agencies as well. The department hopes to continue to largely rely on interagency agreements to fund these activities.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.

No. 5
 Bill Version: CSSB 105(FIN)
 (S) Publish Date: 4/16/97

Revision Date: _____
 Title: Legislative Ethics Code Reform
 Sponsor: Senate Rules Committee
 Requestor: Senate Finance Committee

Department Affected: Labor
 BRU: Employment Security
 Component: Employment/Unemployment Services
 COMPONENT SERIAL NO. 1807

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE						
FUND SOURCE #						

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: The bill amends standards and establishes new standards in three major areas: AS 24.60, governing legislative standards of conduct, the conflict of interest provisions in AS 39.50, and the Executive Branch Ethics Act in AS 39.52.

No fiscal impact is anticipated.

Prepared by: Rebecca Nance, Director Phone: 465-2711
 Division: Employment Security Division Date: 4/4/97
 Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Date: 4/4/97

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Rules Committee

MEMORANDUM.

TO: Senator Kelly, Chairman,
Senate Rules Committee
Representatives Hanley and Therriault, Co-Chairmen,
House Finance Committee

FROM: Benjamin Brown, ^{PRES.} Legislative Aide to Senator Kelly

DATE: 5 May 1998

IN RE: revised sectional analysis of proposed House CS for CS for SB 105 (Fin)
(version No. 0-LS0074^(S))

"An Act relating to legislative and executive branch ethics; relating to campaign finances for candidates for state or municipal office; relating to the conduct of lobbyists with respect to public officials; relating to the filing of disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official' for employment security statutes; and providing for an effective date."

This memo is meant to summarise and analyse each section of the proposed House Finance Committee Substitute for SB 105. Please note that a sectional analysis is not generally considered to be the most authoritative interpretation of a bill; a bill itself is the best statement of its specific effects.

SECTION 1: AS 15.13.040(i) DONATION OF SPACE NOT CONSIDERED A CONTRIBUTION This section adds a new subsection which allows donation of space for the posting of political signs, for storage, or for an event without consideration of the donation as a campaign contribution.

SECTION 2: AS 15.13.070(e) LIMITED USE OF CAMPAIGN FUNDS FOR PARTY-RELATED EXPENSES This section adds a new subsection which allows a candidate to expend up to \$1000 annually from a campaign account to pay for

assets. It allows a transfer of unused campaign assets to a POET account or to a POET account reserve in accordance with new subsection (d). Sections 103, 104, and 106 allow this section and Section 10 to take effect immediately and to be retroactive to the 31st of December 1996.

SECTION 9: AS 15.13.116(b) BULK-MAIL PERMITS NOT CONSIDERED CAMPAIGN ASSETS This section adds bulk-mail permits to the list of items a candidate may retain after an election has been concluded, and allows use of such permits without restriction in subsequent election and non-election years.

SECTION 10: AS 15.13.116(d) DISBURSEMENT OF CAMPAIGN ASSETS TO POET RESERVE This section adds a new subsection (d) which allows a legislator to transfer up to \$5000 annually from a POET account reserve to a POET account. It allows a transfer of unused campaign assets of up to \$20,000 by senators and \$10,000 by representatives to a POET reserve. 15.13.116(a)(9)(D) currently allows a one-time transfer of funds to a POET account of \$5000 multiplied by the number of years in the legislator's term. At the end of this term, the balance in a POET reserve must be disposed of as provided in (a)(3) or (a)(5), which includes charitable donations or repaying contributors. Sections 103, 104, and 106 allow this section and Section 8 to take effect immediately and to be retroactive to the 31st of December 1996.

SECTION 11: AS 23.20.526(d) EXCLUSION FROM DEFINITION OF 'EMPLOYMENT' This section makes a conforming amendment based on changes in this bill to the Public Official Financial Disclosure law (39.50) to ensure that public employees who are eligible for unemployment compensation remain eligible. (Refer to Attachment 1 - Cramer memo, 13th February '98.)

SECTION 12: AS 24.45.041(b) REPORTING OF SPOUSAL RELATIONSHIPS BY LOBBYISTS This section adds a new provision to the law requiring legislative lobbyists to disclose spousal relationships with legislators, legislative employees, and some public officials. It cites the definition of spousal equivalent at 39.50.030(g).

SECTION 13: AS 24.60.030(a) LEGISLATIVE ETHICS CODE BEHAVIORAL RESTRICTIONS This section amends the Legislative Ethics Code to refine the restrictions on behavior by persons in the legislative branch. It specifically disallows the use of public resources for nonlegislative purposes or for partisan political purposes. It allows limited use of some resources if the cost is nominal or reimbursement is made, and permits facsimile use on the same terms as telephone use. Section 13 allows Leg Council to designate space for health and fitness purposes to allow legislative use of the Capitol School gym. It also allows legislators to use their private offices in the Capitol during session, and for a five-day window before and

CORRECTION

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Rev. 6/98

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Juneau, AK. 99801-1182

Rules Committee

MEMORANDUM.

TO: Senator Kelly, Chairman,
Senate Rules Committee
Representatives Hanley and Therriault, Co-Chairmen,
House Finance Committee

FROM: Benjamin Brown, ^{BBS} Legislative Aide to Senator Kelly

DATE: 5 May 1998

IN RE: revised sectional analysis of proposed House CS for CS for SB 105 (Fin)
(version No. 0-LS0074¹³)

"An Act relating to legislative and executive branch ethics; relating to campaign finances for candidates for state or municipal office; relating to the conduct of lobbyists with respect to public officials; relating to the filing of disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official' for employment security statutes; and providing for an effective date."

This memo is meant to summarise and analyse each section of the proposed House Finance Committee Substitute for SB 105. Please note that a sectional analysis is not generally considered to be the most authoritative interpretation of a bill; a bill itself is the best statement of its specific effects.

SECTION 1: AS 15.13.040(i) DONATION OF SPACE NOT CONSIDERED A CONTRIBUTION This section adds a new subsection which allows donation of space for the posting of political signs, for storage, or for an event without consideration of the donation as a campaign contribution.

SECTION 2: AS 15.13.070(e) LIMITED USE OF CAMPAIGN FUNDS FOR PARTY-RELATED EXPENSES This section adds a new subsection which allows a candidate to expend up to \$1000 annually from a campaign account to pay for

attendance at political party events, for party membership, or to sponsor party functions.

SECTION 3: AS 15.13.072(d) PROHIBITED SOLICITATION & ACCEPTANCE OF CONTRIBUTIONS This section prohibits legislative candidates from soliciting or accepting contributions while the Legislature is convened in regular or special session, unless the candidate's election is within 90 days and the solicitation or acceptance takes place somewhere other than the capital city.

SECTION 4: AS 15.13.072(g) PROHIBITED SOLICITATION & ACCEPTANCE OF CONTRIBUTIONS This section adds a new subsection which prohibits candidates for governor and lieutenant-governor from soliciting or accepting contributions in the capital city while the Legislature is convened in regular or special session.

SECTION 5: AS 15.13.074(c) PROHIBITED CONTRIBUTIONS This section prohibits a person or group from contributing to a candidate for governor or lieutenant-governor before the 1st of January of a general election year or before the date of a proclamation calling for a special election. It prohibits a person or group from contributing to a legislative candidate while the Legislature is convened in regular or special session, unless the candidate's election is within 90 days and the solicitation or acceptance takes place somewhere other than the capital city. Section 5 lengthens the period of time after an election in which a candidate may continue to raise money to the earlier of either 60 days after the election or the end of the calendar year.

SECTION 6: AS 15.13.110(a) POET ACCOUNT REFERENCE IN REPORTING REQUIREMENTS This section changes the name of the account a victorious legislative candidate can establish with unused campaign assets under 15.13.116, from 'legislative office account' to Public Office Expense Term (POET) account.

SECTION 7: AS 15.13.112(c) LIMITED USE OF CAMPAIGN FUNDS FOR PARTY-RELATED EXPENSES This section adds a new subsection which allows a candidate to expend up to \$1000 annually from a campaign account to pay for attendance at political party events, for party membership or to sponsor party functions, in accordance with the changes made to 15.13.070 by Section 2 of the bill.

SECTION 8: AS 15.13.116(a) DISBURSEMENT OF CAMPAIGN ASSETS This section includes victory or 'thank-you' parties and gifts with no specific dollar-limit in the list of campaign-related expenditures that can be paid for with unused campaign

assets. It allows a transfer of unused campaign assets to a POET account or to a POET account reserve in accordance with new subsection (d). Sections 103, 104, and 106 allow this section and Section 10 to take effect immediately and to be retroactive to the 31st of December 1996.

SECTION 9: AS 15.13.116(b) BULK-MAIL PERMITS NOT CONSIDERED CAMPAIGN ASSETS This section adds bulk-mail permits to the list of items a candidate may retain after an election has been concluded, and allows use of such permits without restriction in subsequent election and non-election years.

SECTION 10: AS 15.13.116(j) DISBURSEMENT OF CAMPAIGN ASSETS TO POET RESERVE This section adds a new subsection (d) which allows a legislator to transfer up to \$5000 annually from a POET account reserve to a POET account. It allows a transfer of unused campaign assets of up to \$20,000 by senators and \$10,000 by representatives to a POET reserve. 15.13.116(a)(9)(D) currently allows a one-time transfer of funds to a POET account of \$5000 multiplied by the number of years in the legislator's term. At the end of this term, the balance in a POET reserve must be disposed of as provided in (a)(3) or (a)(5), which includes charitable donations or repaying contributors. Sections 103, 104, and 106 allow this section and Section 8 to take effect immediately and to be retroactive to the 31st of December 1996.

SECTION 11: AS 23.20.526(d) EXCLUSION FROM DEFINITION OF 'EMPLOYMENT' This section makes a conforming amendment based on changes in this bill to the Public Official Financial Disclosure law (39.50) to ensure that public employees who are eligible for unemployment compensation remain eligible. (Refer to Attachment 1 - Cramer memo, 13th February '98.)

SECTION 12: AS 24.45.041(b) REPORTING OF SPOUSAL RELATIONSHIPS BY LOBBYISTS This section adds a new provision to the law requiring legislative lobbyists to disclose spousal relationships with legislators, legislative employees, and some public officials. It cites the definition of spousal equivalent at 39.50.030(g).

SECTION 13: AS 24.60.030(a) LEGISLATIVE ETHICS CODE BEHAVIORAL RESTRICTIONS This section amends the Legislative Ethics Code to refine the restrictions on behavior by persons in the legislative branch. It specifically disallows the use of public resources for nonlegislative purposes or for partisan political purposes. It allows limited use of some resources if the cost is nominal or reimbursement is made, and permits facsimile use on the same terms as telephone use. Section 13 allows Leg Council to designate space for health and fitness purposes to allow legislative use of the Capitol School gym. It also allows legislators to use their private offices in the Capitol during session, and for a five-day window before and

after session, for personal or political purposes if there is no cost and the use doesn't interfere with performance of public duties. Finally, Section 13 permits storing campaign records in legislative offices.

SECTION 14: AS 24.60.030(c) POLITICAL MASS MAILING This section extends a current provision of the Legislative Ethics Code which prohibits use of state funds to print or distribute a mass mailing from or about a legislator who is a candidate for State office during the period 90 days before the primary and ending the day after the general election. It prohibits such mailings by legislators and legislative employees who are candidates for federal or municipal office, or for telephone or electric co-operative boards. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be critical periods and provides a guideline for those who issue mailings during those times. This prohibition does not apply to a legislator's LAA office allowance, and would therefore primarily restrict the use of committee or leadership funds for a political mass mailing.

SECTION 15: AS 24.60.030(d) CAMPAIGN LITERATURE This section adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in State facilities. It expands the current prohibition to include legislative employees, and allows a legislator to post materials related to a past election in a private legislative office.

SECTION 16: AS 24.60.030(f) BOARD MEMBERSHIP DISCLOSURE This section changes the board membership disclosure period from 30 days to 60 days and requires the ethics committee to publish disclosures in the journal. It exempts legislators and legislative employees whose appointments are already published in the journal from disclosing redundantly.

SECTION 17: AS 24.60.030(g) CONFLICTS OF INTEREST This section replaces the prohibition on taking legislative, administrative, or political action if a legislator or legislative employee has an equity or ownership interest, with a ban on a legislator voting on a question if the legislator has an interest.

SECTION 18: AS 24.60.030(h) POLITICAL ACTIVITY DURING THE WORK DAY This section adds a new subsection to the restrictions on legislative behavior which requires an employee to take leave for the period of time the employee is engaged in political campaign activities, other than incidental campaign activities. It permits political campaign activities on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence.

SECTION 19: AS 24.60.031(a) FUNDRAISING DURING SESSION This section clarifies that the restrictions on fundraising during session are in effect on a day when either body is in regular or special session. It prevents a legislator or legislative employee from soliciting or accepting contributions for legislative campaigns during session, accepting money from an event held for legislative political purposes during session, or expending money for a legislative campaign if the money was raised during session. It allows legislators and legislative employees to accept contributions or expend money from contributions made anywhere but the capital city in the 90 days preceding an election in which a legislator or legislative employee is a candidate.

SECTION 20: AS 24.60.039(b) EMPLOYMENT DISCRIMINATION This section reflects the ethics committee's shared jurisdiction with the State Commission for Human Rights on complaints filed against a legislator or legislative employee concerning violations of 18.80.220 (Unlawful employment practices). Current law requires the committee to accept a complaint alleging a violation of that statute just as it would hear any other complaint. Section 20 gives the committee the option of referring those who file a complaint of employment discrimination to the human rights commission, deferring consideration of the complaint until after the commission has completed its proceedings.

SECTION 21: AS 24.60.040(a) CONTRACTS & LEASES This section broadens contract and lease criteria beyond those currently in the Legislative Ethics Code to restrict a legislator or legislative employee from having a financial interest in a State contract or lease unless it is let through competitive bidding in accordance with the State Procurement Code, is worth \$1000 or less annually, or is standardised under publicly-established guidelines and generally available to the public. This allows participation in contracts or leases that are let under 36.30, addressing a variety of award methods, including sole-source. It also allows participation in contracts or leases let under procedures similar to these, addressing such agencies as the University, the Railroad, and the Legislature. The threshold for being involved in a contract or lease is raised from \$1000 to \$5000. Section 21 also requires a legislator or legislative employee to disclose family members' interests in State contracts or leases if they are known or reasonably ought to be known.

SECTION 22: AS 24.60.040(c) CONTRACTS & LEASES This section adds a new subsection clarifying that a grant, contract, or lease deriving from a State loan or benefit program listed in 24.60.050 is not subject to this section. The ethics committee annually publishes a list of programs that do not meet the criteria in

24.60.050(a) and requires disclosure of participation in any of the listed programs. Section 22 clarifies that a grant that results in a contract is subject to this section.

SECTION 23: AS 24.60.050(c) REFRAINING FROM PUBLICATION This section mandates disclosure of involvement in State programs and loans by the deadline established in 24.60.105. It allows the ethics committee to protect an individual's right to privacy concerning participation in a State loan or benefit program, following a decision by the committee in 1994 not to publish the name of a person who got a benefit from the Violent Crimes Compensation Board, only that a person covered by the Code had received a benefit.

SECTION 24: AS 24.60.060(b) PROTECTIVE ORDER This section adds a new subsection that sets out that the subject of an ethics complaint may not release information deemed confidential under a protective order issued under 24.60.170(i). This allows the committee to broaden discovery by the subject while still protecting any innocent or uninvolved parties.

SECTION 25: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION DISCLOSURE This section cites 24.60.105 as the deadline for disclosure of close economic associations, and adds a 60-day timeline for disclosure of new associations.

SECTION 26: AS 24.60.070(d) SPOUSE/SPOUSAL EQUIVALENT LOBBYIST DISCLOSURE This section adds a new subsection which requires a legislator or legislative employee who is married to or who is the spousal equivalent of a lobbyist, to disclose under close economic association the name and address of each of the lobbyist's clients and the total compensation received from each client annually. Changes to the list must be reported within 48 hours.

SECTION 27: AS 24.60.080(a) GIFT RESTRICTIONS This section increases the maximum cumulative annual gift limit in the Legislative Ethics Code from \$100 to \$250. It clarifies that the general prohibition on accepting gifts worth more than \$250 does not apply to types of gifts specifically exempted elsewhere in this part of the Code. Section 27 clearly states that the ban on solicitation, acceptance, or receipt of anything of monetary value from a lobbyist during session does not apply to food or beverage for immediate consumption.

SECTION 28: AS 24.60.080(c) GIFT RESTRICTION EXEMPTIONS This section clarifies that a stay in a vacation home located Outside is not an exempted gift. It allows legislators and legislative employees to accept discounts while on State business if the discount benefits the State. It allows legislators and their personal staff

(but not other legislative employees) to accept discounts and welcoming gifts in the capital city during session. Section 28 allows receipt of a gift worth more than \$250 of legal services related to a matter of legislative concern.

SECTION 29: AS 24.60.080(d) GIFT REPORTING This section increases the reference to the maximum cumulative annual gift limit from \$100 to \$250. It mandates reporting of gifts of travel or legal services within 30 days of receipt. It changes the reporting deadline for gifts not related to legislative status to the 15th of March of the following year, and specifies that the disclosure need include only a description of the gift and the giver's identity (not the actual value). Section 29 also calls for the ethics committee to forward gift disclosures by legislators and legislative directors to the Alaska Public Offices Commission (APOC).

SECTION 30: AS 24.60.080(e) 'LOW BUDGET' CAMPAIGNS/BULK-MAIL PERMITS This section allows certain smaller campaign contributions to fall within the exemption from coverage by the Legislative Ethics Code to conform with the State Elections Act. It sets out that use of a bulk-mail permit is not a gift.

SECTION 31: AS 24.60.080(f) GOVERNMENT GIFTS This section allows acceptance of a gift from a foreign government, the U.S. government, another state government, or a municipal government, on behalf of the Legislature. The gift must be delivered to Leg Council within 60 days. Section 31 increases the reference to the maximum allowable gift from \$100 to \$250.

SECTION 32: AS 24.60.080(g) IMMEDIATE FAMILY This section expands the meaning of the terms 'immediate family' and 'family member' to include spousal equivalents; parents, siblings, grandparents, aunts, and uncles of a spouse or spousal equivalent; and, stepparents, stepsisters, stepbrothers, stepgrandparents, stepparents, and stepuncles of a person, a person's spouse, or a person's spousal equivalent.

SECTION 33: AS 24.60.080 NEW GIFT RESTRICTION EXEMPTIONS This section adds new exempting subsections to the ban on receiving gifts. New subsection (h) permits soliciting and accepting gifts on behalf of charitable organizations, which is in accordance with advisory opinions issued by the ethics committee. New subsection (i) sets out that gifts of volunteer services for legislative purposes may be accepted by a legislator, legislative committee, or legislative agency as a gift to the State, so long as the person donating the services is not paid by another source. Subsection (i) further allows a legislator, legislative committee, or legislative agency to accept a University intern or Job Training Partnership Act trainee as well as any other educational trainee the committee approves. (To maintain confidentiality, the ethics committee is not permitted to accept volunteer services.) Subsection (i) also requires

volunteers, interns, and educational trainees to comply generally with the Legislative Ethics Code, with the exceptions of certain sections: contracts and leases, close economic associations, nepotism, and representation before state agencies and affords them the protection of the ethics complaint process under 24.60.170. New subsection (j) sets out that gifts from another source to a family member of a legislator or legislative employee fall within restrictions and reporting requirements. Subsection (j) further requires disclosure by a legislator or legislative employee who knows, or reasonably ought to know, that a family member has received a gift because of the family member's connection to the legislator or legislative employee. New subsection (k) states that the value of a gift is fair market value, to the extent that fair market value can be determined.

SECTION 34: AS 24.60.085(a) EARNED INCOME & HONORARIA This section would allow legislators and legislative employees to accept compensation that is less than fees generally charged, (E.G., allowing an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization).

SECTION 35: AS 24.60.100 REPRESENTATION This section sets a deadline for reporting representation before a State agency, citing 24.60.105.

SECTION 36: AS 24.60.105 DEADLINE FOR FILING DISCLOSURES This section adds a new section which establishes a filing deadline for most disclosures in the Legislative Ethics Code filed with the ethics committee: board memberships, interests in state contracts or leases, participation in State programs and loans, close economic associations, and representation of clients. It mandates disclosure of an interest begun or acquired during the interim or in the last 30 days of a regular session by the 15th of March, and disclosure within 30 days for a matter begun or acquired during a regular session's final 30 days.

SECTION 37: AS 24.60.130(f) COMMITTEE PER DIEM & TRAVEL This section authorizes the ethics committee's public members to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members (E.G., the Code Revision Committee). Public members are not entitled to actual pay for their time. Rates and terms for per diem and travel for state boards and commissions (set in 39.20.180) apply to public members of the ethics committee.

SECTION 38: AS 24.60.130(g) REMOVAL OF ETHICS COMMITTEE MEMBERS This section provides a means of removing a legislative or public member of the ethics committee for failure to carry out the member's duties.

Removal is effected by a two-thirds vote of the body to which a legislative member belongs, or by a two-thirds vote of both bodies for a public member.

SECTION 39: AS 24.60.130(h) MEMBER DISQUALIFICATION

This section prohibits a legislative member of the ethics committee from participating in a complaint proceeding if the subject of the complaint is the member, or the subject is supervised by the member. The process for designating a new member to serve on the ethics committee in the place of a disqualified member is in new subsection 24.60.130(o), added by Section 40 of the bill.

SECTION 40: AS 24.60.130(o) APPOINTMENT OF ETHICS COMMITTEE

ALTERNATES This section adds a new subsection which sets out that each presiding officer appoints an alternate legislative member of the ethics committee when appointing regular members. Alternate members must have the same qualifications as regular members and must be confirmed just as a regular member is. If a regular member is disqualified from serving, the ethics committee chairman or subcommittee chairman confidentially designates the alternate to serve for the course of that proceeding.

SECTION 41: AS 24.60.134(a) RESTRICTIONS ON ETHICS COMMITTEE PUBLIC MEMBERS, STAFF & CONTRACTORS

This section expands the restrictions on the ethics committee's public members, staff, and contractors by prohibiting participation in political management or political campaigns for federal, state and local office (regardless of whether the campaign is partisan or nonpartisan), or participation in campaigns for or against ballot measures. Section 41 further prohibits the ethics committee's public members, staff, and contractors from attending fundraisers or contributing to political parties, to legislative candidates, to incumbent legislators or legislative employees running for other public offices, or to persons running for another office against an incumbent legislator or legislative employee. Section 41 maintains the existing restriction on lobbying activities.

SECTION 42: AS 24.60.134(c) EXEMPTION FROM CODE OF SOME CONTRACTORS

This section adds a new subsection which permits a contractor with the ethics committee to request an exemption for some members of the corporation or partnership from compliance with some or all prohibitions against political activity. If the committee contracts for outside legal counsel with an attorney who is part of a large firm with branches Outside, a strict reading of current law might mandate that all employees of the firm comply with the Legislative Ethics Code. This section gives the committee the latitude to grant such request.

SECTION 43: AS 24.60.160 ADVISORY OPINIONS This section provides that the ethics committee must issue an advisory opinion to a newly elected legislator within 60 days of a request from such a person, doubling the current response deadline of 30 days. It further allows the committee to issue an advisory opinion to a person who anticipates becoming a legislative employee within 45 days.

SECTION 44: AS 24.60.170(a) INITIATION OF COMPLAINTS This section changes the statute of limitations for consideration of ethics complaints from five to two years, consistent with the time limit for the Executive Branch Ethics Act, and coterminous with the length of a single House term, and establishes that a complaint against a legislator must be filed within a year of the legislator's departure from the Legislature. Section 44 prevents the ethics committee from considering complaints against all members of the legislature, all members of one its houses, or against former employees. It further allows the committee to reinstate a complaint closed upon an employee's termination if the employee is rehired within two years of the date the complaint was filed, and provides for the same procedure with a former legislator who resumes legislative service within two years of the date of the complaint, affecting former staffers who are elected to the legislature and former legislators who are hired as staffers. Section 44 removes the committee's ability to initiate complaints on its own aggregate motion, but does not remove any individual committee member's right to initiate a complaint.

SECTION 45: AS 24.60.170(b) REQUIREMENTS OF COMPLAINANT This section allows any person to file a written complaint under oath stating that the complainant has reason to believe a violation occurred and describing known facts in support of the complaint. It mandates that the ethics committee provide a complaint form, and advise complainants that they may be asked to testify in support of their complaints. Section 45 further sets out that the committee can only accept new complaints or release public information on pending complaints outside of campaign periods as defined in subsections (o) and (p), added by Section 52 of the bill. Section 45 provides that the committee must immediately provide subjects of complaints with copies.

SECTION 46: AS 24.60.170(c) PRELIMINARY TREATMENT OF COMPLAINTS This section allows the ethics committee to have staff preliminarily examine complaints for legal sufficiency and credibility of information, then recommend action to the committee based on information and evidence contained in the complaint. It explicitly allows the committee and staff to solicit additional information from the complainant and subject, though neither is obligated to provide information. Section 46 allows for dismissal of complaints that are frivolous, lack credible information, or fall outside the committee's jurisdiction. It further

clarifies that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with subsection (l).

SECTION 47: AS 24.60.170(f) LACK OF PROBABLE CAUSE This section states that if there is lack of probable cause that a violation of the ethics code occurred, the complaint must be dismissed, and that unsubstantiable portions may be dismissed. It mandates that the committee issue a decision explaining the dismissal, and establishes that deliberation and vote on the dismissal order and decision are not open to the public or to the subject of the complaint. It further calls for copies of a dismissal order and decision to be sent to the complainant and the subject.

SECTION 48: AS 24.60.170(g) CORRECTIVE ACTIONS This section allows the ethics committee to issue an opinion (which must go to both the complainant and the subject) recommending corrective action after finding probable cause that a violation occurred. It lets the subject request a confidential meeting with the committee within 20 days of receipt of the opinion, at which the committee must explain its reasons for recommending corrective action. It then allows the subject to comply with the opinion or request a hearing under subsection (j), and lets the committee amend or affirm the opinion after this hearing. Section 48 sets out that if a subject agrees to comply with an opinion but fails to do so in a timely manner, the committee may formally charge the person under subsection (h) or refer the matter to a supervisory authority. It empowers the supervisory authority to enforce corrective actions, or decline to do so and refer the matter back to the committee which retains the power formally to charge the person.

SECTION 49: AS 24.60.170(h) FORMAL CHARGES BEYOND CORRECTIVE ACTION This section conforms subsection (h) to the new language in subsection (g), empowering the committee formally to charge a person who fails to complete corrective actions, or if investigation reveals a violation requiring sanctions instead of, or in addition to, corrective actions.

SECTION 50: AS 24.60.170(i) DISCOVERY This section allows the subject of a complaint to engage in discovery under Alaska Rules of Civil Procedure, and lets the ethics committee adopt procedures concerning discovery, including allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint (to protect the privacy of persons not under investigation). It further prevents the committee from imposing restrictions on discovery by the subject unless the complainant agrees to be bound by similar restrictions concerning release of information, and has not made public the information in or about the complaint or the filing of the complaint.