

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3162

Alaska's Construction Spending

2008 Forecast

Fifth Annual Report
for the
**Construction Industry
Progress Fund**
and the
**Associated General
Contractors of Alaska**

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Dear Alaskans,

The Construction Industry Progress Fund (CIPF) and the Associated General Contractors of Alaska (AGC) are pleased to provide you with this "Alaska Construction 2008 Spending Forecast."



This is the fifth year of publication, which provides an informative review and estimate of construction activity in the state of Alaska for the year ahead.

Compiled and written by Scott Goldsmith and Mary K. Morin of ISER at the University of Alaska Anchorage, the "Forecast" looks at construction activity, projects and spending by both the public and private sectors for 2008.

Construction is the third largest industry in the state, pays the state's second highest wages, employs nearly 22,000 workers with a payroll over \$1 billion, accounts for 20 percent of Alaska's economy and currently contributes more than \$7 billion to the state's economy.

I hope you enjoy reading this publication. When the construction industry is vigorous, so is the state's economy.

Sincerely,

Jim Ferguson
CIPF President

Overview

Total construction spending "on the street" in Alaska in 2008 will be \$7.01 billion, down 2% from last year.^{1,2}

Excluding the oil and gas sector—which accounts for 41% of the total—construction spending will be down for the second year in a row, falling 6% to \$4.12 billion. Last year it declined 3%.

Lower construction spending, combined with higher material and labor costs, will result in a modest reduction in the level of construction employment in 2008. Although this will be the second year of decline in

construction employment, it remains well above the long-term trend.

Construction costs continue to rise faster than the general rate of inflation—and that trend is expected to continue, further reducing the purchasing power of each construction dollar.

Private-sector construction spending is projected to be \$4.64 billion in 2008, an increase of 2% over 2007. Strong growth is expected in oil and gas, mining, utilities, and the other basic sectors. A modest decline is expected in commercial construction, while activity in the residen-

tial and health (hospital) categories will be considerably below the 2007 level.

Public spending will be \$2.38 billion, down 8% from 2007. The drop is the result of reduced federal spending, mostly defense spending. State and local spending remains robust, cushioning the federal reduction.

Uncertainty in this year's forecast comes from several sources. The high price of energy will continue to drive up the cost of construction materials and squeeze project budgets. The recent change in the way the state taxes the oil industry will affect investment in new and existing fields and result in continued re-evaluation of capital budget decisions. The collapse of the housing market bubble in the Lower 48 and the likely economic recession that will follow will certainly be felt in

the Alaska economy. But as has often been the case, we should be somewhat insulated from negative economic news arising from those events.

Public construction spending estimates are perennially complicated by the fact that passage of the budget for the federal fiscal year (October through September) is consistently delayed until after the start of the fiscal year. In the absence of a budget, federal agencies generally assume constant funding levels.

As in past years, some firms are reluctant to reveal their investment plans, because they don't want to alert competitors, and some have not completed their 2008 planning. Large projects often span two or more years, so estimation of cash on the street in any year is always difficult, because the construction "pipeline" never

Alaska Construction Spending 2008 Forecast

	Level	Change
PRIVATE	\$ 4,635,000,000	+2%
Oil and Gas	2,890,000,000	+5%
Mining	355,000,000	+15%
Other Rural Basic Industry	70,000,000	+250%
Utilities	565,000,000	+47%
Hospitals	80,000,000	-60%
Other Commercial	315,000,000	-10%
Residential	360,000,000	-35%
PUBLIC	\$ 2,375,000,000	-8%
National Defense	495,000,000	-21%
Highways	415,000,000	+4%
Airports and Ports	375,000,000	+4%
Alaska Railroad	65,000,000	-19%
Denali Commission	90,000,000	-10%
Education	280,000,000	-20%
Other Federal	320,000,000	-12%
Other State & Local	335,000,000	+18%
TOTAL	\$ 7,010,000,000	-2%

Source: Institute of Social and Economic Research. Percent change based on revised 2007 estimates.

¹ Our projection for 2007 was \$7.005 billion. The year-end revised figure was \$7.140 billion. The underestimated private sectors included oil and gas and mining. Defense spending and state and local government not federally funded were also higher than anticipated. On the other hand, residential construction declined much faster than anticipated, particularly in the second half of the year. The net effect of these revisions was an increase of \$125 million in the preliminary 2007 figure.

² We define total construction spending broadly to include not only the construction industry as defined by the U.S. Department of Commerce and the Alaska Department of Labor but also other activities. Specifically, our construction spending figure encompasses all the spending associated with construction occupations (including repair and renovation, but excluding design and planning), regardless of the type of business where the spending occurs. For example, we include the capital budget of the oil and gas and mining industries in our figure, except for large, identifiable equipment purchases such as new oil tankers.

³ "On the street" is a measure of the level of activity anticipated during the year. It differs from a measure of new contracts because many projects span more than one year.

flows in a completely predictable fashion. Tracing the path of federal spending coming to Alaska without double counting is also a challenge.

We are confident of the overall pattern of the forecast—but as is always the case, some surprises should be expected.

PRIVATE CONSTRUCTION

The private sector will spend \$4.64 billion on construction-related activities in Alaska in 2008. That is 66% of total construction spending⁴ and is an increase of 2%, compared with \$4.56 billion in 2007.

Oil and Gas: \$2,890 Million

Oil and gas industry spending, which will account for 41% of all construction spending in the state in 2008, is expected to be about 5% above the level of last year, due to an increase in exploration and development activity by both the major producers and the smaller independents. Part of the increase is due to higher construction costs, but oil and gas employment is increasing, driven by the high price of oil, and the industry is investing to take advantage of new opportunities.

The state imposed a new and higher production tax on oil and gas in late 2007 (ACES—Alaska's Clear and Equitable Share), and companies have been re-evaluating their investment decisions. Some have announced budg-

et reductions, compared with their original plans. Consequently, while the total is higher than in 2007, it is less than it might have been. The increase this year is also less than in 2007, when spending was up 30%.

We expect the North Slope majors—BP, ConocoPhillips, and Exxon—to invest \$1.9 billion in their Alaska operations in 2008 (including the oil pipeline). Expenditures will concentrate on development of existing assets rather than new exploration.

Other companies will spend an estimated \$690 million for North Slope activities—down from last year. Development of the new Oooguruk field, the first by an independent, will commence and Shell will continue its exploration activities. Anadarko and a number of other independent companies have also announced significant budgets for the North Slope this year.

Spending in Cook Inlet will be an estimated \$300 million. Activity is expected to be up, led by Marathon, Chevro and ConocoPhillips. The state decision to support the extension of the export license for LNG—which has yet to be approved by the



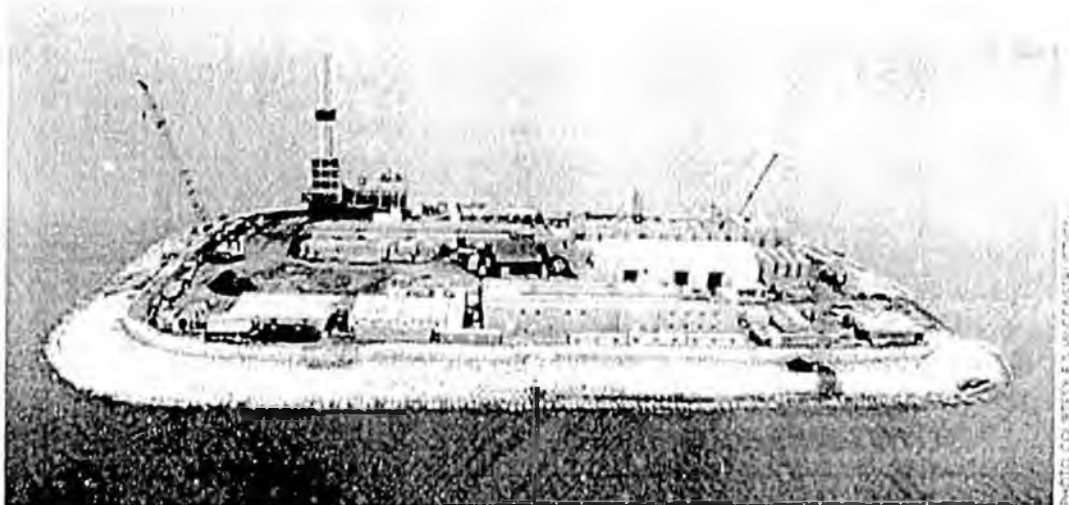
J L Tower, Anchorage

federal government—creates an incentive for companies to find more gas to feed that export market. (This should also have the benefit of increasing the supply of gas for the domestic market.) The high price of oil is also stimulating companies to look for oil in Cook Inlet.

No significant new construction is anticipated at refineries and other petroleum-manufacturing facilities.

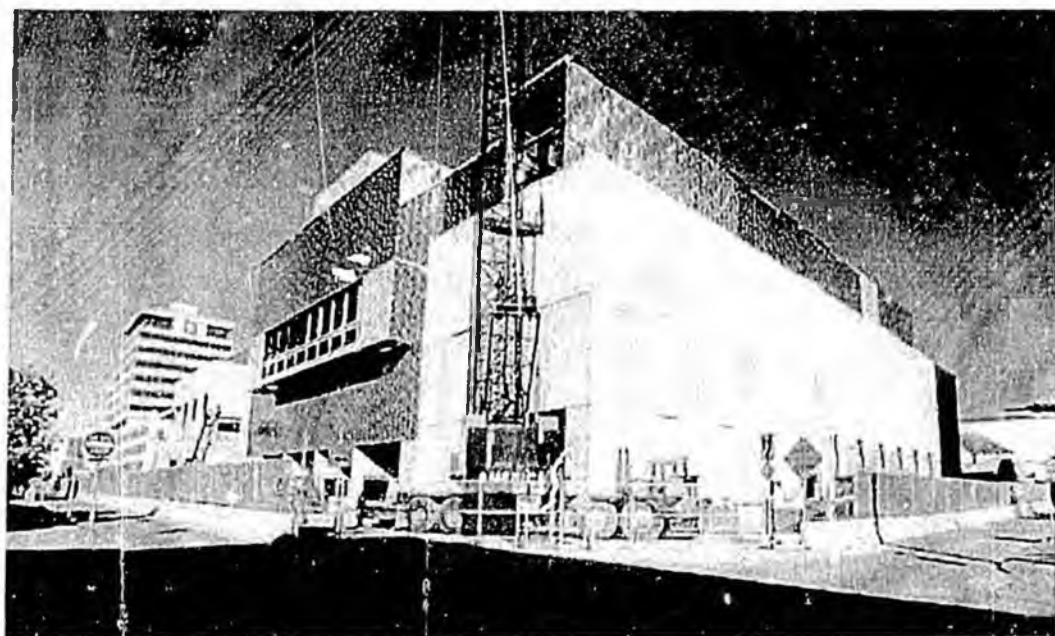
Mining: \$355 Million

We anticipate spending by the mining industry—on exploration, development, and upgrading existing mines—to be up 15% this year. With the completion of the Kensington and Rock Creek mines, no new large-scale mines will be in the development phase this year. But the high prices for both base and precious metals



Oooguruk Island, North Slope, Bering Sea

⁴ Here we try to include just spending financed primarily by private sources. But for hospitals, utilities, and commercial construction in general that is not simple. In some years federal money finances most hospital spending, and the state provides some money for electric utility investment. So our estimates of hospital and utility spending may include some public money.



Dena'ina Convention Center, Anchorage

have stimulated interest in exploration and expansion of existing mines.

Exploration work will continue to be centered at the Pebble prospect west of Anchorage and the Donlin Creek prospect northeast of Bethel. Although development plans for one or both of these projects may be forthcoming in the near future, it is likely to be several years before construction could occur at either of these large mining prospects.

Significant expansions are planned at the Red Dog and Fort Knox mines, to extend their life and take maximum advantage of resources. The other large operating mines, including Pogo, Greens Creek and Usibelli, will have more modest construction budgets this year.

Exploration continues at many smaller prospects, buoyed by high metal and energy prices.

Other Basic Industries in Rural Alaska: \$70 Million

Investments in facilities to support tourism, the seafood industry, timber processing, and other sectors related to natural resources often occur in rural parts of the state, "hidden" from view. The increase in this category in 2008 is due to the construction of a large-scale private dock at Dutch Harbor,

which is expected to cost \$150 million and take several years to complete. A number of fish processing plants are planning modest upgrades of their facilities. No large new tourism facilities have been announced for rural Alaska this year.

Utilities: \$565 Million

Spending by utilities will be up 47% this year, driven by a strong increase in spending by the major telecommunications firms, particularly GCI and ACS. Total spending by the telecommunications sector is projected to be \$360 million—up 137%.

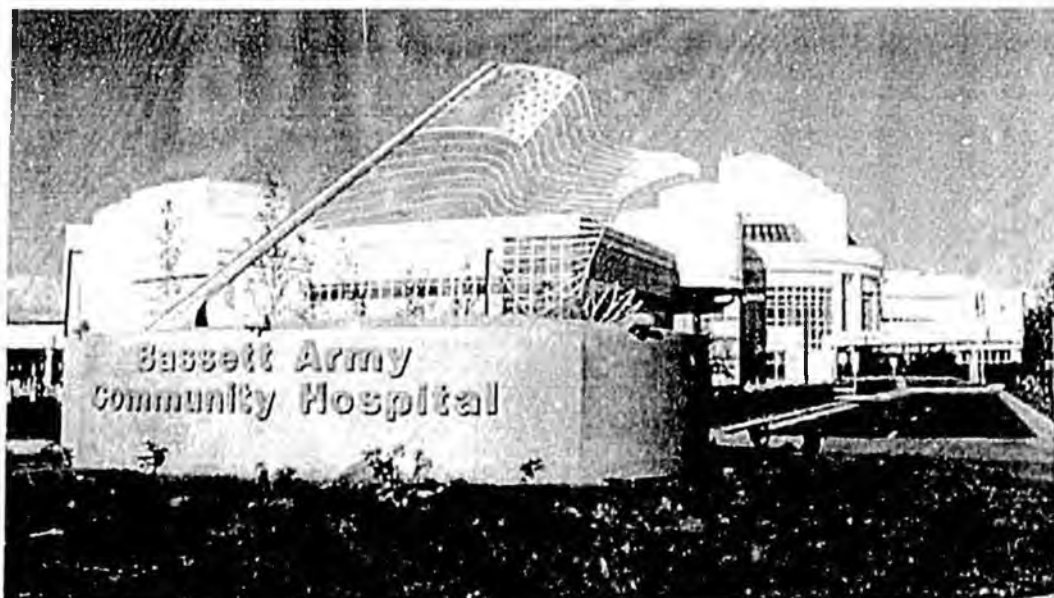
No large-scale projects are expected from the electric utilities. Their spending will be up 12%, to \$190 million. Gas utility spending is projected to be \$15 million.

Hospitals: \$80 Million

Hospital spending will be an estimated \$80 million this year, down from \$200 million in 2007. For the first time in several years there are no new large-scale projects ready for construction. The new hospitals planned for Barrow and Nome do not yet have financing to move forward.

The largest 2008 project will be continued construction of the VA clinic in Anchorage, scheduled for completion in 2010.

Most other private, public, and nonprofit hospitals around Alaska have smaller 2008 capital budgets. Expansions of the hospitals in Juneau and Homer represent the most significant other additions in this category.



Bassett Army Hospital, Fairbanks

Other Private Commercial: \$315 Million

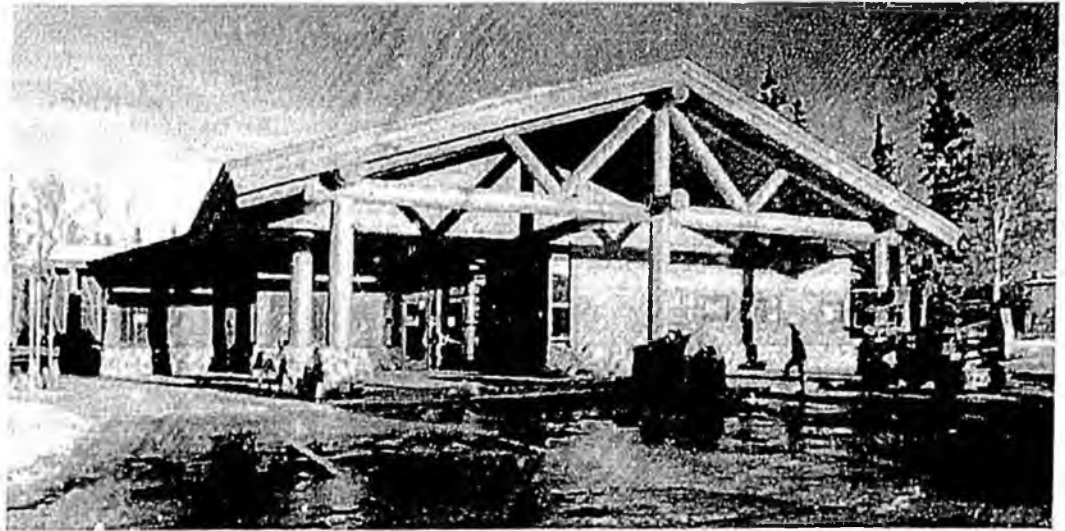
Private commercial construction spending consists of a wide range of building types, including retail, office, medical, hotel, and warehouse space.⁵ The level of spending from year to year in this category can be influenced by a few large projects—and that is the reason we project spending to be down this year by 10%. A number of large projects in Anchorage are underway, including the new convention center and the museum expansion, and no projects of comparable size are on the horizon.

Because the economy is basically healthy, we expect commercial spending to be strong as well. Numerous large retail and office building projects are expected throughout the state.

Residential: \$360 Million

In the second half of 2007 the housing market softened throughout the state and continued to weaken as the year ended. Unlike in many parts of the Lower 48, this was not due to problems associated with sub-prime mortgages or insufficient demand due to high unemployment. In Alaska housing prices have been rising faster than household incomes, and that has caused a temporary imbalance in the market. The housing market is basically sound, because the economy is strong, but it needs to slow

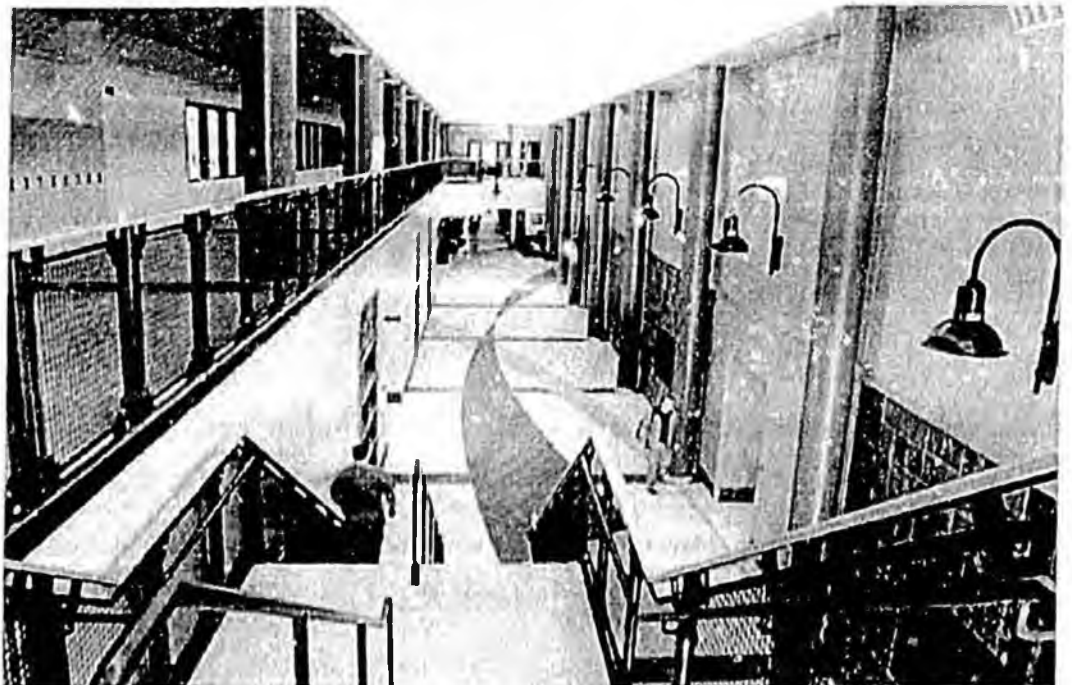
⁵ Our commercial construction figure is not comparable to the published value of commercial building permits reported by Anchorage and other communities. Municipal reports of the value of construction permits often include government-funded construction, which we capture elsewhere in this report.



Alaska USA Building, Palmer

until demand can grow to absorb the excess supply that has accumulated in recent months.

Re-establishing balance in the housing market will mean a downturn in new housing starts this year, and that will be on the heels of a fall in 2007. We expect spending to be down 35%, to \$360 million. This lower level of spending should stabilize the housing market later in the year, positioning it for subsequent recovery.



Nicholas J. Begich Middle School, Anchorage

PUBLIC CONSTRUCTION

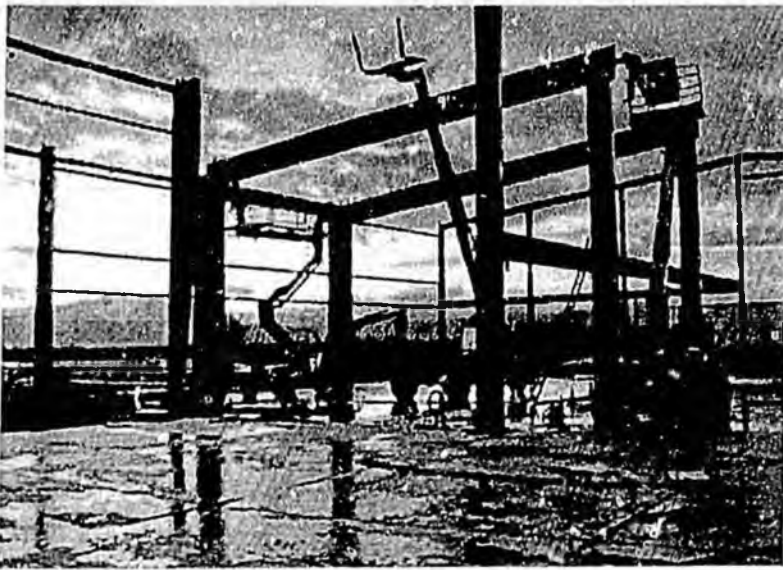
Public construction⁶ spending in 2008 is expected to be about \$2.38 billion, down 8% from last year. The decline is due to reductions in federally financed spending that are not completely offset by increases in state and local spending.

The majority of funding for public construction comes from the federal government, and much of this money comes as grants to the state.

Once in the state budget, these federal funds become intermingled with funds from local sources.

Non-federal funds for state capital spending have historically come primarily from the state General Fund and bond sales. With the growth in complexity of the state

⁶ This category includes all spending financed by federal, state, and local government sources, except hospitals and publicly owned electric utilities. Funding for some projects comes from multiple sources and for others from sources that could be categorized as either public or private. We tried to include all such cases in the public category.



NC Machinery building, Wasilla

budget, an increasing share of state-financed construction is coming from other sources.

An important source of local government spending is grants from the state. For the larger communities, current revenues and bond proceeds also contribute to construction spending.

National Defense: \$495 Million

At an estimated \$495 million, defense spending will be down 21% this year. But it remains high by historical standards and is likely to continue to be strong in future years as troop levels grow. In recent years Alaska has benefited from an exceptionally large share of the total defense budget.

The Corps of Engineers manages almost all spending for military construction, as well as spending for environmental remediation and civil works, such as flood control.

The drop in spending this year will be mainly in military construction, but that total is still expected to be \$413 million. This year construction will be concentrated in housing, operations structures, runway upgrades, and the transfer of Kulis Air Force Base to Elmendorf. Spending for environmental remediation

and civil works will be slightly lower than in 2007.

Highways: \$415 Million

Spending for highways and roads will be up 4% this year—but the dollars will not go as far, since this is a sector particularly hard hit by cost increases in recent years,

⁷ Federal highway funds are particularly difficult to project because of the presence of politically controversial federal earmarks. The Governor has redirected much of the Gravina Bridge earmark, but the Knik Arm Bridge earmark is in place, awaiting a successful private proposal to finance and construct the bridge.

including 2007. Federal highway funds, which provide a large share of the funding for highways in the state, will be modestly higher than last year.⁷

State funding of roads will be down slightly, and local funding is expected to be about the same as last year.

Airports and Harbors: \$375 Million

The budget for airports and harbors will be up marginally (4%) from 2007, to \$375 million. As in past years, the largest share of funding comes from about \$210 million in funds from the Federal Aviation Administration. This will be spent on airport construction projects in the \$5 million to \$10 million range throughout the state, including Anchorage.

Spending financed by other sources at the major airports in Anchorage and Fairbanks will be \$80 million. The larger share will be spent at Ted Stevens International Airport in Anchorage on terminal upgrades and the beginning

of construction of an airport operations center.

Spending at the Anchorage port will be \$70 this year, as the \$400 million multi-year expansion program moves forward.

Alaska Railroad: \$65 Million

The capital construction program for modernizing and upgrading the Alaska Railroad will continue this year but at a reduced level, down from \$80 million last year. Funding will come from a variety of federal sources as well as retained earnings. The focus of the program continues to be track rehabilitation, siding extensions and upgrades, bridge replacement and upgrades, passenger equipment, and a collision avoidance system.

Denali Commission: \$90 Million

The Denali Commission, created by Senator Ted Stevens to more efficiently direct federal capital spending to rural infrastructure needs, will spend about \$90 million for construction, down 10%.



Providence Hospital addition, Anchorage



PHOTO COURTESY NEN GRAHAM PHOTOGRAPHY

Fort Wainwright Southern Cross Family Housing

The base funding for the commission has declined, but funding for transportation and health projects has not changed. The commission also continues to fund energy projects—including bulk storage units—and health facilities. Development work has begun on hospitals in Nome and Barrow, but no construction is expected this year.

The Denali Commission's inventory of project needs is quite long, and we can expect a continuation at least at the current level as long as there is federal support for this program.

Education: \$280 Million

Education funding of \$280 million is 20% less than last year, due to lower spending on K-12 at the state level as well as less University of Alaska construction activity.

Primary and secondary funding is estimated to be \$220 million, funded by both state grants and local bonds.

The state school construction priority list contains projects totaling more than \$1 billion for both construc-

tion and maintenance, so K-12 education spending should continue to be strong in future years.

University of Alaska construction projects will total \$60 million, concentrated in Anchorage with work on the new integrated science building. Other capital spending will be spread among the campuses in Fairbanks, Juneau, and elsewhere.

Other Federal: \$320 Million

Categories we just discussed—national defense; transportation spending for roads, airports, ports, and railroad; and the Denali Commission—make up the largest and most visible part of federal construction spending in Alaska. We forecast an additional \$320 million of federal capital spending in Alaska for other types of projects.* This is down from \$365 million last year.

* It is difficult to track all the federal dollars that find their way into construction spending in the state because there are so many pathways, and they change every year. The possibility of double counting funds as they pass from agency to agency, or become part of a larger project, also creates difficulties for the analyst.

In a normal year, most of the state capital budget is funded by federal grants. Excluding transportation projects, the largest category of projects funded largely by federal grants is rural sanitation projects, with grants from the Environmental Protection Agency, Indian Health Service, and other federal agencies. This initiative will again contribute \$100 million to state construction spending—the same as in 2007—for the village safe water program. Other state departments with significant federal funding for capital projects—including Commerce, Natural Resources, Veterans Affairs, and Public Safety—will spend roughly \$50 million.

The federal government also provides grants and other construction funding to Alaska tribes, nonprofit organizations, and local governments across the state. The most important recipients of these grants are Alaska Native nonprofit corporations, housing authorities, and health care providers. The largest single program is the Native American Housing Self-Determination Act (NAHS-

DA), which provides funds for housing construction in Native communities through a large number of Native housing authorities throughout the state. Grants for health care not associated with a hospital or passing through the Denali Commission are also counted here. We expect spending for these programs to be about \$100 million again this year.

We expect the level of direct construction spending by other federal departments to be down modestly from 2007, to \$70 million. This includes spending by the Department of Interior (National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management), the Postal Service, the Department of Agriculture, and the National Oceanic and Atmospheric Administration (NOAA).

Other State and Local: \$335 Million

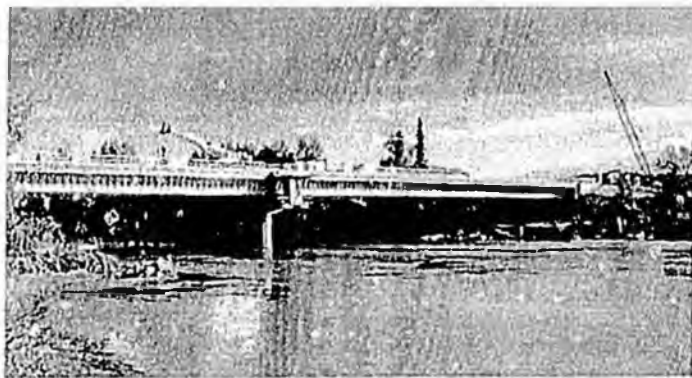
State and local government capital spending for all other categories² will be \$335 million, up from \$285 million in 2007.

² Excluding transportation and education.



PHOTO COURTESY ALASKA TRAILBLAZING

Stariski Creek Improvements, Kenai Peninsula

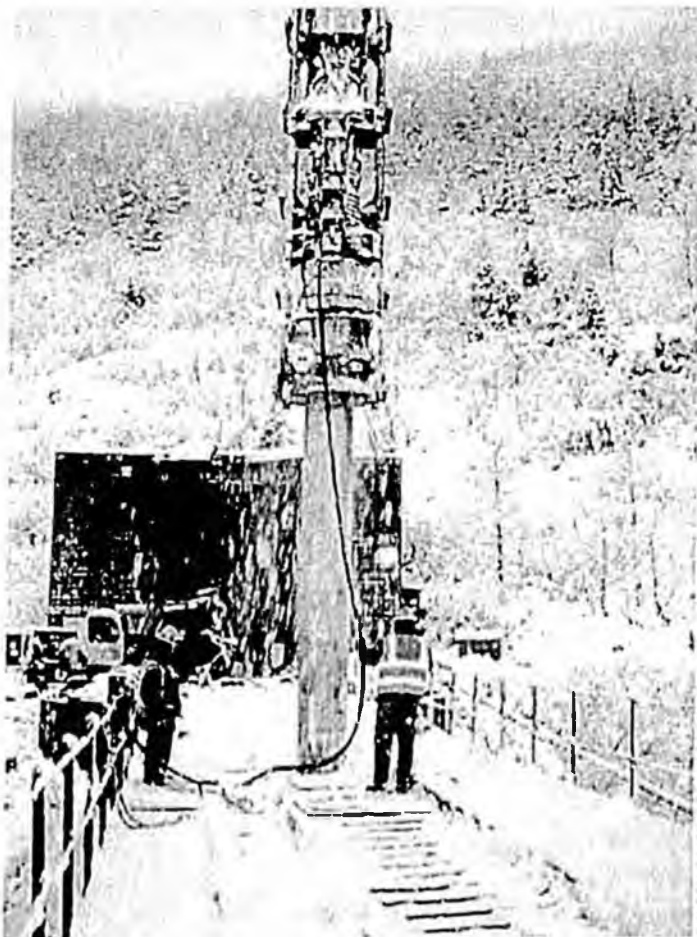


Kenai River Bridge, Soldotna

We expect state-funded construction spending that is based neither on federal grants nor related to transportation or education to be about \$180 million. That's slightly higher than in 2007 and assumes a number of larger projects, including two fish hatcheries in Anchorage and Fairbanks, will get underway. These projects fall primarily in the Departments of Commerce, Community, and Economic Development,

Health and Social Services, Corrections, Military Affairs, and Public Safety.

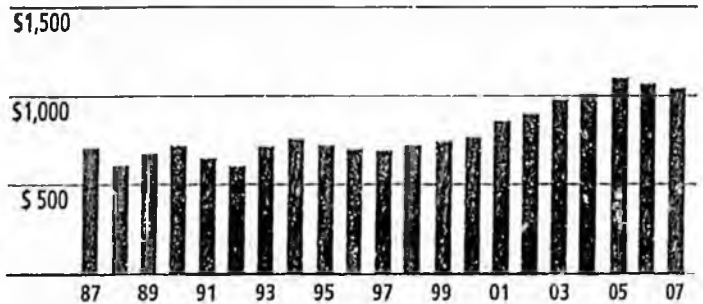
Local government capital spending, from general funds as well as enterprise funds, is estimated to be \$155 million. This is higher than in 2007, because it includes an estimate of first-year construction spending for a new state prison, to be located in and financed by the Mat-Su Borough. Construction should begin in late 2008.



Alaska Railroad Bear Valley Bridge, Portage

Construction Industry Payroll

In Millions of 2007 Dollars



WHAT'S DRIVING SPENDING?

Construction activity—measured by total spending, jobs, payroll, or gross product—has experienced strong growth for more than a decade, driven largely by growing federal capital grants to Alaska, large federal agency capital budgets, oil and gas spending, and more recently, large state capital budgets.

These large external sources of construction funds not only fuel public spending and oil patch spending but also give a general boost to the economy—and thus add to the aggregate demand for new residential, commercial, and private infrastructure spending.

This growth is evident in the construction industry payroll (Alaska Department of Labor) shown in the chart above, which in 2005 surpassed \$1 billion for the first time since 1985. (The values in years before 2007 are adjusted upward to account for inflation.)

CONSTRUCTION IN THE OVERALL ECONOMY

Construction spending is one of the important contributors to overall economic activity in Alaska. It supports employment and firms not only in the construction

industry itself but also in other sectors of the economy, such as oil and gas and mining, where it is "hidden."

In addition, construction spending generates activity in a number of industries that provide input to the construction process. These "backward linkages" include, for example, sand and gravel purchases (mining), equipment purchase and leasing (wholesale trade), design and administration (business services), and construction finance and management (finance).

When this "hidden" construction activity and these "backward linkages" are included, it turns out that construction spending directly accounts for a much larger share of the workforce than the number of workers or payroll reported as "construction" would suggest.

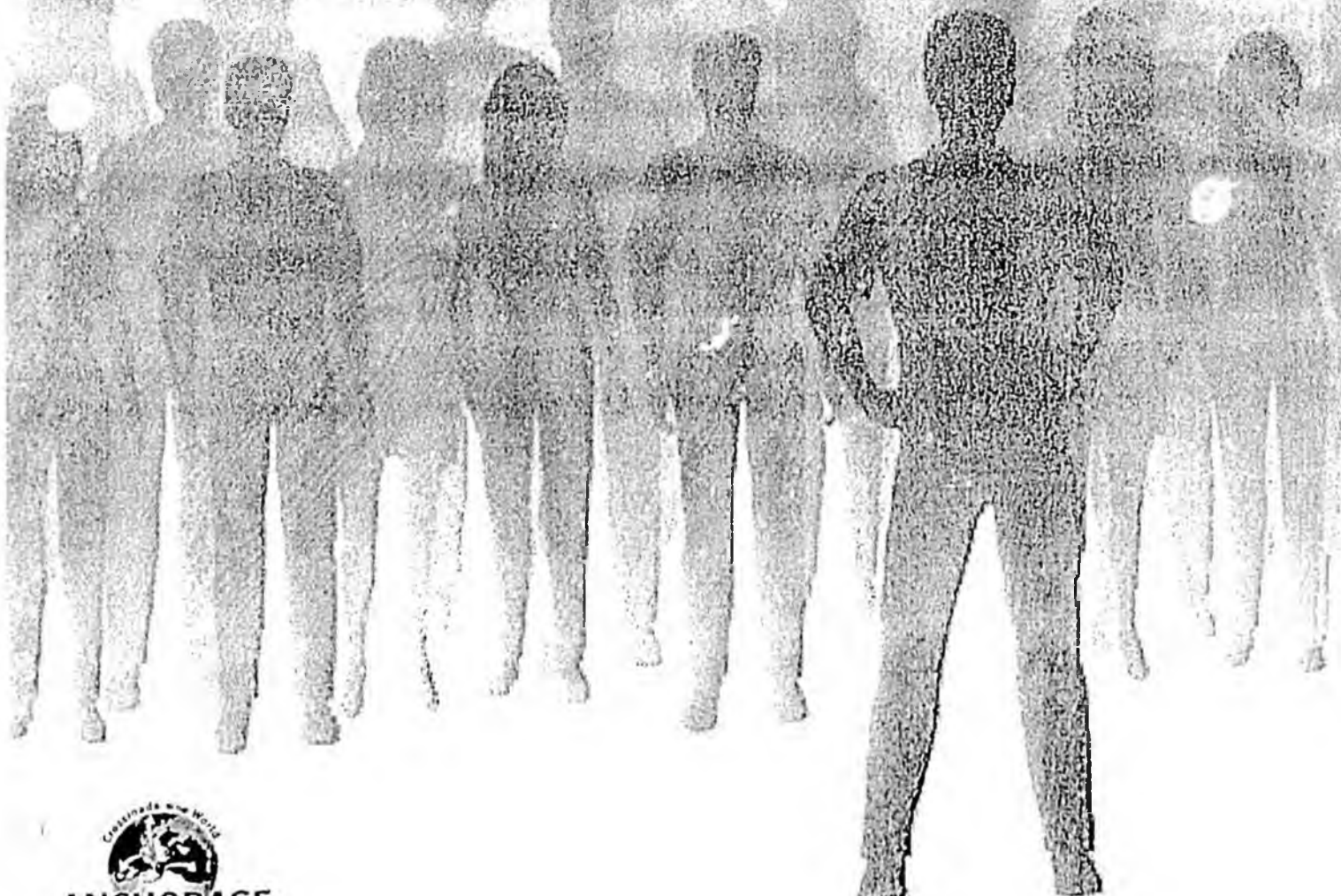
Furthermore, the income from these high-paying jobs supports business activity in every community in the state. As this income is spent and circulates through local economies, it generates jobs in businesses as diverse as restaurants, dentists' offices, and furniture stores.

If we include all these aspects of construction that don't show up in standard measures, we see that construction spending is a major driver of the Alaska economy.

Cover: **Elmore Road, Anchorage** Photo by Kurt Halteon, PE, DDWL Engineers
All other photos by Danny Daniels Photography unless otherwise noted

AEDC 200006

Workforce Development Conference Report



ANCHORAGE
Economic Development
Corporation

Message From The President of AEDC

In a short time, our state will likely be facing a critical shortage of qualified workers. This shortage will be caused by a growing Alaska economy, potential gas pipeline construction, increased capital project development, increased oil and gas development, and an aging workforce.

On October 9, 2006, the Alaska Workforce Development Conference was held. Our approach to this conference was to bring together the many different organizations in Alaska that have been working to help address the workforce challenge. The intent was to encourage synergies between them and to develop solutions with them that would help ensure Alaska can meet the upcoming employment challenges. Included in this report are a proposed set of concrete action steps that the next administration, the next Legislature, and we as Alaskans can take to make this problem a great opportunity for our state.

Combining our strengths statewide towards solving our workforce challenges will be critical to a bright economic future for Alaska. The time lag inherent in meeting future workforce needs requires this issue be a primary agenda item for our next Governor, their administration, and the 25th Alaska Legislature. Alaska's workforce challenge must also be at the top of mind for Alaskan residents, our leaders, and the companies doing business here; each of us has a role to play.

In order to meet our goal, the day opened with attendees hearing from a panel of experts who discussed current efforts and analysis on the Alaskan workforce challenge in order to establish a common base of understanding for all participants.

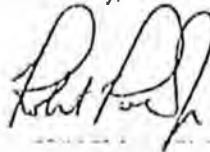
Immediately following, a total of four break-out periods were held on recruitment, training, employment, and funding. For each topic a facilitator led the discussion on what tactics are working, what are missing, and brainstormed strategies that addressed the problems identified. At the end of the day, the entire group came back together to vote on the proposed solutions in order to develop a strategy the next administration and Legislature could take to meet Alaska's workforce development challenges.

Lunch time and breaks provided the opportunity to learn more about what others are doing to address the workforce development problem in Alaska through exhibits and other displays.

This report includes many elements from the work accomplished on October 9. A total of four action statements passed with 75% voter approval, while two did not meet that standard. For your information, we have included all six of the proposed action items. Also included is an overall conference description and summary of presentations that were discussed. In addition, we have included results from a survey we conducted in the early planning stages, which guided us when choosing what subjects to focus on during the conference. Lastly, a list of all action statements proposed during the breakout sessions is included.

We look forward to sharing the work our participants have completed on the subject as well as working with you to implement and find solutions to Alaska's workforce development issues.

Sincerely,



Robert G. Poe,
President and CEO,
AEDC



2
Action Statements
and
Approval Rating

3
Conference
Overview

4
Summary of
Presentations

7
Appendix

7
Preliminary
Survey Results

9
Issues Discussed

For more information on
workforce development in
Alaska, please call AEDC at:
(907) 258-3700 (Anchorage)
(800) 462-7275 (Statewide)

Online visit www.aedcweb.com



Action Statements and Approval Ratings

Passed

1. Establish a career and technical education outreach program where employers partner with the State of Alaska, the University of Alaska, local schools, and tribal partners to assist students (P-16), parents, out-of-school youth, and employed/unemployed Alaskans to learn about training, internship, apprenticeship, and employment opportunities. Provide tax credit to encourage employers where possible. (passed by 96%)
2. Build on ALEXSYS and appropriately market an internet-based training and employment clearing center to help students and unemployed Alaskans find training and employment opportunities; and employers find qualified employees and candidates for training programs. (passed by 85%)
3. Establish, in collaboration with private sector employers, a clearly articulated career and technical education program that:
 - Is funded over the long term,
 - Utilizes existing education facilities more fully including evenings, weekends, and summers,
 - Uses a broad range of educational resources, not limited to the University of Alaska,
 - Includes a broad range of options including apprenticeship, internship, and private career and technical education programs,
 - Specifically targets rural Alaskans, and out-of-school youth, and
 - Use distance learning capabilities where available. (passed by 96%)
4. The Governor and Legislature should restructure the Alaska Workforce Investment Board (AWIB) by establishing a direct reporting relationship to the Governor, making it industry driven, and establishing full time professional staff to support the Board. (passed by 83%)

Failed

1. State of Alaska should support the student loan program and consider funding a loan forgiveness program in certain strategic fields. (failed 69% of vote – needed 75% to pass)
2. All State of Alaska capital spending should require use of apprentices from accredited apprenticeship programs. (failed 45% of vote – needed 75% to pass)

Workforce Development Conference Overview

Recognizing the impact of statewide workforce issues that will face Alaska over the next decade, AEDC took a proactive approach by hosting a one-day conference for residents to gather and discuss solutions.

The goal of the conference was to bring together different organizations that have already begun to address the issue; to create a clear plan of action and to ensure that workforce development is a top agenda item for the next administration.

To determine the issues and topics of the conference, AEDC conducted a statewide poll of community leaders inquiring the priorities of Alaska's workforce development needs.

The conference program included presentations from Commonwealth North, University of Alaska, AFL-CIO, Cook Inlet Tribal Council, Associated General Contractors and a report from the "Putting Alaskans Resources to Work!" (PARW) initiative.

With over 100 Alaskans attending, representing 75 organizations and businesses and 12 communities from Barrow to Juneau, the AEDC Workforce Development Conference was a success.

Summary of Presentations

Commonwealth North White Paper on Workforce Development

Alice Galvin, BP

Jeff Staser, Staser Group

68,000 Alaska jobs, from all sectors of our economy, are held by non-residents. In other terms, 30% of the market of private sector jobs goes to non-residents. Meanwhile, Alaska's unemployment rate is about 50% above the national average. With no overarching state plan to shape our economic future, our workforce development efforts have become reactive rather than proactive.

This has become a problem that all Alaskans need to address, not just government alone. The goal of workforce development is to increase income for individual Alaskans who live in or are born in Alaska. There are four key components that will help us accomplish this; economic development, workforce development and training, healthy communities, and education, all incorporated into a shared community vision.

Ten recommendations are proposed:

1. The Governor must set clearly quantified targets for Alaskan participation in quality jobs.
2. Utilize the full capacity of the Alaska Workforce Investment Board (AWIB).
3. Establish an economic development plan for Alaska that integrates workforce development, education, and healthy communities.
4. Ensure all funding spent on workforce development includes integration with economic development, healthy communities, and education reform efforts.
5. Establish an Information Clearinghouse within AWIB that will have three major components; Information Base, Evaluation, and Technical Assistance.
6. Force strong alignment between the Department of Labor and Workforce Development and the Department of Commerce and Economic Development.
7. Reconfigure the educational system.
8. The Board of Regents and the Board of Education must coordinate and align their goals.
9. Promote healthy communities.
10. The interest, participation, and enthusiasm of industry must be engaged in Alaska's future workforce development.

Vocational Education White Paper on Workforce Development

Mary L. Madden, Madden Associates

Vocational education is becoming increasingly important to building Alaska's workforce. University of Alaska enrollment in high demand occupation programs has continued to rise year over year leading to increased community college functions, funding, and business/industry partnerships. In addition, career and tech centers, private postsecondary programs, and adult program funding has become more readily available.

Recommendations to boost Alaska's output of vocation educated workers includes establishing stable and sufficient funding, incorporating high academic quality in secondary programs, enhancing industry involvement, and providing career education early in the process.

Labor's Perspective on Workforce Development

Vince Beltrami, AFL-CIO

Labor sees the workforce development challenge rooted in replacing and replenishing the aging workforce in preparation to build mega projects. The key barriers Alaska is facing is a shortage of skilled workers and educated applicants, diminished funding of voc-ed schools, bigger K-12 classrooms, the inability to attract qualified teachers, and spiraling drop out rates, all compounded by a lack of a comprehensive plan.

New ideas that should help solve the workforce challenge from a labor standpoint include articulation agreements with schools and districts around the state, a state funded pipeline training facility in Fairbanks, and a construction academy at the King Career Center.

Alaska Native Perspective on Workforce Development

M.J. Longley, Cook Inlet Tribal Council

Alaska boasts the nation's largest indigenous population per capita; one in five residents are Alaska Native. We must also keep in mind the contribution that Alaska Native organizations make to the development of Alaska's workforce. In 2005, of the top 100 largest private employers in Alaska, 17 were Native-owned. In addition, ten of the top 22 nonprofit employers were Native organizations.

Although close to half of Alaska Native men and women are working, the difference in wages between Alaska Natives and non-Natives is \$17,000 per year. Employing poverty criteria, 20% of Alaska Native households fall below the poverty line compared with 7% of non-Native households. Unemployment rates continue to be significantly higher for Alaska Natives than non-Natives as well.

CITC places a high value on the critical need for Alaska Natives to attain transitional skills, to transfer rural skills to an urban employment environment, and to transport workforce skills to any location by exercising employment options available to the majority of Alaskans. CITC is currently seeking support for additional vocational training centers in urban centers impacted by the high mobility and in-migration of rural Alaska Natives; increased capacity to recruit and train Alaska Native workers in high growth industries; and a provision of career guidance in Alaska schools and colleges; and a focus on prioritizing opportunities for Alaska's growing out-of-school youth population.

Putting Alaska Resources to Work

Colleen Ward, XCEL

Dave Rees, BP

Many upcoming projects in Alaska including the natural gas pipeline, Cook Inlet gas and oil development, and mining, will require a huge number of workers for construction, but for fewer legacy jobs. "These legacy jobs, which are "goods-producing," are not the growth leaders but are among the best paid and promise a long career.

Four strategies have been identified in order to put Alaska resources to work:

- engage the stakeholders
- train the workforce
- employ skilled Alaskans
- adaptively sustain the system

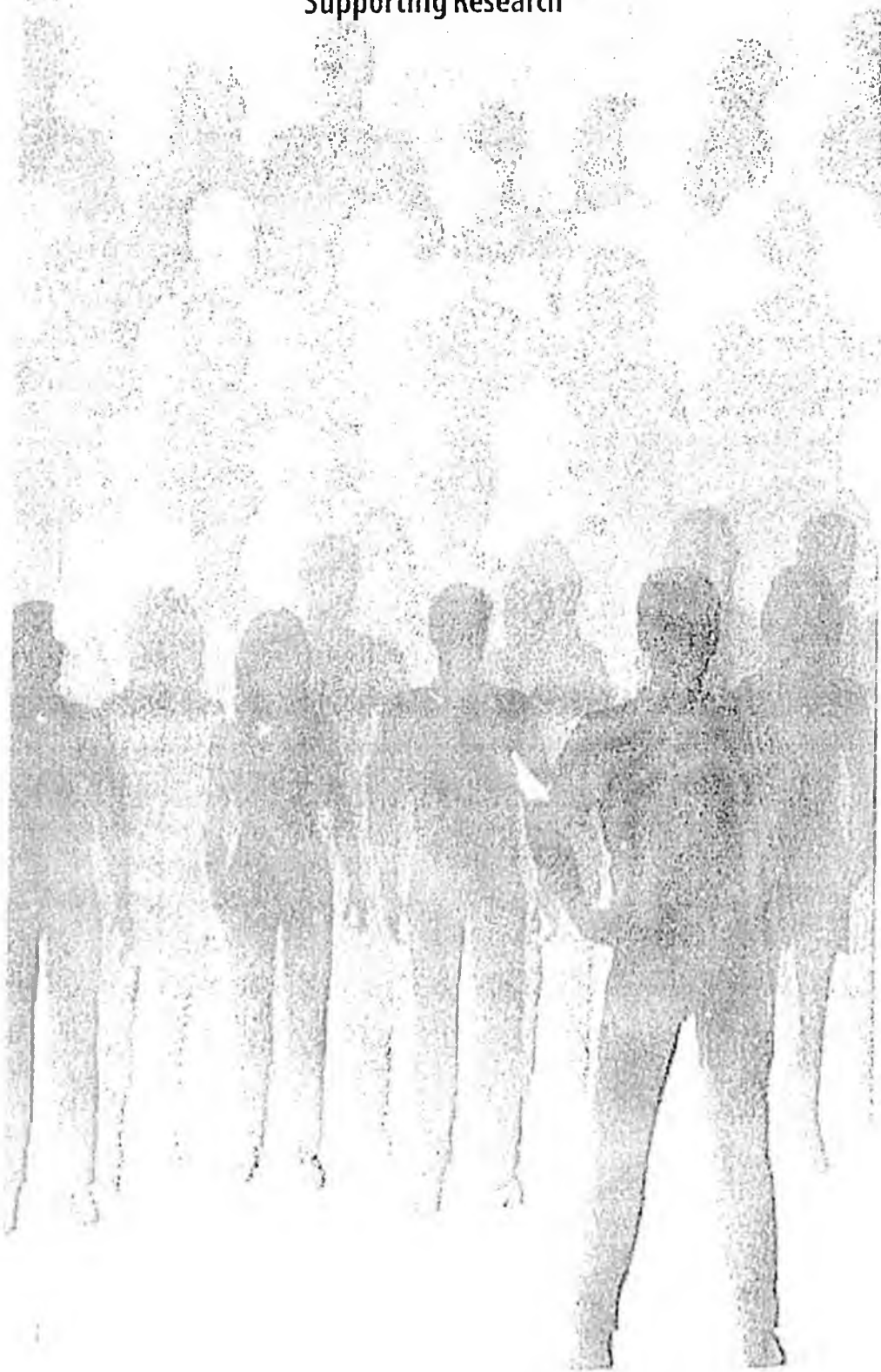
By engaging the stakeholders, we can provide career education and enhance industry recruitment and public awareness, while increasing funding. In order to train our workforce, we must integrate career and technical education into K-16, fill postsecondary gaps, retrain, and capitalize on retirees. By aligning the availability with the needs and focusing on placement, we will employ our skilled laborers. Lastly, by achieving stable and just-in-time funding, we can adaptively sustain our workforce.

Appendix of Supporting Research

Preliminary Survey Results

The results from the following survey determined the direction of the Workforce Development Conference held in October 2006.

Respondents were asked to rate how important each issue was to the future of Alaska.



Responding effectively to large capital projects on Alaska's horizon – i.e. – natural gas pipeline, Pebble Mine, Pogo Mine, Kensington Mine, Port of Anchorage, etc.

85.3% Very Important
11.9% Somewhat Important

Employing Alaska's next generation – making sure that professional jobs are available for college graduates that are seeking opportunities in Alaska.

78.9% Very Important
21.1% Somewhat Important

Creating/expanding programs that encourage high school students to seek certifications and degrees in the technical fields.

67.9% Very Important
25.6% Somewhat Important

Keeping young professionals in Alaska in an effort to replace retiring baby boomers.

67.0% Very Important
26.6% Somewhat Important

Avoiding economic downturn once large projects are completed.

67.9% Very Important
22.9% Somewhat Important

Increasing Alaskan hires.

59.6% Very Important
35.8% Somewhat Important

Maintaining workforce for existing Alaskan companies during heated economic times and having an adequate workforce for minimum wage jobs.

47.7% Very Important
37.6% Somewhat Important

Implementing a P-20 educational system to improve links between interdependent parts of the education system, such as that between high school and college.

37.6% Very Important
39.4% Somewhat Important

Implementing guest worker program J1 Visa – enhancing international relationships and encouraging work visas for international students while they are in Alaska.

10.1% Very Important
47.7% Somewhat Important

Issues and additional action statements discussed at the October 2006 Workforce Development Conference

(Listed in no particular order)

Reinstate student loan forgiveness and/or provide
affordable student loans

Identify appropriate skill tests and measure standards

Cooperation between vocational groups

No Child Left Behind Act displaces emphasis

Fix the Alaska Workforce Investment Board (AWIB)
and listen to it

- Empower it
- Make it actionable
- Follow its recommendations

Adequately fund secondary, career, and technical
education

Common vocabulary through out the system

Market Alaskan opportunities locally

The state should require that every state job offer
a registered apprenticeship program to help others
learn business skills

Develop a program where employers go into classrooms
and share with students what it is like to do different
jobs, offering students insight into different careers

Generate exciting career fairs for middle school
and high schools

Find alliances between

- Providers
- Suppliers
- Employers
- Job Seekers

Start early learning programs
Meet constitutional requirement to fund the connection of the P-16 thru Adult Learner system

Use career resource counselors and bring in the community to convey message of career pathways including non-college track starting in elementary school

Leverage resources that understand multi-generational appropriate messages (i.e. Generation X, Generation Y)

Increase compulsory education age to 18 years or H.S. diploma

Conduct a comprehensive inventory of Alaska jobs

Use governor's office to profile/promote math/science achievement and employability skills in our schools

Industry re-educate itself on what skills are really needed for positions

Industry to increase flexibility to work with employees' job descriptions as their life situation and job skills change

Need training facilities in rural Alaska, i.e. teaching facilities w/ housing

Tax credits/incentives and grants for industry to partner with education/training providers

Build and fund partnerships/coalitions to utilize existing infrastructure between individual entities and industry

Partner/Fund program to educate high school students about options beyond university -- CTE (sophomore year & beyond)

Clear statewide vision of a complete education package and adequate funding (Career Technical Education CTE)

Recommend legislative bill that a percentage of state general fund revenue will go towards CTE

P-16 strategy that recruits and retains students and teachers

Better utilization and provision of distance delivery capabilities

Develop workforce collation around common areas and recommendations

Increase Accreditations

Earmark Career and Tech education/Vocational education training

Industry contribution: (based on ROI)

Make it clear that everyone is responsible for funding

Long term funding strategy, identify needs/amounts, and ROI-payback

After hours instruction and training for high school and OSY (out of school youth)

UAA become a year round school in all fields

Postsecondary/ University- Fast track (TVC)
Extend school year, extend school hours. We add more and more to teacher plates and not enough time to teach the curriculum

Support and build quality trainers and retain the ones we have

Give incentive for employers to train

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Thank You To The Breakout Session Facilitators

Mike Andrews,
*Director,
Alaska Works Partnership*

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*Executive Director,
Associated General
Contractors of Alaska*

Jan Gehler,
*Dean of Community and
Technical College,
University of Alaska*

Alice Galatin,
*Manager of Talent and
Learning, BP*

Colleen Ward,
*APIC-PARW Consultant,
XCEL*

A Special Thank You To The Following Volunteers

Steffi Anderson,
Dimond High School

Danielle Brulotte,
Dimond High School

Josh See,
Service High School

Sarah Strahle,
Dimond High School

Stella Josephine,
Buy Alaska

Rachel York,
Buy Alaska

A Special Thank You To Our Steering Committee

Mike Higley,
*Committee Chair,
Fedex Express*

Bruce Bustamante,
ACVB

Carol Comeau,
Anchorage School District

Sandra Halliwill,
BP

Sophie Minich,
CIRI

John Palmatier,
*Alaska Regional Council
of Carpenters*

HB

65

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 65(FIN)
 () Publish Date: _____

Identifier (file name): CSHB065(FIN)-GOV-OMB-2-18-08 Dept. Affected: All
 Title Security Breaches-Identity Theft RDU _____
 Component _____
 Sponsor Rep. Coghill
 Requester House Finance Committee Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required FY 2009	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***

CAPITAL EXPENDITURES							
CHANGE IN REVENUES ()							

FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2008) cost:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would expose the State of Alaska to future costs; however, it is not possible to predict these costs with any certainty. Whenever a statute creates state liability, the state becomes an attractive target for litigation. It is reasonable to expect that plaintiffs, either individually or through class actions, will bring claims against the state whenever a state agency violates the provisions of this legislation. Depending on whether (and how many) State security breaches occur, notification costs could range from zero to approximately \$1 million per year. State exposure to lawsuits under this bill is unpredictable, but in the event the state is sued, potential costs for actual economic damages sustained by plaintiffs could be in the \$200.0 range, plus defense costs.

Prepared by: Jack Kreinheder, Senior Analyst
 Division Office of Management and Budget

Phone 465-1676
 Date/Time 2/18/08 10:37 PM

Approved by: Karen Rohfeld, Director
 Office of Management and Budget

Date 2/18/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS (JUD) HB 65
() Publish Date: _____

Identifier (file name): HB065CS(JUD)-DOA-ETS-1-18-08
Title: "An Act Relating to Breaches of Security Involving..."

Dept. Affected: Administration
RDU: Enterprise Technology Services
Component: Enterprise Technology Services

Sponsor: Reps. Coqhill, Gara
Requester: _____
Component Number: 2082

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	275.0		319.0	319.0	319.0	319.0	319.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	1,765.6	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	2,040.6	0.0	319.0	319.0	319.0	319.0	319.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	2,040.6	0.0	319.0	319.0	319.0	319.0	319.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	2,040.6	0.0	319.0	319.0	319.0	319.0	319.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB65 has two primary components related to security breaches: 1) Preventative and 2) Remediation. This fiscal note addresses the Preventative component by providing funding to continue the department's efforts to secure the state's networks and data.

For the past three years, the department has been working on strengthening the security components of our network. We have installed Cisco Security Agent (CSA) on desktop computers and servers throughout the state. We are also working to deploy a demilitarized zone (DMZ) that places all of our databases behind two firewalls, with our public-facing servers deployed between the two firewalls. This effort is scheduled to be completed by June 2009 and will involve the coordinated efforts of all state departments.

Prepared by: Dave Blaisdell, Deputy Director
Division: Enterprise Technology Services
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: (907)465-5094
Date/Time: 12/4/2007
Date: 12/5/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CS (JUD) HB 65

ANALYSIS CONTINUATION

The next phase of this security effort is deployment of encryption hardware and software to protect our network as well as legacy data stored and processed on the state's mainframe computer. This fiscal note will provide funding for security enhancements to insure that data used by state agencies to provide services is secure from known types of attack. This will be an ongoing effort as attackers have become more sophisticated over time.

Previous funding for security efforts is as follows:

FY05 Supplemental	\$5,002,500
FY06 Capital Project	\$3,537,500
FY07 Capital Project	\$2,000,000
FY08 Capital Project	\$4,400,000

LEGAL SERVICES

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

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Mail Stop 3101


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

MEMORANDUM

February 20, 2008

SUBJECT: CSHB 65(FIN) relating to personal information
(Work Order No. 25-LS0311\O)

TO: Representative Mike Chenault
Representative Kevin Meyer
Co-Chairs of the House Finance Committee
Attn: Christine Marie

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a final of the bill described above.

1. Sec. 45.48.180. The addition of "or being notified of" raises an ambiguity. If a consumer credit reporting agency discovers and is notified of the breach at different times, from which event do you calculate the five business days?
2. Federal preemption. As you are probably aware, because the bill deals with an area that is heavily, and, in some areas exclusively, regulated by the Federal Credit Reporting Act¹ (FCRA), there is an issue whether the FCRA preempts any of the new provisions. Please be aware that while some of the provisions in the bill have not been directly regulated by FCRA, the FCRA's provisions regarding what it preempts are not clear at all.
3. Interstate commerce. Because this bill could apply to out-of-state businesses that operate in the state it raises a constitutional interstate commerce issue. Whenever a bill establishes a requirement that may affect persons operating from another state, there is always a question whether the requirement places a burden on interstate commerce that would not satisfy the federal constitutional commerce clause.

If I may be of further assistance, please advise.

TLB:lmb
08-041.lmb

Enclosure

¹ 15 U.S.C. 1681 et seq.

2007 HOUSE FINANCE COMMITTEE VOTE SHEET

DATE: 2/19/08

Amendment: #3 HB65

MEMBER

Favor

Oppose

MEMBER	Favor	Oppose
JOULE		
KELLY		X
NELSON	X	
STOLTZE	X	
THOMAS	X	
CRAWFORD	X	
FOSTER HARRIS		
GARA	X	
HAWKER		X
CHENAULT		X
MEYER		X

Yea 5

Nay 4

2/18/08 adopted

AMENDMENT |

OFFERED IN THE HOUSE
TO: CS HB 65 ()
Version 25-LS0311NL

BY REPRESENTATIVE MEYER

1 Page 4, after line 3

2 Insert new subsection:

3 (c) Notwithstanding (a) of this section, notification is not required if, after an
4 appropriate investigation or after consultation with relevant federal, state, or local
5 agencies responsible for law enforcement, the person or government entity
6 determines that no reasonable likelihood of harm to the consumers whose personal
7 information has been acquired has resulted or will result from the breach. Such a
8 determination must be documented in writing and the documentation must be
9 maintained for five years.

10

11 Page 14, line 28

12 After "discovering"

13 Insert "or notification of"

14

15

16

17

18

19

20

21

22

23

24

82V

2/19/08
passed
(5-4)

2/18/08

25-LS0311K.2
Bannister
2-7/08

AMENDMENT 3

~~Failed~~
(4-3)

Rescinded
2/19

OFFERED IN THE HOUSE
TO: CSHB 65(JUD)

BY REPRESENTATIVES NELSON AND
STOLTZE

- 1 Page 1, line 1:
- 2 Delete "the disclosure of permanent fund dividend applicant records,"
- 3
- 4 Page 2, line 4, through page 3, line 18:
- 5 Delete all material.
- 6
- 7 Renumber the following bill sections accordingly.
- 8
- 9 Page 29, line 17:
- 10 Delete "sec. 5"
- 11 Insert "sec. 3"
- 12
- 13 Page 29, line 21:
- 14 Delete "sec. 5"
- 15 Insert "sec. 3"
- 16
- 17 Page 29, line 24:
- 18 Delete "sec. 5"
- 19 Insert "sec. 3"
- 20
- 21 Page 29, line 26:
- 22 Delete "sec. 6"
- 23 Insert "sec. 4"

82✓

adopted 2/18/08

25-LS0311K.1
Bannister
1/30/08

AMENDMENT 4 Rep. Hawker

OFFERED IN THE HOUSE
TO: CSHB 65(JUD)

- 1 Page 2, line 22, following "information ";
- 2 Insert ", except applicant information about individuals who are under 18 years of
- 3 age,"

adopted

2/18/08

25-LS0311\NL.3
Bannister
2/18/08

AMENDMENT 2

OFFERED IN THE HOUSE

BY REPRESENTATIVE GARA

TO: CSHB 65(), Draft Version "L"

1 Page 6, line 16, following "However,":

2 Insert "(1)"

3

4 Page 6, line 19, following "\$50,000":

5 Insert "; and

6 (2) damages that may be awarded against the information collector

7 under

8 (A) AS 45.50.531 are limited to actual economic damages that
9 do not exceed \$500; and

10 (B) AS 45.50.537 are limited to actual economic damages"

25-LS0311VL
Bannister
2/4/08

adopted N/O

CS FOR HOUSE BILL NO. 65()

2/13/08

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES COGHILL AND GARA, Hawker, Lynn, Samuels, Fairclough, Ramras, Kawasaki, Kerttula, Gatto, Neuman, Olson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to breaches of security involving personal information, credit report
2 and credit score security freezes, protection of social security numbers, care of records,
3 disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of
4 the office of administrative hearings; relating to the disclosure of permanent fund
5 dividend applicant records; amending Rules 60 and 82, Alaska Rules of Civil Procedure;
6 and providing for an effective date."

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

8 * Section 1. AS 40.21.110 is amended to read:

9 Sec. 40.21.110. Care of records. Except for public records lawfully in the
10 possession of a person other than the state, public records of existing or defunct
11 agencies of the state, territorial, and Russian governments in Alaska are the property
12 of the state and shall be created, maintained, preserved, stored, transferred, destroyed
13 or disposed of, and otherwise managed in accordance with the provisions of this

1 chapter and AS 45.48.500 - 45.48.530. Records shall be delivered by outgoing
2 officials and employees to their successors, and may not be removed, destroyed or
3 disposed of, except as provided in this chapter and AS 45.48.500 - 45.48.530.

4 * Sec. 2. AS 43.23.017 is amended to read:

5 Sec. 43.23.017. Applicant information confidential. Information on each
6 permanent fund dividend application, except the applicant's name, is confidential. The
7 department may only release information that is confidential under this section

8 (1) to a local, state, or federal government agency;

9 (2) in compliance with a court order;

10 (3) to the individual who or agency that files an application on behalf
11 of another;

12 (4) to a banking institution to verify the direct deposit of a permanent
13 fund dividend or correct an error in that deposit;

14 (5) as directed to do so by the applicant; [AND]

15 (6) to a contractor who has a contract with a person entitled to obtain
16 the information under (1) - (5) of this section to receive, store, or manage the
17 information on that person's behalf; a contractor receiving data under this paragraph
18 may only use the data as directed by and for the purposes of the person entitled to
19 obtain the information; and

20 (7) as provided under (b) of this section.

21 * Sec. 3. AS 43.23.017 is amended by adding new subsections to read:

22 (b) The department shall disclose applicant information to a business under a
23 contract with the department that requests the applicant information if the business has
24 a license under AS 43.70.020, the business, or an agent, an employee, or a contractor
25 of the business, indicates that the business will use the applicant information only in
26 the normal course of business, the person making the request provides proof of the
27 person's identity, and the person making the request states that the business will use
28 the applicant information only

29 (1) to obtain information for law enforcement agencies or for an
30 investigation, if the business is the practice of law or includes the service of process;

31 (2) in connection with a civil, a criminal, an administrative, or an

1 arbitration proceeding, including the service of process, investigation in anticipation of
2 litigation, executing on a judgment, enforcing a judgment, or complying with a court
3 order;

4 (3) for a legal or beneficial interest relating to the applicant, if the
5 business holds the legal or beneficial interest;

6 (4) on behalf of the applicant, if the business is acting in a fiduciary
7 capacity on behalf of the applicant;

8 (5) in connection with insurance claims, insurance investigations, or
9 insurance anti-fraud activities, if the business is an insurer or a person who provides
10 support services to an insurer;

11 (6) to comply with federal, state, or municipal laws, regulations,
12 ordinances, or other legal requirements; or

13 (7) for bulk distribution to political candidates or persons taking polls.

14 (c) In this section,

15 (1) "applicant" means an applicant for a permanent fund dividend;

16 (2) "applicant information" means name, mailing address, and birth
17 year of an applicant;

18 (3) "business" means a person engaging in business.

19 * Sec. 4. AS 44.64.030(a) is amended by adding a new paragraph to read:

20 (40) AS 45.48.080(c) (breach of security involving personal
21 information).

22 * Sec. 5. AS 45 is amended by adding a new chapter to read:

23 **Chapter 48. Personal Information Protection Act.**

24 **Article 1. Breach of Security Involving Personal Information.**

25 **Sec. 45.48.010. Disclosure of breach of security.** (a) If a covered person owns
26 or licenses personal information in any form that includes personal information on a
27 state resident, and a breach of the security of the information system that contains
28 personal information occurs, the covered person shall, after discovering or being
29 notified of the breach, disclose the breach to each state resident whose personal
30 information was subject to the breach.

31 (b) An information collector shall make the disclosure required by (a) of this

1 section in the most expeditious time possible and without unreasonable delay, except
2 as provided in AS 45.48.020 and as necessary to determine the scope of the breach and
3 restore the reasonable integrity of the information system.

4 **Sec. 45.48.020. Allowable delay in notification.** An information collector
5 may delay disclosing the breach under AS 45.48.010 if an appropriate law
6 enforcement agency determines that disclosing the breach will interfere with a
7 criminal investigation. However, the information collector shall disclose the breach to
8 the state resident in the most expeditious time possible and without unreasonable delay
9 after the law enforcement agency informs the information collector in writing that
10 disclosure of the breach will no longer interfere with the investigation.

11 **Sec. 45.48.030. Methods of notice.** An information collector shall make the
12 disclosure required by AS 45.48.010

13 (1) by a written document sent to the most recent address the
14 information collector has for the state resident;

15 (2) by electronic means if making the disclosure by the electronic
16 means is consistent with the provisions regarding electronic records and signatures
17 required for notices legally required to be in writing under 15 U.S.C. 7001 et seq.
18 (Electronic Signatures in Global and National Commerce Act); or

19 (3) if the information collector demonstrates that the cost of providing
20 notice would exceed \$150,000, that the affected class of state residents to be notified
21 exceeds 300,000, or that the information collector does not have sufficient contact
22 information to provide notice, by

23 (A) electronic mail if the information collector has an
24 electronic mail address for the state resident;

25 (B) conspicuously posting the disclosure on the Internet
26 website of the information collector if the information collector maintains an
27 Internet site; and

28 (C) providing a notice to major statewide media.

29 **Sec. 45.48.040. Notification of certain other agencies.** (a) If an information
30 collector is required by AS 45.48.010 to notify more than 1,000 state residents of a
31 breach, the information collector shall also notify without unreasonable delay all

1 consumer credit reporting agencies that compile and maintain files on consumers on a
2 nationwide basis and provide the agencies with the timing, distribution, and content of
3 the notices.

4 (b) This section may not be construed to require the information collector to
5 provide the consumer reporting agencies identified under (a) of this section with the
6 names or other personal information of the state residents whose personal information
7 was subject to the breach.

8 (c) This section does not apply to an information collector who is subject to 15
9 U.S.C. 6801 - 6827 (Gramm-Leach-Bliley Financial Modernization Act).

10 (d) In this section, "consumer reporting agency that compiles and maintains
11 files on consumers on a nationwide basis" has the meaning given in 15 U.S.C.
12 1681a(p).

13 **Sec. 45.48.050. Exception for employees and agents.** In AS 45.48.010 -
14 45.48.090, the good faith acquisition of personal information by an employee or agent
15 of an information collector for a legitimate purpose of the information collector is not
16 a breach of the security of the information system if the employee or agent does not
17 use the personal information for a purpose unrelated to a legitimate purpose of the
18 information collector and does not make further unauthorized disclosure of the
19 personal information.

20 **Sec. 45.48.060. Waivers.** A waiver of AS 45.48.010 - 45.48.090 is void and
21 unenforceable.

22 **Sec. 45.48.070. Treatment of certain breaches.** (a) If a breach of the security
23 of the information system containing personal information on a state resident that is
24 maintained by an information recipient occurs, the information recipient is not
25 required to comply with AS 45.48.010 - 45.48.030. However, immediately after the
26 information recipient discovers the breach, the information recipient shall notify the
27 information distributor who owns the personal information or who licensed the use of
28 the personal information to the information recipient about the breach and cooperate
29 with the information distributor as necessary to allow the information distributor to
30 comply with (b) of this section. In this subsection, "cooperate" means sharing with the
31 information distributor information relevant to the breach, except for confidential

1 business information or trade secrets.

2 (b) If an information recipient notifies an information distributor of a breach
3 under (a) of this section, the information distributor shall comply with AS 45.48.010 -
4 45.48.030 as if the breach occurred to the information system maintained by the
5 information distributor.

6 Sec. 45.48.080. Violations. (a) If an information collector who is a
7 governmental agency violates AS 45.48.010 - 45.48.090 with regard to the personal
8 information of a state resident, the information collector

9 (1) is liable to the state for a civil penalty of up to \$500 for each state
10 resident who was not notified under AS 45.48.010 - 45.48.090, but the total civil
11 penalty may not exceed \$50,000; and

12 (2) may be enjoined from further violations.

13 (b) If an information collector who is not a governmental agency violates
14 AS 45.48.010 - 45.48.090 with regard to the personal information of a state resident,
15 the violation is an unfair or deceptive act or practice under AS 45.50.471 - 45.50.561.
16 However, the information collector is not subject to the civil penalties imposed under
17 AS 45.50.551 but is liable to the state for a civil penalty of up to \$500 for each state
18 resident who was not notified under AS 45.48.010 - 45.48.090, except that the total
19 civil penalty may not exceed \$50,000.

20 (c) The Department of Administration may enforce (a) of this section against a
21 governmental agency. The procedure for review of an order or action of the
22 department under this subsection is the same as the procedure provided by AS 44.62
23 (Administrative Procedure Act), except that the office of administrative hearings
24 (AS 44.64.010) shall conduct the hearings in contested cases and the decision may be
25 appealed under AS 44.64.030(c).

26 Sec. 45.48.090. Definitions. In AS 45.48.010 - 45.48.090,

27 (1) "breach of the security" means unauthorized acquisition, or
28 reasonable belief of unauthorized acquisition, of personal information that
29 compromises the security, confidentiality, or integrity of the personal information
30 maintained by the information collector; in this paragraph, "acquisition" includes
31 acquisition by

- 1 (A) photocopying, facsimile, or other paper-based method;
2 (B) a device, including a computer, that can read, write, or
3 store information that is represented in numerical form; or
4 (C) a method not identified by (A) or (B) of this paragraph;
- 5 (2) "covered person" means a
6 (A) person doing business;
7 (B) a governmental agency; or
8 (C) a person with more than 10 employees;
- 9 (3) "governmental agency" means a state or local governmental
10 agency, except for an agency of the judicial branch;
- 11 (4) "information collector" means a covered person who owns or
12 licenses personal information in any form if the personal information includes
13 personal information on a state resident;
- 14 (5) "information distributor" means a person who is an information
15 collector and who owns or licenses personal information to an information recipient;
- 16 (6) "information recipient" means a person who is an information
17 collector but who does not own or have the right to license to another information
18 collector the personal information received by the person from an information
19 distributor;
- 20 (7) "personal information" means information in any form on an
21 individual that is not encrypted or redacted, or is encrypted and the encryption key has
22 been accessed or acquired, and that consists of a combination of
- 23 (A) an individual's name; in this subparagraph, "individual's
24 name" means a combination of an individual's
25 (i) first name or first initial; and
26 (ii) last name; and
27 (B) one or more of the following information elements:
28 (i) the individual's social security number;
29 (ii) the individual's driver's license number or state
30 identification card number;
31 (iii) except as provided in (iv) of this subparagraph, the

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individual's account number, credit card number, or debit card number;
(iv) if an account can only be accessed with a personal code, the number in (iii) of this subparagraph and the personal code; in this sub-subparagraph, "personal code" means a security code, an access code, a personal identification number, or a password;
(v) passwords, personal identification numbers, or other access codes for financial accounts.

Article 2. Credit Report and Credit Score Security Freeze.

Sec. 45.48.100. Security freeze authorized. A consumer may prohibit a consumer credit reporting agency from releasing all or a part of the consumer's credit report or credit score without the express authorization of the consumer by placing a security freeze on the consumer's credit report.

Sec. 45.48.110. Placement of security freeze. (a) To place a security freeze, a consumer shall make the request to the consumer credit reporting agency

- (1) by mail to the address designated by the consumer credit reporting agency to receive security freeze requests; or
- (2) as allowed by (b) of this section.

(b) A consumer may make a request under (a) of this section by telephone or by fax, the Internet, or other electronic media if the consumer credit reporting agency has developed procedures for using the telephone or an electronic medium to receive and process the request in an expedited manner.

(c) A consumer credit reporting agency shall place a security freeze within five business days after receiving a request under (a) or (b) of this section and proper identification from the consumer.

Sec. 45.48.120. Confirmation of security freeze. (a) Within 10 business days after a consumer makes the request under AS 45.48.110, a consumer credit reporting agency shall send a written confirmation of the placement of the security freeze to the consumer. The confirmation must also inform the consumer that the consumer credit reporting agency may charge, as allowed by AS 45.48.160(c), a fee for third-party access during the security freeze.

(b) At the same time that the consumer credit reporting agency sends a

1 confirmation under (a) of this section, the consumer credit reporting agency shall
2 provide the consumer with a unique personal identification number, password, or
3 similar device to be used by the consumer when the consumer authorizes the release of
4 the consumer's credit report or credit score under AS 45.48.130.

5 **Sec. 45.48.130. Access and actions during security freeze.** (a) While a
6 security freeze is in place, a consumer credit reporting agency shall allow a third party
7 access to a consumer's credit report or credit score if the consumer requests that the
8 consumer credit reporting agency allow the access.

9 (b) To make a request under (a) of this section, the consumer shall contact the
10 consumer credit reporting agency by mail at the address designated by the consumer
11 credit reporting agency to receive security freeze requests or as allowed by (c) of this
12 section, authorize the consumer credit reporting agency to allow the access, and
13 provide the consumer credit reporting agency with

14 (1) proper identification to verify the consumer's identity;

15 (2) the unique personal identification number, password, or similar
16 device provided under AS 45.48.120(b); and

17 (3) the proper information necessary to identify the third party to
18 whom the consumer credit reporting agency may allow the access or the time period
19 during which the consumer credit reporting agency may allow the access to third
20 parties who request the access.

21 (c) In addition to making the request by mail, a consumer may make a request
22 under (a) of this section by telephone or by fax, the Internet, or other electronic media
23 if the consumer credit reporting agency has developed procedures for using the
24 telephone or an electronic medium to receive and process the request in an expedited
25 manner.

26 (d) A consumer credit reporting agency that receives a request from a
27 consumer under (b) or (c) of this section shall comply with the request within 15
28 minutes after receiving the request by telephone or by an electronic medium or within
29 three business days after receiving the request by mail.

30 (e) If a security freeze is in place, a consumer credit reporting agency may not
31 release the credit report or credit score to a third party without the prior express

1 authorization of the consumer.

2 (f) If a security freeze is in place on a consumer's credit report and credit score
3 and if a third party applies to a consumer credit reporting agency to provide the third
4 party with access to the consumer's credit report or credit score, the consumer credit
5 reporting agency and, except as provided for insurers under (g) of this section, the
6 third party may treat the third party's application as incomplete unless the consumer
7 authorizes the access under (a) of this section.

8 (g) If an insurer requests access to a consumer's credit report and credit score
9 on which a security freeze is in place, unless the consumer authorizes access under (a)
10 of this section, the insurer may, notwithstanding AS 21.36.460,

11 (1) treat the consumer's application as incomplete;

12 (2) decline the consumer's application if the consumer does not lift the
13 security freeze for the insurer after a request by the insurer or the insurer's agent;

14 (3) treat the consumer as if the consumer has a neutral credit rating;

15 (4) exclude the use of credit information as a factor and use only
16 underwriting criteria; or

17 (5) treat the consumer in a manner that is otherwise approved by the
18 division of insurance.

19 (h) If a security freeze is in place, a consumer credit reporting agency may not
20 change the consumer's official information in the consumer's credit report and credit
21 score without sending a written statement of the change to the consumer within 30
22 days after the change is made. A consumer credit reporting agency is not required to
23 send a written statement if the consumer credit reporting agency makes a technical
24 change in the consumer's official information. If a consumer credit reporting agency
25 makes a change, other than a technical change, in a consumer's address, the consumer
26 credit reporting agency shall send the written statement to the consumer at both the
27 new address and the former address. In this subsection,

28 (1) "official information" means name, birth date, social security
29 number, and address;

30 (2) "technical change" means changing spelling, transposing numbers
31 or letters, abbreviating a word, or spelling out an abbreviation.

1 (i) This section is not intended to prevent a consumer credit reporting agency
2 from advising a third party that requests access to a consumer's credit report or credit
3 score that a security freeze is in effect.

4 (j) The procedures used by a consumer credit reporting agency for
5 implementing the provisions of this section may include the use of telephone,
6 facsimile, or electronic means if making the disclosure by the electronic means is
7 consistent with the provisions regarding electronic records and signatures required for
8 notices legally required to be in writing under 15 U.S.C. 7001 et seq. (Electronic
9 Signatures in Global and National Commerce Act).

10 Sec. 45.48.140. Removal of security freeze. (a) Except as provided by
11 AS 45.48.130, a consumer credit reporting agency may not remove a security freeze
12 unless

13 (1) the consumer requests that the consumer credit reporting agency
14 remove the security freeze under (b) of this section; or

15 (2) the consumer made a material misrepresentation of fact to the
16 consumer credit reporting agency when the consumer requested the security freeze
17 under AS 45.48.110; if a consumer credit reporting agency intends to remove a
18 security freeze on a consumer's credit report under this paragraph, the consumer credit
19 reporting agency shall notify the consumer in writing before removing the security
20 freeze.

21 (b) A consumer credit reporting agency shall remove a security freeze within
22 three days after receiving a request for removal from the consumer who requested the
23 security freeze.

24 (c) To make a request under (b) of this section, the consumer shall contact the
25 consumer credit reporting agency by mail or as allowed by (d) of this section,
26 authorize the consumer credit reporting agency to remove the security freeze, and
27 provide the consumer credit reporting agency with

28 (1) proper identification to verify the consumer's identity; and

29 (2) the unique personal identification number, password, or similar
30 device provided under AS 45.48.120(b).

31 (d) In addition to mail, a consumer may make a request under (b) of this

1 section by telephone or by fax, the Internet, or other electronic media if the consumer
2 credit reporting agency has developed procedures for using the telephone or an
3 electronic medium to receive and process the request in an expedited manner.

4 **Sec. 45.48.150. Prohibition.** When dealing with a third party, a consumer
5 credit reporting agency may not suggest, state, or imply that a consumer's security
6 freeze reflects a negative credit score, history, report, or rating.

7 **Sec. 45.48.160. Charges.** (a) Except as provided by (b), (c), or (d) of this
8 section, a consumer credit reporting agency may not charge a consumer to place or
9 remove a security freeze, to provide access under AS 45.48.130, or to take any other
10 action, including the issuance of a personal identification number, password, or similar
11 device under AS 45.48.120, that is related to the placement of, removal of, or allowing
12 access to a credit report or credit score on which a security freeze has been placed.

13 (b) A consumer credit reporting agency may charge a consumer \$10 for
14 placing a security freeze.

15 (c) If a consumer makes more than two access requests during a calendar year,
16 a consumer credit reporting agency may charge the consumer \$2 for each additional
17 access request made by the consumer during that calendar year. In this subsection,
18 "access request" means a request made by the consumer under AS 45.48.130 to allow
19 third-party access to the consumer's credit report or credit score on which a security
20 freeze has been placed.

21 (d) If a consumer fails to retain a personal identification number, password, or
22 similar device issued under AS 45.48.120, a consumer credit reporting agency may
23 charge the consumer up to \$5 for each time after the first time that the consumer credit
24 reporting agency issues the consumer another personal identification number,
25 password, or similar device because the consumer failed to retain the personal
26 identification number, password, or similar device.

27 **Sec. 45.48.170. Notice of rights.** When a consumer credit reporting agency is
28 required to give a consumer a summary of rights under 15 U.S.C. 1681g (Fair Credit
29 Reporting Act), a consumer credit reporting agency shall also give the consumer the
30 following notice:

31 **Consumers Have the Right to Obtain a Security Freeze**

1 You may obtain a security freeze on your credit report and
2 credit score for \$10 to protect your privacy and ensure that credit is not
3 granted in your name without your knowledge. You have a right to
4 place a "security freeze" on your credit report and credit score under
5 state law (AS 45.48.100 - 45.48.290).

6 The security freeze will prohibit a consumer credit reporting
7 agency from releasing your credit score and any information in your
8 credit report without your express authorization or approval.

9 The security freeze is designed to prevent credit, loans, and
10 other services from being approved in your name without your consent.
11 However, you should be aware that using a security freeze to take
12 control over who gets access to the personal and financial information
13 in your credit report and credit score may delay, interfere with, or
14 prohibit the timely approval of any subsequent request or application
15 you make regarding a new loan, credit, a mortgage, a governmental
16 service, a governmental payment, a cellular telephone, a utility, an
17 Internet credit card application, an extension of credit at point of sale,
18 and other items and services.

19 When you place a security freeze on your credit report and
20 credit score, within 10 business days you will be provided a personal
21 identification number, password, or similar device to use if you choose
22 to remove the freeze on your credit report and credit score or to
23 temporarily authorize the release of your credit report and credit score
24 to a specific third party or specific third parties or for a specific period
25 of time after the freeze is in place. To provide that authorization, you
26 must contact the consumer credit reporting agency and provide all of
27 the following:

- 28 (1) proper identification to verify your identity;
29 (2) the personal identification number, password, or
30 similar device provided by the consumer credit reporting agency;
31 (3) proper information necessary to identify the third

1 party or third parties who are authorized to receive the credit report and
2 credit score or the specific period of time for which the credit report
3 and credit score are to be available to third parties.

4 A consumer credit reporting agency that receives your request
5 to temporarily lift a freeze on a credit report and credit score is required
6 to comply with the request within 15 minutes after receiving your
7 request if you make the request by telephone, or an electronic method if
8 the agency provides an electronic method, or within three business days
9 after receiving your request if you make the request by mail. After the
10 first two requests in a year, the consumer credit reporting agency may
11 charge you \$2 to temporarily lift the freeze.

12 A security freeze does not apply to circumstances where you
13 have an existing account relationship and a copy of your credit report
14 and credit score are requested by your existing creditor or its agents or
15 affiliates for certain types of account review, collection, fraud control,
16 or similar activities.

17 If you are actively seeking credit, you should understand that
18 the procedures involved in lifting a security freeze may slow your own
19 applications for credit. You should plan ahead and lift a freeze, either
20 completely if you are shopping around, or specifically for a certain
21 creditor, days before applying for new credit.

22 You have a right to bring a civil action against someone who
23 violates your rights under these laws on security freezes. The action can
24 be brought against a consumer credit reporting agency.

25 **Sec. 45.48.180. Notification after violation** If a consumer credit reporting
26 agency violates a security freeze by releasing a consumer's credit report or credit
27 score, the consumer credit reporting agency shall notify the consumer within five
28 business days after discovering the release, and the information in the notice must
29 include an identification of the information released and of the third party who
30 received the information.

31 **Sec. 45.48.190. Resellers.** A consumer credit reporting agency that acts as a

1 reseller of consumer information shall honor a security freeze placed on a consumer's
2 credit report and credit score by another consumer credit reporting agency.

3 **Sec. 45.48.200. Violations and penalties.** (a) A consumer who suffers
4 damages as a result of a person's violation of AS 45.48.100 - 45.48.290 may bring an
5 action in court against the person and recover, in the case of a violation where the
6 person acted

7 (1) negligently, actual economic damages, court costs allowed by the
8 rules of court, and full reasonable attorney fees;

9 (2) knowingly,

10 (A) damages as described in (1) of this subsection;

11 (B) punitive damages that are not less than \$100 nor more than
12 \$5,000 for each violation as the court determines to be appropriate; and

13 (C) other relief that the court determines to be appropriate.

14 (b) A consumer may bring an action in court against a person for a violation or
15 threatened violation of AS 45.48.100 - 45.48.290 for injunctive relief, whether or
16 not the consumer seeks another remedy under this section.

17 (c) Notwithstanding (a)(2) of this section, a person who knowingly violates
18 AS 45.48.100 - 45.48.290 is liable in a class action for an amount that the court
19 allows. When determining the amount of an award in a class action under this
20 subsection, the court shall consider, among the relevant factors, the amount of any
21 actual damages awarded, the frequency of the violations, the resources of the violator,
22 and the number of consumers adversely affected.

23 (d) In this section, "knowingly" has the meaning given in AS 11.81.900.

24 **Sec. 45.48.210. Exemptions.** (a) The provisions of AS 45.48.100 - 45.48.290
25 do not apply to the use of a credit report by

26 (1) a person, the person's subsidiary, affiliate, or agent, or the person's
27 assignee with whom a consumer has or, before the assignment, had an account,
28 contract, or debtor-creditor relationship if the purpose of the use is to review the
29 consumer's account or to collect a financial obligation owing on the account, contract,
30 or debt;

31 (2) a subsidiary, an affiliate, an agent, an assignee, or a prospective

1 assignee of a person to whom access has been granted under AS 45.48.130 if the
2 purpose of the use is to facilitate the extension of credit or another permissible use;

3 (3) a person acting under a court order, warrant, or subpoena;

4 (4) an agency of a state or municipality that administers a program for
5 establishing and enforcing child support obligations;

6 (5) the Department of Health and Social Services, its agents, or its
7 assigns when investigating fraud;

8 (6) the Department of Revenue, its agents, or its assigns when
9 investigating or collecting delinquent taxes or unpaid court orders or when
10 implementing its other statutory responsibilities;

11 (7) a person if the purpose of the use is prescreening allowed under 15
12 U.S.C. 1681b(c) (Fair Credit Reporting Act);

13 (8) a person administering a credit file monitoring subscription service
14 to which the consumer has subscribed;

15 (9) a person providing a consumer with a copy of the consumer's credit
16 report or credit score at the consumer's request; or

17 (10) a consumer credit reporting agency if the data base or file of the
18 consumer credit reporting agency consists entirely of information concerning and used
19 solely for one or more of the following purposes:

20 (A) criminal record information;

21 (B) personal loss history information;

22 (C) fraud prevention or detection;

23 (D) tenant screening; or

24 (E) employment screening.

25 (b) Except as provided by AS 45.48.190, the provisions of AS 45.48.100 -
26 45.48.290 do not apply to a person when acting only as a reseller of consumer
27 information.

28 **Sec. 45.48.290. Definitions.** In AS 45.48.100 - 45.48.290,

29 (1) "account review" means activities related to account maintenance,
30 account monitoring, credit line increases, and account upgrades and enhancements;

31 (2) "consumer" means an individual who is the subject of a credit

1 report or credit score;

2 (3) "consumer credit reporting agency" has the meaning given in
3 AS 45.48.990, but does not include a person who issues reports

4 (A) on incidents of fraud or authorizations for the purpose of
5 approving or processing negotiable instruments, electronic funds transfers, or
6 similar methods of payments; or

7 (B) regarding account closures because of fraud, substantial
8 overdrafts, automated teller machine abuse, or similar negative information
9 regarding a consumer to inquiring banks or other financial institutions for use
10 only in reviewing consumer requests for deposit accounts at the inquiring
11 banks or financial institutions;

12 (4) "reseller of consumer information" means a person who assembles
13 and merges information contained in the data bases of consumer credit reporting
14 agencies and does not maintain a permanent data base of consumer information from
15 which new consumer credit reports are produced;

16 (5) "security freeze" means a prohibition against a consumer credit
17 reporting agency from releasing all or a part of a consumer's credit report or credit
18 score without the express authorization of the consumer;

19 (6) "third party" means a person who is not

20 (A) the consumer who is the subject of the consumer's credit
21 report or credit score; or

22 (B) the consumer credit reporting agency that is holding the
23 consumer's credit report or credit score.

24 **Article 3. Protection of Social Security Number.**

25 **Sec. 45.48.400. Use of social security number.** A person may not

26 (1) intentionally communicate or otherwise make available to the
27 general public an individual's social security number;

28 (2) print an individual's social security number on a card required for
29 the individual to access products or services provided by the person;

30 (3) require an individual to transmit the individual's social security
31 number over the Internet unless the Internet connection is secure or the social security

1 number is encrypted;

2 (4) require an individual to use the individual's social security number
3 to access an Internet site unless a password, a unique personal identification number,
4 or another authentication device is also required to access the site; or

5 (5) print an individual's social security number on material that is
6 mailed to the individual unless

7 (A) local, state, or federal law, including a regulation adopted
8 under AS 45.48.470, expressly authorizes placement of the social security
9 number on the material; or

10 (B) the social security number is included on an application or
11 other form, including a document sent as a part of an application process or an
12 enrollment process, sent by mail to establish, amend, or terminate an account, a
13 contract, or a policy, or to confirm the accuracy of the social security number;
14 however, a social security number allowed to be mailed under this
15 subparagraph may not be printed, in whole or in part, on a postcard or other
16 mailer that does not require an envelope, or in a manner that makes the social
17 security number visible on the envelope or without the envelope's being
18 opened.

19 **Se. 45.48.410. Request and collection.** (a) A person who does business in the
20 state, including the business of government, may not request or collect an individual's
21 social security number. This subsection does not prohibit a person from asking for
22 another form of identification from the individual.

23 (b) The prohibition in (a) of this section does not apply

24 (1) if the person is expressly authorized by local, state, or federal law,
25 including a regulation adopted under AS 45.48.470, to demand proof of the
26 individual's social security number, to request or collect the individual's social security
27 number, or to submit the individual's social security number to the local, state, or
28 federal government;

29 (2) if the person is engaging in the business of government and

30 (A) is authorized by law to request or collect the individual's
31 social security number; or

1 (B) the request or collection of the individual's social security
2 number is required for the performance of the person's duties or
3 responsibilities as provided by law;

4 (3) to a financial institution that is regulated by 15 U.S.C. 6801 - 6827
5 (Gramm-Leach-Bliley Financial Modernization Act) if the financial institution
6 requests or collects the individual's social security number to facilitate a transaction of
7 the individual;

8 (4) to a communication to or from a consumer reporting agency; in this
9 paragraph, "consumer reporting agency" has the meaning given in 15 U.S.C. 1681a
10 (Fair Credit Reporting Act);

11 (5) if the request or collection is for a background check on the
12 individual, law enforcement or other government purposes, or the individual's
13 employment, including employment benefits; or

14 (6) if the request or collection does not have independent economic
15 value, is incidental to a larger transaction, and is necessary to verify the identity of the
16 individual.

17 **Sec. 45.48.420. Sale, lease, loan, trade, or rental.** (a) A person may not sell,
18 lease, loan, trade, or rent an individual's social security number to a third party.

19 (b) The prohibition in (a) of this section does not apply if the sale, lease, loan,
20 trade, or rental is

21 (1) expressly authorized by local, state, or federal law, including a
22 regulation adopted under AS 45.48.470;

23 (2) part of a report prepared by a consumer credit reporting agency in
24 response to a request by a person and the person submits the social security number as
25 part of the request to the consumer credit reporting agency for the preparation of the
26 report.

27 (c) Nothing in this section prevents a business from transferring social security
28 numbers to another person if the transfer is part of the sale or other transfer of the
29 business to the other person.

30 (d) A person who knowingly violates (a) of this section is guilty of a class A
31 misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.900.

1 **Sec. 45.48.430. Disclosure.** (a) A person doing business, including the
2 business of government, may not disclose an individual's social security number to a
3 third party.

4 (b) The prohibition in (a) of this section does not apply if

5 (1) the disclosure is expressly authorized by local, state, or federal law,
6 including a regulation adopted under AS 45.48.470;

7 (2) the person is engaging in the business of government and

8 (A) is authorized by law to disclose the individual's social
9 security number; or

10 (B) the disclosure of the individual's social security number is
11 required for the performance of the person's duties or responsibilities as
12 provided by law;

13 (3) the third party is a financial institution that is regulated by 15
14 U.S.C. 6801 - 6827 (Gramm-Leach-Bliley Financial Modernization Act), and the
15 disclosure is to facilitate a transaction of the individual;

16 (4) the disclosure is part of a report prepared by a consumer credit
17 reporting agency in response to a request by a person and the person submits the social
18 security number as part of the request to the consumer credit reporting agency for the
19 preparation of the report; or

20 (5) the disclosure is for a background check on the individual, law
21 enforcement or other government purposes, or the individual's employment, including
22 employment benefits.

23 **Sec. 45.48.440. Interagency disclosure.** Notwithstanding the other provisions
24 of AS 45.48.400 - 45.48.480, a state or local governmental agency may disclose an
25 individual's social security number to another state or local governmental agency or to
26 an agency of the federal government if the disclosure is required in order for the
27 agency to carry out the agency's duties and responsibilities.

28 **Sec. 45.48.450. Exception for employees, agents, and independent**
29 **contractors.** (a) Notwithstanding the other provisions of AS 45.48.400 - 45.48.480, a
30 person may disclose an individual's social security number to an employee or agent of
31 the person for a legitimate purpose established by and as directed by the person, but

1 the employee or agent may not use the social security number for another purpose or
2 make an unauthorized disclosure of the individual's personal information.

3 (b) Notwithstanding the other provisions of AS 45.48.400 - 45.48.480, and
4 except as provided for an agent under (a) of this section, a person may disclose an
5 individual's social security number to an independent contractor of the person to
6 facilitate the purpose or transaction for which the individual initially provided the
7 social security number to the person, but the independent contractor may not use the
8 social security number for another purpose or make an unauthorized disclosure of the
9 individual's personal information.

10 Sec. 45.48.460. **Employment-related exception.** The provisions of
11 AS 45.48.400 - 45.48.480 may not be construed to restrict a person's use or exchange
12 of an individual's social security number

13 (1) in the course of the administration of a claim, benefit, or procedure
14 related to the individual's employment by the person, including the individual's
15 termination from employment, retirement from employment, and injury suffered
16 during the course of employment; or

17 (2) to check on an unemployment insurance claim of the individual.

18 Sec. 45.48.470. **Agency regulations.** If regulations are necessary in order for a
19 state agency to carry out the state agency's duties and responsibilities, a state agency
20 may adopt regulations under AS 44.62 (Administrative Procedure Act) to establish
21 when the state agency or a person regulated by the state agency may

22 (1) print an individual's social security number on material that is
23 mailed to the individual;

24 (2) demand proof from an individual of the individual's social security
25 number, collect from an individual the individual's social security number, or submit
26 an individual's social security number to a local, state, or federal agency;

27 (3) ask an individual to provide the state agency with the individual's
28 social security number;

29 (4) disclose an individual's social security number to a third party;

30 (5) sell, lease, loan, trade, or rent an individual's social security number
31 to a third party.

1 **Sec. 45.48.480. Penalties.** (a) A person who knowingly violates AS 45.48.400
2 - 45.48.430 is liable to the state for a civil penalty not to exceed \$3,000.

3 (b) An individual may bring a civil action in court against a person who
4 knowingly violates AS 45.48.400 - 45.48.430 and may recover actual economic
5 damages, court costs allowed by the rules of court, and full reasonable attorney fees.

6 (c) In this section, "knowingly" has the meaning given in AS 11.81.900.

7 **Article 4. Disposal of Records.**

8 **Sec. 45.48.500. Disposal of records.** (a) When disposing of records that
9 contain personal information, a business and a governmental agency shall take all
10 reasonable measures necessary to protect against unauthorized access to or use of the
11 records.

12 (b) Notwithstanding (a) of this section, if a business or governmental agency
13 has otherwise complied with the provisions of AS 45.48.500 - 45.48.590 in the
14 selection of a third party engaged in the business of record destruction, the business or
15 governmental agency is not liable for the disposal of records under AS 45.48.500 -
16 45.48.590 after the business or governmental agency has relinquished control of the
17 records to the third party for the destruction of the records.

18 (c) A business or governmental agency is not liable for the disposal of records
19 under AS 45.48.500 - 45.48.590 after the business or governmental agency has
20 relinquished control of the records to the individual to whom the records pertain.

21 **Sec. 45.48.510. Measures to protect access.** The measures that may be taken
22 to comply with AS 45.48.500 include

23 (1) implementing and monitoring compliance with policies and
24 procedures that require the burning, pulverizing, or shredding of paper documents
25 containing personal information so that the personal information cannot practicably be
26 read or reconstructed;

27 (2) implementing and monitoring compliance with policies and
28 procedure^s that require the destruction or erasure of electronic media and other
29 nonpaper media containing personal information so that the personal information
30 cannot practicably be read or reconstructed;

31 (3) after due diligence, entering into a written contract with a third

1 party engaged in the business of record destruction to dispose of records containing
2 personal information in a manner consistent with AS 45.48.500 - 45.48.590.

3 **Sec. 45.48.520. Due diligence.** In AS 45.48.510(3), due diligence ordinarily
4 includes performing one or more of the following:

5 (1) reviewing an independent audit of the third party's operations and
6 its compliance with AS 45.48.500 - 45.48.590;

7 (2) obtaining information about the third party from several references
8 or other reliable sources and requiring that the third party be certified by a recognized
9 trade association or similar organization with a reputation for high standards of quality
10 review; or

11 (3) reviewing and evaluating the third party's information security
12 policies and procedures, or taking other appropriate measures to determine the
13 competency and integrity of the third party.

14 **Sec. 45.48.530. Policy and procedures.** A business or governmental agency
15 shall adopt written policies and procedures that relate to the adequate destruction and
16 proper disposal of records containing personal information and that are consistent with
17 AS 45.48.500 - 45.48.590.

18 **Sec. 45.48.540. Exemptions.** (a) A business or a governmental agency is not
19 required to comply with AS 45.48.500 - 45.48.530 if federal law requires that the
20 business or governmental agency act in a way that does not comply with AS 45.48.500
21 - 45.48.530.

22 (b) A business is not required to comply with AS 45.48.500 - 45.48.530 if

23 (1) the business is subject to and in compliance with 15 U.S.C. 6801 -
24 6827 (Gramm-Leach-Bliley Financial Modernization Act); or

25 (2) the manner of the disposal of the records of the business is subject
26 to 15 U.S.C. 1681w (Fair Credit Reporting Act) and the business is complying with 15
27 U.S.C. 1861w.

28 **Sec. 45.48.550. Civil penalty.** (a) An individual, a business, or a governmental
29 agency that knowingly violates AS 45.48.500 - 45.48.590 is liable to the state for a
30 civil penalty not to exceed \$3,000.

31 (b) In this section, "knowingly" has the meaning given in AS 11.81.900.

1 **Sec. 45.48.560. Court action.** An individual who is damaged by a violation of
2 AS 45.48.500 - 45.48.590 may bring a civil action in court to enjoin further violations
3 and to recover for the violation actual economic damages, court costs allowed by the
4 rules of court, and full reasonable attorney fees.

5 **Sec. 45.48.590. Definitions.** In AS 45.48.500 - 45.48.590,

6 (1) "business" means a person who conducts business in the state or a
7 person who conducts business and maintains or otherwise possesses personal
8 information on state residents; in this paragraph,

9 (A) "conducts business" includes engaging in activities as a
10 financial institution organized, chartered, or holding a license or authorization
11 certificate under the laws of this state, another state, the United States, or
12 another country;

13 (B) "possesses" includes possession for the purpose of
14 destruction;

15 (2) "dispose" means

16 (A) the discarding or abandonment of records containing
17 personal information;

18 (B) the sale, donation, discarding, or transfer of

19 (i) any medium, including computer equipment or
20 computer media, that contains records of personal information;

21 (ii) nonpaper media, other than that identified under (i)
22 of this subparagraph, on which records of personal information are
23 stored; and

24 (iii) equipment for nonpaper storage of information;

25 (3) "governmental agency" means a state or local governmental
26 agency, except for an agency of the judicial branch;

27 (4) "personal information" means

28 (A) an individual's passport number, driver's license number,
29 state identification number, bank account number, credit card number, debit
30 card number, other payment card number, financial account information, or
31 information from a financial application; or

1 (B) a combination of an individual's

2 (i) name; and

3 (ii) medical information, insurance policy number,
4 employment information, or employment history;

5 (5) "records" means material on which information that is written,
6 drawn, spoken, visual, or electromagnetic is recorded or preserved, regardless of
7 physical form or characteristics, but does not include publicly available information
8 containing names, addresses, telephone numbers, or other information an individual
9 has voluntarily consented to have publicly disseminated or listed.

10 **Article 5. Factual Declaration of Innocence after Identity Theft; Right to File Police**
11 **Report Regarding Identity Theft.**

12 **Sec. 45.48.600. Factual declaration of innocence after identity theft.** (a) A
13 victim of identity theft may petition the superior court for a determination that the
14 victim is factually innocent of a crime if

15 (1) the perpetrator of the identity theft was arrested for, cited for, or
16 convicted of the crime using the victim's identity;

17 (2) a criminal complaint was filed against the perpetrator of the
18 identity theft; and

19 (3) the victim's identity was mistakenly associated with a record of a
20 conviction for a crime.

21 (b) In addition to a petition by a victim under (a) of this section, the
22 department may petition the superior court for a determination under (a) of this
23 section, or the superior court may, on its own motion, make a determination under (a)
24 of this section.

25 **Sec. 45.48.610. Basis for determination.** A determination of factual
26 innocence under AS 45.48.600 may be heard and made on declarations, affidavits,
27 police reports, or other material, relevant, and reliable information submitted by the
28 parties or ordered to be made a part of the record by the court.

29 **Sec. 45.48.620. Criteria for determination; court order.** (a) A court may
30 determine that a petitioner under AS 45.48.600 is factually innocent of a crime if the
31 court finds beyond a reasonable doubt that

- 1 (1) the petitioner is a victim of identity theft;
- 2 (2) the petitioner did not commit the offense for which the perpetrator
- 3 of the identity theft was arrested, cited, or convicted;
- 4 (3) the petitioner filed a criminal complaint against the perpetrator of
- 5 the identity theft; and
- 6 (4) the petitioner's identity was mistakenly associated with a record of
- 7 conviction for the crime.

8 (b) If a court finds under this section that the victim is factually innocent of a

9 crime, the court shall issue an order indicating this determination of factual innocence

10 and shall provide the victim with a copy of the order.

11 **Sec. 45.48.630. Orders regarding records.** After a court issues an order under

12 AS 45.48.620, the court may order the name and associated personal information of

13 the victim of identity theft that is contained in the files, indexes, and other records of

14 the court that are accessible by the public labeled to show that the name and personal

15 information of the victim of identity theft is incorrect.

16 **Sec. 45.48.640. Vacation of determination.** A court that has issued an order

17 under AS 45.48.620 may, at any time, vacate the order if the petition, or any

18 information submitted in support of the petition, is found to contain a material

19 misrepresentation, omission, or false information.

20 **Sec. 45.48.650. Court form.** The supreme court of the state may develop a

21 form to be used for the order under AS 45.48.620.

22 **Sec. 45.48.660. Data base.** The department may establish and maintain a data

23 base of individuals who have been victims of identity theft and who have received an

24 order under AS 45.48.620. The department shall provide a victim or the victim's

25 authorized representative access to a data base established under this section to

26 establish that the individual has been a victim of identity theft. Access to the a data

27 base established under this section is limited to criminal justice agencies, victims of

28 identity theft, and individuals and agencies authorized by the victims.

29 **Sec. 45.48.670. Toll-free telephone number.** The department may establish

30 and maintain a toll-free telephone number to provide access to information in a data

31 base established under AS 45.48.660.

1 **Sec. 45.48.680. Right to file police report regarding identity theft.** (a) Even
2 if the local law enforcement agency does not have jurisdiction over the theft of an
3 individual's identity, if an individual who has learned or reasonably suspects the
4 individual has been the victim of identity theft contacts, for the purpose of filing a
5 complaint, a local law enforcement agency that has jurisdiction over the individual's
6 actual place of residence, the local law enforcement agency shall make a report of the
7 matter and provide the individual with a copy of the report. The local law enforcement
8 agency may refer the matter to a law enforcement agency in a different jurisdiction.

9 (b) This section is not intended to interfere with the discretion of a local law
10 enforcement agency to allocate its resources to the investigation of crime. A local law
11 enforcement agency is not required to count a complaint filed under (a) of this section
12 as an open case for purposes that include compiling statistics on its open cases.

13 **Sec. 45.48.690. Definitions.** In AS 45.48.600 - 45.48.690,

- 14 (1) "crime" has the meaning given in AS 11.81.900;
15 (2) "department" means the Department of Law;
16 (3) "identity theft" means the theft of the identity of an individual;
17 (4) "perpetrator" means the person who perpetrated the theft of an
18 individual's identity;
19 (5) "victim" means an individual who is the victim of identity theft.

20 **Article 6. Truncation of Card Information.**

21 **Sec. 45.48.750. Truncation of card information.** (a) A person who accepts
22 credit cards or debit cards for the transaction of business may not print more than the
23 last four digits of the card number or the expiration date on any receipt or other
24 physical record of the transaction provided at the point of the sale or transaction.

25 (b) This section applies only to receipts that are electronically printed and does
26 not apply to transactions in which the sole means of recording a credit card or debit
27 card account number is by handwriting or by an imprint or copy of the card.

28 (c) A person may not sell a device that electronically prints more than the last
29 four digits of a credit card or debit card on a consumer receipt for a business
30 transaction or on a copy retained by a business person for a business transaction.

31 (d) An individual may bring a civil action in court against a person who

1 knowingly violates (a) of this section and may recover actual economic damages,
2 court costs allowed by the rules of court, and full reasonable attorney fees.

3 (e) A person who knowingly violates this section is liable to the state for a
4 civil penalty not to exceed \$3,000.

5 (f) In this section,

6 (1) "credit" means the right granted by a creditor to a debtor to defer
7 payment of debt, to incur debts and defer payment of the debt, or to purchase property
8 or services and defer payment of the purchase; in this paragraph, "creditor" means a
9 person who regularly extends, renews, or continues credit, a person who regularly
10 arranges for the extension, renewal, or continuation of credit, or an assignee of an
11 original creditor who participates in the decision to extend, renew, or continue credit;

12 (2) "credit card" means a card, plate, coupon book, or other credit
13 device existing for the purpose of obtaining money, property, labor, or services on
14 credit;

15 (3) "debit card" means a card issued by a financial institution to a
16 consumer for use in initiating an electronic fund transfer from the account of the
17 consumer at the financial institution for the purpose of transferring money between
18 accounts or obtaining money, property, labor, or services;

19 (4) "knowingly" has the meaning given in AS 11.81.900.

20 **Article 7. General Provisions.**

21 **Sec. 45.48.990. Definitions.** In this chapter, unless the context indicates
22 otherwise,

23 (1) "consumer" means an individual;

24 (2) "consumer credit reporting agency" means a person who, for
25 monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or
26 in part in the practice of assembling or evaluating consumer credit information or
27 other information on consumers for the purpose of furnishing credit reports to third
28 parties;

29 (3) "credit report" means a written, oral, or other communication of
30 information by a consumer credit reporting agency bearing on a consumer's credit
31 worthiness, credit standing, credit capacity, character, general reputation, personal

1 characteristics, or mode of living if the communication is used or expected to be used
2 or collected in whole or in part to serve as a factor in establishing the consumer's
3 eligibility for

4 (A) credit or insurance to be used primarily for personal,
5 family, or household purposes;

6 (B) employment purposes; or

7 (C) any other permissible purpose authorized under section 15
8 U.S.C. 1681b;

9 (4) "information system" means any information system, including a
10 system consisting of digital data bases and a system consisting of pieces of paper;

11 (5) "person" has the meaning given in AS 01.10.060 and includes a
12 state or local governmental agency, except for an agency of the judicial branch;

13 (6) "state resident" means an individual who satisfies the residency
14 requirements under AS 01.10.055.

15 **Sec. 45.48.995. Short title.** This chapter may be cited as the Alaska Personal
16 Information Protection Act.

17 * Sec. 6. AS 45.50.471(b) is amended by adding a new paragraph to read:

18 (53) an information collector, other than a governmental agency,
19 violating AS 45.48.010 -- 45.48.090 (breach of security involving personal
20 information); in this paragraph,

21 (A) "governmental agency" has the meaning given in
22 AS 45.48.090;

23 (B) "information collector" has the meaning given in
24 AS 45.48.090.

25 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 45.48.640, enacted by sec. 5 of
28 this Act, has the effect of changing Rule 60(b), Alaska Rules of Civil Procedure, by allowing
29 a court to vacate an order on its own motion and at any time and by establishing a specific
30 criterion for vacating the order under AS 45.48.640.

31 (b) AS 45.48.200(a), 45.48.480(b), 45.48.560, and 45.48.750(d), enacted by sec. 5 of

1 this Act, have the effect of changing Rule 82, Alaska Rules of Civil Procedure, by changing
2 the criteria for determining the amount of attorney fees to be awarded to a party in an action
3 under AS 45.48.200(a), 45.48.480(b), 45.48.560, or 45.48.750(d).

4 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: REGULATIONS. A state agency may proceed to adopt regulations
7 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
8 Procedure Act), but not before the effective date of the law implemented by the regulation.

9 * Sec. 9. AS 45.48.470, enacted by sec. 5 of this Act, takes effect immediately under
10 AS 01.10.070(c).

11 * Sec. 10. Section 8 of this Act takes effect immediately under AS 01.10.070(c).

12 * Sec. 11. Except as provided by secs. 9 - 10 of this Act, this Act takes effect January 1,
13 2009.

2/13/08

ALASKA STATE HOUSE OF REPRESENTATIVES



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REPRESENTATIVE JOHN COGHILL

WORKING SECTIONAL FOR HOUSE FINANCE ON PROPOSED CHANGES TO CSHB 65() 25-LS0311/L 2/4/08

"An Act relating to breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identify theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; relating to the disclosure of permanent fund dividend applicant records; amending Rules 60, and 82 Alaska Rules of Civil Procedure; and providing for an effective date."

Title: Insert disclosure of permanent fund dividend applicant records on line 5 after administrative hearings.

Section 1 AS 40.21.110 Care of records – this sets out the ownership of public records and how they are to be managed from creation to disposal.

Section 2 AS 43.23.017 relates to the confidentiality of information on each permanent fund dividend application.

Section 3 AS 43.23.017 allows disclosure of the non-confidential applicant information to a business that is licensed under AS 43.70.020.

Section 4 AS 44.64.030(a) adds a new paragraph (35) AS 45.48.080(c) which is part of the new Chapter 48 Personal Information Protection Act.

Section 5 AS 45 is amended by adding a new chapter Personal Information Protection Act. This new chapter contains a total of seven (7) Articles with individual sections.

ON FILE

Article I.
Breach of Security Involving Personal Information

Sec. 45.48.010 Disclosure of breach of security

Describes what a covered person who owns or [uses] licenses personal information must do in case of a breach of information.

This change makes it clear a covered person that owns or licenses information is responsible for disclosure and notification in case of a breach. Covered is described in Sec. 45.48.090 Definitions – to bring conformity to the meaning of person throughout Article I.

Sec. 45.48.020 Allowable delay in notification

Describes reasons for delaying notification of a breach of information.

Sec. 45.48.030 Methods of notice

Describes the methods to be used to notify a person that there has been a breach of information. Lists exceptions to the methods of notification relating to cost and number of consumers to be notified.

Sec. 45.48.040 Notification of certain other agencies

Describes when it is necessary to notify other consumer reporting agencies about a breach. There are exceptions to these requirements are also set out.

Sec. 45.48.050 Exception for employees and agents

Lists exceptions for acquisition of personal information by an employee or agent of an information collector.

Sec. 45.48.060 Waivers

No waivers of these sections are allowed.

Sec. 45.48.070 Treatment of certain breaches

A breach of information by an information recipient must be reported to the information distributor so they can comply with the notification requirements if the breach occurred to an information system maintained by the information distributor.

Sec. 45.48.080 Violations

Sets out fines for violations of 45.48.010-45.48.090 by a governmental agency that is an information collector, and information collectors who are not governmental agencies. Defines "governmental agency".

Sec. 45.48.090 Definitions

Defines the following terms:

(1)breach of the security;

(2) ["information collector"]

is replaced with: "covered person" means a

(A) person doing business;

(B) a governmental agency; or

(C) a person with more than 10 employees

This new subsection (2) describes "covered person" and replaces information collector throughout Article I.

(3) “governmental agency” means a state or local governmental agency, except for an agency of the judicial branch.

New definition because “governmental agency” is included in “covered person” it needs to be defined.

(4) “information collector” means a covered person who owns or licenses personal information in any form if the personal information includes personal information on a state resident.

Changes in definition of “information collector” include “covered person” which is described in (2) above.

New subsection:

(7) “personal information”

Page 7, Line 23: Delete [address, or telephone number] after individuals name. Address and telephone number are deleted because this information is readily available in public records.

Page 7, Line 31 to

Page 8, Lines 1 – 7 Add (iii) except as provided in (iv) of this subparagraph, the individual’s account number, credit card number, or debit card number;

(iv) if an account can only be accessed with a personal code, the number in (iii) of this subparagraph and the personal code; in this sub-subparagraph, “personal code” means a security code, an access code, a personal identification number, or a password;

(v) passwords, personal identification numbers, or other access codes for financial accounts.

These changes were made to make it clear what information and combinations of information is considered personal information. The combination of numbers, codes, cards, etc. if breached would be cause for notification to an individual.

Adding in access codes and PIN numbers, tightened down the requirement on information breach notification requirements.

Article 2.

Credit Report and Credit Score Security Freeze

Sec. 45.48.100 Security freeze authorized

Rights of consumers to prohibit release of their personal information.

Sec. 45.48.110 Placement of security freeze (a)(1) by [certified] mail

Sets out procedures for a consumer to request a consumer credit reporting agency to freeze their information.

Page 8, Line 15 Remove requirement that request for freeze be made by certified mail.

Sec. 45.48.120 Confirmation of security freeze

Describes the responsibility of the consumer credit reporting agency to notify the consumer when a security freeze has been placed.

Sec. 45.48.130 Access and actions during security freeze

Describes how a consumer can allow access to their information by a third party when a security freeze is in place; timeframe for the consumer credit reporting agency to respond, how an insurer is to treat a consumer's application if a security freeze prevents access to the consumer's information, and what changes are allowed when a security freeze is in place, and notification requirements. Defines "official information" and "technical change".

Page 9, Line 27, 28 (d) [immediately] to 15 minutes;

Change from immediately to 15 minutes was a more reasonable response time.

Sec. 45.48.140 Removal of security freeze

Sets out procedure for removing a security freeze, how the request for the freeze is to be made, how the consumer credit reporting agency shall respond, and what identifiers are necessary to remove the freeze.

Page 11, Line 22 (b) [immediately] to within three days.

Change from immediately to within three days was a more reasonable response time.

Sec. 45.48.150 Prohibition

Sets out guidelines for reporting to third parties when a security freeze is in place.

Sec. 45.48.160 Charges

Charges to a consumer regarding security freezes.

Sec. 45.48.170 Notice of rights

Additional notices to be given when a consumer is provided a summary of rights under the Fair Credit Reporting Act (FCRA). Caution is given that a security freeze may prohibit the timely approval of subsequent requests or transactions.

Page 13, [rental housing, employment, an investment, a license, a digital signature]

Page 14, Line 17 Internet credit card [transaction] application, an extension of credit at point of sale, and other items and services.

Specific items were deleted because they are exceptions to a security freeze in other sections. Application was substituted for transaction for clarification that a freeze does not stop a person from making purchases with their card.

This section also advises the individual that there may be charges for lifting a freeze after the person has used their two free lifts.

Page 14 - Lines 9 - 11 [Under some circumstances] After the first two requests in a year the consumer credit reporting agency may charge you \$2 to temporarily lift the

freeze. This change lets an individual know that the CRA may charge \$2 to lift a

freeze after the 2 free lifts. Deleted "Under some circumstances to remove

ambiguity of when the charges might be applied, but gives the CRA some latitude as to whether or not they want to charge for additional lifts.

Sec. 45.48.180 Notification after violation

Describes the notice required if a consumer credit reporting agency violates a security freeze. The timeframe to report the violation is within five business days after:

Page 14, Line 28 insert discovering the release.

Inserted the word discovering for clarification that a violation may have occurred but until it is discovered the CRA can not be expected to give notice.

Sec. 45.48.190 Resellers

Requires that a consumer credit reporting agency acting as a reseller honor a security freeze that is placed by another consumer reporting agency.

Sec. 45.48.200 Violations and penalties

Describes the rights of a consumer who suffers damages as a result of a breach of their personal information.

Page 15, Lines 7 – 10 [actual damages, including loss of wages, and when applicable, damages for pain and suffering;] may recover actual economic damages, court costs allowed by the rules of court, and full reasonable attorney fees.

These changes reflect the penalties allowed throughout the Act. The individual has the right to recover actual economic damages, court costs and attorney fees.

Sec. 45.48.210 Exemptions

Lists exemptions to the use of credit information when a security freeze is in place. The exceptions in

Page 16, Line 26 (b) do not apply to a person [who acts] when acting only as a reseller of consumer information.

A person may wear many "information" hats. This change makes it clear that exemptions do not apply when a person is acting as a reseller, which is narrower than who acts.

Sec. 45.48.290 Definitions

Defines the following terms: account review; consumer; consumer credit reporting agency; reseller of consumer information; security freeze; third party.

Article 3.

Protection of Social Security Number

Sec. 45.48.400 Use of social security number

Sets out guidelines for handling a person's social security number.

Sec. 45.48.410 Request and collection

Sets out prohibitions and exemptions for requesting or collecting an individual's social security number.

(b)(1) if the person is expressly authorized by local, state, or federal law, including a regulation adopted under AS 45.48.470, to demand proof of the individual's social Security number, to

Page 18, Line 26 request or collect the individual's social security number

(5) if the request or collection is for a background check on the individual, law enforcement

Page 19, Line 12 or other government purposes or the individual's

(6) if the

Page 19, Line 14 [disclosure] request or collection does not have independent economic value.

The changes shown above protect those individuals required to collect a social security number. Disclosure is deleted as this section is not dealing with disclosure of SSN.

Sec. 45.48.420 Sale, lease, loan, trade, or rental
Prohibitions and exemptions regarding third party use of social security numbers.
Page 19, Lines 27 – 29 (e) Nothing in this section prevents a business from transferring social security numbers to another person if the transfer is part of the sale or other transfer of the business to the other person.
This new subsection allows the sale or transfer of a business that owns or possesses social security numbers.

Sec. 45.48.430 Disclosure
Prohibitions and exemptions regarding disclosure of social security numbers to third parties.
(b)(5) the disclosure is for a background check on the individual, law enforcement
Page 20, Line 21 or other government purposes or the individual's employment, including employment benefits.
Or other government is included for consistency with Sec. 45.48.410 and for protection when performing duties that include disclosure.

Sec. 45.48.440 Interagency disclosure
Describes when and to whom disclosure is authorized.

Sec. 45.48.450 Exception for employees, agents, & independent contractors
Describes when and to whom disclosure is authorized.

Sec. 45.48.460 Employment-related exception
Describes when use of a social security number should not be restricted.

Sec. 45.48.470 Agency regulations
Procedures for adopting regulations necessary for a state agency to carry out their duties and responsibilities.

Sec. 45.48.480 Penalties
Rights of the state and individuals against persons that knowingly violate these sections and what damages and attorney fees may be recovered. For consistence with other sections that deal with penalties – insert
Page 22, Line 4 economic after actual.

Article 4. Disposal of Records

Sec. 45.48.500 Disposal of records
This sets out the measures to be followed when disposing of records which contain personal information.

Sec. 45.48.510 Measures to protect access.
Describes the measures that may be taken to comply with Sec. 45.48.500 (above).

Sec. 45.48.520 Due diligence
Lists procedures that if performed show due diligence.

Sec. 45.48.530 Policy and procedures

A business or governmental agency shall adopt written policies and procedures relating to records disposal.

Sec. 45.48.540 Exemptions

Compliance to these sections is not required if a government agency or business is required by federal law to act in another way, or the business is subject to and in compliance with GLBA, or FCRA.

Sec. 45.48.550 Civil penalty

Liability to the state by an individual, business, or governmental agency for violations of these sections.

Sec. 45.48.560 Court action

Page 24, Lines 1 – 4 actual economic damages court costs allowed by the rules of court, and full reasonable attorney fees.

These changes are made to this section consistent with court actions and penalties throughout the Act.

Sec. 45.48.590 Definitions

Defines the following terms: business; conducts business; possesses; dispose; governmental agency; personal information; records.

(4) "personal information" means

Page 25, Line 2 (B)(i) name, [address, or telephone number] and.

This change will make the definition of "personal information" consistent by removing address and telephone number.

Article 5.

Factual Declaration of Innocence after Identify Theft, Right to file Police Report Regarding Identity Theft

Sec. 45.48.600 Factual declaration of innocence after identity theft

Describes the conditions that should exist in order for an individual to petition the superior court for a determination of innocence of a crime involving the theft of their identity.

Sec. 45.48.610 Basis for determination

Lists the type of information that may be made part of the record for the court to make a determination of factual innocence.

Sec. 45.48.620 Criteria for determination; court order

Sets the criteria that the court may use to determine a victim's factual innocence.

Sec. 45.48.630 Orders regarding records

Describes what the court may order regarding the disposition of incorrect records regarding a victim of identity theft.

Sec. 45.48.640 Vacation of determination

States that a court order may be vacated if there has been a misrepresentation of the material.

Sec. 45.48.650 Court form
Development of a form to be used under 45.48.620

Sec. 45.48.660 Data base
This section allows the establishment and maintenance of a data base of victims of identity theft, and who has authorization to the information.

Sec. 45.48.670 Toll-free telephone number
Establishes a toll-free number that accesses the information in the data base established in 45.48.660.

Sec. 45.48.680 Right to file police report regarding identity theft
Sets out rights of an individual to file a police report if they suspect they are a victim of identity theft, and the responsibility of a law enforcement agency to make the report even if they do not have jurisdiction.

Sec. 45.48.690 Definitions
Defines the following terms: crime, department, identity theft, perpetrator, and victim.

Article 6. Truncation of Card Information

Sec. 45.48.750 Truncation of card information
Describes limits on a business regarding the printing of credit or debit card numbers and the exceptions depending on whether the receipt is produced electronically or is handwritten or imprinted. Sale of devices that print more than the last four digits on a consumer receipt for a credit or debit card transaction is not allowed. Also sets out civil action that an individual can take, and civil penalty to the state. It also describes credit, credit card, debit card, and knowingly.

Page 28, Line 1 may recover actual economic damages, [or \$5,000, which ever is greater]

These changes keep the civil action damages consistent throughout the Act.

Article 7. General Provisions

Sec. 45.48.990 Definitions
Provides definitions of terms.

Sec. 45.48.995 Short Title
Alaska Personal Information Protection Act.

Page 29, Line 17 deleted AS 45.48.750 is amended by adding a new subsection (f). This subsection was included in Article 6 Truncation of Card Information - Page 27, Lines 28-30, subsection (e).

New Section 6

Page 29, Lines 17 – 24 AS 45.50.471(b) is amended by adding a new paragraph (53) (A) and (B).

Section 7 The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENTS

(a) AS 45.48.640 changes Rule 60(b) Rules of Civil Procedure effecting AS 45.48.640.

(b) AS 45.48.640(b) changes Rule 82, Rules of Civil Procedure effecting AS 45.48.480(b).

NEW SECTION:

Section 8 – TRANSITION: REGULATIONS. A state agency may proceed to adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

Section 9 AS 45.48.470 enacted by Sec. 5 of this Act; takes effect immediately under AS 01.10.070(c).

Section 10 Section 8 of this Act takes effect immediately under AS 01.10.070(c).

Section 11 Except as provided by secs. 9 – 10 of this Act, this Act takes effect January 1, 2009.

ALASKA STATE HOUSE OF REPRESENTATIVES

1/23/08

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Session

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State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT CSHB 65 (JUD)

"An Act relating to the disclosure of permanent fund dividend applicant records, breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identify theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60, and 82 Alaska Rules of Civil Procedures; and providing for an effective date."

In a time when information of every personal type is transmitted and stored electronically, it is necessary that those that have access to the use, storage, and disposal of sensitive consumer information be accountable and responsible.

This legislation deals with specific areas designed to secure a consumer's private information and ensure affordable access to their credit information.

This bill establishes ownership of public records, defines what information on a permanent fund dividend application is confidential and what can be disclosed to certain businesses.

This bill has 7 articles that deal with all areas of personal information and the rights and protections the consumer has and can expect from individuals that handle their personal information.

These articles are:

- (1) **Breach of Security of Personal Information** - requires disclosure of breaches of security involving personal information.
- (2) **Credit Report and Credit Score Security Freeze** - allows consumers to freeze and unfreeze access to their credit information at their discretion.
- (3) **Protection of Social Security Number** - by restricting sale and distribution.
- (4) **Disposal of Records** - requires complete destruction of electronic and paper records that contain personal information.
- (5) **Right to File Police Report Regarding Identity Theft** - allowing a person that falls victim to identify theft to make a factual declaration of innocence.

- (6) **Truncation of Card Information** – setting up guidelines for use of card numbers on receipts.
- (7) **General Provisions** – provides definitions for terms within the chapter, and cites the short title of this bill as the *Alaska Personal Information Protection Act*.

1/23/00

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Session

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REPRESENTATIVE JOHN COGHILL

SECTIONAL

CSHB 65 (JUD)
25-LS0311\K

"An Act relating to the disclosure of permanent fund dividend applicant records, breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identify theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60, and 82 Alaska Rules of Civil Procedure; and providing for an effective date."

Section 1 AS 40.21.110 Care of records – this sets out the ownership of public records and how they are to be managed from creation to disposal.

Section 2 AS 43.23.017 amends this section relating to the confidentiality of information on each permanent fund dividend application. (Amendment No. 1)

Section 3 AS 43.23.017 adds a new subsection (b) to allow disclosure of the non-confidential applicant information to a business that is licensed under AS 43.70.020. (Amendment No. 1)

Section 4 AS 44.64.030(a) adds a new paragraph (35) AS 45.48.080(e) which is part of the new Chapter 48 Personal Information Protection Act.

Section 5 AS 45 is amended by adding a new chapter Personal Information Protection Act. This new chapter contains a total of seven (7) Articles with individual sections.

Article 1.
Breach of Security Involving Personal Information

Sec. 45.48.010 Disclosure of breach of security

Describes what a person who owns or uses personal information must do in case of a breach of information.

Sec. 45.48.020 Allowable delay in notification

Describes reasons for delaying notification of a breach of information.

Sec. 45.48.030 Methods of notice

Describes the methods to be used to notify a person that there has been a breach of information. Lists exceptions to the methods of notification relating to cost and number of consumers to be notified.

Sec. 45.48.040 Notification of certain other agencies

Describes when it is necessary to notify other consumer reporting agencies about a breach. There are exceptions to these requirements are also set out.

Sec. 45.48.050 Exception for employees and agents

Lists exceptions for acquisition of personal information by an employee or agent of an information collector.

Sec. 45.48.060 Waivers

No waivers of these sections are allowed.

Sec. 45.48.070 Treatment of certain breaches

A breach of information by an information recipient must be reported to the information distributor so they can comply with the notification requirements if the breach occurred to an information system maintained by the information distributor.

Sec. 45.48.080 Violations

Sets out fines for violations of 45.48.010-45.48.090 by a governmental agency that is an information collector, and information collectors who are not governmental agencies. Defines "governmental agency"

Sec. 45.48.090 Definitions

Defines the following terms: breach of the security; information collector; information distributor; information recipient; and personal information.

Article 2.
Credit Report and Credit Score Security Freeze

Sec. 45.48.100 Security freeze authorized

Rights of consumers to prohibit release of their personal information.

Sec. 45.48.110 Placement of security freeze

Sets out procedures for a consumer to request a consumer credit reporting agency to freeze their information.

Sec. 45.48.120 Confirmation of security freeze

Describes the responsibility of the consumer credit reporting agency to notify the consumer when a security freeze has been placed.

Sec. 45.48.130 Access and actions during security freeze

Describes how a consumer can allow access to their information by a third party when a security freeze is in place; how an insurer is to treat a consumer's application if a security freeze prevents access to the consumer's information, and what changes are allowed when a security freeze is in place, and notification requirements. Defines "official information" and "technical change".

Sec. 45.48.140 Removal of security freeze

Sets out procedure for removing a security freeze, how the request for the freeze is to be made, how the consumer credit reporting agency shall respond, and what identifiers are necessary to remove the freeze.

Sec. 45.48.150 Prohibition

Sets out guidelines for reporting to third parties when a security freeze is in place.

Sec. 45.48.160 Charges

Charges to a consumer regarding security freezes.

Page 12, line 4 (b) Insert: a consumer credit reporting agency may charge a consumer \$10 for placing a security freeze. (Amendment No. 2)

Sec. 45.48.170 Notice of rights

Additional notices to be given when a consumer is provided a summary of rights under the Fair Credit Reporting Act (FCRA).

Page 12, line 24 Insert: for \$10. Page 14, lines 1-2 Insert: Under some circumstances, the consumer credit reporting agency may charge \$2 to temporarily lift the freeze. (Amendments No. 2 & 3)

Sec. 45.48.180 Notification after violation

Describes the notice required if a consumer credit reporting agency violates a security freeze.

Sec. 45.48.190 Resellers

Requires that a consumer credit reporting agency acting as a reseller honor a security freeze that is placed by another consumer reporting agency.

Sec. 45.48.200 Violations and penalties

Describes the rights of a consumer who suffers damages as a result of a breach of their personal information.

Sec. 45.48.210 Exemptions

Lists exemptions to the use of credit information when a security freeze is in place.

Sec. 45.48.290 Definitions

Defines the following terms: account review; consumer; consumer credit reporting agency; reseller of consumer information; security freeze; third party.

Delete: Consumer Credit Monitoring, Credit Accuracy (Amendment No. 4)

Article 3.
Protection of Social Security Number

Sec. 45.48.400 Use of social security number
Sets out guidelines for handling a person's social security number.

Sec. 45.48.410 Request and collection
Sets out prohibitions and exemptions for requesting or collecting an individual's social security number.

Page 18, lines 21 - 26 Insert: new paragraph (2) new language to exempt a person engaged in the business of government from being in violation of this section if they request or collect a SSN. (Amendment No. 9)

Page 19, lines 6 - 8 Insert: new paragraph "(6) if the disclosure does not have independent economic value, is incidental to a larger transaction, and is necessary to verify the identity of the individual." (Amendment No. 12)

Sec. 45.48.420 Sale, lease, loan, trade, or rental
Prohibitions and exemptions regarding third party use of social security numbers.

Page 19, lines 19 - 20 Insert: new subsection (c) that makes it a Class A misdemeanor to knowingly sell, lease, loan, trade, or rent an individuals SSN. (Amendment No. 11)

Sec. 45.48.430 Disclosure
Prohibitions and exemptions regarding disclosure of social security numbers to third parties.

Pages 19 & 20, lines 27 & Page 20, line 1 Insert: new paragraph (2) new language to exempt a person engaged in the business of government from being in violation of this section if they disclose a SSN. (Amendment No. 9)

Sec. 45.48.440 Interagency disclosure
Describes when and to whom disclosure is authorized.

Sec. 45.48.450 Exception for employees, agents, & independent contractors
Describes when and to whom disclosure is authorized.

Sec. 45.48.460 Employment-related exception
Describes when use of a social security number should not be restricted.

Sec. 45.48.470 Agency regulations
Procedures for adopting regulations necessary for a state agency to carry out their duties and responsibilities.

Sec. 45.48.480 Penalties
Rights of the state and individuals against persons that knowingly violate these sections and what damages and attorney fees may be recovered.
Page 21, line 24 Delete: \$5,000; Insert: language to allow for full and reasonable attorney fees. (Amendment 10 and Amendment No. 8)

Article 4.
Disposal of Records

Sec. 45.48.500 Disposal of records

This sets out the measures to be followed when disposing of records which contain personal information.

Sec. 45.48.510 Measures to protect access.

Describes the measures that may be taken to comply with Sec. 45.48.500 (above).

Sec. 45.48.520 Due diligence

Lists procedures that if performed show due diligence.

Sec. 45.48.530 Policy and procedures

A business or governmental agency shall adopt written policies and procedures relating to records disposal.

Sec. 45.48.540 Exemptions

Compliance to these sections is not required if a government agency or business is required by federal law to act in another way, or the business is subject to and in compliance with GLBA, or FCRA.

Sec. 45.48.550 Civil penalty

Liability to the state by an individual, business, or governmental agency for violations of these sections.

Sec. 45.48.560 Court action

An individual damaged by a violation of these sections may file a civil action.

Sec. 45.48.590 Definitions

Defines the following terms: business; conducts business; possesses; dispose; governmental agency; personal information; records.

Page 24, lines 16-24: Inserted new language to define "personal information".
(Amendment No. 5)

Article 5.

**Factual Declaration of Innocence after Identify Theft,
Right to file Police Report Regarding Identity Theft**

Sec. 45.48.600 Factual declaration of innocence after identity theft

Describes the conditions that should exist in order for an individual to petition the superior court for a determination of innocence of a crime involving the theft of their identity.

Sec. 45.48.610 Basis for determination

Lists the type of information that may be made part of the record for the court to make a determination of factual innocence.

Sec. 45.48.620 Criteria for determination; court order

Sets the criteria that the court may use to determine a victim's factual innocence.

Page 25, line 7, Delete: by the victim (Conceptual Amendment No. 13)

Page 25, line 18 changed shall to may, and lines 19 to 27 Inserted: new subsection (a) with new language for determining a victim's innocence. (Amendment No. 6)

Sec. 45.48.630 Orders regarding records

Describes what the court may order regarding the disposition of incorrect records regarding a victim of identity theft.

Page 26, line 3 Deleted: "deleted, sealed, or" (Amendment No. 6)

Sec. 45.48.640 Vacation of determination

States that a court order may be vacated if there has been a misrepresentation of the material.

Page 26, line 8 Deleted: "fraudulent material: Inserted" "omission, or false information". (Amendment No. 6)

Sec. 45.48.650 Court form

Development of a form to be used under 45.48.620

Sec. 45.48.660 Data base

This section allows the establishment and maintenance of a data base of victims of identity theft, and who has authorization to the information.

Sec. 45.48.670 Toll-free telephone number

Establishes a toll-free number that accesses the information in the data base established in 45.48.660.

Sec. 45.48.680 Right to file police report regarding identity theft

Sets out rights of an individual to file a police report if they suspect they are a victim of identity theft, and the responsibility of a law enforcement agency to make the report even if they do not have jurisdiction.

Sec. 45.48.690 Definitions

Defines the following terms: crime, department, identity theft, perpetrator, and victim.

Delete: **Consumer Credit Header Information** (Amendment No. 7)

Article 6.

Truncation of Card Information

Sec. 45.48.750 Truncation of card information

Describes limits on a business regarding the printing of credit or debit card numbers and the exceptions depending on whether the receipt is produced electronically or is handwritten or imprinted. Provides for an effective date of January 1, 2009.

**Article 7.
General Provisions**

Sec. 45.48.990 Definitions
Provides definitions of terms.

Sec. 45.48.995 Short Title
Alaska Personal Information Protection Act.

Section 6 AS 45.48.750 is amended by adding a new subsection (f).

Section 7 AS 45.50.471(b) is amended by adding a new paragraph (52) (A) and (B).

Section 8 The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENTS

(a) AS 45.48.640 changes Rule 60(b) Rules of Civil Procedure effecting AS 45.48.640.

(b) AS 45.48.640(b) changes Rule 82, Rules of Civil Procedure effecting AS 45.48.480(b). Page 28, line 7 Insert: new subsection (b) AS 45.48.480(b) added language that changes Rule 82, Alaska Rules of Civil Procedure. (Amendment No. 8)

Section and establishing criterion for vacating the order under AS 45.48.640. Amendment No. 8 – Page 28, line 7 – Insert: new subsection (b) AS 45.48.480(b) added language that changes Rule 82, Alaska Rules of Civil Procedure.

Section 9 AS 45.48.470 enacted by Sec. 3 takes effect immediately.

Section 10 AS 45.48.750(i) enacted by Sec 4 takes effect January 1, 2009.

1/23/09

My name is Lori Davey and I am the owner of Motznik Information Services. I am testifying in favor HB 65. This bill finally defines what constitutes Personal Information and the legal recourse for those who are negligently careless or criminally intent on mis-using a person's information and re-authorizes the use of only PFD mailing addresses and year of birth for legitimate business purposes. The mailing address and year of birth is not considered private information alone as described by this bill.

As you may recall, we lost access to the PFD mailing addresses in 2005. The bill was supposedly to stop stalkers from finding victims using the PFD mailing addresses and passed very late in the session. It wasn't understood by the legislators at the time that this would eliminate access for the PFD mailing addresses for everyone but government agencies. After the session, I received letters from several legislators apologizing for voting for this bill saying that they didn't realize they were turning off all access to Motznik and legitimate business purposes when they voted for this bill.

When we lost this file, we lost the best source for a comprehensive file of all Alaskans. Title companies do not have access to the best last known address to notify property owners prior to foreclosure. It is now very difficult to differentiate criminals from non-criminals with common names. Criminals do not necessarily vote, register their vehicles, purchase hunting and fishing licenses, or own property.... But they do get the PFD check. Criminal records contain name and date of birth.

The Pilgrim family moved to Alaska because the 15 PFD checks bought them their land outside of Wrangell. The PFD program is easy free money and can attract unsavory folks to our state. When this happens they are very hard to track down. This is about accountability and ensuring the average Alaska citizen maintains their personal rights in society.

The Voter Registration file has recently been updated with the PFD file mailing addresses – therefore becoming public for 80% of Alaskans. The only people we are protecting with the current law are the criminals who do not want to be found and fail to register to vote, register their vehicles, purchase hunting and fishing licenses, or own property. The voter registration file has both the mailing and residential addresses, but you can opt out of your residential address being made public.

This PFD access language uses the DMV and the Do Not Call exemptions. This new limited access version of the PFD file will be administered in much the same way as we currently manage the DMV file. By re-authorizing access for legitimate business purposes, you will ensure that Alaskans are not erroneously denied employment or credit due to a lack of verification procedures.

Victims of identity theft or mistaken identity have little resources to differentiate themselves from criminals or other individuals. It is normal practice for employers and creditors to run a background check on individuals. The Criminal file has names and date of birth. A series of public files are used to cross-reference and differentiate individuals with common names to compare to the records in the Civil, Criminal, Bankruptcy, and Records Office files. The best match is when you can corroborate a name and date of birth.

Re-authorizing access to the PFD file in a limited format ensures records are properly matched to the individual and only those with a "need to know" will have access.

The cost to provide the PFD information will be born by the requestors.

**Consumers
Union**Nonprofit Publisher
of Consumer Reports

1/23/08

**Testimony of Gail Hillebrand in Support of HB 65
House Finance Committee**

Thank you for the opportunity to support HB 65. I am Gail Hillebrand, Financial Services Campaign Manager for Consumers Union. In the past three years, our campaign has worked with state legislators, AARP chapters, and State Attorneys General staff to develop and pass security freeze and other anti-identity theft protections. The three year process of seeking this legislation has improved HB 65 with much of what has been learned in those other states.

Consumers Union urges you to enact this measure, and to resist changes that, while appearing technical, could have the effect of undermining the operation of the bill.

Alaska ranks 31st among states in the Federal Trade Commission's Identity theft statistics on a per capita basis, a rate twice as high as Vermont's. Nationwide, identity theft strikes 8.3 million U.S. adults, plus uncounted children, every year. This translates into 15 new ID theft victims every minute.

HB 65 has at its heart three elements:

Prevention (through the security freeze)

Information (through the notice of breach)

Reduction of sensitive information (through the provisions on SSN use, collection and sale, and the disposal rules.)

I caution that restrictions that might appear to be technical could in fact undermine the measure by creating large new exemptions.

On the notice of breach, you've been asked by industry to be "consistent" with other state laws. However, even if you want consistency, your policy choice would be whether to select consistency with strong state laws or with weak ones. Consumers Union recommends that Alaska follow the "no loophole," "no risk trigger" approach which is already found in HB 65. These states use a no loophole, no risk trigger approach - California, New York, Texas and Illinois. We ask you to refuse to water down the notice of breach section and instead to reject requests to excuse notice when there has been a breach. Alaskans who receive the notice can decide for themselves what steps they wish to take in response. If the Legislature were to add a risk trigger or risk loophole, Alaskans would never receive the notice, and so have no opportunity to make this personal choice.

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On the security freeze, HB 65 is consistent with the better state laws which have been enacted since the California law was first enacted. On fees, the \$10 plus two lifts followed by a \$2 lift fee is in the middle of fee structures of already enacted laws. For example, Indiana consumers pay no fees, and Montanans pay no more than \$3 per step to place and lift. Consumers in New York and Colorado pay no fee for the first placement, and some jurisdictions set the fee at \$5.

On the issue of the Social Security number, Consumers Union's polling data shows a strong desire on the part of the public for restrictions. A summary of those poll results in the form of our news release is attached. I caution against broad exemptions which simply refer to federal statutes, such as the Fair Credit Reporting Act or the Gramm Leach Bliley Act. Those federal statutes were crafted for much different purposes than restricting the collection, use, or sale of SSNs. Further, those federal statutes apply to highly regulated entities, so that there is other law which addresses some aspects of the conduct of those entities. Exemptions that are tied to the purposes of those other statutes, but not to specific identified uses and entities that are governed by those statutes, would create large loopholes. In the area of SSNs collection, use and sale, it would be all too easy for an apparently technical change to create a large exemption.

Consumers Union looks forward to working with the author and the Committee to ensure that any amendments which are accepted are those which support the purpose of the bill and which do not create loopholes that will undermine its operation.