

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2845

SCS HB 94 (STA) Sectional Highights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
BALLOTS/ENVELOPES	14	Ballot rotation for all candidates EXCEPT those for State House	Placement of candidates' names randomly determined by Director
	16	Election workers to record ballots destroyed or returned for destruction	Not required. Could affect ballot accountability records.
	17	Hand count verification of 1 precinct (5% of votes cast) per district by State Review Board prior to election certification	Not required
	18	Voter certificate on ballot envelope notice re: false statements are punishable by law	Voter signs that information is true and accurate.
	28	If voter fails to mark choice of primary ballot, Division will send ballot according to affiliation.	Not addressed.
INDEPENDENT CANDIDATES FOR PRES OR VP	15	Names on ballot same as party candidates	Not addressed. No legal procedure for a candidate like Ralph Nader.
	31	Process for qualifying as an Independent candidate	Not addressed.
	32,33	Votes for electors and duties of electors same as party candidates	Not addressed.
EARLY VOTING	19	Sites to be designated by Director by Jan. 1st of an election year	No deadline
	64	Repeals duplicative language	Addressed in AS 15.20.045

SCS HB 94 (STA) Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
ABSENTEE VOTING	20	Reduce witness' required for submitting a "by fax" ballot. No longer required to be US citizens	Two witnesses. Witness' were required to be US citizens
	21	Apply for absentee ballot by scanning application	Apply in person, by mail or by fax.
	1,2,21	Power of attorney may apply for absentee ballot	Cannot apply for absentee ballot on behalf of voter with power of attorney
	21	Only voter or power of attorney may mark party affiliation unless voter already registered in that party	Not addressed.
		Only voter or power of attorney may mark choice of primary ballot	Not addressed.
	22	Reduce witness' required for submitting a "by mail" ballot to one.	Two witnesses required.
	22	Voter to certify under penalty of perjury that the statements are true	Not required.
	23	Defines overseas voter - AS 15.05.011	Military APO or FPO address.
RECOUNTS	24	Raises deposit amounts	Current amounts have not been addressed since 1986
BY MAIL VOTING	25	Division will not mail ballots to address previously recorded as "undeliverable" (REAA/CRSA elections)	Required to mail ballots to addresses that are "undeliverable" - ballot integrity issue

SCS HB 94 (STA) Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
VOTING SYSTEMS	26	Division to use only those machines/systems approved by FEC	No standards required. Previous administration approved new software that had not been certified at time of election.
CANDIDATES	27,29,30	At time of filing, a candidate will meet the Constitutional age requirements on the 1st day of the first session	Not addressed
INITIATIVES, REFERENDUM, RECALL	34,41,49	Application to include printed name, signature, address, and numerical identifier of sponsors	Signatures required
	35,42,50	Sponsors support action. Additional sponsors will give name address and numerical identifier	Support of action not addressed. Numerical identifier not required but will help qualify the sponsors. No similar language for recall.
	36,43,51	Printed name and numerical identifier, and date when signed required when signing	Signature and address only
	36,43,51	Booklets to be sequentially numbered	Current practice. Not addressed in law.
	36,43,51	Petition to include minimum cost to State to certify and review, not including legal costs	Not required
	36,43,51	Petition to include cost of implementing proposed law or conducting recall election	Not required
	37,44,53	Qualifications of circulator- citizen, at least 18 yrs. old, Alaskan resident.	In practice as result of Buckley ruling - not set out in law

SCS HB 94 (STA) Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
INITIATIVES, REFERENDUM, RECALL (continued)	38,46,55	Printed name and numerical identifier, and date when signed required when withdrawing name from petition	Voter's signature and address required.
	39,47,56	Repeal and reenacted certification of circulator - circulator to sign inclusive affidavit	Does not comply with Buckley decision.
	40,48,57	Display of proposed law at polling place - at least 5 copies available and one posted	10 copies available and 3 posted.
	45,54	Circulator may not receive payment greater than \$1. Prohibitions and penalties defined.	Current language for initiative petitions. not addressed for referendum and recall
	52	Removes language regarding "duplicate copy" of a recall petition.	There are no "duplicate copies" of a recall petition. All are sequentially numbered.
60	Defines "numerical identifier" as voter's date of birth, Alaska driver's license or ID number, last 4 digits of SS# or voter ID number	No requirement for additional information makes qualifying voter's signatures more difficult.	
RECOGNIZED POLITICAL PARTIES	59	Sets out process for a political group to become a party. Ensures that a party cannot lose status during the election cycle. Explains verification process.	Not addressed, though procedure was in place to protect the parties.

SCS HB 94 (STA) Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
INCORPORATION ELECTIONS	61,62	Defines "qualified voter" as a person registered to vote within the proposed municipality or borough for at least 30 days before an election	"qualified voter" was defined as being a <u>resident</u> of the municipality or borough for 30 days before an election
	63	Defines qualified voter as a person who has the qualifications under AS 15.60.010	Not addressed.

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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

SECTIONAL ANALYSIS
SCS HB Bill 94 (FIN) am – version “R”

“An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration, voter residence, precinct boundary and polling place designation and modification, political parties, voters unaffiliated with a political party, early voting, absentee voting, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum, and recall, and definitions in the Alaska Election Code; and relating to incorporation elections.”

Section One – STATUTORY FORM POWER OF ATTORNEY

Amends General Power of Attorney form to include a line “voter registration and absentee ballot requests” that may be checked by a person wishing to designate another as attorney in fact or agent by power of attorney. The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Two – INTERPRETATION OF PROVISIONS IN STATUTORY FORM POWER OF ATTORNEY

Amends this section to clarify the authority conferred to the “agent” to register the principal to vote or request an absentee ballot is on behalf of the “principal” (the voter). The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Three – VOTER RESIDENCY

Changes the reference *from* "temporary construction camps" *to* "temporary work sites" to provide a more accurate definition of what fails to constitute a dwelling place.

Clarifies that the address of a voter as it appears on the voter registration RECORD, **not** the voter registration CARD is proof (presumptive evidence) of that voter's residence.

Section Four – MANNER OF REGISTRATION

Adds language to allow an individual with the express power of attorney to register on behalf of the voter

Adds "scanning" as another means to transmit a voter registration application to the Division.

Section Five – MANNER OF REGISTRATION

Language added on the House Floor states only the voter or individual with voter's power of attorney may mark the voter's party affiliation on a voter registration form. The political affiliation of a voter may be indicated on a voter registration form when provided to the voter **ONLY** if the voter is already registered as affiliated with the party indicated on the form.

Section Six – REQUIRED INFORMATION FOR VOTER REGISTRATION

An Alaska residence address is required on a voter registration application, and the voter signs an oath that the information provided is true. Legislative Legal removed language in the first work draft for House State Affairs, that removed "as specified in regulations adopted by the director" related to defining the applicant's Alaska residence.

Removes dated language that refers to information proving residency that might be requested by the Division. Elections does not require proof nor does the Division compile voter files that contain this type of information.

Senate State Affairs, replaced the word "oath" with "attestation," as is the current law. Researching the files on the National Voter Registration Act (NVRA), the Department of Law stated the word "attestation" was intentionally included in accordance with the NVRA.

Section Seven – PROCEDURE FOR REGISTRATION

Adds "scanning" as another means to transmit a voter registration application to the Division.

Adds language to allow an individual with the express power of attorney to register on behalf of the voter.

Section Eight - VOTERS UNAFFILIATED WITH POLITICAL PARTIES

Proposes to set out the definitions of voters unaffiliated with political parties to reflect the Division's previous policy. Legislative Legal set this out as a section under "Voter Registration," rather than in the "Definitions" section of Title 15.

Section Nine – PREPARATION OF MASTER REGISTER

Ensures protection of voter information of those victims of domestic violence in accordance with changes made to the following section (AS 15.07.195) last year in Senate Bill 284.

Section Ten – PRECINCT BOUNDARY CHANGES

Changes made by House State Affairs increase public notice when the Division establishes or abolishes a precinct or if the boundaries of a precinct are designated, abolished, or modified, or if a polling place is changed.

This language requires the Division to send voters affected by any of the above changes by:

- Whenever possible written notice to each affected voter in the precinct
- Providing notice of the change by publication once in a local newspaper or by posting the notice in conspicuous places if no such newspaper exists
- Posting notice on the Division's website
- Providing notification of the changes to municipal clerks, community councils, tribal groups, Native villages, and village regional corporations.

The additional notice requirements result in a fiscal note of \$16.8 (in thousands) to the Primary and General Election budget.

Section Eleven, Twelve and Thirteen – ADDED BY STATE AFFAIRS

Section Fourteen - PREPARATION OF OFFICIAL BALLOT

This subparagraph was amended by House State Affairs to implement "ballot rotation" for the names of those candidates running for governor, lieutenant governor, United States senator, United States representative, and state senator on the ballots printed for each house district.

Placement of names of candidates for State House races will appear in random order as determined by the Director, as is the current practice. Ballot rotation WILL NOT occur for candidates for State House.

Current law requires the Director to determine a random order for ALL candidates placed on ballots used in each house district.

Section Fifteen - INDEPENDENT PRESIDENTIAL CANDIDATES

When preparing the general election ballot, the names of the candidates from each political party running for President and Vice President shall be placed on the ballot, rather than the names of the electors.

This language allows that the names of those running as Independents for President and Vice President shall be treated the same as those candidates representing a political party.

Section Sixteen - BALLOT COUNTING

For the purposes of maintaining accountability of ballots, the number of ballots returned to the elections supervisor or designee for destruction must be reported by the election board.

Section Seventeen - SCOPE AND REVIEW OF BALLOT COUNTING

This language was added in House Judiciary to require the Division to do a mandatory hand-count verification of ballots from one precinct in every House district (a precinct that accounts for 5% or more of the ballots cast). Should a discrepancy of more than 1% exist between the results of the hand count and the count certified by the State Review Board, the Division MUST conduct a hand count of the entire district.

Section Eighteen – PREPARATION OF BALLOTS, ENVELOPES, AND OTHER MATERIAL

This language was added in House Judiciary to require that envelopes printed with the voter's certificate must include a notice that false statements made by the voter or by the witness on the certificate are punishable by law.

Section Nineteen – EARLY VOTING

Early voting sites would need to be designated by the Director by June 1st of an election year. This ensures that proper notice is available to voters and that regions can order sufficient ballots and election materials. Additionally, it allows supervisors to schedule election workers accordingly.

Legislative Legal changed language to clarify the intent. Senate State Affairs, at the request of the Division, changed the date *from January 1st to June 1st* to allow more time in an election year for the Director to become aware of opportunities to establish early voting sites, while still allowing enough time to train election workers and order supplies and ballots.

Section Twenty – ABSENTEE VOTING BY ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted electronically) *from two to one*. Rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

Section Twenty One – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Adds ways a voter may apply for an absentee ballot to include by fax or scanning an application.

Adds that an individual with the express power of attorney to allow the individual to apply for an absentee ballot on behalf of the voter may do so.

On the House Floor, language was added to allow that only the voter or individual with voter's power of attorney may mark the voter's ballot choice on an absentee ballot application, but the party affiliation can be provided as long as it is consistent with the voter's current affiliation as indicated in the voter registration record.

Section Twenty Two – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted by mail or electronically) *from two to one*. Once again, rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

House Judiciary added language that the witness certifies, under penalty of perjury, that the statements in the voter certificate are true.

Section Twenty Three– ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Defines more accurately "overseas voter" by referring to definition in AS 15.05.011. Current language that describes military APO or FPO addresses is too limiting.

Section Twenty Four – RECOUNT REQUIREMENT OF DEPOSIT

The amount of deposits required for recounts were raised in House Judiciary as follows:

	Amount required since 1986	Amount proposed in CS HB 94 (JUD)
Per precinct	\$300	\$1,000
Per house district	\$750	\$2,000
Statewide	\$10,000	\$15,000

No changes were made to those recounts that the State bears the cost to conduct. (a tie, 20 or less vote margin, or less than .5 percent of the total number of votes cast for the two candidates for the contested office.)

Section Twenty Five – "BY MAIL" VOTING

For a "by mail" election (REAA/CRSA elections, for example), the ballots shall be mailed by first class, *nonforwardable* mail and that ballots will not be mailed to a voter whose address has been identified as being undeliverable.

This language is proposed to ensure ballot security and the integrity of the election process.

Section Twenty Six – STANDARDS FOR VOTING MACHINES

Recommended by the Division, a new section to Title 15 is added regarding the use of voting machines or vote tally systems. The Division of Elections will only utilize systems certified by the Federal Election Commission. All updates to the data management system must be certified before the State implements a modification of the current system or a new system.

House State Affairs added the last line to clarify that a voting system approved by the Director must satisfy the requirements of AS 15.15.032 (c) – which clearly states that the Director SHALL provide for a paper record of each electronically generated ballot that can be reviewed and corrected by a voter.

Section Twenty Seven – DECLARATION OF CANDIDACY

Added in House State Affairs, this section adds language to ensure that a candidate shall take an oath when making a declaration for office that the candidate will be the age required by the Alaska Constitution:

- If a candidate for state representative:

Be at least 21 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for state senator:

Be at least 25 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for governor or lieutenant governor:

Be at least 30 on the first Monday in December following the election

Section Twenty Eight – PREPARATION AND DISTRIBUTION OF BALLOTS (PRIMARY)

New section added on House Floor that states that if a voter fails to indicate the ballot they want on an absentee ballot application, the Division will send the ballot that corresponds to their party affiliation.

Senate State Affairs, at the request of the Division, removed language "If the voter is unaffiliated with a party, the voter will be sent the ballot that offers the greatest range of candidates from different parties," as under current law there is no such ballot.

Section Twenty Nine – WRITE-IN CANDIDATES

Added in House State Affairs, this section adds language to ensure that a write-in candidate shall state in a letter of intent that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Thirty – REQUIREMENTS FOR PETITION

Added in House State Affairs, this section adds language to ensure that a candidate filing for office by petition shall state in the petition that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Thirty One – QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR PRESIDENT/VICE PRESIDENT/SELECTION OF ELECTORS

Adds new language to describe the process for Independent candidates running for President.

An Independent candidate for President may file no earlier than January 1st of a presidential election year and no later than 90 days prior to the presidential general election. An Independent candidate for President must also provide the name, Alaska mailing address, and signature of the candidate's state campaign chair, which must be an Alaskan resident. This requirement exists ONLY for Independent candidates.

Section Thirty Two – INTERPRETATION OF VOTES CAST

In voting for presidential electors, votes marked for Independent candidates for President and Vice President are counted the same as votes marked for electors for party candidates.

Section Thirty Three – DUTIES OF ELECTORS

Duties for electors representing Independent candidates for President and Vice President are the same as those of electors representing other candidates.

Section Thirty Four – PETITIONS /FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for petition. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

These changes, and those that follow related to the petition process, are proposed to improve the petition process and make the process more "user friendly" for Alaskans.

Section Thirty Five – PETITIONS/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the bill proposed in the initiative application. Additional sponsors, when providing their names and addresses, must also include numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used).

Section Thirty Six – PETITIONS/PREPARATION OF PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a petition to assist the Division in qualifying the voter's signature. Added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a petition booklet a statement of minimum costs to the State associated with certifying the application, reviewing the initiative petition, and an estimate of the cost to the State of implementing the proposed law.

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and deletes language that refers to a record of petition booklets assigned to the sponsors. Judge Suddock criticized the requirement for these "accountability reports" in the Hinterberger case.

Section Thirty Seven – PETITIONS/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Thirty Eight – PETITIONS/WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

Section Thirty Nine – PETITIONS/CERTIFICATION OF CIRCULATOR

Circulators of a petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section: Forty – PETITIONS/DISPLAY OF PROPOSED LAW

Reduces the copies of the proposed law that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the proposed law being initiated to the election board, and AT LEAST one copy of the proposed law will be posted.

Section Forty One – REFERENDUM/FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for referendum. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

Section Forty Two – REFERENDUM/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the referendum.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifiers.

Section Forty Three– REFERENDUM/ PREPARATION OF PETITION

Adds the requirement for the statement of rejection or approval, the signer's printed name and numerical identifier be included on a petition for referendum. Added in House Judiciary was that the signer of a petition provide the date signed they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a petition booklet a statement of minimum costs to the State associated with certifying the application, reviewing the referendum petition, and an estimate of the cost to the State of implementing the proposed law.

Section Forty Three-- REFERENDUM/ PREPARATION OF PETITION (continued)

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Section Forty Four – REFERENDUM/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the referendum petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Forty Five – REFERENDUM/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and applies these to the circulation of referendum petitions. (May not be paid more than \$1 per signature, nor may the circulator receive more than \$1 per signature)

Section Forty Six - REFERENDUM/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a referendum petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

Section Forty Seven - REFERENDUM/CERTIFICATION OF CIRCULATOR

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative petitions. Circulators of a referendum petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

Section Forty Seven - REFERENDUM/CERTIFICATION OF CIRCULATOR (continued)

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Forty Eight - REFERENDUM/DISPLAY OF ACT BEING REFERRED

Reduces the copies of the act being referred that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the act being referred to the election board and AT LEAST one copy of the act will be posted.

Section Forty Nine - RECALL/FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for recall. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

House Judiciary also clarified language stating that the signers must be qualified voters equal in number to 10 percent of those who voted in the preceding general election in the state or in the senate or house district of the official sought to be recalled (as current law requires), 100 of whom will serve as sponsors. (Further clarifying that the 100 sponsors are not additional signers, but rather part of the 10 percent required)

Section Fifty - RECALL/DESIGNATION OF SPONSORS

Proposes to add a new section with language similar to that regarding initiative petitions and referendum, stating the sponsors are in support of the recall and regarding the designation of additional sponsors.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifiers.

Section Fifty One - RECALL/PREPARATION OF PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing the recall petition. The recall petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Added in House Judiciary was that the signer of a recall petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a recall petition booklet a statement of minimum costs to the State associated with certifying the recall application, reviewing the recall petition, and an estimate of the cost to conduct a special election.

Section Fifty Two - RECALL/STATEMENT OF WARNING

Removes language referring to a "duplicate copy" as there are no "duplicate copies" assigned in a recall petition effort. This language mirrors language in the initiative and referendum sections.

Section Fifty Three - RECALL/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the recall petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Fifty Four- RECALL/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and referendum and applies these to circulation of recall petitions.

Section Fifty Five – RECALL/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a recall petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the recall petition. This is to ensure that signers were indeed qualified voters at the time of signing the recall petition.

Section Fifty Six - RECALL/CERTIFICATION OF CIRCULATORS

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative and referendum petitions. Circulators of a recall petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law (Buckley struck down the requirement that circulators wear badges) AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Fifty Seven - RECALL/DISPLAY OF GROUNDS FOR AND AGAINST RECALL

Reduces the copies of the statement of the grounds for recall and the statement made by the official subject to recall in justification of the official's conduct in office that are provided to each of the election boards for distribution and posting at each polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the statement of grounds for recall and AT LEAST five copies of the statement made by the official subject to recall in justification of the official's conduct in office to the election board for distribution and AT LEAST one copy of the act to be posted.

Section Fifty Eight - CONTENTS OF PAMPHLET (OFFICIAL ELECTION PAMPHLET)

House State Affairs added a new section that requires the Division to publish establishment/abolishment of a precinct, designation abolition, or modification of precinct boundaries, or changes in location of polling places in the Official Election Pamphlet (OEP).

As explained to members of the Committee, the Division would include all changes that are known at the time that the OEP goes to print. Additional changes that affect voters may occur after printing of the OEP and would NOT be included in the publication.

Section Fifty Nine - RECOGNIZED POLITICAL PARTY STATUS

Political groups may be recognized as a party if, on or before May 31 of the election year that seek recognition they have: filed an application with the Director, submitted their bylaws to the Director and the Department of Justice *and* met the requirements related to nominating a candidate *or* obtained the required number of registered voters

Provides that the Director will verify the numbers of registered voters who have declared an affiliation with a group or recognized political party and the process for notification when a political group obtains or loses their political party status.

Finally, this section adds that during an election year, recognized political party status cannot be withdrawn by the Director for the period from June 1st through the date of the first verification that occurs after the certification of the general election *at which a governor was elected* House Finance restored language that clarified the verification of party status would be conducted every FOUR years for parties that achieve recognized political party status by the number of votes cast for their candidate in the election contests outlined below. House State Affairs added that monthly verification political party status would be suspended during the period of time when the Director may not withdraw political party status.

Section Sixty - DEFINITION OF "NUMERICAL IDENTIFIER" and "REREGISTRATION"

Added in House Judiciary, numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number.

Reregistration is defined as the submission of a registration form by a voter whose registration was inactivated during the list maintenance process (AS 15.07.130) or due to conviction of a felony involving moral turpitude. The voter once removed from the voter rolls due to conviction of a felony involving moral turpitude, must provide proof that they were unconditionally discharged from custody before being allowed to register. (AS 15.07.135)

Section Sixty One - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed municipality at least 30 days prior to the election.

Section Sixty Two - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed borough at least 30 days prior to the election.

Section Sixty Three - INCORPORATION ELECTION

Defines "qualified voter" to have the same meaning as that in AS 15.60.010.

AS 15.60.010 (26) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, Sec. 2, of the state constitution and AS 15.05.030.

Section Sixty Four - REPEALERS

Repeals section requiring written notice of changes to precinct boundaries or polling places and

Repeals AS 15.20.048 as it includes duplicative language that allows the Director to designate locations for absentee voting, and office of election supervisors will be designated as such.

Section Sixty Five - APPLICABILITY

Provides that changes made by Sections 26 through 49 of this bill apply to an initiative, referendum, or recall for which an application was filed with the lieutenant governor or director of elections on or after the effective date of the bill.

Section Sixty Six - TRANSITION

An initiative, referendum, or recall for which the application was filed before the effective date of the bill is subject to the provisions of statute that existed on the day before the effective date of the bill.

THE IMMEDIATE EFFECTIVE DATE CLAUSE WAS REMOVED IN HOUSE STATE AFFAIRS

HB 94



FRANK H. MURKOWSKI
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 2005

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

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the state's elections statutes.

This bill would update statutes on qualifications of voters, voter registration, voter residence, precinct boundary modification, recognized political parties, voters unaffiliated with a political party, early and absentee voting, ballot counting, ballot design, voting by mail, voting machines and vote tallying, independent candidates for president, initiative, referendum, recall, and definitions.

The updates are necessary to reflect current practices of the Division of Elections and to bring the statutes into compliance with recent court decisions and federal law.

Section 1 of the bill would amend two provisions in AS 15.05.020 on rules for determining the residence of a voter. It would amend AS 15.05.020(2) to clarify that "temporary work sites" do not constitute a dwelling place; this provision formerly referenced "construction camps." Section 1 also would amend AS 15.05.020(10) to reference the official voter registration "record," rather than "card."

Section 2 of the bill would amend AS 15.07.050 to allow voter registration through a power of attorney.

Section 3 of the bill would amend AS 15.07.060(a)(4) on required registration information, to specify that the applicant must provide the applicant's Alaska residence address.

The Honorable John Harris
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Section 4 of the bill would amend AS 15.07.070(b) to allow voter registration by scanned transmissions and to allow voter registration through a power of attorney.

Section 5 of the bill amends AS 15.07.127 on preparation of the master register of voters to recognize that confidential information will not be disclosed.

Section 6 of the bill would amend AS 15.10.090 on notice of precinct boundary designation and modification, to require that notice be published on the Division of Elections' Internet website, and to clarify requirements for publication of notice in a newspaper and for posting notices.

Section 7 of the bill would amend AS 15.15.030(7) to specifically recognize that names of independent candidates for President of the United States be included on the general election ballot.

Section 8 of the bill would amend AS 15.15.350(a), on the general procedure for a ballot count, to require that the accounting for all ballots prepared by the election board include the number of ballots returned to the elections supervisor for destruction.

Sections 9 of the bill would amend AS 15.20.064(a) on early voting, to specify that the director of elections will designate locations for early voting by January 1 of each election year.

Section 10 of the bill would amend AS 15.20.066(b) on absentee voting by electronic transmission, to lower the number of witnesses required from two to one.

Section 11 of the bill would amend AS 15.20.081(a) to allow voters to apply for absentee ballots by scanning documents or through a written power of attorney.

Sections 12 and 13 of the bill would amend AS 15.20.081(d) on absentee voting by mail or electronic transmission, to lower the number of witnesses required from two to one, and AS 15.20.081(h) to change the reference to military addresses from "APO or FPO address" to a "overseas voter qualifying under AS 15.05.011."

Section 14 of the bill would amend AS 15.20.800(b) on voting by mail to specify that a ballot will not be sent to a voter whose address has been identified as undeliverable.

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Section 15 of the bill would add a proposed new section, AS 15.20.910, on voting system standards, incorporating recent federal requirements under the Help America Vote Act.

Section 16 of the bill would add a proposed new section, AS 15.30.026, on qualifications for independent candidates for President.

Sections 17 and 18 of the bill would amend AS 15.30.050 and 15.30.090 to conform to the qualifications set out in new AS 15.30.026 on independent candidates for President.

Section 19 of the bill would amend AS 15.45.030 on the form of application for an initiative petition, to require additional information from the sponsors.

Section 20 of the bill would amend AS 15.45.060 on designation of sponsors for an initiative, to specify that sponsors support the bill proposed by the initiative application and that the date of birth of any additional sponsors designated by the initiative committee be included in the notice information sent to the lieutenant governor.

Section 21 of the bill would repeal and reenact AS 15.45.090 on preparation of petitions, to require the printed name and date of birth of those signing an initiative petition. This section also would require that initiative petitions be sequentially numbered, and would remove the requirement that the lieutenant governor keep a record of petitions delivered to sponsors. These changes are proposed to comply with the state superior court's decision in the case of *Hinterberger v. State*, 3AN-03-4092 CI (October 21, 2003).

Section 22 of the bill would add a proposed new section, AS 15.45.105, to specify the qualifications of an initiative petition circulator.

Section 23 of the bill would amend AS 15.45.120 on the manner of signing and withdrawing a name from an initiative petition, to require additional information from initiative petition signers.

Section 24 of the bill would repeal and reenact AS 15.45.130 on the certification of circulators for an initiative petition, to reference the proposed new section on qualifications of an initiative petition circulator, and to delete the requirement that the circulator's name be prominently displayed on the petition. This latter requirement has not been enforced for some time in order to comply with the United States Supreme Court opinion in *Buckley v.*

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American Constitutional Law Foundation, 525 U.S. 182 (1999), under advice from a formal opinion of the state attorney general's office, 2000 Op. Att'y Gen. No. 3 (September 22).

Section 25 of the bill would amend AS 15.45.200 on display of the proposed law, to reduce the number of copies of a law proposed by an initiative that must be provided to the election board from 10 to five, and that must be displayed in the polling place from three to one.

Section 26 of the bill would amend AS 15.45.270 on the form of the application, to conform the requirements for a referendum application to those required for an initiative application.

Section 27 of the bill would amend AS 15.45.290 on designation of sponsors, to conform the requirements for a referendum sponsor to those required for an initiative sponsor.

Section 28 of the bill would repeal and reenact AS 15.45.320 on preparation of a referendum petition, to conform the requirements for a referendum petition to those required for an initiative petition.

Section 29 of the bill would add a proposed new section, AS 15.45.335, to set out the qualifications for a circulator of a referendum petition.

Section 30 of the bill would amend AS 15.45.340 on circulation, to incorporate the prohibitions and penalties applicable to initiative petitions and apply these to circulation of referendum petitions.

Section 31 of the bill would amend AS 15.45.350 on the manner of signing and withdrawing a name from a petition, to require additional information for signing a referendum petition.

Section 32 of the bill would repeal and reenact AS 15.45.360 on the certification of circulators, to conform the requirements for circulation of a referendum petition to those required for circulation of an initiative petition.

Section 33 of the bill would amend AS 15.45.430 on display of the act being referred to in the referendum, to reduce the number of copies of the act that must be provided to the election board from ten to five, and that must be displayed in the polling place from three to one.

The Honorable John Harris
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Page 5

Section 34 of the bill would amend AS 15.45.500 on the form of the application, to specify similar requirements for a recall application to those required for an initiative application, including deleting the requirement that recall petition circulators be registered voters.

Section 35 of the bill would add a proposed new section, AS 15.45.515, on designation of sponsors for a recall application using language similar to the statute on initiative petition sponsors.

Section 36 of the bill would repeal and reenact AS 15.45.560 on preparation of the recall petition, to impose requirements similar to the requirements for an initiative petition.

Section 37 of the bill would amend AS 15.45.570 regarding the statement of warning on recall petitions similar to the requirements for an initiative petition.

Section 38 of the bill would add a proposed new section, AS 15.45.575, on qualifications of circulators to set out the qualifications for circulation of a recall petition.

Section 39 of the bill would amend AS 15.45.580 on circulation, to add requirements on circulation of a recall petition similar to those for circulation of initiative petitions.

Section 40 of the bill would amend AS 15.45.590 on the manner of signing and withdrawing a name from a petition, to require additional information from recall petition signers.

Section 41 of the bill would repeal and reenact AS 15.45.600 on certification of circulators for a recall petition, to add similar requirements to those for circulation of an initiative petition.

Section 42 of the bill would amend AS 15.45.680 on display of grounds for and against recall, to reduce the number of copies provided to the election board from ten to five, and the number displayed in the polling place from three to one.

Section 43 of the bill would add a proposed new section, AS 15.60.003, to set up voter registration categories for voters who are unaffiliated with a political party.

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Section 44 of the bill would add a proposed new section, AS 15.60.008, to set out the procedural requirements for parties to obtain recognized political party status.

Section 45 of the bill would amend AS 15.60.010 by adding a new definition of "reregistration."

Section 46 of the bill would amend AS 29.05.110(b) to clarify the requirements for voter registration for municipal elections.

Section 47 of the bill would amend AS 29.05.110(c) to clarify that qualified voters registered to vote in the proposed borough may vote on adoption of a non-areawide power.

Section 48 of the bill would add a new subsection to AS 29.05.110 defining a "qualified voter" as that term is defined in AS 15.60.010.


Section 49 of the bill would repeal AS 15.10.020(b). This provision is now set out in AS 15.10.090(l) as amended by this bill. It also would repeal AS 15.20.048 on absentee voting in offices of election supervisors.

Section 50 of the bill would provide that the changes made by secs. 19 - 42 of the bill apply to an application for an initiative, referendum, or recall that is filed with the lieutenant governor on or after the effective date of the bill. Section 51 of the bill would provide that the elections statutes, as they existed before the amendments made by secs. 19 - 42 of this bill, would apply to an initiative, referendum, or recall for which the application was filed before the effective date of the bill.

Section 52 of the bill would establish an immediate effective date for the bill.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

SENATE COMMITTEE REPORT

DATE: 5/1/05

FURTHER: Judiciary
Finance

DATE TURNED
IN TO OFFICE: 5/6/05

State Affairs Committee considered CS FOR HOUSE BILL NO. 94(FIN) am

HB 94 ELECTIONS/VOTERS/POLITICAL PARTIES

"An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration, voter residence, precinct boundary and polling place designation and modification, political parties, voters unaffiliated with a political party, early voting, absentee voting, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum, recall, and definitions in the Alaska Election Code; and relating to incorporation elections."

and recommends:

- be replaced with 3 CS CS HR 94 (SEH)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COGS	4/13/05	✓			3

APPROPRIATION - no fiscal note

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

Elton
Winters
Hodges
D...
Thornhill

HB

97

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1 **CORRECTED**
 Bill Version: HB 97
 (H) Publish Date: 1/26/05

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title An Act relating to oaths, RDU Office of the Lt. Governor
affirmations, and acknowledgements... Component Office of the Lt. Governor
 Sponsor Governor
 Requester Rules Component No. 11

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	8.7	8.7	8.7	8.7	8.7	8.7
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed fee changes for certificates from \$2 to \$5, as set out in Section 6 of the bill, will generate anticipated 8.7 in additional unrestricted revenues.

Prepared by: Linda J. Perez, Director
 Division: Administrative Services
 Approved by: Lt. Governor Loren Leman
 Agency: Office of the Lt. Governor

Phone: 465-3876
 Date/Time: 1/24/05 3:41 PM
 Date: 1/24/2005

adopted 3/8/05

24-GH1008VY.1
Bannister
3/5/05

AMENDMENT \

OFFERED IN THE HOUSE

TO: CSHB 97(JUD)

1 Page 8, lines 12 - 13:

2 Delete "may not have been incarcerated in a correctional facility for a felony
3 conviction within 10 years before the commission takes effect"

4 Insert "may not, within 10 years before the commission takes effect, have been
5 convicted of a felony or incarcerated in a correctional facility for a felony conviction"

6

7 Page 8, line 15, following "jurisdiction":

8 Insert "within 10 years before the commission takes effect"

9

10 Page 8, line 16, following "may not":

11 Insert ",within 10 years before the commission takes effect."

12

13 Page 10, lines 17 - 18:

14 Delete "applicant has been incarcerated in a correctional facility for a felony
15 conviction within 10 years before the commission is to take effect"

16 Insert "applicant has, within 10 years before the commission is to take effect, been
17 convicted of a felony or incarcerated in a correctional facility for a felony conviction"

18

19 Page 10, line 19, following "revoked":

20 Insert ",within 10 years before the commission is to take effect,"

21

22 Page 18, line 12, following "(1)":

23 Insert "convicted" or "conviction" means that the person has entered a plea of guilty.

1 guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill
2 by a court or jury;

3 (2)"

4

5 Page 18, line 15:

6 Delete "(2)"

7 Insert "(3)"

8

9 Page 18, lines 30, through page 19, line 1:

10 Delete "has been incarcerated in a correctional facility for a felony conviction within
11 10 years before the notary public's term of office expires under former AS 44.50.030"

12 Insert "has been, within 10 years before the notary public's term of office expires
13 under former AS 44.50.030, convicted of a felony or incarcerated in a correctional facility for
14 a felony conviction"

15

16 Page 19, line 2, following "public.":

17 Insert "In this subsection, "convicted" and "conviction" have the meanings given in
18 AS 44.50.200."

Adopted 3/8/05

24-GH1008\Y.2
Bannister
3/8/05

AMENDMENT

2

OFFERED IN THE HOUSE

TO: CSHB 97(JUD)

1 Page 16, line 6:

2 Delete "Disciplinary action.";

3 Insert "Disciplinary action; complaint; appeal; hearing; delegation. (a)"

4

5 Page 16, line 13:

6 Delete "Sec. 44.50.069. Complaint; hearing; appeal; delegation. (a)"

7 Insert "(b)"

8

9 Page 16, line 18:

10 Delete "(b)"

11 Insert "(c)"

12

13 Page 16, line 23:

14 Delete "(c)"

15 Insert "(d)"

16

17 Page 16, line 31:

18 Delete "(d)"

19 Insert "(e)"

20

21 Page 17, lines 9 - 16:

22 Delete all material and insert:

23 "(f) If the lieutenant governor finds that formal disciplinary action may be

1 warranted, the lieutenant governor may suspend or revoke a notary public's
2 commission or reprimand a notary public. If the lieutenant governor suspends or
3 revokes the commission or issues a reprimand, the lieutenant governor shall provide,
4 by certified mail, the notary public with a written statement of the lieutenant
5 governor's decision, including a written statement of the basis for the determination.

6 (g) A person who is issued a reprimand, suspension, or revocation under (f) of
7 this section may appeal the reprimand, suspension, or revocation by requesting a
8 hearing within 15 days after receiving the statement provided under (f) of this section.
9 If a hearing is requested, the lieutenant governor shall deny or grant the request under
10 AS 44.64.060(b) and refer the matter to the office of administrative hearings under
11 AS 44.64.060(b).

12 (h) The lieutenant governor may delegate the powers under this section."
13

14 Page 17, line 29:

15 Delete "AS 44.50.069"

16 Insert "AS 44.50.068"

17
18 Page 17, line 30:

19 Delete "AS 44.50.069(c)"

20 Insert "AS 44.50.068(d)"

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU
March 7, 2005

The Honorable Kevin Meyer, Co-Chair
The Honorable Mike Chenault, Co-Chair
House Finance Committee
Alaska State Legislature
State Capitol
Juneau AK 99801

Dear Representatives Meyer and Chenault:

As requested by the House Finance Committee, the information below details the costs associated with the notary commission program based on the \$40 notary application fee.

The \$40 application fee is meant to cover postage, the cost of the certificate and the notary administrator's salary. In addition to the application processing, the notary administrator spends time helping individual notaries with problems, concerns or paperwork issues and addresses questions with employers of notaries.

The following are the costs associated with the administration of the notary commission program.

	Revenue	Personal Services	Commodities
FY2003	\$109,000.00	\$53,157.56	\$10,445.10
FY2004	\$114,600.00	\$54,436.84	\$10,643.10

Please call me at 465-3876 if you have any questions.

Sincerely,


Linda J. Perez
Administrative Director

cc: House Finance Committee Members
Annette Kreitzer, Chief of Staff, Lt. Governor's Office

Frequently Asked Questions – CSHB 97(JUD)

Q: Why is this bill necessary?

A: There has not been a comprehensive update to the notary statutes since 1961.

Q: What changes are being proposed?

A: The bill:

- Lowers the minimum age requirement from 19 to 18 years of age.
- Prohibits felons from applying as notaries public until 10 years post incarceration.
- Establishes disciplinary procedures for commission suspensions and revocations.
- Separates publicly available notary information from private notary information.
- Updates and expands the current State Employee notary commission system to include Municipal and Federal government employees.

Q: I'm a notary now, how does this bill affect me?

A: This bill will not impact current notaries unless they are felons.

Q: What is not changing?

A:

- The notary information that is currently publicly available remains publicly available.
- Notary testing remains voluntary.
- The notary bond amount remains unchanged.
- The application fee remains unchanged.

Q: What about fees?

A: The \$40.00 application fee for notary commissions will remain unchanged. The fee for certificates is being raised from \$2.00 to \$5.00.

Notary Statute Comparison – CSHB 97(JUD)

	Current	Proposed
Qualifications	<p>Applicants must be a resident of the state at least 19 years of age.</p> <p>Resident defined to mean a person who maintains a permanent place of abode in the state, and is in fact living in the state.</p>	<p>Minimum age lowered to 18 years.</p> <p>Residency requirements made consistent with general residency statute AS 01.10.055, rather than separate definition.</p> <p>Applicant must reside legally in the United States.</p> <p>Applicants may not be convicted/incarcerated felons within 10 years of application.</p>
Term	Current	Proposed
	<p>Four years.</p> <p>Automatic revocation of commissions of State employee notaries who terminate employment prior to the commission expiration date.</p>	<p>Notaries Public will continue to serve a term of four years.</p> <p>Limited Governmental Notaries Public commissions will be open-ended with automatic revocation upon termination of government employment.</p>
Fees	Current	Proposed
	<p>\$40 application fee for non-state employee notaries.</p> <p>\$2 per Lieutenant Governor certificate.</p>	<p>\$40 application fee for non-state employee notaries (No change).</p> <p>\$5 per Lieutenant Governor certificate (\$3 increase).</p>
Bond	Current	Proposed
	<p>\$1,000 Notary Bond is required of all applicants.</p>	<p>\$1,000 Notary Bond required of all applicants except Limited Governmental Notaries. Lt. Gov. required to keep for 2 years.</p>

Commission Types	Current	Proposed
	<p>Notaries Public who serve four-year commissions.</p> <p>Limited Governmental Notaries Public commissions available for State employees only.</p>	<p>Notaries Public who serve four-year commissions.</p> <p>Limited Governmental Notaries Public commissions – Expanded to include Municipal and Federal employees in addition to State employees.</p>
Commission Revocation	Current	Proposed
	Via Administrative Procedure Act. Act must be invoked to review all complaints against notaries, no matter how trivial.	By Lieutenant Governor for good cause via a formal disciplinary procedure using administrative hearing office.
Notary Data	Current	Proposed
	Each notary's name, mailing address, surety information and commission dates are available to the public.	<p>The notary information currently available remains unchanged. The notary's name, mailing address, surety information and commission dates continue to be publicly available.</p> <p>To facilitate training and communication the Lieutenant Governor may collect additional information from applicants and notaries that will not be available to the public.</p>
Non-Commissioned Notaries	Current	Proposed
	Justices, Judges, Magistrates, Clerks or Deputy Clerks of Court, United States Postmasters, and Commissioned Military Officers are authorized to take oaths, affirmations or acknowledgments.	No change.

SECTIONAL ANALYSIS CSHB 97(JUD)

Notary Legislation

An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state; to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date.

Section 1. Adds presiding officers of each house of the Legislature and the Lieutenant Governor to the list of persons permitted to administer oaths. This permission is limited to the administration of the oath of office to new legislators (AS 24.05.160) and to the presiding officers for the same purpose during second and special sessions (AS 24.05.170).

Sections 2 and 3. Conform sections of Alaska Civil Procedure concerning notarial acts to the updated language in Sec. 44.50.061 (5). These sections apply to court system employees, U.S. Postmasters, U.S. military personnel and municipal clerks.

Sections 4 and 5. Update 09.63 to include reference to limited liability companies limited partnerships, and limited liability partnerships.

Section 6. Increases fee per notarial certificate from \$2/three folios to \$5/certificate. "Folio" is an outdated term not used in current practice. The increase reflects the State's cost to process the certificates. Deletes territorial language re: accounting for fees.

Section 7. Two categories of notaries:

- a) notary public without limitation
 - terms are for 4 years
 - can charge fees for service
- b) limited governmental notary public (state, municipal and federal employees)
 - conduct only official government business
 - terms are for the length of government employment
 - cannot charge fees for service (new Sec. 44.50.039)

Can have concurrent commissions as a notary public without limitation and as a limited governmental notary public, as long as the activities are separated.

Section 8. Changes Qualifications to be commissioned notary public:

- Lowers the age from 19 to 18
- Must have established Alaska residency. The definition of "residency" is updated to a more widely used and more current definition (AS 01.10.055) than current statute (AS 44.50.020).
- Notary public must reside legally in the U.S.
- 10 years between felony conviction/incarceration and ability to apply as notary.

Section 9. Sets out the application requirements for notary public commission whether notary public without limitation or limited governmental notary public.

Restates the current \$40 fee per application along with the current requirement that State limited governmental notaries public are exempt from the fee.

Restates current bonding requirement of \$1,000 with term of four years for notaries public without limitation.

Requires Lieutenant Governor to keep the bond for two years.

Provides opportunities for Lieutenant Governor to deny applications if:

- a) application is incomplete
- b) applicant has been convicted of and incarcerated for a felony less than 10 years previous to application
- c) applicant's commission has been revoked

Clarifies current law as to when a new commission begins.

Section 10. Much of AS 44.50.060 is antiquated language. The changes here acknowledge that the duties of a notary public can be encompassed in the broader language of administering oaths and affirmations, taking acknowledgment of or proof of instruments of writing and giving notarial certificates.

Section 11. Defines scope of practice and makes clear that a notary public who is not an attorney may not perform functions that require the practice of law.

Also, sets out what a notary public cannot do (Sec. 44.50.062), the specifications of the official seal, and its care and keeping, what constitutes a "seal impression", changes in notary status and disciplinary actions. It also specifies at (5) (A) – (C) the elements that must be present for a notary public to notarize a document:

- Person must appear and sign the document before the notary public.
- Person must produce identification unless personally known to the notary public.
- The notary must sign in his/her own handwriting the name on his/her commission certificate.
- Notary cannot notarize documents which benefit the notary (see Page 12, Lines 19-25).CHECK THIS ON FINAL VERSION OF BILL WHEN INTRODUCED.

This section reorders and clarifies current law defining the notary's seal, and defining the seal impression. The \$5 name change fee is not in addition to the cost of a new certificate under Sec. 44.19.024.

New sections (Secs. 44.50.068-.069) give the Lieutenant Governor the latitude to suspend or revoke a notary public's commission or to reprimand a notary public for good cause. The Lieutenant Governor may delegate his authority. With regard to a complaint, the Lieutenant Governor may find no merit to the complaint or may refer the complaint to the office of administrative hearings for a formal disciplinary hearing which could end with revocation of the notary public's commission.

Section 12. Describes the information gathered from notaries public on the application which will be public information. Provides for the Lieutenant Governor to adopt regulations.

Section 13. Defines terms used in this Chapter.

Section 14. Repealers:

- AS 44.50.030 (Term of office, now covered in new 44.50.010)
- AS 44.50.040 (Fees, now covered in new 44.50.033)
- AS 44.50.070 (Presence and ID, now covered in new 44.50.061)
- AS 44.50.080 (Seal, now covered in new 44.50.063)
- AS 44.50.090 (Protest of bill or note. Notaries don't do this, antiquated language, repealed and not replaced)
- AS 44.50.100 (Return of papers. There are no papers to return. Repealed and not replaced)
- AS 44.50.110 (APA procedure for disciplinary actions, replaced by more comprehensive 44.50.067)
- AS 44.50.120 (Bond requirements, now covered in new 44.50.034)
- AS 44.50.130 (Filing oath and bond, now covered in new 44.50.035)
- AS 44.50.140 (Disposition of bond, now covered in new 44.50.034)
- AS 44.50.170 (State employees as notaries, now covered in 44.50.010, 44.50.131 (c) and 44.50.039)
- AS 44.50.180(c) (Federal law prohibits postmasters from charging fees. Alaska law is inconsistent and this subsection must be repealed)
- AS 44.50.190 (Savings clause, a transitional measure from 1961 that is no longer necessary and can be repealed).

Section 15. Applicability

- Current commissions continue in effect until term of office expires, except if the commissioned is a felon and 10 years have not elapsed since incarceration.
- Bonds, seals, liabilities in effect continue through the notary public's term of office.
- All notaries with current commissions or who are commissioned following the effective date of the legislation must follow the notarial procedures encompassed in the legislation.
- When commissions expire, notaries public will apply for new commissions under the new AS 44.50.032 (Section 9).

Sections 16 and 17. Transition

Allows the Lieutenant Governor to immediately proceed to adopt regulations with an effective date following the effective date of the legislation.

Section 18. Effective Date

Effective date is July 1, 2005 to allow time for revision of website, online handbook and forms.

The Governor's transmittal letter dated January 20, 2005, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, verifications, and acknowledgements, to notaries public, and to fees for issuing certificates with the seal of the state affixed.

The primary purpose of the bill is to comprehensively update AS 44.50, the chapter that governs notaries public, which includes among its provisions the qualifications to become a notary public, duties of notaries public, and liability in the event of misconduct or neglect. AS 44.50 has not been comprehensively revised since it was enacted in 1961. These changes will allow the Lieutenant Governor to: focus attention on web-based education for notaries, allow businesses which employ large groups of notaries to keep track of their terms of office, lay a foundation for e-signatures for the future, and continue to provide information to notaries without internet access. Sections 7-14 of the bill would repeal obsolete provisions in AS 44.50, update antiquated language, and add new provisions as needed.

Sections 1-5 of the bill would update statutes in AS 09, the Alaska civil code, relating to the taking of oaths, affirmations, and acknowledgements and to notaries' responsibilities when notarizing, verifying, and acknowledging signed instruments. Section 6 of the bill would change the fee for the lieutenant governor's issuance of a certificate with the seal of the state affixed. Sections 15 and 16 of the bill contain applicability and transition provisions, respectively.

A more detailed description of the bill is found in a sectional analysis of the bill available from the office of the lieutenant governor.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski
Governor"

P.O. Box 100600

Alaska Bankers Association
Anchorage, Alaska 99510-0600

(907) 265-2920

OFFICE OF THE
FEB 11 2005
LIEUTENANT GOVERNOR

February 9, 2005

The Honorable Loren Leman
Lieutenant Governor, State of Alaska
State Capitol, Third Floor
Juneau, Alaska 99811

Re: HB 97 and SB 72

Dear Lt. Governor Leman:

The members of the Alaska Bankers Association reviewed HB 97 and SB 72 which addresses the responsibilities of notaries public in the State of Alaska. We have no opposition to the proposed changes to existing law and are in support of the legislation.

We appreciate the opportunity to review and comment on any proposed legislation that may impact the financial services industry.

Sincerely,



Lisa J. Corrigan
President
Alaska Bankers Association

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United States
NOTARY
Association

February 3, 2005

The Honorable Loren Leman
Office of the Lieutenant Governor
P.O. Box 110015
Juneau, AK 99811-0015

RE: 2005 Alaska House Bill 97

Dear Lt. Governor Leman:

On behalf of the members of the United States Notary Association (USNA), I congratulate you and Governor Murkowski on your legislative initiative to comprehensively revise the chapter of the Alaska Statutes that governs Alaska notaries public: Title 44, Chapter 50 [Alaska Stat. §44.50].

USNA is strongly in favor of this notarial legislation because it will give notaries clearer and unambiguous direction for the performance of their official duties. This direction will protect both the notary and the public from the serious consequences of unintended error.

However, in reading the bill's text, we find no mention of the possibility of an Alaskan notary using any device other than paper and pen to act in his or her capacity as a notary. Because Alaska has adopted the Uniform Electronic Transactions Act (UETA), it should be permissible for notaries to serve their customers by following the guidelines set forth in Alaska Stat. §09.080.010, et seq. We encourage the Alaska House of Representatives to include language in this bill that will enable notaries to participate in the 21st Century.

Again, since Alaska Stat. §44.50 has not been comprehensively revised since being enacted in 1961, USNA gives its full support to House Bill 97 because this bill intends to repeal obsolete provisions, update antiquated language and add new provisions where they are needed.


USNA urges the Alaska Legislature to take prompt and favorable action. If I can be of help to you in supporting this bill, please contact me at 800-587-2588 or usna@enotary.org.

I look forward to reporting on the successful passage of House Bill 97 in an upcoming issue of *Notary Review*.

For the Association,


Marc V. Aronson
President

About the United States Notary Association
USNA is a membership organization dedicated to the professional development of notaries public in all 50 states and the District of Columbia.


14 Wood Street
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15222-1921
ph: 800.587.2588
fax: 800.707.7075

Notary Population by State & Electronic Applications

STATE	POPULATION	ACCEPTANCE OF E-APPLICATIONS	UCC FILINGS
ALASKA	11,800	Not yet	Banking and Corporations Office
ARIZONA	6,200,000	Not yet	Business Services
ARKANSAS	Over 100,000	No	UCC Division
COLORADO	90,000 - 100,000	Not yet	Division of Bus. Filings UCC Section
DELAWARE	10,000	No	Corporations Division
FLORIDA	350,000	Yes	Department of State, Division of Corporations
HAWAII	7,000	Not yet	—
ILLINOIS	184,000	Not yet	UCC Division
IOWA	50,000	Not yet	Business Services
KENTUCKY	80,000 (records kept 4 years only)	No	UCC Division
MAINE	—	No	UCC Division
MASSACHUSETTS	100,027	No	Assessment and Taxation Department
MINNESOTA	83,000	No	Corporations Division
MISSISSIPPI	3,000,000	No	Business Licenses
MISSOURI	71,122	No	—
MONTANA	18,000	No	UCC Division
NEBRASKA	22,000	No	Secretary of State Office
NEVADA	27,000	Not yet	UCC Division
NEW HAMPSHIRE	25,000	No	UCC Division
NEW JERSEY	—	Not yet	Division of Revenue
NEW MEXICO	32,000	No	Secretary of State Office
NORTH CAROLINA	250,597	No	Division of Corporations UCC Unit
NORTH DAKOTA	196,000	Not yet	UCC Division of SOS Office
OHIO	11,574	No	Central Indexing
OKLAHOMA	85,000	No	—
OREGON	84,000	No	Through each county
PENNSYLVANIA	45,000	Not yet	Corporations Division
RHODE ISLAND	47,860	Not yet	Corporations Bureau
SOUTH CAROLINA	150,000 - 200,000	No	UCC Division
SOUTH DAKOTA	17,000	No	UCC Division
TENNESSEE	2,100,000	No	Secretary of State Office
TEXAS	352,294	Not yet	UCC Division
UTAH	28,000	No	Division of Corporations & Commercial Code
VERMONT	20,000	Not yet	UCC Division
VIRGINIA	200,000	Not yet	Division of Corporations
WASHINGTON	75,000	No	State Corporation of Commercialization
WEST VIRGINIA	—	No	UCC Office in the Department of Licensing at the
WISCONSIN	4,000	No	Business and Professions Division
WYOMING	20,000	No	UCC Division
—	15,000	Not yet	Department of Financial Institutions
—	—	—	Corporations Division

— Information not available.

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
ALABAMA	Individual county judges	Varies by county — 18 years old; resident of AL and county commissioned in; must have notary bond at time of commissioning.
ARIZONA	Secretary of State	18 years old; must be an AZ resident; minimum residency requirement varies.
CALIFORNIA	Secretary of State	18 years old; legal resident of CA; successful completion of an approved notary exam.
CONNECTICUT	Secretary of State	18 years old; residence or employment in CT.
DISTRICT of COLUMBIA	Office of the Secretary	18 years old; residence or employment in DC; letter explaining need included with application; three character references included with application.
GEORGIA	Clerk of Superior Court in each county	18 years old; able to read and write English; resident of GA.
HAWAII	Attorney General	18 years old; US citizen and resident of HI.
IDAHO	Secretary of State	18 years old; residence or employment in ID; able to read and write English; No removal from office for misconduct or no conviction of a serious crime within the last 10 years.
ILLINOIS	Secretary of State	18 years old; resident of IL; able to read and write English; no revocation of commission or felony convictions in the last 10 years.
INDIANA	Secretary of State	18 years old; resident of IN.
IOWA	Secretary of State	18 years old; residence or employment in IA; no revocation of commission or felony convictions in the last 10 years.
KANSAS	Secretary of State	18 years old; resident of KS; or resident of bordering state and employed in KS.
KENTUCKY	Secretary of State	18 years old; resident of county in which application is made; of good moral character; and capable of discharging duties imposed by law.
LOUISIANA	Secretary of State	18 years old; resident of LA, in and for the parish in which applicant lives or works, provided that the notary meets the requirements established by each parish in which the notary applies.
MAINE	Secretary of State	18 years old; resident of ME; and recommended to the office by a registered voter in ME.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$11-\$15, varies by county	Notaries are appointed by county judges in county of residence.
4 years	\$25 to Secretary of State; \$18 to Clerk of Superior Court in county of residence	Jurisdiction is statewide, though notaries are commissioned in the county of residence.
4 years	\$100	
5 years	\$60	
5 years	\$50	
4 years	\$15	Notaries in LA are appointed by parish or marriage ceremonies.
6 years	\$30	
8 years	\$5	
4 years (notary public) 4 years (notary public)	\$50	
4 years	\$10	Notaries are <u>not</u> considered public officers.
4 years	\$10	There are 2 types of notaries in CA: notaries state-at-large and notaries under special commission.
Lifetime	Varies from parish to parish - up to \$1,000, includes education and examination, state fees, background checks, bonding, filing with parish, etc. LA notaries are civil law notaries with more involved duties than common law notaries. LA's requirements for notaries reflect this difference.	
7 years	\$25	Each new notary must swear an oath in front of a Notary Justice before acting as a notary. Notaries in ME are authorized to perform marriage ceremonies.

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
MASSACHUSETTS	Governor	18 years old
MINNESOTA	Governor	18 years old; resident of MN.
MISSOURI	Secretary of State	18 years old; registered voter of county of residence; able to read and write English; no commission revoked during past 10 years.
MONTANA	Secretary of State	18 years old; citizen of US or resident alien; possession of civil rights.
NEBRASKA	Governor	19 years old; application is accompanied by petition signed by at least 25 voters in county of residence.
NEVADA	Secretary of State	18 years old; citizen of US or resident alien; possession of civil rights.
NEW HAMPSHIRE	Governor and Ex. Council	18 years old; resident of NH; 2 notaries and 1 registered voter must endorse application; must complete State Police Records Check Form; cannot be a convicted felon.
NEW JERSEY	Secretary of State	18 years old; resident of NJ or resident of adjoining state who works in NJ; not convicted of a felony in the past 5 years.
NEW MEXICO	Governor	18 years old; resident of NM; able to read and write English; no revocation of commission or felony convictions in the past 5 years.
NEW YORK	Secretary of State	18 years old; residence or employment in NY; must pass written exam, and must provide verification of good moral character.
NORTH CAROLINA	Secretary of State	18 years old; resident of NC or employed in NC; recommended by publicly elected official; completion of notary course approved by SOS.
NORTH DAKOTA	Secretary of State	A notary applicant must have the same qualifications as an elector with regard to age and residence or must reside in a county that borders ND in a state that extends recognition to a notary public in a border county.
OHIO	Governor	18 years old; citizen of OH; or attorney of another state who is admitted to the practice of law in OH.
OKLAHOMA	Secretary of State	18 years old; citizen of the US; legal residence or employment in OK.
OREGON	Secretary of State	18 years old; residence or employment in OR; able to read and write English; be of good moral character; have no notary commission revoked in the preceding 5 years; no felony conviction within the last 10 years.
PENNSYLVANIA	Sec. of the Department of State	18 years old; registered voter; resident of PA for at least 1 year prior to commission application; be of known character, integrity, and ability.
RHODE ISLAND	Governor	Any qualified elector/resident of RI.
SOUTH CAROLINA	Governor	18 years old; must be registered voter in SC; application must be endorsed by county delegates.
SOUTH DAKOTA	Secretary of State	18 years old; citizen of US; no felony convictions.
TENNESSEE	Governor	18 years old; citizen of US and resident of TN; no felony convictions; elected by county legislative body of county of residence.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEE	COMMENTS
7 years	\$25	
5 years	\$40	Dept of Commerce oversees notary commissions.
4 years	\$25	Non-residents can be notaries in MO if they work in MO.
4 years	\$30	
5 years	\$50	
4 years	\$10	
5 years	\$30	
5 years	\$5-6	Notaries apply in the counties they reside in through the local bar association.
4 years	\$25	
4 years	\$20	
4 years	\$25	
4 years	\$80	
10 years	\$25	SC notaries are authorized to perform marriage ceremonies.
6 years	\$10	
4 years	\$12	\$7 for the County Court Clerk and \$5 for the Secretary of State.

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
TEXAS	Secretary of State	18 years old; resident of TX.
VERMONT	Superior Court Assistant Judges	18 years old; resident of the state or a nonresident who commutes for work.
WASHINGTON	Dept. of Licensing Dir.	18 years old; resident of the state or an adjoining state and be regularly employed in or conduct business in Washington; read and write English; submission of complete application; must submit a \$10,000 surety bond and application fee.
WISCONSIN	Governor	18 years old; resident of the state.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$21	
4 years	\$20 payable to county	
4 years	\$20	
4 years	\$20	

Notary Exam & Class Requirements

STATE	EXAM REQ'D	CLASS REQ'D	COMMENTS	STATE TRAINING
ALABAMA			No education or exam required.	
ALASKA	X		Exam in Alaska handbook.	
ARIZONA			No education or exam required.	
ARKANSAS			No education or exam required.	
CALIFORNIA	X		Exam required for new and renewing notaries.	
COLORADO			No education or exam required.	X
CONNECTICUT	X		Exam is part of application.	X
DELAWARE			No education or exam required.	
D.C.	X		Exam is oral and open-book test.	X
FLORIDA		X	Class required for new notaries.	X
GEORGIA			No education or exam required.	X
HAWAII	X		Exam is closed-book test.	
IDAHO			No education or exam required.	
ILLINOIS			No education or exam required.	
INDIANA			No education or exam required.	
IOWA			No education or exam required.	X
KANSAS			No education or exam required.	X
KENTUCKY			No education or exam required.	
LOUISIANA	X		Training suggested.	
MAINE	X		Open book exam part of application.	X
MARYLAND			No education or exam required.	
MASSACHUSETTS			No education or exam required.	
MICHIGAN			No education or exam required.	
MINNESOTA			No education or exam required.	
MISSISSIPPI			No education or exam required.	
MISSOURI			No education or exam required.	X
MONTANA			No education or exam required.	
NEBRASKA			No education or exam required.	
NEVADA			No education or exam required.	X
NEW HAMPSHIRE			No education or exam required.	
NEW JERSEY			No education or exam required.	
NEW MEXICO			No education or exam required.	
NEW YORK	X		Exam is closed-book test.	
NORTH CAROLINA	X	X	Training and exam are required prior to commission.	X
NORTH DAKOTA			No education or exam required.	
OHIO	X		Tests are administered by the county. All exams are different and not every county issues an exam.	
OKLAHOMA			No education or exam required.	
OREGON	X		Exam is open-book test and part of application.	X
PENNSYLVANIA			No education or exam required.	
RHODE ISLAND			No education or exam required.	
SOUTH CAROLINA			No education or exam required.	
SOUTH DAKOTA			No education or exam required.	
TENNESSEE			No education or exam required.	
TEXAS			No education or exam required.	
UTAH	X		Training is encouraged, but not required.	X
VERMONT			No education or exam required.	X
VIRGINIA			No education or exam required.	
WASHINGTON			No education or exam required.	
WEST VIRGINIA			No education or exam required.	
WISCONSIN			No education or exam required.	
WYOMING	X		Test in back of W's notary book is not mandatory, but is recommended.	

Stamp/Embosser Requirements & Fees

STATE	STAMP/EMBOSSE	ALLOWABLE FEES NOTARY CAN CHARGE
ALABAMA	Embosser	Maximum fee is \$1.50 depending upon act performed.
ALASKA	Stamp/Embosser	Fees are left to the notary's discretion. State employed notaries cannot charge fees.
ARIZONA	Stamp	\$2 is maximum fee.
ARKANSAS	Stamp/Embosser	\$5 is maximum fee.
CALIFORNIA	Stamp	Maximum fee is \$20 depending upon act performed.
COLORADO	Stamp/Embosser	\$5 is maximum fee.
CONNECTICUT	—	\$5 is maximum fee.
DELAWARE	Stamp/Embosser	\$5 is maximum fee.
D. C.	Embosser	\$2 is maximum fee. Government employed notaries cannot charge fees.
FLORIDA	Stamp	\$10 is maximum fee per signature.
GEORGIA	Stamp/Embosser	\$4 is maximum fee.
HAWAII	Stamp/Embosser	Maximum fee is \$5 depending upon act performed.
IDAHO	Stamp/Embosser	\$2 is maximum fee.
ILLINOIS	Stamp	\$1 is maximum fee.
INDIANA	Stamp/Embosser	\$2 is maximum fee. Public official notaries cannot charge fees.
IOWA	Stamp/Embosser	The statutory schedule of fees for notarial acts was repealed in 1989.
KANSAS	Stamp/Embosser	Not specified by law.
KENTUCKY	—	Maximum fee is 50 cents depending upon act performed.
LOUISIANA	—	Not specified by law.
MAINE	—	Other than \$1.50 for each protest of a bill or note, fees are left to notary's discretion.
MARYLAND	Stamp/Embosser	\$2 is maximum fee.
MASSACHUSETTS	—	\$2 is maximum fee for protests. All other fees are left to the notary's discretion.
MICHIGAN	—	\$2 is maximum fee.
MINNESOTA	Stamp	\$1 is maximum fee.
MISSISSIPPI	Stamp/Embosser	Fee range is \$2 to \$5.
MISSOURI	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
MONTANA	Stamp/Embosser	Maximum fee is \$3.50 depending upon act performed.
NEBRASKA	Stamp	Maximum fee is \$5 depending upon act performed. State employed notaries cannot charge fees.
NEVADA	Stamp	Maximum fee is \$5 depending upon act performed.
N. HAMPSHIRE	Stamp/Embosser	\$5 is maximum fee.
N. JERSEY	—	Maximum fee is \$2 depending upon act performed.
NEW MEXICO	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
NEW YORK	—	Maximum fee is \$2 depending upon act performed.
N. CAROLINA	Stamp/Embosser	\$3 is maximum fee.
N. DAKOTA	Stamp/Embosser	\$5 is maximum fee.
OHIO	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
OKLAHOMA	Stamp/Embosser	Maximum fee is 50 cents depending upon act performed.
OREGON	Stamp	Maximum fee is \$5 depending upon act performed.
PENNSYLVANIA	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
RHODE ISLAND	—	Maximum fee is \$1.50 depending upon act performed.
S. CAROLINA	—	Maximum fee is \$1 depending upon act performed.
S. DAKOTA	Stamp/Embosser	\$10 is maximum fee.
TENNESSEE	Stamp/Embosser	Maximum fee is \$1.50 depending upon act performed.
TEXAS	Stamp/Embosser	Maximum fee is \$6 depending upon act performed.
UTAH	Stamp/Embosser	\$5 is maximum fee.
VERMONT	—	Maximum fee is \$2 depending upon act performed.
VIRGINIA	—	Maximum fee is \$2 depending upon act performed.
WASHINGTON	Stamp/Embosser	Maximum fee is \$5 depending upon act performed.
WEST VIRGINIA	Stamp/Embosser	\$2 is maximum fee.
WISCONSIN	Stamp/Embosser	Maximum fee is \$1 depending upon act performed.
WYOMING	Stamp/Embosser	\$2 is maximum fee.

* New legislation enacted requiring use of stamp or seal.

Bond & Recordbook Requirements/Penalties for Wrongdoing

STATE	RECORDBOOK	BOND	PENALTIES/ACTION
ALABAMA	X	\$10,000	— Discipline done through probate office/local DA office.
ALASKA	Recommended	\$1,000	X. Complaints required in writing and verified by Attorney General. An administrative hearing can be followed by the suspension or revocation of commission.
ARIZONA	X	\$5,000	X Attorney General determines whether commission is revoked or renewal is denied.
ARKANSAS	Recommended	\$7,500	X. The complaint must be in writing to the staff attorney who has the power to revoke the commission if necessary.
CALIFORNIA	X	\$15,000	X Commission can be suspended or revoked, or application for commission can be denied.
COLORADO	X	None	X. Secretary of State has the option to revoke commission.
CONNECTICUT	Recommended	None	X A disciplinary hearing is followed by reprimand, suspension, or revocation of commission.
DELAWARE	—	None	X. Complaints referred to Attorney General. Commission can be revoked.
D. C.	X	\$2,000	X A written complaint must be filed with the Notary Commission Section Chief who decides what action to take. The most severe action is revocation of commission.
FLORIDA	Recommended	\$7,500	X. Notary commissions can be suspended or revoked and the notary can be subject to fines and/or criminal penalties.
GEORGIA	—	None	Each county handles disciplinary action.
HAWAII	X	\$1,000	X. Issues are solved verbally. State has the ability to revoke a commission but never has.
IDAHO	—	\$10,000	— —
ILLINOIS	—	\$5,000	— —
INDIANA	—	\$5,000	— There is a complaint form, but no official disciplinary procedure.
IOWA	Recommended	None	X. State code encourages informal settling of disciplinary issues. If that is not possible, the commission is revoked.
KANSAS	—	\$7,500	X After review by an attorney, revocation of the commission is the ultimate penalty.
KENTUCKY	Recommended	Varies per county.	— —
LOUISIANA	X (Notaries Public only)	\$5,000	— Notaries are not governed by the state. No bond required for attorneys.
MAINE	Recommended (Impaired for message only)	None	— Complaints are made to and handled by the Attorney General.
MARYLAND	X	None	— The notary receives a letter of reprimand for the first act of wrongdoing. In the event of a second act of wrongdoing, the commission is revoked.
MASSACHUSETTS	Recommended	None	— Complaints are referred to the Governor's council.
MICHIGAN	Recommended	\$10,000	X There is a hearing and possible revocation of commission.
MINNESOTA	—	None	X. The Enforcement Division investigates. Penalties can include warnings, fines, suspension, or revocation of commission.
MISSISSIPPI	X	\$5,000	— Complaints are referred to Governor's office.
MISSOURI	X	\$10,000	— Revocation must be done through Attorney General's office.
MONTANA	Recommended	\$10,000**	— Complaints are referred to county attorney.
NEBRASKA	Recommended	\$10,000	X The commission can be revoked or in extreme cases there are court hearings.
NEVADA	X	\$10,000	X Complaints must be in writing. If wrongdoing is found, penalties are issued.
N. HAMPSHIRE	X	None	X Commission can be revoked.
N. JERSEY	X	None	— The state isn't involved in notary discipline. If a notary case goes through the court system, the state will be notified to revoke the commission.
NEW MEXICO	X (Notaries Public only)	\$500	Secretary of State has no authority to discipline notaries.

* Recent legislation passed increasing bond from \$4,000 to \$7,500.

** Recent legislation passed increasing bond from \$5,000 to \$10,000.

Bond & Recordbook Requirements/Penalties for Wrongdoing

STATE	RECORDBOOK	BOND	PENALTY/SANCTION
NEW YORK	—	None	X If a notary is accused of wrongdoing, he/she has the right to an administrative hearing before an administrative law judge.
N. CAROLINA	—	None	X Complaints must be received in writing. If wrongdoing is found, the notary's commission can be suspended or revoked, depending on the severity of the wrongful act.
N. DAKOTA	Recommended	\$7,500	X A letter is written to the Attorney General who can then revoke the commission, reprimand the notary, or assess a fee. <small>(None for Notaries in Practice only)</small>
OHIO	X	None	— Discipline/complaints are handled individually by each county.
OKLAHOMA	X	\$1,000	— Complaints go through the court system.
OREGON	X	None	X Discipline alternatives include a letter of advice, a warning, suspension; or revocation of the commission.
PENNSYLVANIA	X	\$3,000	— Complaints are sent to the state prosecution office.
RHODE ISLAND	—	None	— Complaints are referred to the local police.
S. CAROLINA	—	None	— There is no policy unless the notary has done a false certification. In that case, the notary can be tried through the county and the commission can be revoked.
S. DAKOTA	Recommended	\$5,000	— Complaints are kept on file and commissions are revoked with a court order.
TENNESSEE	X	\$10,000	—
TEXAS	X	\$10,000	— Handled through the legal office.
UTAH	—	\$5,000	X Notary administrator and commissioning office have the authority to revoke, suspend, or deny a commission with cause. There is an administrative hearing process in place if a notary wishes to appeal a decision.
VERMONT	—	None	— Secretary of State has no jurisdiction over notary discipline. Complaints must be made to assistant judge of the superior court.
VIRGINIA	—	None	X Notaries are penalized through reprimand, suspension, and revocation of their commissions.
WASHINGTON	—	\$10,000	X Complaints are investigated and if wrongdoing is found the commission can be revoked.
WEST VIRGINIA	—	None	— Due to change in staff this process is being revised.
WISCONSIN	—	\$500 (none for attorneys)	— Complaints are forwarded to the Governor's office.
WYOMING	Recommended	\$500	— Discipline is handled at the county level.

X Is required or applicable

— Information not available or on record

Contact Information

STATE	CONTACT PERSON	OFFICE ADDRESS
ALABAMA	Jane Ryals, Notary Registrar	Office of the Secretary of State, PO Box 5616, Montgomery, AL 36103-5616
ALASKA	Scott Clark, Notary Administrator	Office of the Lieutenant Governor, PO Box 110015, Juneau, AK 99811-0015
ARIZONA	Connie Copeland, Director	Notary Section, 1700 West Washington, 7 th Floor, State Capitol Executive Tower, Phoenix, AZ 85007
ARKANSAS	Janette Counts, Business Services Manager	Office of the Secretary of State, Corporations Division, State Capitol, Little Rock, AR 72201-1094
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COLORADO	Gerti Anderson, Notary Public Clerk	Office of the Secretary of State, 1560 Broadway, Suite 200, Denver, CO 80202
CONNECTICUT	Peter J. Bartucca	Notary Public Unit, 30 Trinity Street, Hartford, CT 06106
DELAWARE	Veronica Bales, Notary Administrator	Office of the Secretary of State, 401 Federal Street, Suite 3, Dover, DE 19901
D. C.	Rosshyn Brown, Section Chief	Notary Commission & Authentication Section, 441 4 th St., Room 1G-090, Washington, DC 20001
FLORIDA	Jennifer Bertsch, Training/Education Coordinator Charles Canady	Office of the Governor, Notary Section, The Capitol, Rm 2009, Tallahassee, FL 32399-0001 Notary Commission and Certifications Section, Dept. of State, State Capitol, Rm 1801, Tallahassee, FL 32399-0001
GEORGIA	Mike Smith, Communications Director	Georgia Superior Court, Clerks' Cooperative Authority, 1875 Century Blvd., Suite 100, Atlanta, GA 30345
HAWAII	Aun Yuwaki, Legal Assistant	Department of Attorney General, 425 Queen Street, Honolulu, HI 96813
IDAHO	Debbie Farnsworth, Administrative Secretary	Office of the Secretary of State, Box 83720, Boise, ID 83720-0080
ILLINOIS	Christine Worke, Notary Division Supervisor	Labor Department, 414 East Monroe Street, Springfield, IL 62756
INDIANA	Pam Neff, Notary Public Deputy	Notary Department, State House, Rm 201, Indianapolis, IN 46204
IOWA	Rob Peterson, Director of Business Services	Corporations Division, Lucas Office Building, 1 st Floor, Des Moines, IA 50319
KANSAS	Georgia Lott, Notary Administrator	Office of the Secretary of State, First Floor Memorial Hall, 120 SW 10 th Ave., Topeka, KS 66612-1594
KENTUCKY	Kim Barwick, Administrative Specialist/Principal	The Notary Public Division, Office of the Secretary of State, PO Box 821, Frankfort, KY 40602-0821
LOUISIANA	Cynthia Cozart, Administrative Specialist	Notary Division, PO Box 94124, Baton Rouge, LA 70804
MAINE	Timothy R. Boulton, Notary Public Officer	Bureau of Corporations, Elections & Commissions, 101 State House Station, Augusta, ME 04333-0101
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MASSACHUSETTS	Frances Gould, Director	Notary Section, Office of the Secretary of the Commonwealth, One Ashburton Place, Rm 1719, Boston, MA 02108
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MISSISSIPPI	Nan Almsworth, Records Analyst	Enforcement/Regulation Notaries, PO Box 136, Jackson, MS 39205 or 202 N. Congress St., Jackson, MS 39201
MISSOURI	Brendis Rolfe, Division Director	Commissioned Division, PO Box 784, Jefferson City, MO 65102-0784
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OKLAHOMA	Mary Anne Wats, Notary Supervisor	Notary Public Department, 2300 N. Lincoln Blvd., Suite 101, Oklahoma City, OK 73105
OREGON	Tom Wrosch, Notary Public Supervisor	Office of the Secretary of State, 255 Capitol St. NE, Suite 151, Salem, OR 97310-1327
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(901) 682-3409	business@sosmail.state.ar.us	www.sosweb.state.ar.us/business.html
(916) 653-3595	notaries@ss.ca.gov	www.ss.ca.gov/business/notary/notary.htm
(303) 894-2686	—	www.sos.state.co.us/pubs/info_center/contact.html
(860) 509-6230	peter.bartucca@po.state.ct.us	www.sos.state.ct.us/RecordsLegislativeServices/RSIndex.html#Notary
(302) 739-4111	—	www.state.de.us/sds/npbome.htm
(202) 727-3117	—	os.dc.gov/info/notary/notary.shim
(850) 372-6401	flgov_notary@sos.state.fl.us	www.myflorida.com/myflorida/government/learn/notary/index.html
(850) 488-7521	—	—
(404) 327-6023	mike.smith@gscoca.org	www.gscoca.org
(808) 586-1218	—	www.state.hi.us/ag/notary/coolent.htm
(208) 332-2810	darswo@lsos.state.id.us	www.ldsos.state.id.us/notary/npindex.htm
(217) 782-7117	—	www.sos.state.il.us/departments/index/division.html
(317) 232-6542	—	www.state.in.us/sos/bus_service/notary/
(515) 281-5204	rbernsen@sos.state.ia.us	www.sos.state.ia.us/
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(225) 342-4981	notaries@sec.state.la.us	www.notaries@sec.state.la.us.htm
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(410) 974-5520	notaries@sos.state.md.us	www.sos.state.md.us/sos/admin2/html/notary.html
(617) 727-2836	pre@sec.state.ma.us	www.state.ma.us/sec/pre/pre09/notbow.htm
(517) 373-2531	notary@sos.state.mi.us	www.sos.state.mi.us/grease/notaries/notaries.html
(651) 296-6319	Licensing Commerce@state.mn.us	www.commerce.state.mn.us/pages/NotaryMain.htm
(601) 359-1615	notarymail@sos.state.ms.us or nalsworth@sos.state.ms.us	www.sos.state.ms.us/busserv/notaries/notaries.html
(573) 751-4756	rickab@bcsmail.state.mo.us	modl.sos.state.mo.us/bus-ser/soscom.html
(406) 444-5379	sos@state.mt.us	www.state.mt.us/sos/Notaries/Instructions/instructions.html
(402) 471-2558	sos07@not.org	www.not.org/80/home/SOS/Notary/notary_e.htm
(775) 684-5708	nnotary@govmail.state.nv.us or bethrid@govmail.state.nv.us	www.sos.state.nv.us/notary/notary_info.htm
(603) 271-5242	elections@sos.state.nh.us	www.state.nh.us/sos/notary.htm
(609) 633-8257	—	www.state.nj.us/treasury/revenue/dcr/programs/notary.html
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(518) 473-2728	licensing@dos.state.ny.us	www.dos.state.ny.us/lcrs/notary1.html
(919) 807-2131	notaries@mail.secstate.state.nc.us	www.secretary.state.nc.us/notary
(701) 328-2000	sosadlr@state.nd.us	www.state.nd.us/sec/Notary/notarymnu.htm
(611) 644-4559	—	—
(405) 521-2516	mary.a.watts@sos.state.ok.us	www.sos.state.ok.us/notary/notary_welcome.htm
(503) 986-2200	oregon_notary@state.or.us	www.sos.state.or.us/corporation/notary/notary.htm
(717) 787-5280	—	www.dcs.state.pa.us/bcel/notaries/
(401) 222-1407	notaries@sec.state.ri.us	www.corps.state.ri.us/notaries/notaries.htm
(803) 734-2119	—	www.scsos.com/notaryrules.htm
(605) 773-5666	kea.warne@state.sd.us	www.state.sd.us/sos/Notaries/notarycover.htm
(615) 741-3699	—	www.state.tn.us/sos/service.htm#notary
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(360) 664-1550	lntnotarie@dol.wa.gov	www.wa.gov/dol/bpd/notifroot.htm
(304) 558-6000	clerotte@secretary.state.wv.us	www.state.wv.us/sos/notary/default.htm
(608) 266-5594	—	budget.state.wi.us/agencies/sos/notary.htm
(307) 777-5407	jmesku@state.wy.us	soswy.state.wy.us/notary/notary.htm

February 2, 2005

Representative Leslie McGuire, Chair
The House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: House Bill 97

Dear Representative McGuire:

Today, I briefly commented via teleconference before the State Affairs Committee on this bill.

I am sending for your consideration three documents that I would ask you to share as this bill is moved forward. Citizens of the United States and Alaska need to know that any justice, judge or magistrate of a court of the State of Alaska or of the United States have a current oath of office in effect and this coupled with an official appointment is a matter of public record. Sec. 09.63.010⁽¹⁾⁽³⁾₍₂₎₍₄₎ on oath will help citizens to know these officials are required to have an oath and perhaps an official state website to access this.

Standard Operating Procedures have become the source of major crimes of fraud, the lack of protection of personal financial information and the lack of human, civil and economic rights being respected in a democracy.

Representative Leslie McGuire, Chair
The House Judiciary Committee
Alaska State Legislature

Page Two

President Bush signed into law, July 15, 2004
Identity Theft Penalty Enhancement Act, 118 STAT.
831 108-275 Public Law. It would suggest the
rules and regulations of this legislation for
criminal consequences be incorporated when a
notary may have his commission revoked. Sec.
44.50.064. Official seal a (B) "State of Alaska" is
very important and a review of notary seals
to make sure this is in effect when this legislation
is finalized. (c) this may need to be done with
existing seals that do not have the "State of Alaska"
on the seal. The Federal legislation was a major
bi-partisan effort.

I am also including a document that was
sent to me by email from the President of
Mexico. It began the Binational efforts over 30
years ago and a Binational Mechanism is
being discussed and implemented regularly to
incorporate decisions at binational meetings.
With 25,000 Alaskans connected by language and
culture to Spanish speaking countries this may
be of interest to make contact.

The third document is the meaning of Global
Legal Perspective" which gains everything in
the translation. This was originally presented
in a meeting I chaired on agricultural trade in
the Iowa Capital July 1993 that had a delegation
from Mexico.

Representative Lesie McGuire, Chair Page Three
The House Judiciary Committee
Alaska State Legislature

The Mission Statement from this meeting went to the women of the world in regional meetings (i.e. Africa was a region, Europe + North America, another) and we dialogued in talking circles in the rural countryside of China for the Fourth United Nations World Conference on Women: Action for Equality, Development and Peace."

Thank you for your consideration.

Sincerely,

Patricia Bray, President
The Thomas Jefferson Regional
and Academic Science Award

P.O. Box 210464
Anchorage, AK 99521

President Bush Signs Identity Theft Penalty Enhancement Act

Remarks by the President at Signing of Identity Theft Penalty Enhancement Act
Roosevelt Room

10:52 A.M. EDT



VIDEO Multimedia

President's Remarks

 [view](#)

 [listen](#)

THE PRESIDENT: Thanks for coming. Welcome to the White House. Thanks for coming. (Laughter.) Welcome to the White House. (Laughter.)

7/15/04

James B. Comey Deputy Attorney General, discussed the Identity Theft Penalty Enhancement Act on Ask the White House. [Click here to read the transcript](#)

We're taking an important step today to combat the problem of identity theft, one of the fastest growing financial crimes in our nation. Last year alone, nearly 10 million Americans had their identities stolen by criminals who rob them and the nation's businesses of nearly \$50 billion through fraudulent transactions. The bill I'm about to sign sends a clear message that a person who violates another's financial privacy will be punished.

The Identity Theft Penalty Enhancement Act also prescribes prison sentences for those who use identity theft to commit other crimes, including terrorism. It reflects our government's resolve to answer serious offenses with serious penalties.

I appreciate the members of my administration who worked on this important piece of legislation, particularly Cabinet members John Snow and John Ashcroft. I appreciate the members of the Congress who worked hard on this legislation: Senator Orrin Hatch and Senator Jon Kyl, Senator Dianne Feinstein, and members of the House, Chairman, Senator Jim Sensenbrenner, and John Carter from the great state of Texas. I want to thank the other members of Congress who are here, members of both political parties. Thank you for coming. I thank those who are on their staffs who have worked hard.

The crime of identity theft undermines the basic trust on which our economy depends. When a person takes out an insurance policy, or makes an online purchase, or opens a savings account, he or she must have confidence that personal financial information will be protected and treated with care. Identity theft harms not only its direct victims, but also many businesses and customers whose confidence is shaken. Like other forms of stealing, identity theft leaves the victim poor and feeling terribly violated.

But the losses are not measured only in dollars. An identity theft – thief can steal the victim's financial reputation. Running up bills on credit card accounts that the victim never knew existed, the criminal can quickly damage a person's lifelong efforts to build and maintain a good credit rating. Repairing the damage can take months or years.

Government has a responsibility to protect citizens from these crimes and the grief and hassle they cause. It's a solemn responsibility of our government. I want to thank the members of Congress for recognizing that responsibility.

This good law is part of a broader effort we've waged in recent years. The U.S. Postal Inspection Service, the FBI, and Secret Service are working with local and state officials to crack down on the criminal networks that are responsible for much of the identity theft that occurs in this nation. The Federal Trade Commission is training local law enforcement in the detection of identity theft. The Commission has set up the ID Theft Data Clearinghouse, which keeps track of complaints across the country, and provides those records to prosecutors seeking to take down organized rings.

Last December, I signed the Fair and Accurate Credit Transactions Act, which established a national system of fraud detection so that identity thieves can be stopped before they run up tens of thousands of dollars in illegal purchases. Thanks to this law, victims can make one phone call to alert all three major credit rating agencies to report the crime and to protect their credit ratings.

The law I sign today will dramatically strengthen the fight against identity theft and fraud. Prosecutors across the country report that sentences for these crimes do not reflect the damage done to the victim. Too often, those convicted have been sentenced to little or no time in prison. This changes today. This new law establishes in the federal criminal court the offense of aggravated identity theft. And someone convicted of that crime can expect to go to jail for stealing a person's good name. These punishments will come on top of any punishment for crimes that proceed from identity theft. For example, when someone is convicted of mail fraud in a case involving stolen personal information, judges will now impose two sentences, one for mail fraud, and one for aggravated identity theft. Those convicted of aggravated identity theft must serve an additional mandatory two-year prison term. Someone convicted of aggravated identity theft, such as using a false passport in connection with a terrorism case, would receive an additional prison sentence of five years. In addition, judges will not be allowed to let those convicted of aggravated identity theft serve their sentence on probation.

This law also raises the standard of conduct for people who have access to personal records through their work at banks, government agencies, insurance companies, and other storehouses of financial data. The law directs the United States Sentencing Commission to make sure those convicted of abusing and stealing from their customers serve a sentence equal to their crimes.

What I'm telling you is this is a good law. And I appreciate you working hard to see to it that it made it to my desk. Because of this act of Congress I sign today, the guilty will be certain to be punished. That's good for our consumers, it's good for our economy, and it's good for the cause of justice.

Welcome to the White House. (Applause.)

(The bill is signed)

END 10:59 A.M. EDT

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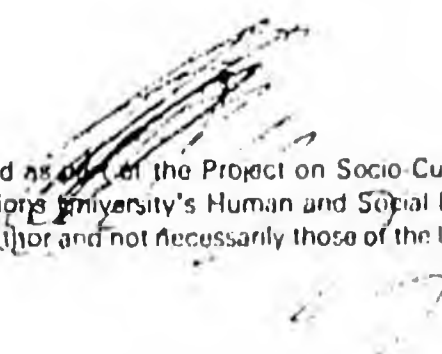
ANTROPOLOGIA JURIDICA

THE MEANING OF GLOBAL LEGAL PERSPECTIVE

BY

FLORENCIO SANCHEZ-CAMARA

This working paper was prepared within the framework and as part of the Project on Socio-Cultural Development Alternatives in a Changing World (SCA) of the United Nations University's Human and Social Development Programme. The views expressed in the paper are those of the author and not necessarily those of the United Nations University.



ANTROPOLOGIA JURIDICA

{ Qué significa la perspectiva legal global?

La respuesta preocupa a los juristas y los induce a tomar medidas concretas. Esta Carta parte de un plan que articula textos en campos versátiles(forman parte de la investigación sobre estructuras ideológicas superiores que emprendí con el patrocinio axiológico del Instituto de Investigaciones Economicas de la UNAM en el año de 1987) comprenden las ciencias sociales y politicas donde solicitamos y pediremos la opinion de pensadores del Derecho eminente.

El proposito es acudir a las fuentes en la civilizacion actual, de ahí lo juridico, pues el Derecho es un largo documento humano.

Interpretar el movimiento de la juridicidad- en todos los puntos cardinales- y descubrir los puntales de la nueva conciencia que contribuyan al ser propio de las ciencias sociales: la interrelación del hombre con el universo, la sociedad y el individuo al compartir los valores juridicos: el sustento de la comunidad ordenada.

Orbis mundi, la perspectiva juridica representa el universo juridico en su discurso, enfatiza el principio de la unidad en lo humano, su axiologia permanente dentro del cambio. A saber, hace inevitable la concepcion antropologica en su sentido mas vasto.

Los campos del entendido humano remiten al saber juridico a lo largo del recurso antropologico durante la cabal estimativa que situe al hombre en su contexto y aprecie-ad hoc- sus valores y aspiraciones.

2.

El hombre y sus proyectos aunque surjan de estudios rigurosos tecnolocalizados exigen para su analisis y sintesis-como la axiomatica segun Goedel- la nueva estructura y marco de referencia donde exploren , en bien del hombre, la juridicidad.

La propuesta es contener la atomizacion neopragmatica del conocimiento que obedece a la enorme desinformacion deliberada o no.

Los hechos cientificos dispersos en las disciplinas actuales tendran su resolucion inminente y activa en el conjunto de las ciencias sociales cuando, las presida, como corresponde, la vision paradigmatica concerniente a la Antropologia-Juridica.

Esclarecer y sintetizar estas ideas, a traves de la penetrante insembracion de las mentalidades con la comprension global de los fenomenos y noumenos (vease la congruencia del coincidir-para los fisicos de la mecanica cuantica y la cosmologia relativista) cuando la diversidad del enfoque universal, la correlacion de hechos y valores y su inextinguible juego (ya no abalorico como suscitaria Herman Hesse) *afirman la calidad del Homo ludens.*

Demostrar la arquetipica, las afinidades electivas del pensamiento juridico, la logica de las operaciones (procedimientos) y la entera mundanidad organica del Derecho y no solo aspirar a los intersticios del conocimiento, es revelar las sintesis internas y la unidad orgiastica de la naturaleza cientifica.

La tesis de la antropologia juridica , sitio de diferencias y biodiversidades para la liza donde se acometen las varias disciplinas, es presidir el tribunal del entendimiento plurigarante para la cualidad de la vida humana.

3.

El Derecho es el ancla del barco donde los Leviatanes navegan, su espíritu pese a las mareas adversas de la violencia esta impreso en nuestro ser intelectual y en la vida espiritual de la humanidad y en pensadores- el abogado Gandhí- filósofos-Bertrand Russell- y antropólogos-Cramsci- de manera indeleble..

En verdad el reto de la ciencia es enorme y no puede dejarse aislado en la ciencias dichas naturales, por una parte o en religiosidades autocráticas por la otra, sin la reflexión antropológica-histórica y jurídica. Pues estas conforman la arquitectura en el edificio del pensamiento humano..

Este proceder se justifica, por ejemplo, en el tribunal científico y filosófico de Russell, donde se acepta la unidad de las ciencias y artes en torno al Derecho con mayuscula, el dirimir de la contienda. Y hacerlo con mayor porcentaje de espíritu aristotélico y el menor de los magos Alejandros.

Juristas y antropólogos construyen así la nueva síntesis de lo cognitivo y paraperceptual que anticipara el esfuerzo enciclopédico del antropólogo Sol Tax. Conciérne a la unidad y continuidad del conocimiento en relación con la naturaleza del hombre-Anthropology To Day- el esfuerzo que realizan en otro orden, pero en el mismo horizonte, los llamados poetas cuya imaginación sintetiza la imagen con la palabra.

La ubicación del hombre es siempre nueva, discreta, discontinua; su poderosa creatividad y hacer predatorio (Thorstein Veblen) caen al mundo del Derecho. La antropología cognitiva ve entrecruzarse los caminos del hombre que debemos superar en el ordenamiento jurídico sin negligencia en la tarea. Menos asimetrías en la enorme red

El disparo del ser al porvenir busca la orbita mas amplia, incluye la sintesis interna, el ergon de la vida misma y la norma juridica cuyo cauce conquista la abstraccion para regresar al hombre practicante del Jus.

La cuestion de la Antropología Jurídica es breve: pese a lo diverso de las ciencias informantes, existe entre los juristas universales un acuerdo comun sobre la experiencia de la persona en Derecho: garantias y deberes de su legitimidad.

El estudio sobre la experiencia de los hombres de Estado contemporaneos -plantea la antropologia- no debe postergarse o dejar su registro mediante los modos formales e informales que implica el saber superior, dada su evidente univalencia, ante las cumbres de los mundos cambiantes.

A semejanza del Derecho consuetudinario anglosajon deben constituir (digamos) la jurisprudencia de los errores que la humanidad no debe permitirse ensayar de nuevo. Al propio tiempo, los juristas deben concluir instrumentos del equilibrio justo, advertir los factores integrantes del universo normativo, los cabos del humano proceder en un todo organizado: La Ley.

El jurista ante sí mismo o ante la ley injusta, debe librar la batalla del Derecho para evitar las de la sangre: los humanos recobran así y hacen penetrante su comunion con el universo legal y proscriben el mundo del ilícito.

5.

normativa y la divisa unica de la sencillez. La cultura conjunta merece la herramienta jurídica a su nivel.

Aprendimos de Sol Tax que el conocimiento juridico antropologico debe tener como informantes a los estadistas y juristas eminentes y en lo posible y probable publicar este saber enciclopedico no como enciclopedia sino en sus puntos polemicos cuestionables.

Alguna vez dije que la ciencia es polemica y excepcional. Agrego que la excepcionalidad del saber cientifico reclama la eminencia del dictum. No se puede admitir la simple manipulacion del saber vulgar o del dicho ~~sentido~~ común o la aureola del austero neopragmatismo, tampoco la reduccion al poder de la encuesta y la estadistica de los ordenes mecanicos. La inteligencia del hombre debe liberarse de esta actitud paraistaria que lo convierte en victima de sus herramientas primero y despues de sus herrumbres. El jurista y antropólogo por petición de principio esta liberado del terror o de los íconos falsos. Señalar el rumbo antropojurídico es recrear el jus gentium la voluntad y el renacimiento de la confianza en los tribunales.

Las constituciones no son tabula rasa, White paper, papel en blanco donde se imprime el capricho ^{animo} ~~pero~~ aceptan materiales de construccion en el ejercicio de la excepcion juridica.

El Derecho separa al hombre del animal en el ejercicio de la norma jurídica, la mala conduccion en el transito historico (xxlxxlxxxlxxxx ante su experiencia, es delincuente como se probó en los juicios de Nuremberg.

6.

Nuestra expectativa ya no es apocalíptica, merced al esfuerzo de estadistas ~~eminentes~~ ^{eminentes} pero, pero si oculta las tensiones excepcionales, la antropología jurídica merece descubrirlas y actuar de manera comprometida, a sabiendas, de que su universo disyuntivo cederá al paso de quienes ejercen el saber jurídico o al casus belli donde se dispensa el esfuerzo humano.

Condicionados por las circunstancias, conocemos la independencia y el crecimiento moral que otorga la facultad de erigir el Derecho, construir el desarrollo ordinativo y reunir la eficacia del esfuerzo humano.

La antropología jurídica distingue en la pletora del saber una necesidad mas urgente incluso que el conocimiento de la naturaleza: el reconocimiento de la cualidad unica de la vida humana. Los grandes cambios estan ahora precedidos por la energica accion del hombre, por la energia moral que revalua y reorganiza.

Los antropólogos comprenden que el llamado pecado de la hibris no existe y que el proceso de la conduccion de cualquier Estado no lo hace independiente del Derecho arbitral ya que forma parte de los procesos creativos ^{universales} más arduos. El proceso global es una tarea cuya investigacion ideologica superior (Veblen) no esta presidida por las simples leyes de la economia sino por todas las expresiones del proceder normativo. Asi, la Antropologia juridica piensa la mundialidad ~~como~~ como dragon protegido por circulos de jade, la cultura permanece segun aprendió Confucio en el Libro de las mutaciones humanas escrito hace miles de anos.

(I Ching-1950- Wilhelm/Baynes)



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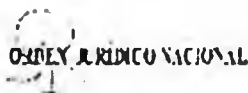
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RELATORÍA GENERAL DEL CONGRESO INTERNACIONAL "EL ORDEN JURÍDICO DE LA CONSOLIDACIÓN DEMOCRÁTICA"

A través de cuatro mesas de discusión y diecinueve conferencias magistrales, se hicieron, entre otras, las siguientes propuestas:

En materia de Derecho Público se propuso:

1. Concreción de un rediseño institucional contextualizado, que respete antecedentes históricos, correlación de fuerzas y prácticas, a fin de garantizar que el consenso de los actores políticos impulse una plena transición política con posibilidades reales de viabilidad.
2. Reglas de procedimiento para cambiar incentivos hacia la obligación de resolver problemas, distribuir y asumir la responsabilidad política, en las que pluralidad, división de poderes y federalismo sean los ejes de la consolidación democrática.
3. Reformar los artículos 41, 99 y 116 constitucionales para elevar a este nivel las bases de la democracia interpartidista, e impulsar así una mayor competitividad, una militancia más activa y vinculada con la sociedad, sin una colisión de principios entre autonomía y participación equitativa.
4. Revisar el sistema penal para garantizar la transparencia y el equilibrio entre las partes, fortalecer al Legislativo mediante el juicio de las urnas, profesionalizarlo y darle visión a largo plazo con la opción de la reelección de legisladores y generar consensos en la agenda política nacional a través de un jefe de gabinete que concentre y opere las políticas públicas entre los poderes y los actores sociales.
5. Llevar la defensa de los derechos humanos como tema prioritario a la agenda nacional para garantizar, en un contexto de reforma estructural, una vida con igualdad, dignidad y plenitud a todas las personas, como un compromiso y una obligación del Estado.

6. Reformar la legislación federal y local para asumir como derecho positivo nacional, las recomendaciones internacionales sobre desaparición de personas, tortura, garantías judiciales, protección jurídica y en materia electoral.
7. Atender a la observancia por parte de México, de la plena vigencia de los derechos humanos, mediante el fortalecimiento de instancias de protección y actualización del marco normativo, en consonancia con el Derecho Humanitario Internacional, y de manera particular, con los compromisos y recomendaciones adquiridos en el sistema interamericano.
8. La creación, de manera coincidente con la iniciativa presentada por el Presidente de la República para reformar los sistemas de procuración e impartición de justicia, de una fiscalía autónoma, mecanismos alternativos de solución como la mediación y el arbitraje, procedimientos orales, sistema judicial para adolescentes basado en los convenios internacionales y la incorporación del reconocimiento constitucional de presunción de inocencia.
9. Reformar la Constitución para que la Procuraduría General de la República sea un órgano autónomo, se creen fiscalías de distrito y un Consejo de la Fiscalía, así como garantizar la autonomía e imparcialidad de los servicios periciales.
10. Revisar el sistema de pruebas penal, la actuación de la policía y la posibilidad de un mando único policial, la figura de la prisión preventiva y los mecanismos de ejecución de sentencias.
11. Modificar el régimen de los tribunales administrativos a fin de garantizar la integración autónoma de los mismos y llevar la equidad entre las partes a esta materia, así como promover el recurso al arbitraje en las controversias comerciales internacionales.
12. En materia tributaria se propone revisar la distribución del ingreso entre la Federación y los estados, a fin de ampliar la recaudación municipal, gravar con un criterio distributivo las contribuciones directas y desalentar actividades nocivas vía contribuciones indirectas, así como impulsar

programas de estímulo en beneficio de la inversión y la productividad, que nos ubiquen dentro de parámetros internacionales de competitividad.

13. Actualización del marco jurídico aplicable a los fenómenos informáticos, para regular aspectos de actualidad que por lagunas o deficiencias en la ley, quedan abiertos a efectos que impactan negativamente en el desarrollo general del país y en particular, en materia informática.
14. Crear el consenso necesario para definir principios generales a nivel constitucional, que los estados puedan desarrollar normativamente sin atenerse necesariamente a su tratamiento federal, lo que permitiría encaminarnos hacia un modelo jurídico que consolide la democracia desde la perspectiva local, mediante la renovación normativa de los estados a partir de un eficaz y activo orden jurídico local.
15. Asumir el concepto de democracia como el contexto adecuado para fomentar el respeto y la responsabilidad estatal frente a los derechos humanos, en términos de la Carta Democrática de la Organización de los Estados Americanos.
16. Propugnar por que el régimen internacional de los derechos humanos incluya las vertientes que sobre democracia y práctica política se desarrollan junto con los procesos de integración mundial.
17. Revisar la organización y mecanismos procesales internos en función de los aspectos que internacionalmente reviste la justicia universal - respetando el ámbito de competencia constitucional reservado al Estado- a fin de que soberanía no signifique aislamiento sino, en la perspectiva global, la opción de promoción de nuestros intereses en el contexto internacional.
18. Buscar los medios idóneos para que México participe de los aspectos positivos que en materia de jurisdicción universal y tutela de los derechos humanos se desarrollan con la globalización, como un proceso irreversible de alcance mundial.
19. Mejorar, a través de las reformas legales pertinentes, la eficiencia y la eficacia en la aplicación de los recursos por los gobiernos locales y

municipales, así como mejorar los procesos de definición y competencia, para incidir en un mejor nivel de vida de la comunidad mediante sistemas contables homogéneos y de gestión del gasto público.

20. Trabajar en pro de los consensos necesarios para eficientar la respuesta del sistema jurídico mexicano a los nuevos requerimientos que se plantean, de hecho y como una necesidad de atención urgente, en materia energética, a través de la conciliación de puntos de vista y a favor de la comprensión de cuáles deben ser los objetivos comunes.
21. Mantener activos en la agenda bilateral México-Estados Unidos los temas prioritarios para nuestro país, como la migración de nuestros connacionales, y mantener abiertos aquellos que representan puntos de acercamiento en la relación bilateral, en áreas de interés común.
22. Fortalecer las instancias y mecanismos jurídicos para culminar la transición de la democracia electoral a la democracia participativa, mediante una actividad legislativa comprometida y propositiva, tendiente a concretar la colaboración eficaz con los poderes Ejecutivo y Judicial, en un ejercicio pleno de comunicación interinstitucional.
23. Potenciar a los medios de comunicación como un vehículo para el fortalecimiento de los procesos de consolidación democrática, a través de una actuación cada vez más responsable y apegada a la legalidad, que permita utilizar su capacidad formadora e informadora en un gran proyecto colectivo, con profunda responsabilidad histórica y social.
24. Federalizar las instituciones para que su actuación se traduzca en un orden constitucional pleno y en una eficaz observancia de las leyes. La división de poderes y la distribución efectiva de competencias debe ser la premisa que determine la construcción democrática sobre una base constitucional de legitimidad incuestionable.
25. Revalorar el juicio de amparo para conceptuarlo como el medio de gran accesibilidad que permite una verdadera defensa del orden constitucional porque, si bien se tutela de manera inmediata el interés particular, trasciende en la protección genérica de los derechos humanos y es así una