

ALASKA	LEGISLATURE	COMMITTEE	FILES	1987-1988	8672
5525	SSTA	SB 285	- SB 316		

1897

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285

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2-24-88 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: JUDICIARY  
FINANCE

\*\*FISCAL NOTE(S) ATTACHED \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

5/1/87

DATE TURNED INTO OFFICE 3/23/88

Mr. President:

STATE AFFAIRS Committee considered SB 285

leave for district court judges.

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_
- letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Joe Josephson  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

L. Fanning, No Rec.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1988 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: Bill Version: SB 285  
 Publish Date: 3-4-88

Revision Date: Agency Affected: Alaska Court System  
 Title: An act relating to leave for 3RU: Trial Courts  
           district court judges  
 Sponsor: Judiciary Committee  
 Requestor: State Affairs Components:

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL . . . . .

REVENUE . . . . .

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 03/05/88

Approved by: *Arthur H. Snowden, II* Administrative Director Date: 03/05/88  
 Agency: Alaska Court System

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management & Budget



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG  
Staff Counsel

March 17, 1988

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

Senator Mitch Abood  
Chair  
Senate State Affairs  
P.O. Box V  
Juneau, Alaska 99811

Re: Senate Bill 285

Dear Senator Abood:

Thank you for hearing this bill yesterday. Senator Hensley asked whether rural judges would be affected differently than urban judges by the passage of this bill. The effect of the bill is based on the seniority of the judge. Of the fifteen full-time district court judges, six now accrue over thirty days' leave. Four of these judges are located in Anchorage and two in Fairbanks. Six district court judges accrue exactly thirty days' leave. These judges are located in Juneau and Anchorage. Three judges presently accrue fewer than thirty days' leave. These judges are located in Ketchikan, Palmer and Fairbanks.

This bill would affect those six district court judges who accrue over thirty days' leave by limiting their leave accrual and carry-over to thirty days. It would not affect the six judges who accrue thirty days leave now and it would positively affect the three judges who now accrue fewer than thirty days' leave.

If you have any questions or if I can provide you with further information, please let me know.

Very truly yours,

  
Janalee R. Strandberg  
Staff Counsel

JRS:hr

cc: Senator Rick Uehling  
Senator Willie Hensley  
Senator Joe Josephson  
Senator Ken Fanning



Alaska Court System  
State of Alaska  
OFFICE OF ADMINISTRATIVE DIRECTOR

RECEIVED  
FEB 22 1988

RECEIVED  
FEB 21 1988

JANALEE R. STRANDBERG  
Staff Counsel

February 19, 1988

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

(C)

(M)

Senator Abood  
Chair  
Senate State Affairs  
P.O. Box V  
Juneau, Alaska 99811

Re: Senate Bill 285 - An Act relating to leave  
for district court judges

Dear Senator Abood:

Thank you for meeting with me Wednesday on this bill as well as on SB 328. SB 285 would change the leave system for district court judges from classified service to the leave system for superior court and appellate judges established in Administrative Rule 28. District court judges now accrue leave at the same rate as classified employees. They may carry over unlimited leave from year to year and are paid for their accrued leave at the time of resignation or retirement. Other judges accrue leave at 2.5 days per month, their leave carry-over is limited to thirty days and sick leave is not charged to their leave balances. I am enclosing Karla Forsythe's comparison of the two leave systems for your review.

This bill would ease the administration of leave systems by consolidating all judicial leave within one system. The cost of judicial leave under both systems is charged to the court system as a percentage of gross payroll. This bill would not change the way leave costs are charged nor would it have a fiscal impact.

I would be happy to discuss this further with you or answer any questions you may have.

Very truly yours,

*Janalee R. Strandberg*  
Janalee R. Strandberg  
Staff Counsel

JRS:hr

Attachment





Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE  
STAFF COUNSEL

303 K Street  
Anchorage, Alaska 99501

(907) 264-8228

February 13, 1987

SB-285  
SB 328  
SB 341  
*See Sub Comm.*

Senator Jay Kerttula  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator Kerttula:

As I discussed with Beth, I have attached proposed legislation which would include district court judges within the leave system established by Administrative Rule 28, rather than within the statutory system applicable to classified state employees.

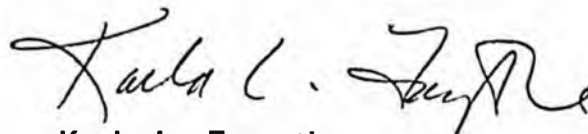
The district court judges have requested this change so that all judges may be grouped under the same leave system. Under the classified system, the district court judges accrue leave at the same rate as classified employees, and are entitled to unlimited carryover of leave from year to year. Under Administrative Rule 28, leave for all other judges is limited to 2.5 days per month, with leave carryover limited to 30 days, but with sick leave not charged to the leave balance. Under both system, leave costs are charged to the court system as a percentage of gross payroll. This change will have no fiscal impact.

I have enclosed background information supporting this proposal, including a comparison of the two leave systems, a copy of Administrative Rule 28 and a proposed draft. I have also enclosed a letter from the Department of Administration, which indicates no fiscal impact on that department.

Senator Jay Kerttula  
February 13, 1987  
Page Two

Thank you for considering this proposal. I will be glad to answer any questions or provide additional information.

Sincerely,



Karla L. Forsythe  
Staff Counsel

KLF:bs

Att.

cc: Arthur H. Snowden, II, Administrative Director  
Judge Michael White  
Robert Fisher, Fiscal Officer

2/2/87-4

ALASKA COURT SYSTEM  
Comparison of Judicial Leave Systems

Classified	Exempt
1. Authority -	*
AS 39.20.200	* Administrative Rules of Court #28
2. Eligibility -	*
District Court Judges	* Superior Court and Appellate Court Judges, and Supreme Court Justices
3. Accrual Rates -	*
Service in Years	Maximum Accrual in Days
0 - 2	24.00
2+ - 5	27.00
5+ - 10	30.00
10+ -	36.00
4. Maximum Leave Carryover -	*
Unlimited carryover	* 30 days
5. Terminal Leave Payoff -	*
Accumulated leave balance paid off at termination at current rate of pay	* None
6. Usage -	*
Annual leave charged to leave balance	* Annual leave charged to leave balance
Sick leave charged to leave balance	* Sick leave not charged to leave balance
7. Cost to State -	*
Charged to Court as a percentage of gross payroll	* Charged to Court as a percentage of gross payroll

③

# SUPPLEMENT

§ 23.35.070 LABOR AND WORKERS' COMPENSATION § 23.40.210

## Chapter 35. Commercial Fishermen's Fund.

### Section

110. Contract for care

#### Sec. 23.35.070. Benefits.

**Opinions of attorney general.** — Chiropractors render medical services and are entitled to recover payment under the Fishermen's Fund. August 23, 1971, Op. Att'y Gen.

**Sec. 23.35.100. Transportation, hospital, nursing, medical and surgical expenses.**

**Opinions of attorney general.** — Chiropractors render medical services and are entitled to recover payment under the Fishermen's Fund. August 23, 1971, Op. Att'y Gen.

**Sec. 23.35.110. Contracts for care.** In carrying out this chapter, the department may enter into contracts or other arrangements with hospitals and doctors in the state for furnishing care on an annual basis to persons entitled to benefits. Contracting under this section is governed by AS 36.30 (State Procurement Code). (§ 6 ch 100 SLA 1951; am § 22 ch 106 SLA 1986)

**Effect of amendments.** — The 1986 amendment, effective January 1, 1988, added the last sentence.

## Chapter 40. Labor Organizations.

### Article 2. Public Employment Relations Act.

#### Sec. 23.40.210. Agreement.

#### NOTES TO DECISIONS

**Constitutionality.** — This section's cost-of-living wage differentials do not violate the federal constitution's commerce clause since Alaska acted as a "market participant" rather than as a "market regulator." *International Org. of Masters, Mates & Pilots, Pac. Maritime Region v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986).

Because the existence and amount of the wage differentials imposed under this section reasonably further a legitimate state purpose, the wage differentials do not violate the equal protection clause of the fourteenth amendment. *International Org. of Masters, Mates & Pilots, Pac. Mar-*

*itime Region v. Andrews* 626 F. Supp. 1271 (D. Alaska 1986).

Imposing wage differentials according to Alaska Marine Highway System (AMHS) employee's states of residence did not infringe on their "right to travel" guaranteed by the fourteenth amendment since the wage adjustments do not penalize AMHS employees for migrating to or emigrating from Alaska. *International Org. of Masters, Mates & Pilots, Pac. Maritime Region v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986).

This section's wage differentials do not violate the privileges and immunities clause because the interest "burdened" by

this section's wage differentials is not "fundamental" in nature, and even if this interest were fundamental for purposes of privileges and immunities analysis, Alaska has a substantial interest in eliminating disincentives that discourage Alaska Marine Highway System employees from residing in the state, and its wage differentials bear a "substantial relationship" to its objective of eliminating, or at least minimizing, these disincentives. *International Org. of Masters,*

*Mates & Pilots, Pac. Maritime Region v. Andrews*, 626 F. Supp. 1271 (D. Alaska 1986).

**Statutory violations.** — Exclusion of grievances involving involuntary transfers from binding arbitration in a provision of the collective bargaining agreement between the state and a union, the Public Safety Employees Association, violates this section. *Hemmen v. State, Dep't of Pub. Safety*, Ct. App. Op. No. 2999 (File No. S-585), 710 P.2d 1001 (1985).

**Sec. 23.40.225. Exemption from Public Employment Relations Act.**

**Opinions of attorney general.** — This section does not supplant 18.80.220(a), a general provision against religious discrimination, nor does it violate the "establishment clause" of the Alaska Constitu-

tion where the non-associational rights of all public employees are secured by AS 18.80.220(a). January 13, 1984 Op. Att'y Gen.

§ 23.40.210 LABOR AND WORKERS' COMPENSATION § 23.40.215

Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

**Sec. 23.40.210. Agreement.** Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of August 26, 1977, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972; am § 1 ch 62 SLA 1977)

NOTES TO DECISIONS

Applied in *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

**Sec. 23.40.212. Agreement with the Board of Regents.** (a) The Board of Regents of the University of Alaska may delegate to the Department of Administration its authority under AS 23.40.070 — 23.40.260 to negotiate with an organization for an agreement.

(b) The Department of Administration shall participate in the negotiations between the Board of Regents and an organization. An agreement between the board and an organization requires the approval of the department. (§ 1 ch 148 SLA 1978)

**Sec. 23.40.215. Funding and legislative approval.** (a) The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation.

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 legislative days after the agreement of the parties, if the legislature is in session, or within 10 legislative days after the convening of the next regular session. The legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60 legislative days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection

*Sec. 23.40.010. Union contracts with state and political subdivisions. [Repealed, § 5 ch 113 SLA 1972.]*

**Sec. 23.40.020. Enforcement of certain contracts only if union registers.** A labor contract executed in this state by a labor organization that has no local in this state or which contract is not to be executed by one or more of its locals in this state may not be enforced in the courts of this state unless the labor organization has registered with the department and complied with all regulations adopted by it. (§ 4 ch 108 SLA 1959)

**Sec. 23.40.030. Definition of labor organization.** For the purpose of AS 23.40.020 — 23.40.040 "labor organization" includes an organization constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees. (§ 1 ch 108 SLA 1959; am § 32 ch 53 SLA 1973)

**Collateral references.** — 48 Am. Jur. 2d, Labor and Labor Relations, § 46.  
51 C.J.S., Labor Relations, §§ 43-45, 56  
C.J.S., Master and Servant, § 28(15).  
Rights and remedies of workmen blacklisted by labor union, 46 ALR2d 1124.

Combination of separate plants or units of the same employer as single bargaining unit, 12 ALR3d 787.

Right of labor union to exclude applicants for membership and remedies of applicant so excluded, 33 ALR3d 1305.

**Sec. 23.40.040. Collective bargaining agreement.** The commissioner of transportation and public facilities or an authorized representative, in accordance with AS 23.40.020 — 23.40.030, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. A collective bargaining agreement is not final without the concurrence of the commissioner of transportation and public facilities. The commissioner of transportation and public facilities may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration. (§ 1 ch 93 SLA 1962; am E. O. No. 39, § 11 (1977))

#### NOTES TO DECISIONS

This section was not repealed by implication by the enactment of the Public Employment Relations Act, AS 23.40.070, et seq. *Halling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Nor is it an exception to that act. —

This section cannot be read as an implied exception to the Public Employment Relations Act, AS 23.40.070, et seq. *Halling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act.

AS 23.40.070 et seq., was intended to incorporate existing collective bargaining agreements rather than exempt them. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

**Construed in pari materia.** — Since this section cannot be treated as an implied exception to the Public Employment Relations Act, AS 23.40.070 et seq., and since the Public Employment Relations Act did not repeal this section by implication, the statutes are construed in pari materia. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

**This section and Public Employment Relations Act can be harmonized.** — The Public Employment Relations Act, AS 23.40.070, et seq., and this section can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting the Public Employment Relations Act. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Any possible conflict between this section and the Public Employment Relations Act is neither severe nor irreconcilable, particularly in light of AS 23.40.240 which incorporates existing agreements. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The most reasonable construction, consistent with the implied exception rule, is that the legislature was aware of this section and saw no inconsistency in enacting the Public Employment Relations Act, AS 23.40.070 et seq., to provide guidelines and

procedures for public employee collective bargaining. The Public Employment Relations Act does nothing to undercut the authorization of collective bargaining under this section. Rather, it gives it additional content. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section was comprehensive when it was enacted. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

But it was further defined by the Public Employment Relations Act, AS 23.40.070, et seq. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070, et seq., contains far more detailed provisions than this section. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

**Public Employment Relations Act, AS 23.40.070 et seq., applies to employees of the state division of marine transportation.** *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

If there is no implied exemption for ferry personnel under the Public Employment Relations Act, AS 23.40.070, et seq., it cannot be said that the two acts do not cover the same people. This section is a subset of the broader Public Employment Relations Act coverage and was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry unions. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

**Collateral references.** — 48A Am. Jur. 2d, Labor and Labor Relations, §§ 1787-1999.

51 C.J.S., Labor Relations, §§ 148-216, 56 C.J.S., Master and Servant, §§ 28(20)-28(42).

*Secs. 23.40.045 — 23.40.060. Records; local labor organizations; interference in chartering prohibited; civil enforcement; exemptions; penalties. [Repealed, § 55 ch 69 SLA 1970.]*

**Sec. 39.20.190. Definitions.** In AS 39.20.110 — 39.20.190

- (1) "employee" or "state employee" means a person employed by a state agency;
- (2) "official" or "state official" means the appointive head of a state agency;
- (3) "official travel" means travel inside or outside the state on official business of the state, for which payment or reimbursement is expected or authorized;
- (4) "per diem allowance" means a daily flat rate of payment instead of actual expenses;
- (5) "state agency," "agency," or "department" means department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government;
- (6) "subsistence" means lodging, meals, and other necessary expenses incidental to the personal sustenance or comfort of the traveler;
- (7) "traveler" means the official or employee engaged in official travel for the state. (§ 3 ch 60 SLA 1957)

**Article 3. Leaves of Absence.**

<b>Section</b>	<b>Section</b>
200. Computation of personal leave	290. Definition of days of leave
210. Determining years of service	295. Special regulations on leave period
220. Requirement that employment be continuous	300. Personal and banked medical leave transfers with officer or employee
225. Use of personal leave	310. Exceptions
240. Accumulation of personal leave	320. Adoption of regulations
245. Donation of leave	330. Departments to keep leave records
250. Terminal leave	340. Leave of absence for reserve or auxiliary members of armed forces
255. Conversion of accrued annual leave to personal leave	350. Restoration of reserve members to former positions
256. Transfer of accrued medical leave	
270. Court leave	

**Sec. 39.20.200. Computation of personal leave.** Officers and employees of the state are entitled to personal leave with pay that accrues as follows:

- (1) two days for each full monthly pay period in the case of officers and employees with less than two years of service;
- (2) two and one-quarter days for each full monthly pay period in the case of officers and employees with two but less than five years of service;
- (3) two and one-half days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;
- (4) three days for each full monthly pay period in the case of officers and employees with 10 years or more service. (§ 11-5-6 a ACLA 1949;

am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 10 ch 148 SLA 1976; am § 1 ch 136 SLA 1978)

Collateral references. — 63A Am. Jur. 2d, Public Officers and Employees, §§ 167, 476.

**Sec. 39.20.210. Determining years of service.** In determining years of service for the purpose of computing personal leave, all service with the Territory and State of Alaska is included. A change in the rate of accrual of personal leave by an officer or employee takes effect upon the beginning of the monthly pay period following the monthly pay period in which the officer or employee completes the prescribed period of service. (§ 11-5-6 b ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 2 ch 136 SLA 1978)

**Sec. 39.20.220. Requirement that employment be continuous.** Notwithstanding AS 39.20.200, an officer or employee is entitled to personal leave only after having been employed currently for a continuous period of 30 days under one or more appointments without break in service. When an officer or employee completes a period of continuous employment of 30 days, an amount of personal leave is credited to the officer or employee equal to the amount which, but for this section, would have accrued under AS 39.20.200 during the period. (§ 11-5-6 c ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 3 ch 136 SLA 1978)

**Sec. 39.20.225. Use of personal leave.** (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which the officer or employee works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which the officer or employee works. A department or agency head shall grant personal leave for medical reasons if the department or agency head is satisfied that the officer or employee is absent for medical reasons. The taking of personal leave for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30). The following constitute "medical reasons" and are subject to the conditions noted:

(1) Medical disability of an officer or employee is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(2) Medical disability of a member of an officer's or employee's immediate family is a medical reason for taking personal leave if the

disability is such that the attendance of the officer or employee is required. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(3) A medical condition of an officer or employee that makes presence at work a danger to the health of fellow employees is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the condition if the absence exceeds three consecutive working days.

(4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. A female officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of nine weeks leave immediately preceding and following childbirth. If the officer's or employee's accrued personal leave is insufficient for this purpose, the officer or employee is entitled to take leave without pay for the balance of the nine-week period.

(5) Death of a member of an officer's or employee's immediate family is a medical reason for taking personal leave. No more than five days of personal leave may be taken for this purpose.

(c) Each officer and employee shall, during each 12-month period, take at least five days of personal leave. If the officer or employee does not take at least five days of personal leave during a 12-month period, the difference between five days and the amount of personal leave taken shall be canceled without pay unless the department or agency head certifies in writing that the officer or employee was denied the opportunity to take five days of personal leave during the 12-month period. (§ 4 ch 136 SLA 1978)

*Sec. 39.20.230. When annual leave may be taken. [Repealed, § 15 ch 136 SLA 1978. For current law see AS 39.20.225.]*

**Sec. 39.20.240. Accumulation of personal leave.** Except as provided in AS 39.20.225(c) personal leave that is not taken by an officer or employee during a 12-month period accumulates for use in succeeding 12-month periods. (§ 11-5-6 e ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 37 SLA 1967; am § 1 ch 31 SLA 1971; am § 1 ch 151 SLA 1972; am § 5 ch 136 SLA 1978)

**Sec. 39.20.245. Donation of leave.** (a) An officer or employee may donate one or more days of personal leave a year to the memorial scholarship revolving loan fund, or to a scholarship account in the fund, under AS 14.43.250 — 14.43.325. The commissioner of administration shall pay to the account of the memorial scholarship revolving loan fund, or to a scholarship account in the fund, an amount equal to the value of the day or days of personal leave contributed by the officer or employee.

(b) An officer or employee, with the approval of the person authorizing the employment, may donate accrued personal or annual leave to another officer or employee only for use as leave for medical reasons. The official responsible for employee accounts shall debit the donor's personal or annual leave account and credit the donee's personal leave account, or sick leave account, as appropriate, for medical reasons only, by converting the donated leave into cash value at the donor's rate of pay and reconverting the cash value to hours of leave at the donee's rate of pay. Leave donated under this subsection is not leave taken by the donor for purposes of AS 39.20.225(c). An employee who is covered by a collective bargaining agreement may donate leave to or receive donations of leave from an employee or officer who is not covered by a collective bargaining agreement, notwithstanding AS 39.20.310(8) and (9). (§ 2 ch 33 SLA 1969; am § 23 ch 136 SLA 1974; am § 6 ch 136 SLA 1978; am § 1 ch 75 SLA 1981; am § 1 ch 1 SLA 1985)

**Effect of amendments.** — The 1985 amendment in subsection (b) in the first sentence inserted "officer or" in two places and "or annual," deleted "of the legislature or of a legislative agency" following "employee" in two places, and made minor

punctuation changes; in the second sentence inserted "or annual" and "or sick leave account, as appropriate," and deleted "legislative" following "official responsible for"; and added the last sentence.

**Sec. 39.20.250. Terminal leave.** (a) Terminal leave for unused personal leave shall be allowed upon separation from service. The payment equals the compensation that the officer or employee would have received if the officer or employee had remained in the service until the expiration of the period of unused personal leave. A payment of terminal leave to an employee shall be made as a lump sum payment or in installments over a period of time, as the employee elects.

(b) If the officer or employee is re-employed in the state service before the expiration of the period covered by the balance of the unused leave payment, the officer or employee shall refund to the state an amount equal to the leave payment covering the period between the date of re-employment and the expiration of the unused leave period which has been paid. The leave represented by a refund shall be recredited to the officer or employee by the employing department or agency.

(c) The payment authorized by this section is not considered salary or compensation except for purposes of taxation. (§ 11-5-6 f ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 7 ch 136 SLA 1978; am § 1 ch 16 SLA 1979)

**Opinions of attorney general.** — Application to judicial and permanent legislative employees of the general laws of the state covering leave, including the De-

partment of Administration's regulation on terminal leave, does not infringe upon the power of the judicial and legislative branches to supervise, hire, or discharge

personnel, or the power to determine employee salaries. April 9, 1985 Op. Att'y Gen.

**Sec. 39.20.255. Conversion of accrued annual leave to personal leave.** An officer or employee who has accrued annual leave shall have that annual leave transferred to the officer's or employee's personal leave account. (§ 8 ch 136 SLA 1978)

**c. 39.20.256. Transfer of accrued medical leave.** (a) An officer or employee who has accrued medical leave shall have 40 per cent of that medical leave transferred to the officer's or employee's personal leave account and 60 per cent of that medical leave transferred to a medical leave bank. Banked medical leave may be taken only in accordance with this section.

(b) An officer or employee may not take any banked medical leave unless the officer or employee

- (1) has no accrued personal leave; and
- (2) has a medical disability exceeding 10 consecutive working days in duration; or
- (3) has a medical disability exceeding 30 consecutive working days in duration.

(c) Once the requirements of (b) and (d) of this section have been met, an officer or employee may take banked medical leave until the medical disability is terminated or the banked medical leave is exhausted. If an officer or employee qualifies for banked medical leave under (b)(3) of this section, the banked medical leave may be taken for all working days of the medical disability following the 10th working day of the disability.

(d) When leave is taken under (b)(1) and (2) of this section, a department or agency head may require a doctor's certificate showing the disability. When leave is taken under (b)(3) of this section, the officer or employee must submit a doctor's certificate showing the disability.

(e) The taking of leave under this section shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30).

(f) Upon an officer's or employee's separation from state service, the officer's or employee's banked medical leave shall be canceled without pay. (§ 8 ch 136 SLA 1978; am §§ 1 — 3 ch 52 SLA 1979)

**Legislative history reports.** — For SLA 1979, see 1979 House Journal, p. 1052.  
 the House State Affairs Committee letter of intent on Senate Bill No. 116 (ch. 52,

*Sec. 39.20.260. Medical leave. [Repealed, § 15 ch 136 SLA 1978. For current law see AS 39.20.225(b).]*

**Sec. 39.20.270. Court leave.** Notwithstanding AS 39.20.310(7), court leave shall be granted to an employee who is classified as full time, whether permanent, nonpermanent, or temporary. An officer or employee called to serve as a juror or subpoenaed as a witness is entitled to administrative leave with pay, but compensation received by the employee or to which the employee is entitled, whichever is greater, for service as a juror or witness shall be deducted from pay to which the employee is entitled as a state officer or employee. (§ 11-5-6 h ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 39 SLA 1984)

**Effect of amendments.** — The 1984 amendment, in the first sentence, added "Notwithstanding AS 39.20.310(7)" at the beginning, inserted "nonpermanent" near the end, and, in the second sentence, substituted "the employee" for "him" in the first place it occurs and for "he" in the last two places it occurs.

*Sec. 39.20.280. Maternity leave. [Repealed, § 2 ch 67 SLA 1974. For current law see AS 39.20.225(b)(4).]*

**Sec. 39.20.290. Definition of days of leave.** The days of leave provided for in AS 39.20.200 — 39.20.330 mean days upon which an officer or employee would otherwise work and receive pay, and are exclusive of holidays. (§ 11-5-6 j ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960)

**Sec. 39.20.295. Special regulations on leave period.** In accord with the procedures established in AS 39.20.320, the Department of Administration shall adopt regulations defining and establishing a uniform beginning and a uniform concluding date for the 12-month periods applicable to leave use and accumulation by officers and employees of state government. (§ 2 ch 151 SLA 1972)

**Sec. 39.20.300. Personal and banked medical leave transfers with officer or employee.** When an officer or employee terminates employment with one department, office, institution, or agency of the state government and is employed by another department, office, institution, or agency of the state government without break in service, accumulated personal leave and banked medical leave also transfer and shall be credited to the officer or employee in the employing department, office, institution, or agency. (§ 11-5-6 k ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 9 ch 136 SLA 1978)

**Sec. 39.20.310. Exceptions.** AS 39.20.200 — 39.20.330 do not apply to

(1) members of the state legislature, the governor, the lieutenant governor, and justices and judges of the supreme and superior courts and of the court of appeals, but nothing in AS 39.20.200 — 39.20.330 may be construed to diminish the salaries fixed by law for these officers by reason of absence from duty on account of illness or otherwise;

(2) magistrates serving the state on less than a full-time basis;

(3) officers, members of the teaching staff, and employees of the University of Alaska;

(4) *[Repealed by § 76 ch 59 SLA 1982.]*

(5) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(6) members of boards, commissions, and authorities who are not otherwise employed by the state;

(7) temporary employees hired for periods of less than 12 consecutive months;

(8) persons employed by the division of marine transportation as masters and members of the crews operating the state ferry system who are covered by collective bargaining agreements as provided in AS 23.40.040, except as expressly provided by law;

(9) persons employed by the state who are covered by collective bargaining agreements as provided in AS 23.40.210, except as expressly provided by law. (§ 11-5-61 ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 134 SLA 1961; am § 4 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 1 ch 62 SLA 1972; am § 10 ch 136 SLA 1978; am § 26 ch 12 SLA 1980; am § 76 ch 59 SLA 1982; am §§ 2, 3 ch 1 SLA 1985)

**Effect of amendments.** — The 1985 amendment at the end of paragraphs (8) and (9) added "except as expressly provided by law."

**NOTES TO DECISIONS**

The thrust of the exemptions in the State Personnel Act, AS 39.25.110, the Public Employees Retirement System, former AS 39.35.680 (5)(c), and the statutory leave provisions for state employees is to

provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. *Halling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

**Sec. 39.20.320. Adoption of regulations.** The director of the division of personnel in the Department of Administration shall prepare and submit regulations necessary to carry out the intent of AS 39.20.200 — 39.20.330. These regulations shall include provisions for crediting and, if necessary, converting accrued leave when an officer or employee transfers, without break in service, between a department or agency of the state government where the officer or employee

is subject to AS 39.20.200 — 39.20.330 and a department or agency of the state government where the officer or employee is not subject to AS 39.20.200 — 39.20.330. These regulations shall be submitted to the commissioner of administration. The commissioner of administration shall review the regulations and submit them to the personnel board. The regulations, or any part of the regulations, have the force and effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. Amendments to the regulations shall be prepared and submitted in the same manner, and have the force and effect of law 30 days after they are submitted to the personnel board, if not disapproved by the personnel board. The regulations adopted under AS 39.20.200 — 39.20.330 relate to the internal management of state agencies and their adoption is not subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 11-5-6 m ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 11 ch 136 SLA 1978; am § 77 ch 59 SLA 1982)

**Sec. 39.20.330. Departments to keep leave records.** Each department, office, institution, or agency of the state government shall keep for its files a complete leave record, covering each of its officers and employees, on forms prepared and supplied by the Department of Administration. These records are subject to annual audit and approval by the director of personnel of the Department of Administration. (§ 11-5-6 n ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 12 ch 136 SLA 1978)

**Sec. 39.20.340. Leave of absence for reserve or auxiliary members of armed forces.** (a) An employee of the state, or a political subdivision, with the approval of the city council or borough assembly, who is a member of a reserve or auxiliary component of the United States Armed Forces is entitled to a leave of absence without loss of pay, time or efficiency rating on all days during which the employee is ordered to training duty, as distinguished from active duty, with troops or at field exercises, or for instruction, or when under direct military control in the performance of a search and rescue mission. The leave of absence may not exceed 16½ working days in any 12-month period.

(b) If an employee is called to active duty by the governor, an employee otherwise qualified under (a) of this section is entitled to five days leave of absence without loss of pay, time, or efficiency rating. (§ 1 ch 20 SLA 1951; am § 1 ch 154 SLA 1970; am § 4 ch 151 SLA 1972; am § 1 ch 49 SLA 1976)

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RECEIVED  
JAN 26 1988

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

DIRECTOR OF ELECTIONS  
FISCAL NOTE

BILL VERSION: SB288  
PUBLISH DATE: 5/4/87

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Act relating to use of the name of a political party by a candidate.  
Sponsor: Halford  
Requestor: Senate State Affairs

Agency Affected: Office of the Governor  
BRU: Elections  
Components: II - Primary & General Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth, Information Officer  
Division: Elections

Phone: 465-4611  
Date: 1/21/88

Approved by Commissioner: [Signature]  
Agency: Office of the Governor

Date: 1/26/88

Distribution (by preparer): 1/26/88

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# The Republican Party of Alaska



Jim Crawford  
Chairman

Marilyn Paine  
National Committeewoman

Eidon Ulmer  
National Committeeman

Jack Wilbur  
Vice Chairman

Gail Phillips  
Secretary

Tim McKeever  
Treasurer

Charlot Thickalon  
Asst. Secretary

Lloyd Hames  
Asst. Treasurer

Randy Ruedrich  
Finance Chairman

Cliff Groh  
Legal Counsel

750 E. Fireweed Lane, Suite 102  
Anchorage, Alaska 99503  
(907) 276-4467

January 15, 1988

The Honorable Mitch Abood  
Chairman  
State Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for the opportunity to testify regarding Senate Bill 288, "An act relating to the use of a political party name by a candidate". SB 288 addresses a serious difficulty endemic only to legislative and gubernatorial elections in our state. The presidential portion of the statute is clear as to a process by which a candidate and a party are identified. As we found, to our chagrin, in 1986, no such clarity exists in statute regarding the identification of a candidate with our party or another party should the candidate choose to avoid a primary and yet utilize our party label by attaching some qualifier to it.

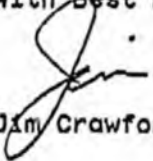
Thousands of Alaskans have worked to build political parties with stated philosophies in our platforms and resolutions, with incumbents of whom we are proud as they espouse our political philosophies and with candidates who are the embodiment of our public leadership. A basic foundation of party activists is the identity of the Party through our names and symbols. The elephant is clearly a Republican and the donkey is clearly a Democrat. That clarity in the public's mind, however, is subject to confusion when qualifiers are added to the name and primaries are avoided.

Whether an "Independent Republican" runs, a "moderate Democrat" runs or any other of the tremendous number of qualifiers that could be used to condition Republicans or Democrats as they run, the qualifiers merely add confusion to the system and, frankly, allow gamesmanship at the public's expense. Simply put, if a candidate chooses to run as a Republican, Democrat, Libertarian or any other party and there is competition, we have a tried and true system of competition called the primary to determine the standard bearer for that party. If a candidate chooses to identify with a party by use of the name that candidate should do so honorably by competing in the established process.

Page Two  
Chairman Abood  
January 15, 1988

Even though there are points which may need clarification between the parties, the public has come to expect and indeed demands to examine the records, platforms and differences between incumbents of the parties, and indeed the parties themselves. Although 1986 provided only one candidate who used what he described as a "neat trick" to avoid the primary, I could anticipate more such gamesmanship in 1988 if the statute is not clarified. Therefore, I advocate on behalf of the Republican Party passage of Senate Bill 298.

With Best Regards,



Jim Crawford



# Democratic Party of Alaska

Jack Roderick  
State Chair

Virgie King  
1st Vice Chair

Hilda Woods  
Treasurer

Carolyn Covington  
Secretary

Dan Coffey  
Finance Chair

Bob Goldberg  
Legal Counsel

Doris Volske  
National Committeewoman

Vander Pearson  
National Committeeman

Chancy Croft  
Policy Commission

Peg Tileston  
Alaska Democrat

January 15, 1988

Senator Halford  
Pouch V  
Juneau, Ak 99811

Dear Senator Halford;

I endorse the concept embodied in SB 288, whereby state candidates would be prohibited from using the name of an existing political party in their campaign in any way other than that intended by the political party.

Sincerely,

Jack Roderick  
Party Chair

William D. Bobrick  
Executive Director



## NOTES TO DECISIONS

**Ballot access requirement.** — Where there was no evidence that the former ballot access requirement of 1,000 signatures caused confusion among voters or any other problem, the increase to a minimum of signatures equal in number to 3 percent of votes cast in last election in order to make all ballot access requirements uniform, violated the free speech and equal

protection clauses of the Alaska Constitution by effectively eliminating a new political party's access to the ballot. *Vogler v. Miller*, Sup. Ct. Op. No. 2562 (File No. 6959), 651 P.2d 1 (1982).

Quoted in *Vogler v. Miller*, Sup. Ct. Op. No. 2639 (File No. 6959), 660 P.2d 1192 (1983).

**Sec. 15.25.170. Required number of signatures for district-wide office.** Petitions for the nomination of candidates for the office of state senator or state representative shall be signed by qualified voters of the election or senate district in which the proposed nominee desires to be a candidate equal in number to at least one percent of the number of voters who cast ballots in the proposed nominee's respective election or senate district in the preceding general election. A nominating petition may not contain less than 50 signatures for any district. (§ 5.54 ch 83 SLA 1960; am § 139 ch 100 SLA 1980; am § 27 ch 85 SLA 1986)

**Effect of amendments.** — The 1986 amendment divided the section into two sentences by substituting "A" for "provided that no," in the first sentence substituted "one" for "three," "voters who cast ballots" for "votes cast" and "the proposed

nominee's" for "his" and in the second sentence deleted "need contain more than 200 signatures nor" following "petition" and "it" preceding "contain less" and inserted "not."

**Sec. 15.25.180. Requirements for petition.** The petition shall state in substance

- (1) the full name of the candidate,
- (2) the full resident address of the candidate,
- (3) the full mailing address of the candidate,
- (4) the name of the political group supporting the candidate,
- (5) if the candidacy is for the office of state senator or state representative, the election or senate district of which the candidate is a resident,
- (6) the office for which the candidate is nominated,
- (7) the date of the election at which the candidate seeks election,
- (8) that the candidate meets, or will meet, as required by law, the specific requirements of the office for which he is a candidate,
- (9) that the subscribers are qualified voters of the state or election or senate district in which the candidate resides,
- (10) [*Repealed, § 45 ch 85 SLA 1986.*]
- (11) that the subscribers request that the candidate's name be placed on the ballot,
- (12) that the proposed candidate accepts the nomination and will serve if elected, with the statement signed by the proposed candidate,

(13) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with him,

(14) the name of the candidate as he wishes it to appear on the ballot, and

(15) that the candidate is not a candidate for any other office to be voted on at the primary or general election and that he has not filed another nominating petition or declaration of candidacy for the office for which this petition is filed. (§ 5.55 ch 83 SLA 1960; am § 22 ch 80 SLA 1963; am § 140 ch 100 SLA 1980; am § 45 ch 85 SLA 1986)

**Effect of amendments.** — The 1986 amendment repealed paragraph (10), which read "That the subscribers intend to vote for the candidate at the general election."

### Article 3. Presidential Party Primary Election.

*Secs. 15.25.220 — 15.25.280. Presidential party primary election. [Repealed, § 1 ch 2 SLA 1984.]*

## Chapter 30. National Elections.

### Article

1. President (§ 15.30.025)

### Article 1. President.

#### Section

25. Qualifications for limited political parties

**Sec. 15.30.025. Qualifications for limited political parties.** (a) A limited political party may be organized for the purpose of selecting candidates for electors of President and Vice President of the United States by filing with the director at least 90 days before a presidential general election a petition signed by qualified voters of the state equaling in number at least one percent of the number of voters who cast ballots for President at the last presidential election. The petition shall state that the signers intend to organize a limited political party, that they intend to select candidates for electors of President and Vice President of the United States at the next succeeding presidential election, and the name of the limited political party.

(b) A limited political party organized under this section may not assume a name which is so similar to an existing political party as to confuse or mislead the voters at an election. If the director determines that the name of the limited political party set out in a petition is confusing or misleading, he may refuse to accept the petition for filing.

Article 1. President.

Section

- 10. Provision for selection of electors
- 20. Number and manner of selecting candidates
- 25. Qualifications for limited political parties
- 30. Qualification of electors
- 40. Requirement of party pledge
- 50. Interpretation of votes cast for candi-

Section

- dates for President and Vice President
- 60. Notification of electors
- 70. Place and time of meeting
- 80. Filling of vacancies
- 90. Duties of electors
- 100. Compensation of electors

Collateral references. -- 25 Am. Jur. 2d, Elections, §§ 1, 3, 4, 9; 77 Am. Jur. 2d, United States, § 43.  
 29 C.J.S., Elections, §§ 91, 94, 97, 111(1), 174, 210(2); 91 C.J.S., United States, §§ 27, 28.  
 Presidential and vice-presidential electors, 153 ALR 1066.

**Sec. 15.30.010. Provision for selection of electors.** Electors of President and Vice President of the United States are selected by election at the general election in presidential election years. (§ 6.01 ch 83 SLA 1960; am § 10 ch 71 SLA 1972)

Legislative history reports. -- For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

**Sec. 15.30.020. Number and manner of selecting candidates.** Each political party shall select a number of candidates for electors of President and Vice President of the United States equal to the number of senators and representatives to which the state is entitled in Congress. The candidates for electors shall be selected by the state party convention or in any other manner prescribed by the bylaws of the party. The chairman and secretary of the state convention or any other party official designated by the party bylaws shall certify a list of the names of candidates for electors to the director on or before September 1 in presidential election years. (§ 6.02 ch 83 SLA 1960; am § 143 ch 100 SLA 1980)

Effect of amendments. -- The 1980 amendment substituted "director" for "lieutenant governor" near the end of the section.

**Sec. 15.30.025. Qualifications for limited political parties.** (a) A limited political party may be organized for the purpose of selecting candidates for electors of President and Vice President of the United States by filing a petition with the director at least 90 days before a presidential general election signed by qualified voters of this state equaling in number at least three percent of Alaska's total vote for

Presid the sig to sele United name

(b) . assum confus that t confus

(c) . to be a to recd of Pre ch 100

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Sec excep office candi

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Sec Pres vote consi party

Sec elect shall elect elect

Eff. amen

President at the last presidential election. The petition shall state that the signers intend to organize a limited political party, that they intend to select candidates for electors of President and Vice President of the United States at the next succeeding presidential election, and the name of the limited political party.

(b) A limited political party organized under this section may not assume a name which is so similar to an existing political party as to confuse or mislead the voters at an election. If the director determines that the name of the limited political party set out in a petition is confusing or misleading, he may refuse to accept the petition for filing.

(c) A limited political party organized under this section shall cease to be a limited political party whenever its presidential candidate fails to receive at least 10 percent of the total Alaskan vote cast for the office of President at a presidential election. (§ 1 ch 160 SLA 1970; am § 100 ch 100 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "director" for "lieutenant governor" where it appears near the middle of the first sentence of subsection (a) and at the beginning of the last sentence of subsection (b), inserted "general" preceding "election" near the middle of the first sentence of subsection (a), and

inserted "limited" preceding "political party" near the beginning and end of the second sentence of subsection (a), at the beginning of the first sentence and near the middle of the second sentence of subsection (b), and at the beginning and near the middle of subsection (c).

**Sec. 15.30.030. Qualification of electors.** Any qualified voter except a United States senator or representative or person holding an office of trust or profit under the United States may be selected as a candidate for elector. (§ 6.03 ch 83 SLA 1960)

**Sec. 15.30.040. Requirement of party pledge.** The party shall require from each candidate for elector a pledge that as an elector he will vote for the candidates nominated by the party of which he is a candidate. (§ 6.04 ch 83 SLA 1960)

**Sec. 15.30.050. Interpretation of votes cast for candidates for President and Vice President.** In voting for presidential electors, a vote marked for the candidates for President and Vice President is considered and counted as a vote for the presidential electors of the party. (§ 6.05 ch 83 SLA 1960)

**Sec. 15.30.060. Notification of electors.** When the results of the election of presidential electors have been determined, the director shall send a certificate of election to each elector and shall notify the electors of the time and place of their meeting and of their duties as electors. (§ 6.06 ch 83 SLA 1960; am § 145 ch 100 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "director" for "lieutenant governor" near the middle of the section.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

President at the last presidential election. The petition shall state that the signers intend to organize a limited political party, that they intend to select candidates for electors of President and Vice President of the United States at the next succeeding presidential election, and the name of the limited political party.

(b) A limited political party organized under this section may not assume a name which is so similar to an existing political party as to confuse or mislead the voters at an election. If the director determines that the name of the limited political party set out in a petition is confusing or misleading, he may refuse to accept the petition for filing.

(c) A limited political party organized under this section shall cease to be a limited political party whenever its presidential candidate fails to receive at least 10 percent of the total Alaskan vote cast for the office of President at a presidential election. (§ 1 ch 160 SLA 1970; am § 144 ch 100 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "director" for "lieutenant governor" where it appears near the middle of the first sentence of subsection (a) and at the beginning of the last sentence of subsection (b), inserted "general" preceding "election" near the middle of the first sentence of subsection (a), and

inserted "limited" preceding "political party" near the beginning and end of the second sentence of subsection (a), at the beginning of the first sentence and near the middle of the second sentence of subsection (b), and at the beginning and near the middle of subsection (c).

**Sec. 15.30.030. Qualification of electors.** Any qualified voter except a United States senator or representative or person holding an office of trust or profit under the United States may be selected as a candidate for elector. (§ 6.03 ch 83 SLA 1960)

**Sec. 15.30.040. Requirement of party pledge.** The party shall require from each candidate for elector a pledge that as an elector he will vote for the candidates nominated by the party of which he is a candidate. (§ 6.04 ch 83 SLA 1960)

**Sec. 15.30.050. Interpretation of votes cast for candidates for President and Vice President.** In voting for presidential electors, a vote marked for the candidates for President and Vice President is considered and counted as a vote for the presidential electors of the party. (§ 6.05 ch 83 SLA 1960)

**Sec. 15.30.060. Notification of electors.** When the results of the election of presidential electors have been determined, the director shall send a certificate of election to each elector and shall notify the electors of the time and place of their meeting and of their duties as electors. (§ 6.06 ch 83 SLA 1960; am § 145 ch 100 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "director" for "lieutenant governor" near the middle of the section.

SB

310

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2-3-88 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: HESS  
FINANCE

\*\*FISCAL NOTE(S) ATTACHED  \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

5/19/87

DATE TURNED INTO OFFICE 2/11/88

Mr. President:

STATE AFFAIRS Committee considered SB 310

contributions from permanent fund dividends to the University of  
Alaska Foundation; efd.

and recommended:

replace with CS SB 310 (SA)  same title  
 attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Rich Kelly*  
\_\_\_\_\_  
*Doc Jones*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
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*Sen. Steve Adams*  
Chairman signature and recommendation

Committee Backup Attached

# Alaska State Legislature



SENATOR  
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee  
Vice Chairman, Senate Judiciary Committee  
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

While in Juneau  
P. O. BOX 5  
JUNEAU, ALASKA 99811  
(907) 465-3818

MEMORANDUM

Senate

09 February 1988

TO: Senator Mitch Abood  
Chairman, Senate State Affairs Committee

FROM: Senator Arliss Sturgulewski

RE: Senate Bill 310

I appreciate your scheduling a hearing for Senate Bill 310. As you know, the University of Alaska Foundation is the non-profit fund-raising arm of the University of Alaska. It was established in 1974 to solicit donations, and to hold and manage them for the exclusive benefit of the University of Alaska. In cooperation with the University development officers on the campuses, the Foundation raises funds for the University through a variety of activities including special events, fund drives, contributions from major donors, establishment of support associations, and innovative fundraising ideas.

The goals of the University Foundation are to develop increased income from existing assets through improved management of the Foundation's revenue streams and to develop a targeted fund-raising effort among private individuals and companies.

This fund-raising for the University through private channels is important not only to provide funds for the University but it is an important tool to enable the citizens of the state of Alaska to become informed about the University, its educational mission and relationship to the community and its financial needs.

During the past two years, state appropriations to the University have decreased by nearly 30%. In the wake this budget reduction and the resulting reorganization of the University, Alaskans need to be given an opportunity to financially support it. Private contributions will help establish secure endowments to support the development of program initiatives and enhancements for which the budget levels of the next few years will not allow.

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_  
Title: Contributions from PFDs to  
University of Alaska Foundation  
Sponsor: Sturgulewski, Fahrenkamp  
Requestor: Senate State Affairs

Agency Affected: Revenue  
BRU: Permanent Fund Dividend Operations  
Components: Permanent Fund Dividend  
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
<b>OPERATING</b>						
PERSONAL SERVICES	-	21.2	11.2	11.2	11.2	11.2
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	11.0	11.0	11.0	11.0	11.0
SUPPLIES	-	0.2	0.2	0.2	0.2	0.2
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	32.4	22.4	22.4	22.4	22.4
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	32.4	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	22.4	22.4	22.4	22.4
<b>TOTAL</b>	-	32.4	22.4	22.4	22.4	22.4

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	3	2	2	2	2
TEMPORARY	-	-	-	-	-	-

ANALYSIS: See attached.

Prepared By: Ervin Jones  
Division: Permanent Fund Dividend Division

Phone: 465-2323  
Date: February 10, 1988

Approved by Commissioner: [Signature]  
Agency: Revenue

Date: 2/10/88

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Department of Revenue  
Permanent Fund Dividend Division  
Fiscal Note Analysis  
SB 310  
February 10, 1988

Assumptions:

- 1) The bill will take effect for the 1989 permanent fund dividend year and application. The 1988 dividend application has already been printed.
- 2) There are currently 17 bills which if signed into law, would result in some form of "check-off" on the 1989 dividend application. The Department of Revenue has no insight as to which, and how many, of these bills will become law. This fiscal note, and all related fiscal notes, is prepared on the assumption that the subject bill is the only bill of this nature which will become law. The passage of multiple bills with varying formulas (\$5, \$25, half of dividend, all or part of dividend, etc.) will inevitably have a compounding effect. Whereas there may be savings in some areas, there will be increased costs in others.
- 3) All FY89 costs of administering this law will be borne by the general fund, since no funds will be available to the trust account until October 1, 1989. Funding for administrative costs in FY90 and thereafter will be taken from the trust account as appropriated by the legislature.
- 4) The incremental cost of computer resources will result in a chargeback by the Department of Administration.
- 5) Whereas the cost of programming changes will be a one-time cost, the cost of document review, data capture, data processing chargeback, and the extra page in the dividend application will be continuing.
- 6) Contributions will only be honored to the extent of available funds. Garnishments and assignments will take precedence in the order established by statute. Contributions will then be honored in the order listed on the form schedule, which will be in the order they become law.

Program Summary:

The provision of a new contribution decision on the dividend application will cause additional administrative cost in several areas:

- a) An additional page added to each application, a schedule of contribution decisions.
- b) The computer system will need to be changed to account for the change in the program, to establish new accounting controls and to provide for the transfer of funds to the trust account (see Attachment A).

- c) Each of approximately 540,000 PFD applications will need to be visually reviewed and coded as to decision on the contribution decision. Each application will be data captured with additional attention and keystrokes expended on each positive decision.
- d) The accounting for the trust account will be performed by existing staff.

1. Positions

1 PPT Analyst/Programmer V, R21  
 @ \$4,991.72/Mo including salary  
 and benefits for 2 months = \$10.0

PCN 04-1125 would be funded for an additional two months, in accordance with Attachment A. Ongoing maintenance of new programs would be accomplished by existing staff.

1 PPT Document Processor I, R7  
 @ \$2,212.37/Mo, including salary and  
 benefits for 3 months = \$6.6

This position would assist in the manual review and coding of 540,000 applications for the new contribution decision. This position represents the equivalent of the additional time and effort.

1 PPT Data Processing Clerk I, R8,  
 @ \$2,317.81/Mo, including salary and  
 benefits for 2 months = \$4.6

This position would assist in the data capture of the additional contribution decisions. The position represents the equivalent value of the additional time and effort.

TOTAL Personal Services \$21.2

2. Other Expenditures:

a) Travel: None.

b) Contractual:

Data Processing Chargeback \$5.0  
 Add additional page to PFD  
 booklet \$6.0

c) Supplies: \$0.2

d) Equipment: Use existing equipment 0.0

TOTAL COST \$32.4

3. Funding: General Fund.

4. Section Cost Analysis: N/A.

Computations: N/A.

Economic Impact: N/A.

Impact on Local Government: N/A.

Suggested Amendments:

1. Sec. 2, line 20 is amended as follows:

"\*Sec. 2. This act takes effect January 1, 1989 [JULY 1, 1987].

Attachments: Attachment A: "Summary of DP Needs"

Department of Revenue  
Administrative Services Division  
Fiscal Note Analysis  
SB 310  
Summary of Data Processing Requirements  
February 10, 1988

Wang data entry processing	75.0 hours
Includes:	Data entry Batch lists Corrections Wang to IBM transfer
IBM Update jobs	30.0 hours
Includes:	Edits Batch listings Log sheets
DMS Online programs for lookup and changes	37.5 hours
Nightly Update of Changes	22.5 hours
Warrant Jobs	90.0 hours
Includes:	Printing warrants with different amounts. Include check stub messages. Modify warrant registers as needed for balancing. Create new program(s) for transferring accumulated contributions to the trust account, and to account for the reserve necessary due to returned and cancelled PFD warrants.
Miscellaneous	45.0 hours
Includes:	Setting up test files on IBM Systems testing Administrative functions, i.e. paper work required by Admin. DP to add files and programs to tables.
TOTAL HOURS	300.0 hours

1 IN THE SENATE

BY STURGULEWSKI AND FAHRENKAMP

2

SENATE BILL NO. 310

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to contributions from permanent fund  
7 dividends to the University of Alaska Foundation,  
8 Inc.; and providing for an effective date."

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

10 \* Section 1. AS 43.23 is amended by adding a new section to read:

11 Sec. 43.23.016. CONTRIBUTIONS FROM DIVIDENDS. (a) The depart-  
12 ment shall prepare the permanent fund dividend application to allow an  
13 applicant to elect to have money subtracted from the dividend check  
14 and contributed to the University of Alaska Foundation, Inc.

15 (b) The amount of a contribution elected under (a) of this  
16 section is \$5. Contributions shall be deposited in a special trust  
17 account and allocated by the department to the University of Alaska  
18 Foundation, Inc., except that the department shall use money in the  
19 account to pay administrative costs incurred under this section.

20 \* Sec. 2. This Act takes effect July 1, 1987.

11/89

(11) "trade or business" includes the engaging in or carrying on of a trade, business, profession, vocation, employment, and rendition of services or commercial activity and includes the performance of the function of a public office. (§ 3 A ch 115 SLA 1949; am § 1 ch 128 SLA 1951; am § 1 ch 5 SLA 1953; am § 12 ch 70 SLA 1975; am § 11 ch 1 SSSLA 1980)

Revisor's notes. — The paragraphs were renumbered in 1983 to achieve alphabetical order.

Effect of amendments. — The 1980 amendment repealed former paragraphs

(4), (7), (13), (14), (16) and (17), which defined "fiduciary," "individual," "domicile," "nonresident," "residence," and "resident," respectively.

Sec. 43.20.350. Short title. This chapter may be cited as the Alaska Net Income Tax Act. (§ 1 ch 115 SLA 1949)

### Chapter 21. Oil and Gas Corporate Income Tax.

*[Repealed, § 19 ch 166 SLA 1981.]*

### Chapter 23. Permanent Fund Dividends.

**Section**

- 05. Eligibility
- 15. Application and proof of eligibility
- 25. Amount of dividend
- 35. Penalties and enforcement
- 45. Dividend fund
- 55. Duties of the department

**Section**

- 65. Exemption of permanent fund dividends
- 75. Eligibility for public assistance
- 85. Eligibility for state programs
- 95. Definitions

Cross references. — For 1982 permanent fund dividend distribution, see § 19, ch. 102, SLA 1982, in the Temporary and Special Acts.

Editor's notes. — Section 4, ch. 55, SLA 1983, provides: "Notwithstanding sec. 19(e), ch. 102, SLA 1982 and AS 43.23.055 and the regulations adopted under those sections by the Department of Revenue, the time period for an Alaska resident applying for a 1982 permanent fund dividend is extended to October 15, 1983 for applicants who met the six month

residency requirement on October 15, 1982. A 1982 permanent fund dividend paid to an individual who applies during the extended period may not be paid from money appropriated or otherwise allocated for permanent fund dividends for years other than 1982. The Department of Revenue may not pay 1982 dividends to applicants who file during the extended period until after September 1, 1983. The Department of Revenue may adopt regulations to implement this section."

#### NOTES TO DECISIONS

Statutory scheme of AS 43.23.010 held unconstitutional. — The statutory scheme under AS 43.23.010, by which the state distributes income derived from its natural resources to the adult citizens of

the state in varying amounts, based on the length of each citizen's residence, violates the equal protection rights of newer state citizens. *Zobel v. Williams*, U.S. , 102 S. Ct. 2309, 72 L. Ed. 2d 672 (1982).

The state objectives of creating a financial incentive for individuals to establish and maintain Alaska residence, and assuring prudent management of the Permanent Fund and the state's natural and mineral resources are not rationally related to the distinctions Alaska seeks to make in the dividend program between newer residents and those who have been in the state since 1959. *Zobel v. Williams*, U.S. , 102 S. Ct. 2309, 72 L. Ed. 2d 672 (1982).

Objective to reward citizens for past contributions is not a legitimate state purpose since this reasoning could open the door to state apportionment of other rights, benefits and services according to length of residency and would permit the states to divide citizens into expanding numbers of permanent classes, a result

which would be clearly impermissible. *Zobel v. Williams*, U.S. , 102 S. Ct. 2309, 72 L. Ed. 2d 672 (1982).

This statute does not impose any threshold warning period on those seeking dividend benefits; persons with less than a full year of residency are entitled to share in the distribution. Nor does the statute purport to establish a test of the bona fides of state residence. Instead, the dividend statute creates fixed, permanent distinctions between an ever increasing number of perpetual classes of concededly bona fide residents, based on how long they have been in the state. *Zobel v. Williams*, U.S. , 102 S. Ct. 2309, 72 L. Ed. 2d 672 (1982).

Stated in *Williams v. Zobel*, Sup. Ct. Op. No. 2170 (File Nos. 5400, 5421), 619 P.2d 422 (1980).

**Sec. 43.23.005. Eligibility.** (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual applies to the department, and if on the date of application the individual

(1) is a state resident; and

(2) has been a state resident for a period of at least six consecutive months immediately preceding the date of application.

(b) In determining the minimum period of an individual's residency required under (a)(2) of this section, the department may include months of residency both in the current year and in the immediately preceding year.

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of an incompetent individual who is eligible to receive a payment under this section. (§ 1 ch 102 SLA 1982)

*Sec. 43.23.010. Eligibility for permanent fund dividend. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.015. Application and proof of eligibility.** (a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual.

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must contain a statement of eligibility and a certification of residency in substantially the following form:

I certify that

( ) I am a state resident on the date of this application and I have been a state resident for at least six months immediately preceding the date of this application; or

( ) (*name*), the individual on whose behalf I am applying, is a state resident and has been a state resident for at least six months immediately preceding the date of this application.

I understand that a false claim of residency to obtain a permanent fund dividend for myself or for another is a criminal offense and that if convicted I will forfeit future permanent fund dividends and that I must repay all permanent fund dividends that have been paid to me. I understand that this penalty is in addition to any criminal penalties imposed.

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(signature of individual, parent, guardian, or other authorized representative)

(c) Except as provided in (d) of this section or as may be provided by regulations adopted by the department, an individual must personally sign the application for permanent fund dividends, including the certification of residency required under (b) of this section.

(d) The application and certification of residency of an unemancipated individual under 18 years of age or of an incompetent individual must be signed by the individual's parent, legal guardian, or other authorized representative.

(e) If a public agency claims a permanent fund dividend on behalf of an individual, the public agency shall hold the dividend in trust for the individual. Money held in trust under this subsection shall be invested by the commissioner in accordance with AS 37.10.070.

(f) A minor or an incompetent individual may not maintain a claim against the state or an officer or employee of the state based on the manner in which the parent, guardian, or authorized representative other than a public agency of the state managed or disposed of permanent fund dividends received on behalf of the minor or incompetent individual.

(g) If an individual is aggrieved by a decision of the department determining the individual's eligibility for a permanent fund dividend or the individual's authority to claim a permanent fund dividend on behalf of another, the individual may appeal that decision to the superior court in accordance with AS 44.62.560. An appeal under this section does not entitle the aggrieved individual to a trial de novo. The appeal shall be based on the record of the administrative proceeding from which appeal is taken and the scope of appeal is limited to matters contained in the record of the administrative proceeding.

(h) The penalty and enforcement provisions of AS 43.23.035 apply to an individual who claims a permanent fund dividend on behalf of another. (§ 1 ch 102 SLA 1982)

*Sec. 43.23.020. Proof of eligibility. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.025. Amount of dividend [Effective January 1, 1984].** By December 1 of each year the commissioner shall give public notice of the value of each permanent fund dividend for that year. The commissioner shall determine the value of a permanent fund dividend by

- (1) determining the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 43.23.045(b) during the current year;
- (2) determining the number of individuals eligible to receive a dividend payment for the current year; and
- (3) dividing the amount determined in (1) of this section by the amount determined in (2) of this section. (§ 1 ch 102 SLA 1982; am § 1 ch 55 SLA 1983)

**Effect of amendments.** — The 1983 amendment, effective January 1, 1984, substituted "December 1" for "September 1" near the beginning of the first sentence. For provisions prior to January 1, 1984, see the editor's note.

**Editor's notes.** — Prior to January 1, 1984, this section reads: "By September 1 of each year the commissioner shall give public notice of the value of each permanent fund dividend for that year. The commissioner shall determine the value of a permanent fund dividend by

"(1) determining the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 43.23.045(b) during the current year;

"(2) determining the number of individuals eligible to receive a dividend payment for the current year; and

"(3) dividing the amount determined in (1) of this section by the amount determined in (2) of this section."

*Sec. 43.23.030. Amount of dividend. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.035. Penalties and enforcement.** (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends paid and is not eligible for a future permanent fund dividend.

(b) If the commissioner determines that a permanent fund dividend should not have been claimed by or paid to an individual, the commissioner may use all collection procedures or remedies available for collection of taxes under this title to recover the payment of a permanent fund dividend that was improperly made. A notice of an improperly paid dividend must be sent to the individual within 10 years after the improper payment. If notice is not sent within the 10-year period, proceedings may not be commenced in court for recovery of the improper payment. (§ 1 ch 102 SLA 1982)

*Sec. 43.23.040. Penalties and enforcement. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.045. Dividend fund.** (a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

(c) The department may adopt by regulation a plan that, to the extent permitted by federal law, will allow an individual who elects to participate in the plan to select an optional disbursement of the dividend payment that would have the effect of deferring payment of all or a portion of federal income taxes on the receipt of a permanent fund dividend. (§ 1 ch 102 SLA 1982)

*Sec. 43.23.050. Dividend fund established. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.055. Duties of the department.** The department shall

(1) annually pay permanent fund dividends from the dividend fund;

(2) [Effective January 1, 1984] adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by December 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following that year;

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual; and

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983)

**Effect of amendments.** — The 1983 amendment, effective January 1, 1984, substituted "December 1 of the year for which the dividend is declared" for "September 1" and "April 30 of the year following that year" for "December 31 of that year" in paragraph (2). For provisions

prior to January 1, 1984, see the editor's note.

**Editor's notes.** — Prior to January 1, 1984, paragraph (2) read: "(2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a

permanent fund dividend; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is deter-

mined by September 1 and permanent fund dividends for a year are paid before December 31 of that year."

*Sec. 43.23.060. Duties of the department. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.065. Exemption of permanent fund dividends.** Fifty percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No exemption is available under this section for permanent fund dividends taken to satisfy child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220. (§ 1 ch 102 SLA 1982)

**Cross references.** — For property exempt from execution generally, see AS 09.38.

*Sec. 43.23.070. Exemption of permanent fund dividends. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.075. Eligibility for public assistance.** (a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of receiving a permanent fund dividend.

(b) An individual who is denied medical assistance under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) solely because of the receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under the general relief assistance program (AS 47.25.120 — 47.25.300). The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) had there been no permanent fund dividend program.

(c) An individual who is denied assistance solely because permanent fund dividends received by the individual or by a member of the individual's household are counted as income or resources under federal

law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 — 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program. (§ 1 ch 102 SLA 1982)

*Sec. 43.23.080. Eligibility for state public assistance payments. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.085. Eligibility for state programs.** No program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, shall consider a permanent fund dividend as income or resources unless required to do so by federal law or regulation. (§ 1 ch 102 SLA 1982)

*Sec. 43.23.090. Tax exemption. [Repealed, § 22 ch 102 SLA 1982.]*

**Sec. 43.23.095. Definitions.** In this chapter,

(1) "Alaska permanent fund" means the fund established by art. IX, sec. 15 of the state constitution;

(2) "commissioner" means the commissioner of revenue;

(3) "department" means the Department of Revenue;

(4) "dividend fund" means the fund established by AS 43.23.045;

(5) "individual" means a natural person;

(6) "permanent fund dividend" means a right to receive a payment from the dividend fund;

(7) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state or, if the individual is not physically present in the state, intends to return to the state and is absent only for any of the following reasons:

(A) vocational, professional, or other specific education for which a comparable program was not reasonably available in the state;

(B) secondary or postsecondary education;

(C) military service;

(D) medical treatment;

(E) service in Congress;

(F) other reasons which the commissioner may establish by regulation; or

(G) service in the Peace Corps;

(8) "year" means a calendar year. (§ 1 ch 102 SLA 1982; am § 3 ch 55 SLA 1983)

**Effect of amendments.** — The 1983 amendment added paragraph (7)(G).

*Sec. 43.23.100. Definitions. [Repealed, § 22 ch 102 SLA 1982.]*

§ 43.23.005

REVENUE AND TAXATION

§ 43.23.005

Chapter 23. Permanent Fund Dividends.

Section

- 05. Eligibility
- 25. Amount of dividend
- 45. Dividend fund
- 55. Duties of the department

Section

- 65. Exemption of permanent fund dividends
- 67. Claims of defaulted scholarship loans

**Cross references.** — For 1982 permanent fund dividend distribution, see § 19, ch. 102, SLA 1982, in the Temporary and Special Acts; for extension of application period for 1982 and 1983 dividends, see § 4, ch. 55, SLA 1983 and § 1, ch. 43, SLA 1984, respectively, in the Temporary and Special Acts.

**Opinions of attorney general.** — If

the legislature enacts any other distribution program which is consistent with the intent of the permanent fund dividend law (AS 43.23), any appropriation to implement that program will be exempt from the appropriation limit of § 16, art. IX, of the state constitution. 1983 Op. Att'y Gen. No. 01.

NOTES TO DECISIONS

**Permanent fund dividend payments were made for "public purpose"** within the meaning of Alaska Const., Art. IX, § 6. *Beattie v. United States*, 635 F. Supp. 481 (D. Alaska 1986).

**Permanent fund dividend payments subject to federal income tax.** — Per-

manent Fund dividend payments are income and, since these payments are not excludable from gross income as "gifts", they are therefore subject to the federal income tax. *Beattie v. United States*, 635 F. Supp. 481 (D. Alaska 1986).

**Sec. 43.23.005. Eligibility.** (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual applies to the department, and if

- (1) on the date of application the individual is a state resident; and
- (2) the individual was a state resident for a period of at least six consecutive months immediately preceding April 1 of the current dividend year.

(b) In determining the minimum period of an individual's residency required under (a)(2) of this section, the department may include months of residency both in the current year and in the immediately preceding year.

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of an incompetent individual who is eligible to receive a payment under this section. (§ 1 ch 102 SLA 1982; am § 1 ch 57 SLA 1987)

**Revisor's notes.** — Sections 2 and 3, ch. 99, SLA 1985, amend (c) and (d) of this section respectively. The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the subsections will read: "(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of an incompetent individual who is eligible to receive a dividend under this section.

"(d) A person who is eligible to receive a permanent fund dividend under this section, or who is authorized to claim a dividend on behalf of another under (c) of this section, may elect to receive the dividend either in cash or as an annuity credit. Alternatively, a person may elect to receive

25 percent, 50 percent, or 75 percent of the dividend in cash and the remainder as an annuity credit. A person who is 65 years of age on or before January 1, 1988 may only receive the permanent fund dividend in cash and may not elect to receive an annuity credit."

**Effect of amendments.** — The 1987 amendment, effective June 13, 1987, in subsection (a) deleted "on the date of application the individual" at the end of the introductory language, added "on the date of application the individual" at the beginning of paragraph (1), and in paragraph (2) substituted "the individual was" for "has been" and at the end of the paragraph substituted "April 1 of the current dividend year" for "the date of application."

#### NOTES TO DECISIONS

Stated in *Alaska Oil Co. v. Alaska*, 45 Bankr. 358 (D. Alaska 1985).

#### Sec. 43.23.015. Application and proof of eligibility.

**Revisor's notes.** — Sections 4 — 8, ch. 99, SLA 1985, amend (n), (b), (e) and (f) of this section, and add a new (i). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) establishing the process for determining the eligibility of individuals for permanent fund dividends. The commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual.

"(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must contain a statement of eligibility and a certification of residency in substantially the following form:

I certify that

( ) I am a state resident on the date of this application and I have been a state resident for at least six months immediately preceding the date of this application; or

( ) (name), the individual on whose behalf I am applying, is a state resident and

has been a state resident for at least six months immediately preceding the date of this application.

I understand that a false claim of residency to obtain a permanent fund dividend for myself or for another is a criminal offense and that if convicted I will forfeit future permanent fund dividends and that I will lose or must repay all permanent fund dividends that have been credited or paid to me, and any accrued interest in my annuity account. I understand that this penalty is in addition to any criminal penalties imposed.

(signature of individual, parent, guardian, or other authorized representative)

"(e) If a public agency claims a dividend on behalf of an individual under this section, the public agency shall elect 100 percent cash under AS 43.23.005(d) and hold the dividend in trust for the individual. Money held in trust under this subsection shall be invested by the commissioner in accordance with AS 37.10.070.

"(f) A minor or an incompetent individual may not maintain a claim against the state or an officer or employee of the state based either on the manner in which the parent, guardian, or authorized representative other than a public agency of the state managed or disposed of permanent

fund dividends received on behalf of the minor or incompetent, or an election made or not made on that individual's behalf under AS 43.23.005(d).

"(i) The permanent fund dividend ap-

plication form shall be prepared to allow an applicant, other than a person who is exempt under AS 47.45.015(b), to elect to receive the dividend either in cash or as an annuity credit."

**Sec. 43.23.025. Amount of dividend.** By October 1 of each year the commissioner shall give public notice of the value of each permanent fund dividend for that year. The public notice shall contain a statement disclosing the amount by which each individual dividend has been reduced in order to pay the costs of administering the program and the hold harmless provisions of AS 43.23.075. The commissioner shall also include the statement on the stub attached to each individual dividend check. The commissioner shall determine the value of a permanent fund dividend by

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

(A) the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 43.23.045(b) during the current year;

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

(C) less the amount necessary to pay dividends from the dividend fund in the current year under AS 43.23.055(3);

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

(2) determining the number of individuals eligible to receive a dividend payment for the current year; and

(3) dividing the amount determined under (1) of this section by the amount determined under (2) of this section. (§ 1 ch 102 SLA 1982; am § 1 ch 55 SLA 1983; am § 2 ch 43 SLA 1984; am § 2 ch 57 SLA 1987)

**Effect of amendments.** — The 1984 amendment substituted "October" for "December" in the first sentence in the introductory paragraph.

The 1987 amendment, effective June 13, 1987, added the second and third sentences in the introductory language, in

paragraph (1) inserted "the total amount available for dividend payments, which equals" following "determining," designated some of the existing language as subparagraph (A), and added subparagraphs (B)-(D), and in paragraph (3) substituted "under" for "in" in two places.

#### NOTES TO DECISIONS

Stated in *Alaska Oil Co. v. Alaska*, 46 Bankr. 358 (D. Alaska 1985).

**Sec. 43.23.035. Penalties and enforcement.**

**Revisor's notes.** — Sections 9 and 10, ch. 99, SLA 1985, amend (a) and (b) of this section, and add a new (c). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends credited or paid, together with any interest credited to that individual's annuity account and is not eligible for a future permanent fund dividend.

"(b) If the commissioner determines that a cash dividend should not have been claimed by or paid to an individual, the commissioner may use all collection pro-

cedures or remedies available for collection of taxes under this title to recover the payment of a permanent fund dividend that was improperly made. A notice of an improperly paid dividend must be sent to the individual within 10 years after the improper payment. If notice is not sent within the 10-year period, proceedings may not be commenced in court for recovery of the improper payment.

"(c) If the commissioner determines that a permanent fund dividend should not have been credited to an individual's annuity account, the commissioner may, after notice and opportunity for hearing, direct the commissioner of administration to debit the individual's annuity account for the amount wrongly credited. If the credit is the fault of the individual, the debit must be made within 10 years. If the credit is the fault of the state, the debt must be made within three years."

**Sec. 43.23.045. Dividend fund.** (a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

(c) *[Repealed, § 24 ch 99 SLA 1985.]*

(d) Unless specified otherwise in an appropriation act, the unexpended and unobligated balance of an appropriation to implement this chapter lapses into the dividend fund on June 30 of the fiscal year for which the appropriation was made and shall be used in determining the amount of and paying the subsequent year's dividend as provided in AS 43.23.025(1)(B). (§ 1 ch 102 SLA 1982; am § 24 ch 99 SLA 1985; am § 3 ch 57 SLA 1987)

**Effect of amendments.** — The 1985 amendment repealed subsection (c).

The 1987 amendment, effective June 13, 1987, added subsection (d).

**NOTES TO DECISIONS**

Stated in *Alaska Oil Co. v. Alaska, 45 Bankr. 358 (D. Alaska 1985)*.

**Sec. 43.23.055. Duties of the department.** The department shall  
 (1) annually pay permanent fund dividends from the dividend fund;  
 (2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by October 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following that year;

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual; and

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984)

**Revisor's notes.** — Section 11, ch. 99, SLA 1985, amends this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the section will read: "The department shall

"(1) annually make payments to individuals who elect to receive cash under AS 43.23.005(d);

"(2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend or for electing an annuity credit; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by October 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following that year;

"(3) adopt regulations under the Admin-

istrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not credited or received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;

"(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends; and

"(5) provide the commissioner of administration with information necessary to maintain individual annuity account records and administer the annuity program."

**Effect of amendments.** — The 1984 amendment substituted "October" for "December" in paragraph (2).

**Sec. 43.23.065. Exemption of permanent fund dividends.**  
 (a) Except as provided in (b) of this section, 50 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's

permanent fund dividend both before and after payment is made to the individual.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100;

(3) a court ordered probation fee under AS 12.55.105; or

(4) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986)

**Revisor's notes.** — Sections 12 and 13, ch. 99, SLA 1985, amend this section and add new (b) and (c). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) Fifty percent of a cash permanent fund dividend payment is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. An exemption is not available under this section for cash permanent fund dividend payments taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired; or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation has been taken.

"(b) The department shall require an in-

dividual to take 100 percent of the permanent fund dividend in cash if the department receives a levy, execution, garnishment, attachment or other legal remedy for the collection of a past due debt described in (a)(1) or (2) of this section.

"(c) The courts of this state may, as a condition of any civil judgment or restitution order under AS 12.55.045 — 12.55.051 or 12.55.100, require the defendant to take the defendant's permanent fund dividend in cash."

**Effect of amendments.** — The 1984 amendment added the last sentence and, in the next-to-last sentence, substituted "An exemption is not" for "No exemption is," inserted "(1)," and added the language beginning with "(2) a debt" at the end of the sentence. Section 2, ch. 157, SLA 1984 limits the application of the 1984 amendment to dividends issued for 1984 and subsequent years.

The first 1985 amendment added "or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100" at the end of the next-to-last sentence and in the last sentence inserted "or court ordered restitution" and "and court ordered restitution."

The second 1985 amendment, effective if § 1, ch. 99, SLA 1985 is repealed, rewrote subsection (a) and added subsections (b) and (c).

The 1986 amendment rewrote this section.

**Sec. 43.23.067. Claims of defaulted scholarship loans.** (a) AS 09.38 does not apply to permanent fund dividends taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes on the scholarship loan; and

(3) a statement that

(A) the debt has not been contested, or, if contested, that the issue has been resolved in favor of the Alaska Commission on Postsecondary Education; and

(B) if the debt has been contested and resolved in favor of the Alaska Commission on Postsecondary Education, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the commission.

(b) Upon receipt of a claim under (a) of this section the department shall notify the individual of the claim. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim; and

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education unless the commission releases the claim or the individual requests a hearing within 30 days after the date the notice is sent by the department.

(c) AS 44.62.330 — 44.62.630 apply to a hearing requested by an individual under (b)(2) of this section. If a request for a hearing is not received by the department within the required time limit, the department shall pay to the Alaska Commission on Postsecondary Education the amount of the permanent fund dividend that does not exceed the amount of the claim. (§ 18 ch 92 SLA 1987)

**Effective dates.** — Section 20, ch. 92, SLA 1987 provides: "This Act takes effect July 1, 1987."

**Sec. 43.23.075. Eligibility for public assistance.**

**Revisor's notes.** — Section 14, ch. 99, SLA 1985, amends this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the section will read: "(a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services

in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services

shall notify all recipients of public assistance of the effects of a permanent fund dividend credit or cash payment.

"(b) An individual who is denied medical assistance under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) solely because of the credit or receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under the general relief assistance program (AS 47.25.120 — 47.25.300). The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) had there

been no permanent fund dividend program.

"(c) An individual who is denied assistance solely because permanent fund dividends credited to or received by the individual or by a member of the individual's household are counted as income or resources under federal law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 — 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program."

### Sec. 43.23.095. Definitions.

**Revisor's notes.** — Section 15, ch. 99, SLA 1985, amends (6) of this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the paragraph will read: "(6) 'permanent fund dividend' means a credit to an annuity account or a cash payment under this chapter;"

In addition, § 16, ch. 99, SLA 1985, also effective upon the repeal of § 1, ch. 99, SLA 1985, enacts AS 43.23.110 — 43.23.130. If § 16, ch. 99, SLA 1985 becomes law, the new sections will read:

#### "Article 2. Annuity Program.

"**Sec. 43.23.110. Annuity investment fund.** (a) The annuity investment fund is established as a separate fund in the state treasury. The annuity investment fund consists of money transferred from the dividend fund and income earned by the annuity investment fund. Notwithstanding AS 37.13.145, an amount equal to the permanent fund dividends taken as annuity credits under this chapter shall be annually transferred from the dividend fund to the annuity investment fund.

"(b) Money in the annuity investment fund shall be invested by the commissioner of revenue in investments authorized under AS 39.35.110. The commissioner of administration shall credit the net income of the annuity investment fund to the individual annuity accounts.

"(c) The legislature may annually appropriate to the Department of Administration an amount sufficient to pay monthly annuity payments for the subse-

quent fiscal year under AS 43.23.130 from the annuity investment fund. Funds appropriated under this subsection shall be transferred from the annuity investment fund to the Department of Administration in order to meet the current demands of the annuity program.

"(d) The legislature may annually appropriate from the annuity investment fund an amount sufficient to administer the annuity program. Any costs of administration funded under this subsection shall be allocated equitably among all individual annuity accounts.

"(e) Notwithstanding AS 39.35.110 or (b) of this section, the commissioner of revenue may invest all or part of the annuity investment fund in commercial insurance contracts purchased from insurance companies that have a Best's policyholders' rating of A or better and belong to Best's financial size Group XV at the time of purchase.

"**Sec. 43.23.120. Annuity program.** (a) The annuity program is administered by the commissioner of administration. The commissioner of administration shall adopt regulations necessary to implement the annuity program.

"(b) The commissioner of administration shall maintain records of individual annuity accounts and make annuity payments under AS 43.23.130.

"**Sec. 43.23.130. Payment of annuities.** (a) An individual with one or more annuity credits may receive an annuity upon reaching the age of 65.

"(b) An annuity under this section is a monthly payment based upon the princi-

pal and accrued interest in the person's annuity account. An annuity shall be paid as a straight life annuity or other payment plan authorized by the commissioner of the Department of Administration. The size of the annuity may not vary on account of the individual's sex.

"(c) An individual need not be a resident of the state to be eligible to receive an annuity payment from the individual's account.

"(d) Except as provided in (b) and (e) of this section, an annuity account may not be assigned, sold, or otherwise transferred from one individual to another.

"(e) If a person elects to credit a permanent fund dividend to an annuity account in a particular year, that person may make an irrevocable choice regarding death benefits with respect to that credit. If a person dies before age 65 and that person has selected death benefits in at least one year, a lump sum payment shall, subject to appropriation, be paid to the

surviving spouse by right of survivorship unless a different beneficiary was designated. When no spouse survives and no beneficiary is designated, the lump sum shall be paid to the decedent's estate. The lump sum payment includes all dividends credited to the person's annuity account in years in which death benefits were selected and interest on those dividends. Dividends credited to a person's annuity account in years for which death benefits were not selected and interest on those dividends shall, if the person dies before age 65, be distributed equitably among the annuity accounts of all individuals for which death benefits were not selected.

"(f) An individual does not receive a vested property right in an annuity payment until that payment is made. Notwithstanding this section, the state is not obligated to provide annuity payments for annuity credits granted under AS 43.23.005."

## Chapter 25. Alaska Industrial Incentive Act.

*[Repealed, § 63 ch 37 SLA 1986.]*

## Chapter 26. Industrial Incentive Tax Credits.

*[Repealed, § 64 ch 37 SLA 1986.]*

## Chapter 31. Alaska Estate Tax.

### Section

151. Notice of deficiency in federal estate tax

**Sec. 43.31.151. Notice of deficiency in federal estate tax.** It is the duty of the executor to file with the department within 60 days after a final determination of a deficiency in federal estate tax has been made, written notice of the deficiency. If, based upon this deficiency and the ground for it, it appears that the amount of tax previously paid is less than the amount of tax owing, the difference together with interest at the rate of seven percent a year from the due date of the tax shall be paid upon notice and demand by the department. If the executor fails to give the notice required by this section, any additional tax owing may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment at any time before the filing of notice or within 30 days after the delinquent filing

SB

311

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

SB3"

June 30, 1987

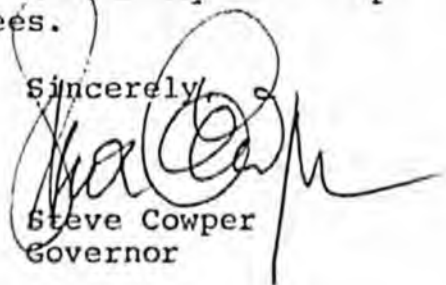
The Honorable Jan Faiks  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that empowers appointing authorities to adjust the salaries of certain state employees not covered by a collective bargaining agreement. Under the authority of art. II, sec. 9, of the Alaska Constitution, and in accordance with my proclamation of June 15, 1987, I am presenting this bill to you as containing a new subject that the legislature may consider during the special session I called by that proclamation.

The enactment of this bill would provide specific authority for adjustments to the salaries of certain state employees not covered by collective bargaining. The statutory pay schedule in AS 39.27.011(a), which establishes the salaries of many of those employees, is based on the pay plan for the general government unit (GGU). I believe that it is appropriate to reduce those salaries if the range and step amounts of the GGU pay plan are reduced in the collective bargaining process. I have been advised that a unilateral change without specific authority presents a risk of successful legal challenge. The authority conferred by this bill will eliminate that risk. Provisions in the bill will authorize the other branches of state government and the university to implement salary adjustments for their employees.

Sincerely,

  
Steve Cowper  
Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE SENATE

REQUEST: \_\_\_\_\_

Bill Version: SB 311  
Publish Date: 7/1/87

Revision Date: SB 311  
Title: Salaries of State employees  
not members of bargaining units  
Sponsor: Governor/Rules  
Requestor: Governor

Agency Affected: All  
BRU: All  
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		-0-				
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-				
CAPITAL		---				
REVENUE		---				

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS						
OTHER						
TOTAL		---				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

Additional amounts required are shown as zero. Funding for amounts required is currently included in HB 75, the General Appropriations Act, Sec. 22.

Prepared by: Jay Hogan *J. Hogan* Phone: 465-3568  
Division: Office of Management & Budget Date: 6/30/87

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

SB

312

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

July 1, 1987

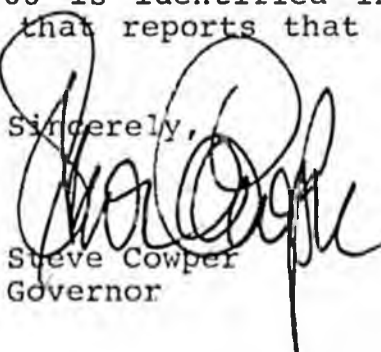
The Honorable Jan Faiks  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill appropriating money from the general fund to the budget reserve fund (AS 37.05.156), and balancing the budget. This bill appropriates \$250,000,000 to the budget reserve fund to provide emergency cash to protect the state from future abrupt drops in oil revenue. This bill also appropriates a sufficient amount of money, to cover whatever deficit may exist after the end of fiscal year 1988, from the earnings reserve account (formerly called the "undistributed income account," AS 37.13.145) of the Alaska permanent fund to the general fund. If an insufficient amount is available from the earnings reserve account, then the entire amount is appropriated to the general fund.

The deficit for fiscal year 1988 is identified in the bill by reference to the specific line that reports that figure in the state's annual financial report.

Sincerely,



Steve Cowper  
Governor

SB

316

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

### DIVISION OF RETIREMENT & BENEFITS

PLEASE REPLY TO:

P.O. BOX CR  
JUNEAU, ALASKA 99811-0203  
PHONE: (907)465-4460

2600 DENALI ST. SUITE 401  
ANCHORAGE, ALASKA 99503-2740  
PHONE: (907) 277-7504

Public Employees' Retirement System  
Teachers' Retirement System  
Judicial Retirement System  
Elected Public Officers Retirement System  
National Guard Retirement System  
Territorial Retirement System  
Retirees' Voluntary Dental-Vision Audio Plan  
Supplemental Benefits System  
Group Health/Life Insurance Benefits  
Deferred Compensation Plan  
Public Employers Social Security Contributions

STEVE COWPER, GOVERNOR

January 28, 1988

Honorable Mitchell Abood  
Chair, Senate State Affairs Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, AK 99811

Dear Senator Abood:

Re: Senate Bill 316

RECEIVED  
FEB 4 1988

REPURCHASE OF  
RETIREMENT AFTER  
LEVY

In accordance with AS 24.08.036, I am providing the analysis below on Senate Bill 316. The analysis includes the long-term and short-term impact to the state if the bill is adopted and the impact the bill will have on the actuarial soundness of the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), and the Elected Public Officers' Retirement System (EPORS) funds.

This legislation would allow a member to repay the amount involuntarily refunded and reinstate their retirement standing without becoming reemployed in a position covered by that retirement system if they have been forced to refund from their retirement system to satisfy a payment(s) for child support, comply with the provisions of a qualified domestic relations order (QDRO) or to comply with a federal tax levy. There will be no fiscal impact of this legislation on the state government or any impact on the retirement funds involved. This legislation will not increase the employer contributions rates.

Sincerely,

*R. F. Stalnaker*

R. F. Stalnaker  
Acting Director

RFS/DS/bb/s



# Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:  
FINANCE  
RESOURCES  
BUDGET AND AUDIT

C 316 M  
JAN 12 1988

## MEMORANDUM

January 12, 1988

TO: Senator Mitch Abood, Chair  
Senate State Affairs Committee

FROM: Senator Jim Duncan

SUBJECT: Senate Bill 316, relating to repurchase of retirement coverage after certain levies

Senate Bill 316, relating to repurchase of retirement coverage after certain levies, would allow persons whose state retirement accounts are seized by the child support enforcement agency or the Internal Revenue Service to pay back their retirement accounts.

At present, if a person's entire retirement account is seized by an agency, their account is closed and they cannot reimburse their account unless they are re-employed by the State or other participating employer.

I believe this bill will establish an equitable balance between the individual's right to maintain their retirement coverage and the socially desirable goals of maintenance of child support and payment of taxes.

Please schedule this bill for a hearing at your earliest convenience. I will provide you with a sectional analysis as soon as it is available.

FISCAL NOTE

REQUEST:

Revision Date:  
Title: An Act relating to repurchase of retirement coverage after certain levies.  
Sponsor: Duncan  
Requestor: Senate State Affairs

Agency Affected: Administration  
BRU: Retirement and Benefits  
Components: Retirement and Benefits

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

	0	0	0	0	0	0
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Attached Position Paper

Prepared By: Robert F. Stalnaker, Acting Director  
Division: Retirement and Benefits

Phone: 465-4470  
Date: 1-20-88

Approved by Commissioner: John M. Andrews  
Agency: Department of Administration

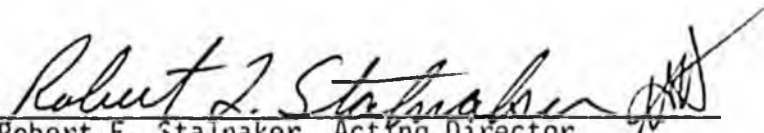
Date: 1/21/88

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

POSITION PAPER  
SB 316 (State Affairs)

This bill would allow members participating in Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), or the Elected Public Officers' Retirement System (EPORS) to reinstate their retirement account without becoming reemployed under that system in the event they are forced to rerund from that system to pay a tax levy, child support or to comply with a qualified domestic relations order (QDRO). Currently, when a member refunds from the system, they forfeit their right to future benefits from that system. The current law allows members to reinstate refunded service only after they reemploy with an employer covered under the respective system.

The Administration supports this legislation. Passage would provide relief for those members who are forced from the system contrary to their desires and would provide the member with the ability to reinstate their right to a future benefit.

  
\_\_\_\_\_  
Robert F. Stalnaker, Acting Director  
Division of Retirement & Benefits

1/20/88  
Date

  
\_\_\_\_\_  
Commissioner John M. Andrews  
Department of Administration

1/21/88  
Date



# Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:  
FINANCE  
RESOURCES  
BUDGET AND AUDIT

C 316  
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## MEMORANDUM

January 12, 1988

TO: Senator Mitch Abood, Chair  
Senate State Affairs Committee

FROM: Senator Jim Duncan

SUBJECT: Senate Bill 316, relating to repurchase of retirement coverage after certain levies

Senate Bill 316, relating to repurchase of retirement coverage after certain levies, would allow persons whose state retirement accounts are seized by the child support enforcement agency or the Internal Revenue Service to pay back their retirement accounts.

At present, if a person's entire retirement account is seized by an agency, their account is closed and they cannot reimburse their account unless they are re-employed by the State or other participating employer.

I believe this bill will establish an equitable balance between the individual's right to maintain their retirement coverage and the socially desirable goals of maintenance of child support and payment of taxes.

Please schedule this bill for a hearing at your earliest convenience. I will provide you with a sectional analysis as soon as it is available.