

**ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672**  
**6903 HOUSE JUDICIARY**

147

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 21, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3-8-91

The STATE AFFAIRS Committee considered:

HB 4

HOUSE BILL NO. 4

LEGISLATIVE ETHICS ACT

"An Act establishing a legislative ethics commission and standards of conduct for legislators, candidates for the legislature, legislative employees, former legislators and employees, and lobbyists; requiring financial disclosures by legislators, candidates for the legislature, and certain legislative employees; amending legislators' compensation and allowances; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB 4 (State Affairs)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Law-Prosecution/Legal Services

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Gene Kubina</i>				
<i>Tom Meyer</i>				
<i>Steve...</i>	<i>David...</i>		<input checked="" type="checkbox"/>	
<i>Mike Miller</i>	<i>Mike Miller</i>		<input checked="" type="checkbox"/>	

*Gene Kubina*  
Chairman's Signature



Official Business

# Alaska State Legislature

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

TO: House State Affairs Committee  
FROM: Rep. David Finkelstein  
DATE: February , 1991  
RE: HB 4, Legislative Ethics Act of 1991

House Bill 4, the Legislative Ethics Act of 1991, replaces the current legislative ethics law with a new statute. I believe HB 4 will strengthen our standards of conduct and increase public confidence in the legislative process.

In your packets are an overview of the bill, a fiscal note, and an amendment on legislative compensation which I hope you will consider. I am working with the Legislative Affairs Agency to reduce the fiscal note to make sure it reflects the streamlined bill now before you, rather than the legislation under consideration last session.

Please let me know if you have amendments you would like made to HB 4. I look forward to working with you.

# HB 4 - Legislative Ethics

## Overview

### ARTICLE 1. PURPOSE

P.1 AS 24.61.010 is a brief purpose section.

### ARTICLE 2. STANDARDS OF CONDUCT

- P.2 AS 24.61.100 says that a legislator or legislative employee may not accept anything other than their regular paycheck and benefits for doing their legislative duties.
- P.2 AS 24.61.110 prohibits a legislator or legislative employee from using public funds or resources for private gain. There are exceptions for minor acts, like using a state photocopier to copy a medical form.
- P.3 AS 24.61.120 prohibits a legislator or legislative employee from using public funds or resources for political purposes. A legislator who is running for office may not use state funds to send out a mass mailing within 60 days of an election. A legislative employee may not work on political party activities on government time. Campaign contributions may not be solicited in state offices.
- P.4 AS 24.61.130 prohibits the use of a legislator's or legislative employee's title for private benefit.
- P.4 AS 24.61.140 prohibits a legislator from coercing political or other contributions by threatening to take a given action.
- P.5 AS 24.61.150 is the current legislative nepotism law.
- P.5 AS 24.61.160 prohibits a legislator or legislative assistant (higher level staff) from working for a lobbyist, or allowing a lobbyist to take an active part in the legislator's campaign.
- P.6 AS 24.61.170 restricts legislators and legislative assistants' membership on government and private boards.
- P.6 AS 24.61.180 states the general conflict-of-interest prohibition that one cannot take an action that will significantly benefit one's financial interests. This is current law.
- P.7 AS 24.61.190 restricts the ability of legislators and legislative assistants to represent clients for pay before state boards and agencies. Current law only requires disclosure.

## **ARTICLE 2. STANDARDS OF CONDUCT, continued**

- p.7 AS 24.61.200 adopts, with slight modification, current law regarding participation in state contracts and leases. In addition, legislators and legislative assistants may not accept a contract concerning a matter which he or she worked on in the legislature for one year after leaving legislative service.
- P.9 AS 24.61.210 adopts, with slight modification, current law regarding the receipt of gifts.
- P.11 AS 24.61.220 prohibits honoraria and outside employment that would create conflicts of interest.
- P.12 AS 24.61.230 prohibits improper intercession by legislators on behalf of constituents
- P.13 AS 24.61.240 prohibits reprisals against or harassment of whistle blowers.
- P.13 AS 24.61.250 requires legislators to abide by the Open Meetings Act.
- P.13 AS 24.61.260 prohibits legislators and legislative employees from engaging in unlawful discrimination.

## **ARTICLE 3. CAMPAIGN FINANCE RESTRICTIONS**

- P.13 AS 24.61.300 prohibits certain uses of campaign funds, including using funds for contributions to other campaigns or as personal income.
- P.14 AS 24.61.310 limits the use of surplus campaign funds. House candidates may transfer \$5,000, and Senate candidates \$7,500, into a future campaign account. Additional surplus funds may be used to pay back loans, pay for a victory party, repay contributors, or make a donation to the general fund or a charitable organization.
- P.14 AS 24.61.320 restricts fundraising to the period from June 1 of the year before the election through the general election. Legislators and other public office holders would also be unable to raise funds from Jan. 1 through May 31 in the year of the election.
- P.15 AS 24.61.330 gives APOC the responsibility for enforcing the campaign finance sections of HB 4, AS 24.61.300 - 320.

## **ARTICLE 4. LEGAL DEFENSE FUNDS**

- P.15 AS 24.61.350 authorizes the establishment of legal defense and election challenge funds not subject to the limitations on gifts.

## **ARTICLE 5. FINANCIAL DISCLOSURE**

- P.16 AS 24.61.400-24.61.420 enacts financial disclosure requirements broader than those in current AS 39.50. Legislators, candidates and legislative directors must disclose the sources of their income to the commission. When the source of income is a source that has a substantial interest in state government, the nature of the services and the amount of compensation must also be disclosed. The spouses and dependent children of legislators, candidates and directors must also disclose the sources of their outside income.
- P.18 AS 24.61.430 requires disclosure to the Commission of a legislator's or legislative assistant's close economic associations with lobbyists. Current law requires public disclosure of associations with lobbyists and some other categories of people.
- P.19 AS 24.61.440 adopts, with slight modification, current law regarding disclosure of participation in state loans and programs.
- P.20 AS 24.61.450 makes it a class A misdemeanor to make a false, incomplete, or late disclosure required by the Ethics Act. In addition, if a candidate fails to make the income disclosures required in AS 24.61.400-420, the lieutenant governor will remove the candidate from the ballot.

## **ARTICLE 6. LEGISLATIVE ETHICS COMMISSION**

- P.21-34 AS 24.61.500-24.61.580 establish a Legislative Ethics Commission consisting of seven public members, appointed by the Supreme Court, the legislature, and the other commission members. These sections provide for advisory opinions as under current law; provide for a complaint process somewhat more open than under current law; and authorize the commission to issue exemptions from the standards of conduct.

The Commission must hold voluntary ethics education courses for legislators, staff and lobbyists, as well as prepare a biennial report. Commissioners are subject to the Ethics Act, and are restricted from participating in political activities.

## **ARTICLE 7. GENERAL PROVISIONS**

- P.34 AS 24.61.900-24.61.990 contain miscellaneous provisions concerning the retention of documents by the Commission, the penalty for disclosing confidential information, the definition of terms in HB 4, and the bill's general relationship to other laws.

### SECTIONS 3 - 27

- P.39 Sections 3-9 make the existing APOC law consistent with the Ethics Act and prevent duplication in reporting.
- P.41 Section 10 of the bill raises the salary for legislators to \$36,000 per year from the current level of \$22,148.
- P.41 Section 11 eliminates long-term per diem payments for legislators during the interim, but continues short-term per diem during the session.
- P.42 Section 12 replaces the current \$4,000 cash office allowance with a voucher system, and raises the amount that can be vouchered under the new system to a maximum of \$7,000 for a single-representative district, \$9,000 for a two-representative district, and \$13,000 for a four-representative (Senate) district.
- P.42 Section 13 allows legislators to be reimbursed for two round-trip tickets from Juneau to their districts.
- P.42 Section 14 prohibits lobbyists from using state resources in the conduct of their business and from taking an active part in a legislative campaign.
- P.43 Section 15 prohibits a legislator from working as a lobbyist for one session after leaving office.
- P.43 Section 16-21 make the existing APOC conflict of interest laws consistent with the Ethics Act and prevent duplication in reporting.
- P.45 Section 22 explains how the initial commission appointments will be made.
- P.45 Section 23 allows the commission to consider complaints of violations of the old ethics law (24.60) that occurred before the Ethics Act of 1991 was in effect.
- P.46 Section 24 provides a transition period before the prohibition on representation of clients before state agencies goes fully into effect.
- P.46 Section 25 says that Article 3, campaign finance restrictions, will go into effect immediately.
- P.46 Section 26 says that the portion of the bill which sets up the Commission will go into effect on July 1, 1991
- P.46 Section 27 says that the remainder of HB 4 goes into effect on January 1, 1992.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HB 4

Page 41, line 18, following "Sec. 10.", through page 42, line 7:

Delete all material and insert:

"AS 24.10 is amended by adding a new section to read:

Sec. 24.10.102. COMPENSATION OF LEGISLATORS. A legislator shall receive a salary and a per diem allowance that are prescribed by the State Officers Compensation Commission under AS 39.23.240(a)."

Renumber the following bill sections accordingly.

Page 43, following line 30:

Insert a new bill section to read:

\*\* Sec. 16. AS 39.23.240(a) is repealed and reenacted to read:

(a) Not later than the 10th calendar day of the first regular session of a legislature, the commission shall submit to the legislature an order setting the salary and the per diem allowance of legislators under AS 24.10.102. The order may authorize a higher salary for the speaker of the house and the president of the senate than for other legislators. The order becomes effective 60 days after submission or on final adjournment of that session, whichever comes earlier, unless a bill disapproving the commission's order is enacted into law before the order becomes effective. If an order under this section is disapproved, the salary and per diem allowance of the legislators remain at the level set by the most recent order of the commission that was not disapproved. The commission may submit only one order during each legislature."

Page 45, following line 15:

Insert a new bill section to read:

\*\* Sec. 22. AS 24.10.100, 24.10.101, and 24.0.105 are repealed."

Renumber the following bill section accordingly.

Page 45, following line 24:

Insert a new bill section to read:

"\* Sec. 24. TRANSITIONAL PROVISIONS RELATING TO LEGISLATORS' SALARIES AND PER DIEM ALLOWANCES. Notwithstanding AS 39.23.240(a), as amended by sec. 16 of this Act, until the effective date of an order of the State Officers Compensation Commission under AS 39.23.240(a), as amended by sec. 16 of this Act, salaries of legislators shall be governed by AS 24.10.100, and per diem allowances shall be governed by AS 24.10.105."

Renumber the following bill sections accordingly.

Page 46, following line 17:

Insert a new bill section to read:

"\* Sec. 29. Section 22 of this Act takes effect on the effective date of the first order of the State Officers Compensation Commission under AS 39.23.240(a), as amended by sec. 16 of this Act, that is not disapproved by the legislature under AS 39.23.240(a), as amended by sec. 16 of this Act."

Renumber the following bill section accordingly.

Page 46, line 18:

Delete "secs. 25 and 26"

Insert "secs. 27 - 29"

**THE FOLLOWING PAGES  
WERE TREATED AS A UNIT  
IN THE ORIGINAL FILE**



**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

BILL NO: CSHB 4 (STA)

Revision Date: \_\_\_\_\_  
 Title: "An Act establishing a legislative ethics commission... for legislators...employees..."  
 Sponsor: House State Affairs  
 Requestor: House State Affairs

Department Affected: Legislative Affairs Agency  
 BRU: Legislative Council

Component: Legislators' Salaries & Allow. Council & Subcommittees & Legal Svcs.

..COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	48.9	48.9	48.9	48.9	48.9	48.9
TRAVEL	130.4	130.4	130.4	130.4	130.4	130.4
CONTRACTUAL	28.6	28.6	28.6	28.6	28.6	28.6
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	20.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>231.4</b>	<b>210.9</b>	<b>210.9</b>	<b>210.9</b>	<b>210.9</b>	<b>210.9</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
----------------	----------	----------	----------	----------	----------	----------

<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
----------------	----------	----------	----------	----------	----------	----------

FUNDING: (Thousands of Dollars)

GENERAL FUND	231.4	210.9	210.9	210.9	210.9	210.9
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>231.4</b>	<b>210.9</b>	<b>210.9</b>	<b>210.9</b>	<b>210.9</b>	<b>210.9</b>

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

see attached 2 pages.

Prepared By: Pamela A. Stoops, Director  
 Division: Administrative Services

*Pamela Stoops*

Phone: 465-3850  
 Date: 4/5/91

Approved By: Warren W. Endicott, Executive Director  
 Agency: Legislative Affairs Agency

*Warren Endicott*

Date: 4/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**CONTINUATION OF FISCAL NOTE: CSHB 4 (STA)**

This fiscal note reflects changes in requested funding for Legislators' Salaries & Allowances, Legal Services and Ethics funding in the Council & Subcommittees component. FY 92 budget request of \$3,716,000 for Legislators' Salaries & Allowances is in addition to the requested figures in this fiscal note.

**PERSONAL SERVICES**

1. Staff is requested as follows to assist the Legislative Ethics Commission:

Executive Director - Range 24A			
	\$5,084 x 12 months =	\$61,008	
	\$61,008 x 35% benefits =	\$21,585	
		<u>\$82,593</u>	82.6
Executive Secretary - Range 15A			
	\$2,745 x 12 months =	\$32,940	
	\$32,940 x 42% benefits =	\$13,987	
		<u>\$46,927</u>	46.9
			<u>129.5</u>

The elimination of the House and Senate Ethics Committees will no longer require an attorney position from the Legal Services Division. -80.6

**TRAVEL**

2. It is anticipated there will be 6 meetings of the Legislative Ethics Commission.

6 meetings x 7 members at 3 days each			
airfare - 6 meetings x 7 members = 42 airfares			
	42 airfares x \$436 =	\$18,312	
per diem - 6 meetings x 7 members = 42			
	42 x 3 days per diem = 126		
	126 x \$95 =	\$11,970	
		<u>\$30,282</u>	30.3

3. Legislative Ethics Commission staff travel - travel for Executive Director and staff to Legislative Ethics Commission meetings and other related travel - \$10,000. 10.0

4. A new subsection is added to reimburse a member of the Legislature for up to two round trip tickets from Juneau to a city in the district from which the legislator was elected during each regular session of the Legislature.

2 trips each session			
Coach travel for 57 legislators			
	\$28,789 x 2 trips = \$57,578		57.6
Per Diem - 3 days x 57 legislators x \$95/day = \$16,245/trip			
	2 trips x \$16,245 = \$32,490		
		<u>32.5</u>	
		90.1	90.1

A reduction in the cost of two trips home could be realized if the wording of section 10 was changed. As it is now these two trips home are not for committee, subcommittee or other official business of the legislature.

CONTINUATION OF FISCAL NOTE: CSHB 4 (STA)

**CONTRACTUAL**

5. Professional services for contracts to investigate compliance with the Legislative Ethics Act of 1991 with outside investigators, attorneys, additional staff, etc. Training services for orientation education courses, etc. - \$30,000.	30.0
6. Lease office space funding 1,000 sq. ft x \$2.00 sq. ft = \$2,000    \$2,000 x 12 months = \$24,000	24.0
7. Preparation & publication of the Legislative Ethics Education Manual; development and dissemination of training materials - \$15,000.	15.0
8. Phones and postage - \$800 a month x 12 months = \$9,600.	9.6
9. Elimination of funding of the House and Senate Ethics Committees - \$50,000.	-50.0

**SUPPLIES**

10. Office Supplies - paper, stationery, etc. - \$3,000.	3.0
--	-----

**EQUIPMENT**

11. 3 desks, 2 filing cabinets, bookcases, 3 chairs, 3 computers, 1 laser printer, phone system, etc. Misc. equipment to furnish Legislative Ethics Commission staff office - \$20,500.	20.5
---	------

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO. CSHB4 00749**

Revision Date: March 11, 1991 Department Affected: Administration  
 Title: Legislative Ethics Act of 1991 BRU: Alaska Public Offices Commission  
 Component: \_\_\_\_\_  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

			70
--	--	--	----

**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	164.5	122.5	126.6	130.8	135.2	140.3
TRAVEL	3.0	3.0	3.0	3.0	3.0	3.0
CONTRACTUAL	5.4	24.7	24.7	24.7	24.7	24.7
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
<b>TOTAL OPERATING</b>	<b>172.9</b>	<b>147.2</b>	<b>151.3</b>	<b>158.5</b>	<b>162.9</b>	<b>168.0</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	172.9	147.2	151.3	158.5	162.9	168.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>172.9</b>	<b>147.2</b>	<b>151.3</b>	<b>158.5</b>	<b>162.9</b>	<b>168.0</b>

**POSITIONS:**

FULL-TIME	3	2	2	2	2	2
PART-TIME	2	2	2	2	2	2
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: \$0

**ANALYSIS: (Attach a separate page if necessary.)**  
 See attached narrative.

Prepared By: Karen Boorman *Karen Boorman* Phone: 276-4176  
 Division: Administration Date: April 3, 1991

Approved by Commissioner: Annie Laurie Howard *Annie Laurie Howard Chair*  
 Agency: Alaska Public Offices Commission Date: April 3, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

3/18/91

CSHB4

**Personnel:**

\*Associate Coordinator Range 18A \$40,723  
\*\*Paralegal Range 16A \$35,343  
Documents Examiner Range 13A \$28,854 (starting 1/1/92)  
Clerk III (ANC)1/2 time Range 8A \$10,666  
Clerk III (JNO)1/2 time Range 8B \$10,981

**Benefits:**

30% of base salaries (includes insurance) \$37,970

**Travel:**

\*\* Regulations hearing \$3,000

**Contractual Services:**

Instruction/educational materials  
(design, print, postage for forms and manuals) \$5,400

**\*\*\*Legal fees**

Hearing \$12,000  
Witness fee 250  
Subpoenas \$3,000  
Transcripts \$1,000

\*Funding for this full-time position will be required if the FY92 budget decrement is adopted. If there is no budget decrement a part time position (30 hours per week) will suffice.

\*\*Funding for paralegal position and travel for regulations hearing required for FY92 only.  
(\$38,343 total)

\*\*\*Complaint investigation funds will be necessary after FY92.

#### CS HB 4 FISCAL NARRATIVE

This bill establishes new financial disclosure requirements for legislators, candidates for the legislature and legislative directors and restricts lobbyists use of state property and participation in legislative campaigns.

The lobbying provisions prohibit lobbyists from using state property or resources, and from becoming actively involved in campaign management or fundraising. The financial disclosure requirements for the legislature are more detailed than current law and establish categories of income that require disclosure of amounts under some circumstances.

The commission anticipates it will incur start-up costs as it prepares to assume its duties in administering these provisions. Staff time will have to be spent developing forms, manuals, and instructional material, and preparing proposed regulation changes for commission adoption. The APOC FY 92 budget includes a budget reduction of \$115,200 for the FY 92 adjusted base, including a reduction in staff, travel and printing. Remaining staff cannot undertake these start-up activities, so new positions would be required. Printing and distribution costs for new materials would need to be supplemented.

The commission will receive ongoing requests for advice about interpretations of the law, including questions such as whether a source of income is a category A or B source, whether and under what circumstances and for what types of category A income must amounts be given. Staff will also be required to respond to increased questions from local and other state candidates due to confusion over which set of rules apply to them.

The commission anticipates several new complaints annually alleging that a legislator, legislative candidate or a lobbyist has violated one or more of these prohibitions. Potential complaints include allegations that a legislative candidate did not reveal a category A source of income and did not disclose the true value of the income or that a lobbyist is not observing the new fundraising restrictions. The commission anticipates that one complaint annually will proceed to public hearing before the commission, the expense of which cannot be absorbed from funds currently budgeted.

The commission will need to hold a hearing in FY 92 to adopt regulatory changes. The expenses of such a hearing are not funded within the FY 92 budget.

In order to meet the mandates of the new law, the commission will need to add one professional staff member (Associate Coordinator - Range 18) and one paraprofessional staff member (Paralegal - Range 16) to develop regulations, revise manuals and forms during the first year. In subsequent years two positions will not be necessary and the associate coordinator will absorb the

ongoing advice and complaint investigation workload. Because the one secretary/receptionist in the Anchorage office cannot absorb additional telephone, front counter, filing and typing tasks which will result from the increased workload, the commission also will need a part-time clerk typist III (Range 8). In order to investigate complaints about lobbyists, the Juneau office will require half-time clerical help throughout the year instead of the six months budgeted. This will press the lobbying administrator's time for advice to lobbyists about application of the law to their activities, and for investigatory fact finding.

A detailed breakdown of the costs associated with administration and enforcement of this bill is attached.

FISCAL NOTE

No. 1  
 Bill Version: CSHB 4 (STA)  
 (H) Publish Date: 3/11/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act establishing a BRU: Prosecution/Legal Services  
legislative ethics commission..." Component: Prosecution/Criminal Justice Litigation  
 Sponsor: Representative Finkelstein Legal Services/Operations  
 Requestor: House State Affairs COMPONENT SERIAL NO. 

		8	9
--	--	---	---

9 3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)  
 Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: February 13, 1991  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: February 13, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 4

House Bill No. 4 establishes a comprehensive statutory framework to govern the conduct of legislators and employees of the legislature. Implementation and administration of the proposed Act, known as the Legislative Ethics Act of 1991, would be the responsibility of the Legislative Ethics Commission, which would be established in the legislative branch of government.

Although the bill contains numerous provisions that carry criminal penalties, it is not anticipated that these provisions will cause a fiscal impact for the Department of Law. First, the ethics commission will also be responsible for providing education and training programs for legislators, legislative employees, and lobbyists to prevent unethical conduct. Second, past criminal violations in this area have been rare, and therefore the proposed Act would not require additional prosecution resources.

Only one part of the Act assigns new duties to the attorney general and this part, proposed AS 24.61.575, gives the attorney general the discretionary power to independently bring civil or criminal actions relating to ethics violations, regardless of the outcome or settlement of a charge before the ethics commission. Because of the broad authority given to the commission to regulate ethical conduct, the attorney general's intervention in this arena should be infrequent.



Official Business

# Alaska State Legislature

HOUSE OF REPRESENTATIVES

House State Affairs Committee

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

March 8, 1991

## MEMORANDUM

TO: Representative Dave Donley, Chair  
House Judiciary Committee

FROM: Representative Gene Kubina, Chair  
House State Affairs Committee

RE: CSHB 4 (State Affairs)

*Gene*

The House State Affairs Committee passed out a committee substitute for HB 4, the legislative ethics bill, which will be coming to your committee next week. The State Affairs CS is substantially different from Representative Finklestein's original HB 4:

- (1) the legislative salary portion has been removed and is included under HB 129 (which is already scheduled for hearing in your committee);
- (2) sections dealing with campaign finance have been pulled out and reconstituted into HB 195 by Rep. Finklestein.

These changes have a significant impact on the previous departmental fiscal notes and new fiscal notes have been requested from APOC and LAA Administrative Services. Rather than holding up the bill in State Affairs, I want to refer it on to your committee so that you will have plenty of time to review the changes. The new fiscal note from APOC will take more than five days to prepare since it will have to be approved by the Commission during their next meeting on March 15.

Finally, the committee did review your amendment for adding new sections dealing with legal defense funds. Rather than weighing the merits of the amendment, the committee felt that it would be more appropriate to bring the legal defense fund issue up in Judiciary.

**THE PRECEDING PAGES  
WERE TREATED AS A UNIT  
IN THE ORIGINAL FILE**

# **CORRECTION**

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

**THE PRECEDING PAGES  
WERE TREATED AS A UNIT  
IN THE ORIGINAL FILE**

## COMMITTEE REPORTS (House)

### Legislative Ethics Act of 1991

HOUSE BILL NO. 4, (see page 68). Reported back to the House March 11, 1991 by State Affairs recommending HB 4 be replaced with a State Affairs Substitute, and that it do pass. Concurring: Kubina (Chair), Moyer, Bruckman, Gruenberg. Not concurring: Choquette, Baker, and M.W. Miller have no recommendation. To Judiciary.

The House State Affairs Committee Substitute makes the following changes to the original bill:

—Page 3, lines 11 - 15. Adds language to provide that the subsection relating to the misuse of state property and resources for political purposes does not prohibit "...*(l) the occasional or limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties, the cost or value related to the use is so nominal that reimbursement procedures would not be justified, and the use does not create the appearance of impropriety or improper influence;...*"

—Page 6, line 3. Adds new language to section relating to nepotism to define "interim between legislative sessions" to mean "...the period beginning on the eighth day after the legislature adjourns from a regular session and ending eight days before the date that the legislature shall convene under AS 24.05.090."

—Page 6, line 23. Rewrites section entitled "Restricted Relationships: Board Memberships and Other Public Offices." The original bill had a separate section that said a legislator could not serve on a governing or advisory board of a nongovernmental organization that regularly has a substantial interest in the legislative, administrative, and political actions of the legislator. The separate section is eliminated.

The State Affairs bill says: "...A legislator or legislative assistant may serve on a board of an organization, including governmental entity, that regularly has a substantial interest in the legislative activities of the assistant, if the legislator or assistant discloses the board membership to the commission. A legislator or legislative assistant may not, as part of the legislator's service or the assistant's employment, be personally involved in an issue or take a specific action that directly relates to an organization of which the legislator or assistant is a board member, unless required to do so by the Uniform Rules of the Alaska State Legislature."

—Page 12, line 4. Changes language in section entitled "Restrictions on Earned Income: Outside Employment and Honoraria." The original version said a legislator or legislative assistant was not prohibited from accepting an honorarium from a governmental entity outside of the state, "...from a university other than the University of Alaska, or from another nonprofit educational or civic institution, provided that the amount paid is reasonable and commensurate with the services performed."(emphasis added). In the State Affairs version, the italicized language is removed.

—Page 13, line 4. Changes language in section entitled "Intercession on Behalf of Constituents." The language in the original bill provided: "...*(b) This section may not be construed to prevent a legislator from ... (4) exercising vigilant oversight with respect to the policies, regulations, procedures, and implementation practices of an agency, provided that the oversight activities are conducted through the normal committee processes of the legislature and that the focus is on the policies, procedures, and practices of the agency and not the handling of a particular matter.*" (emphasis added). The State Affairs version removes the italicized language.

—Page 13, line 20. Removes language in section entitled "Accountability: Openness and Oversight." by removing language that said a legislator should "...exercise the authority of

## COMMITTEE REPORTS (House)

### HB 4 (cont'd)

their offices openly so that the public is informed about governmental decisions and can hold them accountable for their actions."

—Removes Article 3 of the original bill, that was entitled "Campaign Finance Restrictions. Prohibited Uses of Campaign Funds." (see page 13, lines 23 - 31, page 14, lines 1 - 31, and page 15, lines 1 - 24, original version).

—Page 13, line 31 through page 14, line 8. Adds language to section entitled "Legal Defense and Election Challenge Funds" to allow a legislator or legislative employee to establish a fund to assist with the payment of attorney fees and other costs arising from their defense "...of a civil, criminal, or administrative action brought against the legislator or employee and directly related to acts or omissions of the legislator or employee while acting as a legislator or employee or while campaigning for elective office, or from the prosecution or defense of an administrative or judicial action concerning a contested election in which the legislator or employee is a candidate...." (underlined language added by State Affairs). Also provides that the Legislative Ethics Commission will adopt regulations "...establishing a maximum amount that a person may contribute to a fund."

—Page 14, 15, 16. Adds clarifying language to provide that the "commission" a legislator must disclose financial information to is the Alaska Public Offices Commission.

—Page 15, line 28, and page 16, lines 7 and 9. A person required to make financial disclosures will be required to file with the Alaska Public Offices Commission a statement "...(1) as to all income received as compensation for services in excess of \$1,000... (3) ...the name and address of the source and the cash value of reimbursement for expenses aggregating more than \$1,000 from a single source in the reporting period;...(4) as to each loan or loan guarantee from a category A source yielding loan proceeds of \$1,000 or more in the reporting period, the name and address of the person making the loan or guarantee..." (the amount was \$100 in the original version of the bill).

—Page 16, line 27. Adds a new section relating to the review of statements. This section replaces subsections removed from page 18 of the original version (see subsections (b) and (c) on lines 14, 17, 25, and 28, original version). The Legislative Ethics Commission will be required to obtain the statements filed with the Alaska Public Offices Commission and review them to determine whether an impermissible conflict of interest exists or would exist if a candidate were elected. If a conflict does or would exist, the commission will have to consider appropriate actions.

New language on page 17, lines 1 - 17 says that a statement filed with the Alaska Public Offices Commission is a public record unless the person submitting it requests it be kept confidential in whole or in part, and states the reasons for the request, and the Alaska Public Offices Commission finds that no valid public purpose would be advanced by publication. In ruling on a request, APOC will have to consider the potential adverse effect on the reputation of a client of a person who is required to file the report if the information were made public. APOC will adopt regulations exempting psychiatrists, psychologists, and similar professionals from having to disclose the identities of their clients.

Adds new section entitled "Removal from Ballot for Failure to File," that provides in addition to civil and criminal sanctions under the legislative ethics law, if APOC finds that a candidate for the legislature, including an incumbent, has failed to file a required financial disclosure report, or has filed a report that is substantially incomplete or misleading, it will notify the lieutenant governor. The lieutenant governor will return the candidate's filing fee and remove the candidate's name from the filing records. Note: this language was originally found under

## COMMITTEE REPORTS (House)

### HB4 (cont'd)

AS 24.61.450 (Prohibited Conduct Relating to Disclosures), page 21, line 1, original version.

--Page 19, line 30. Commissioners on the Legislative Ethics Commission will serve staggered terms of four years (was five years).

--Page 20, line 14. A Legislative Ethics Commission member can be decertified by a majority vote of each house of the legislature *by concurrent resolution*. The original version said a commissioner could be decertified by both houses of the legislature. A commissioner can be removed from office by a vote of two-thirds of each house *by concurrent resolution*. (italicized language added).

--Page 20, line 22. Removes language that said the commission had to meet at least once every three months.

--Changes language relating to compensation of ethics commissioners. The State Affairs version says commissioner serve without compensation, but are entitled to per diem and travel expenses authorized for state boards and commissions. The original version said they would receive \$175 for each day they attended or participated in a commission meeting of at least one hour in length, and the commission chair would receive an additional stipend of \$500 a year.

--Page 22, line 29. Removes language that would have required the ethics commission to authorize research in the field of legislative ethics.

--Deletes section 4, page 39, original version.

--Section 5, Section 7, page 38. Clarifying language changes.

--Removes sections 10 and 11 of the original version, which changed legislative salaries from a monthly salary equal to Step A, Range 10 of the state salary schedule to \$36,000 a year. Section 11 rewrote the law on legislative per diem.

--Page 39, line 16. Changes language relating to legislative office allowances. As rewritten, the legislative council will be required, within 10 days of the beginning of a regular session of the legislature in an odd-numbered year, set a maximum amount that may be reimbursed. If the council does not set a maximum amount, the previously established maximum amount will remain in effect. The council can vary the maximum amount according to the number of constituents a legislator represents.

--Page 39, line 24. Removes language that said the two round trip tickets from Juneau to the city from which the legislator was elected could "be for a personal, family, business, or constituent purpose."

--Page 39, line 29. Adds a new section that says a legislator in a final term cannot travel out of state at legislative expense unless the travel is approved by a majority of the legislative council, regardless of which legislative entity or legislative account will be paying for the travel.

--Adds a repealer, page 42, line 24. Repeals AS 24.10.110 (Legislature. Officers, Employees and Compensation. Additional Allowances).

--Page 42, line 28 through page 43, line 6. Changes initial terms of Legislative Ethics Commissioners.

## COMMITTEE REPORTS (House)

HB 4 (cont'd)

--Effective dates vary.

### School Health & Personal Safety Education

HOUSE BILL NO. 7, (see page 72). Reported back to the House March 13, 1991 by Health, Education and Social Services recommending HB 7 be replaced with a House HESS Committee Substitute, and as follows: Lincoln (Co-Chair), B. Davis, and C. Davis recommend it do pass; Carney (Co-Chair), Hanley and Gonzales have no recommendation. To Finance. The committee further attached a Letter of Intent:

"It is the intent of the Legislature in requiring the creation of health education curriculum advisory committees to allow communities to decide whether to establish separate health curriculum advisory committees or to work within the confines of existing advisory school boards for the purpose of advising on matters related to health education. It is not the intent of the Legislature to discourage smaller communities with populations under 50 from developing a health curriculum, but rather those communities may work within the school system already in place.

It is further the intent of the Legislature to encourage the university system to add a course in health education and a course in public safety to the core requirements for a degree in education, at both the elementary and secondary level. Additionally, teachers applying for recertification should be encouraged to take health and personal safety courses. Teacher aides and student teachers, as part of their teaching practicum should have to develop and participate in health and personal safety lesson plans while in the classroom.

It is further the intent of the Legislature that all appropriate departments and divisions within the State work with school districts to develop and deliver an appropriate health and personal safety curriculum for each community. The Department of Education and the Department of Health & Social Services should be consulted regularly to determine the best approach and the most current methods for teaching health and personal safety.

It is further the intent of the Legislature that the transitional period included in HB 7 provide for time to develop this curriculum.

Finally, it is the intent of the Legislature to conduct a review of the costs associated with providing comprehensive health and personal safety education and to make recommendations to the appropriate committees regarding the impact of the curriculum on the educational instructional unit."

The House HESS Committee Substitute makes the following changes to the original bill:

--Changes the bill's "purpose" section by adding two new subsections to provide: "It is the purpose of this Act to ... (2) bring the appropriate agencies of government into the process of developing and implementing health and personal safety education; (3) encourage the University of Alaska to add a three-credit course in health education and a three-credit course in personal safety education to the core requirements for a degree in elementary or secondary education."

--Changes language in AS 14.30.360 (Health and Safety Education. Curriculum) to require the governing body of a school district to "...establish guidelines for a comprehensive health and personal safety education program. Upon request, agencies of state government shall provide

**Standards of Conduct**  
**of**  
**Legislators and Legislative Employees**



**Alaska State Legislature**

**June 1988**

(2) "person employed by the legislative branch of government" means a person who is employed by

(A) an individual legislator;

(B) a legislative body, including a legislative committee; or

(C) an agency of the legislature established under AS 24.20 and AS 24.55.

#### RELATED STATUTES

Sec. 11.56.805 FALSE ACCUSATION. (a) A person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics established in AS 24.60.

(b) False accusation is a class A misdemeanor.

Sec. 39.50.025. NOTIFICATION TO CANDIDATES FOR LEGISLATURE. On receipt of a statement under AS 39.50.020 from a candidate for the legislature the commission (the Alaska Public Offices Commission) shall mail, by certified mail, a copy of AS 24.60, Standards of Conduct, to the candidate at the address shown on the report.

#### STANDARDS OF CONDUCT

Sec. 24.60.010. LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that it is essential in the conduct of public business that legislators hold the respect and confidence of the people. Legislators must avoid conduct that even appears to violate the trust the people have placed in them. To ensure and preserve public confidence, legislators should have the benefit of specific standards to guide their conduct. Article II, sec. 12, Constitution of the State of Alaska grants to each house of the legislature the power to judge the qualifications of its members. It is the purpose of this Act to establish standards of conduct for state legislators and legislative employees and to establish the Select Committee on Legislative Ethics to consider alleged violations of this chapter and to render advisory opinions to persons affected by this chapter.

Sec. 24.60.020. APPLICABILITY. (a) Except as otherwise provided in this subsection, this chapter applies to a member of the legislature and to a person employed by the legislative branch of government. This chapter does not apply to

(1) a former member of the legislature or to a person formerly employed by the legislative branch of government unless the provision specifically states that it so applies;

(2) a person elected to the legislature who at the time of election is not a member of the legislature;

(3) a person employed by the legislative branch of government whose position is established below Range 18 of the state salary schedule established in AS 39.27.011(a).

(b) The provisions of this chapter specifically supersede the provisions of the common law relating to legislative conflict of interest that may apply to a member of the legislature or a person employed by the legislative branch of government. They do not supersede or repeal provisions of the criminal laws of the state.

Sec. 24.60.030. CONFLICTS OF INTEREST. (a) A person to whom this chapter applies may not use public office for private advancement or gain.

(b) A conflict of interest exists when a person to whom this chapter applies takes or withholds official action or exerts official influence that could substantially benefit or harm a financial matter in which the person has a direct or indirect private interest.

(c) Conflicts of interest are prohibited but there is not a conflict of interest if, as to a specific matter, there is no substantial impropriety or appearance of impropriety because

(1) the person's interest is relatively insignificant; or

(2) the person's authority is relatively far removed from any official action that could reasonably be

decision public 30 days after the referral. The legislature shall act on the decision as it considers appropriate.

(1) If the majority of the members of the committee agree to a decision that a former member of the legislature or an employee or a former employee of the legislative branch of government has violated a provision of this chapter, the committee shall issue a public statement of its decision 30 days after the date of the decision. The legislature shall act on the decision as it considers appropriate. In the case of an employee the action may include suspension, demotion, or dismissal. The employee is entitled to a hearing before final action is taken.

(m) A committee member or member of the committee staff who divulges information concerning a proceeding, except as permitted by this chapter, is guilty of a class A misdemeanor.

Sec. 24.60.180. COOPERATION BY STATE AGENCIES. Each agency of the executive branch of state government shall, to the extent permitted by state or federal law, cooperate fully with the committee or a subcommittee by providing information and assistance, including disclosure of financial material and other records relating to a potential violation of this chapter.

Sec. 24.60.190. DEFINITIONS. In this chapter

(1) "committee" means the Select Committee on Legislative Ethics or where appropriate, the applicable subcommittee;

unless the person charged with a violation of this chapter requests an open hearing. The committee is not bound by the rules of evidence but the committee's findings must be based upon competent and substantial evidence. Testimony taken at the hearing shall be recorded and evidence shall be maintained. The testimony and evidence are available only to the committee and its staff and to the person charged with a violation of this chapter. If the person charged with the violation of a provision of this chapter requests a copy of the transcript of testimony, the copy shall be furnished by the committee without charge.

(j) A decision of the committee shall be in writing, and signed by the majority of the members of the committee. Each decision of the committee must be accompanied by a written order of the committee determining that a violation of this chapter exists or does not exist. The order is confined to this determination. This order is a public record.

(k) If the committee issues a decision finding that a member of the legislature has violated a provision of this chapter or that a legislator has declined or failed to cooperate with the committee, it shall refer the decision to the presiding officers of the legislature. The decision shall contain a statement of the facts determined to constitute the violation or the failure to cooperate and may contain recommendations concerning any penalties the legislature may lawfully impose. The committee shall make the

affected by the potential conflict of interest, provided that no attempt has been made to remove the appearance of impropriety by delegating responsibility for official action.

(d) A conflict exists if benefits accrue to a person to whom this chapter applies beyond that which may accrue uniformly to members of the profession, occupation or group to which the person belongs, or to the public at large.

(e) Repealed.

(f) It is a conflict of interest for a member of the legislature to accept money from an event held within the capital city during the session if a substantial purpose of the event is to raise money on behalf of the member for state legislative campaign purposes or for other state legislative political purposes.

(g) members of the legislature elected to represent the capital city are exempt from the requirements of (f) of this section.

Sec. 24.60.040. CONTRACTS OR LEASES. (a) A person to whom this chapter applies may not be a party to or have an interest in a state contract or lease unless the contract or lease is let through competitive sealed bidding under AS 36.30 (State Procurement Code) or the total annual amount of the state contract or lease is \$1,000 or less, or is a standardized contract or lease which was developed under publicly established guidelines and is generally available to the public at large, members of a profession, occupation

or group. A person has an interest in a state contract or lease under this section if the person receives direct or indirect financial benefits.

(b) In this section, "direct or indirect financial benefits" means income, profits or other financial benefits under a state contract, without regard to whether the income, profits or other financial benefits ensue to the person as a partner, shareholder, investor, agent, employee, consultant, or joint venturer of the contractor.

Sec. 24.60.045. HAZARDOUS WASTE CONTRACTS. A legislative staff member may not solicit or receive a contract concerning hazardous waste from a state agency or department other than the legislature during the interim following a session in which the person worked. This section applies to legislative staff members Range 18 or higher. In this section "hazardous waste" has the meaning given in AS 46.-03.900.

Sec. 24.60.050. STATE PROGRAMS AND LOANS. (a) It is not a conflict of interest for a person to whom this chapter applies to participate in a state program or to receive a loan from the state if the program or loan

- (1) is generally available to members of the public;
  - (2) is subject to fixed eligibility standards;
- and
- (3) requires minimal discretion in determining qualification.

(g) If the committee determines that a probable violation exists that may be corrected by action of the person and that does not warrant sanctions other than correction, the opinion shall recommend corrective action. The person against whom the complaint was made may comply with the opinion or may request a hearing before the committee. After the hearing the committee may amend or affirm the opinion.

(h) If the person fails to comply with the opinion or if a majority of the members of the committee determine that there is probable cause for belief that a violation of this chapter that may not be corrected under (g) of this section has occurred, the committee shall formally charge the person. The charge and statement of the alleged violation shall be personally served on the person charged. The alleged violator has 20 days after service of the charge and statement to respond in writing to the committee.

(i) The committee may set a time and place for a hearing before the committee with a minimum of 10 days notice to the complainant, if any, and to the person charged with a violation of this chapter. A representative of the committee and the person charged with a violation of this chapter shall have an opportunity to be heard, to subpoena witnesses and require the production of books or papers relating to the proceedings, to be represented by counsel, and to have the right of cross-examination. Each witness shall testify under oath. Hearings are closed to the public

under oath by the person making the complaint. A complaint, other than a complaint initiated by at least two-thirds of the members of the committee, may not be filed within a period of 60 days preceding a state primary or general election. Each proceeding pending before the committee on the 60th day preceding a state primary or general election is stayed until certification of the election unless the proceeding is based on a complaint initiated by at least two-thirds of the members of the committee or, on a complaint initiated by a person who is not a member of the committee, if two-thirds of the members of the committee direct the continuation of the proceeding. The committee shall notify in writing a person against whom a complaint has been filed of a stay of the proceeding. If the person objects in writing to the stay the proceedings shall continue.

(e) The committee shall notify in writing each person against whom a complaint is received and afford the person an opportunity to explain the conduct alleged to be a violation of this chapter. If the committee determines that a complaint does not contain allegations of facts sufficient, if the alleged facts are treated as true, to constitute a violation of this chapter, the committee may summarily dismiss the complaint.

(f) The committee shall investigate the charges filed under this section and issue an opinion to the person alleged to have violated a provision of this chapter.

(b) The committee shall annually review state programs and state loans and publish a list of programs and loans that, in the view of the committee,

- (1) meet the standards of (a) of this section;
- (2) do not meet the standards of (a) of this

section.

(c) Each February 1, each person to whom this chapter applies shall deliver to the division of legislative audit a report of each participation by the person in a state program or receipt of a state loan as of January 15 of that year for a program or loan listed in (b)(2) of this section. The division of legislative audit shall prepare an appropriate report for the presiding officer of each house that lists the name of the person and kind of program participation or loan. The lists shall be published in the supplemental journals before February 15.

(d) Each person to whom this chapter applies who begins participation in a state program or who receives a loan listed under (b)(2) of this section after January 15 of each year shall deliver a report of the program or loan to the committee within 30 days after the participation in the state program or receipt of a state loan begins. The report shall be published in the appropriate supplemental journal if received by the committee during the regular session of the legislature. Each report filed with the committee under this subsection is open to the public.

(e) Each record of a state agency relating to

participation in a state program or receipt of a state loan by a person to whom this chapter applies may be disclosed to the committee and to the division of legislative audit.

(f) The committee shall annually identify the programs and loans to be audited by the division of legislative audit during the following year, including the scope of the audit. The division of legislative audit shall prepare a report to the committee on the audit of the participation in state programs and the receipt of loans from the state by persons to whom this chapter applies. The report to the committee is confidential until it is released by the committee.

(g) In this section "state program" means a program in which tangible assets of the state or a right to use tangible assets of the state are transferred from the state to a person to whom this chapter applies.

Sec. 24.60.060 CONFIDENTIAL INFORMATION. It is a conflict of interest if a person to whom this chapter applies willfully discloses, or knowingly uses, for personal gain or for the personal gain of another, information that by law is not available to the public and that the person acquired in the course of official duties.

Sec. 24.60.070. INTERESTS BETWEEN PUBLIC OFFICIALS. A person to whom this chapter applies shall disclose in the journal of the appropriate body or if the legislature is not in session to the committee, which shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal by the fifth

may be extended by the committee for not more than an additional 10 days if the person requesting the opinion consents. The opinion issued is binding on the committee in any subsequent proceedings concerning the facts and circumstances of the particular case unless material facts were omitted or misstated in the request for the advisory opinion. Except as provided in this chapter an advisory opinion is confidential but may be made public if a written request by the person who requested the opinion is filed with the committee.

Sec. 24.60.170. PROCEEDINGS BEFORE THE COMMITTEE. (a) The committee may initiate, receive and consider complaints alleging a violation of this chapter.

(b) The committee may investigate a violation of this chapter in a proceeding begun within two years after the alleged violation occurs and within one year after termination of state service. Nothing in this subsection bars proceedings against a person who intentionally prevents discovery of a violation of this chapter.

(c) Before the committee may exercise power authorized in this section, the committee shall by resolution supported by a majority vote of the full membership of the committee, define the nature and scope of the inquiry. The committee shall investigate all complaints on a confidential basis.

(d) A proceeding is commenced by the filing of a complaint with the committee. A complaint may be initiated by any person. A complaint shall be in writing and signed

(3) to issue advisory opinions under AS 24.60.-  
150.

Sec. 24.60.150. DUTIES OF THE COMMITTEE. (a) The committee shall

(1) adopt procedures to facilitate the receipt of inquiries and prompt rendition of its opinions;

(2) publish semi-annual summaries of decisions and advisory opinions with sufficient deletions in the summaries to prevent disclosing the identity of the persons involved in the decisions or opinions that have remained confidential.

(b) The committee may

(1) recommend legislation to the legislature the committee considers desirable or necessary to promote and maintain high standards of ethical conduct in government;

(2) subpoena witnesses, administer oaths, and take testimony relating to matters before the committee, and may require the production for examination of any books or papers relating to any matter under investigation before the committee.

Sec. 24.60.160. ADVISORY OPINIONS. The committee shall issue an advisory opinion within 30 days on the request of a person to whom the chapter applies or a person elected to the legislature who at the time of election is not a member of the legislature as to whether the facts and circumstances of a particular case constitute a violation of ethical standards. The 30-day period for issuing an opinion

day of the session, the formation or maintenance of a close economic association involving a substantial financial matter with

(1) a supervisor who is not a member of the legislature who has responsibility or authority, either directly or indirectly, over the person's employment, including preparing or reviewing performance evaluations, or granting or approving pay raises or promotions;

(2) legislators;

(3) a public official who is required to file a financial disclosure statement under AS 39.50 and is not an appointed municipal officer;

(4) a registered lobbyist;

(5) a person to whom this chapter applies who is employed by the legislative branch of government if the close economic association is with a legislator.

Sec. 24.60.080. GIFTS. (a) A person to whom this chapter applies may not solicit, accept, or receive, directly or indirectly, a gift in any amount, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment.

(b) Except as provided in (c) of this section, the receipt of a gift worth \$50 or more by a person to whom this chapter applies is prohibited.

(c) Notwithstanding (b) of this section, it is not a violation of this section for a person to whom this chapter applies to accept

(1) hospitality, other than hospitality described in (4) of this subsection

(A) with incidental transportation at the residence of a person; or

(B) at a social event or meal;

(2) discounts that are available generally to the public or to a large class of persons to which the person belongs;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the family of the person.

(d) A person to whom this chapter applies who accepts a gift of travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern shall disclose the gift if it has a value of \$100 or more. The disclosure must include the name and occupation of the person making the gift and the approximate value of the gift. Each gift required to be disclosed under this subsection shall be disclosed within 30 days of the receipt of the gift in the journal of the appropriate body or, if the legislature is not in session, to the committee. The

of which the disqualified legislator is a member shall appoint another member from that house, with a recorded concurrence of a majority vote of the subcommittee of that house, to act as a member of the committee in the proceeding.

(i) A quorum of a committee established under this section consists of a majority of the members of the committee. A quorum of a subcommittee established under this section consists of a majority of the members of the subcommittee. Notwithstanding the provisions of this subsection, a committee does not have a quorum unless three legislative members are present and a subcommittee does not have a quorum unless two legislative members are present.

Sec. 24.60.140. AUTHORITY OF THE COMMITTEE. (a) The senate subcommittee has authority over proceedings concerning conduct by a member or former member of the senate or a person employed by a member or a committee of the senate.

(b) The house subcommittee has authority over proceedings concerning the conduct by a member or former member of the house or a person employed by a member or a committee of the house.

(c) The full committee has authority

(1) over proceedings concerning the conduct by an employee of an agency of the legislature;

(2) to review any matter arising under this chapter that would result in action being required by both houses of the legislature; and

An individual who is appointed to fill a vacancy that occurs during the last 10 days of the first regular session of a legislature or during the interim between regular sessions of that legislature serves without concurrence or ratification through the 10th day of the second regular session of the legislature. An individual who is appointed to fill a vacancy that occurs during the last 10 days of the second regular session of a legislature or during the interim after the second regular session serves without concurrence or ratification through the convening of the first regular session of the next legislature.

(f) The committee or a subcommittee may contract for professional services and may employ staff as it considers necessary.

(g) Each member serves for the duration of the legislature during which the member is appointed.

(h) A member is disqualified from participating as a member in any proceeding before the committee involving a complaint against the member or an advisory opinion requested by the member. If the legislature is in session when a legislative member is disqualified under this subsection, the presiding officer of that member's house shall, with the concurrence by roll call vote of two-thirds of the full membership of that house, appoint another member from that house to act as a member of the committee in the proceeding. If the legislature is not in session when a legislative member is disqualified, the presiding officer of the house

committee shall maintain a public record of the disclosures it receives and shall forward the disclosure to the appropriate house for inclusion in the journal by the fifth day of the next regular session.

(e) A political contribution that is reported under AS 15.13.040 is not a gift under this section.

Sec. 24.60.090 NEPOTISM. (a) A spouse or an individual other than a spouse who is related to a member of the legislature may not be employed in the house in which the legislator is a member, by an agency of the legislature established under AS 24.20, or in either house during the interim between sessions. An individual who is related to an employee of the legislature may not be employed in a position over which the employee has supervisory authority. In this subsection, "an individual who is related to" means a child, stepchild, husband, wife, mother, father, sister, or brother.

(b) For purposes of this section an individual is not employed if no compensation is received from the state for the services provided.

(c) For purposes of this section, a legislator is not an employee of the legislature.

Sec. 24.60.100. REPRESENTATION. A person to whom this chapter applies who represents another person for compensation before an agency, board, or commission of the state shall disclose the name of the person represented, the subject matter of the representation, and the body before

which the representation is to take place in the journal of the appropriate body or if the legislature is not in session to the committee. The committee shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal by the fifth day of the session.

Sec. 24.60.110. ACTION ON A CONFLICT OF INTEREST. A legislator who knowingly has a conflict of interest or has been notified of a conflict of interest shall immediately

(1) resign the conflicting position;

(2) divest the interest that has resulted in the conflict or potential conflict; or

(3) disclose the conflict of interest in the journal of the appropriate body or if the legislature is not in session to the committee; the committee shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal by the fifth day of the session but disclosure does not remove the conflict of interest.

Sec. 24.60.120. STATE PROPERTY AND FUNDS. A person to whom this chapter applies may not use state property, except property under lease from the state, or state funds for private gain.

Sec. 24.60.130. SELECT COMMITTEE ON LEGISLATIVE ETHICS. (a) There is established within the legislative branch of state government the Select Committee on Legislative Ethics.

(b) The committee consists of nine members, in two subcommittees, as follows:

(1) the senate subcommittee consists of three members of the senate, appointed by the president of the senate with the concurrence by roll call vote of two-thirds of the full membership of the senate; and

(2) the house subcommittee consists of three members of the house, appointed by the speaker of the house with the concurrence by roll call vote of two-thirds of the full membership of the house; and

(3) three public members, who are selected by the Chief Justice of the Alaska Supreme Court and who are ratified by two-thirds of the full membership of the senate and two-thirds of the full membership of the house, shall serve on both the full committee and each subcommittee.

(c) No more than two legislative members of each subcommittee may be members of the same political party or the same organizational caucus.

(d) The members of each subcommittee shall elect a chair who must be a member of the legislature. The chair selected by the senate subcommittee shall chair the full committee beginning the first day of the regular session in odd-numbered years and the chair selected by the house subcommittee shall chair the full committee beginning the first day of the regular session in even-numbered years.

(e) Except as provided in this subsection, a vacancy on the committee shall be filled under (b) of this section.

BOARD: COMPENSATION COMMISSION, STATE OFFICERS

BOARD IDENTIFICATION NUMBER: 22

TITLE: State Officers Compensation Commission

DEPT: Office of the Governor

AUTHORITY: AS 39.23.200

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS: Members may not be employed by the state, including the University of Alaska; serve as a member of another state board, commission, or authority; or hold elective state or municipal office during membership on the commission. Members may serve no more than 2 complete consecutive terms.

TERM: 4 years

DESCRIPTION: 7 members appointed by the Governor. Commission membership shall include at least one business executive, one representative of a non-partisan voters' organization, one person with experience in public administration, and one representative of a labor organization.

SPECIAL FACTS: Commission elects chair. Majority constitutes quorum. Affirmative vote of four members is required to approve recommendations.

FUNCTION: Commission will review the salaries, benefits, and allowances of members of the Legislature and submit a report on its findings at least once every two years, but not more frequently than every year. The commission may review the compensation, benefits, and allowances of the Governor, Lieutenant Governor, justices and judges of the court system, and the heads of the principal departments and shall report its recommendations to the Legislature.

COMPENSATION: Standard travel/per diem.

MEETINGS: Every other year at the call of the chair.

\*FOR FURTHER INFORMATION CONTACT: Staff Assistant, Alaska State Officers Compensation Commission, 3111 C Street, Suite 150, Anchorage, AK 99503 PHONE: 276-0653 (Revised 1/14/91)

REVISION DATE: 1/15/91

COMPENSATION COMMISSION

MEMBER	APPT	REAPT	REAPPT	TERM
Cecilia A Angasan P.O. Box 89 Dillingham Public 99576	86/10/10	89/10/20	0/00/00	93/07/01
Donald Argetsinger c/o NANA, P.O. Box 49 Kotzebue Public Administration 99752	86/10/10	90/06/15	0/00/00	94/07/01
Bryan F Borjesson 514 Steel Creek Road Fairbanks Public 99701	87/01/21	88/07/25	0/00/00	92/07/01
Gary A Brooks SRB Box 7516 Palmer Labor 99645	86/10/10	89/10/20	0/00/00	93/07/01
Susan T Buchanan 3149 Princeton Way Anchorage Public 99508	86/10/10	90/06/15	0/00/00	94/07/01
Kathleen L Wakefield P.O. Box 211469 Auke Bay Voter Organization 99821-1469	86/10/10	87/10/01	0/00/00	91/07/01
Donna C Willard 124 East Seventh Avenue Anchorage Business Chair 99501	86/10/10	88/07/25	0/00/00	92/07/01

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 4

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act establishing a  
legislative ethics commission..." BRU: Prosecution/Legal Services  
 Sponsor: Representative Finkelstein Component: Prosecution/Criminal Justice Litig.  
Legal Services/Operations  
 Requestor: House State Affairs COMPONENT SERIAL NO. 

		8	9
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: February 13, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: February 13, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies)

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 4

House Bill No. 4 establishes a comprehensive statutory framework to govern the conduct of legislators and employees of the legislature. Implementation and administration of the proposed Act, known as the Legislative Ethics Act of 1991, would be the responsibility of the Legislative Ethics Commission, which would be established in the legislative branch of government.

Although the bill contains numerous provisions that carry criminal penalties, it is not anticipated that these provisions will cause a fiscal impact for the Department of Law. First, the ethics commission will also be responsible for providing education and training programs for legislators, legislative employees, and lobbyists to prevent unethical conduct. Second, past criminal violations in this area have been rare, and therefore the proposed Act would not require additional prosecution resources.

Only one part of the Act assigns new duties to the attorney general and this part, proposed AS 24.61.575, gives the attorney general the discretionary power to independently bring civil or criminal actions relating to ethics violations, regardless of the outcome or settlement of a charge before the ethics commission. Because of the broad authority given to the commission to regulate ethical conduct, the attorney general's intervention in this arena should be infrequent.

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DONLEY

NAME: MR. JACK WATSON

TITLE:

ADDRESS: 7800 DEBARR ROAD

CITY: ANCHORAGE

ZIP: 99513

PHONE: N/R-

BILL NO:

SUBJECT: ETHICS BILL HB 4

MESSAGE: IN ORDER TO PREVENT CRIMINAL FRAUD THAT HAS OCCURRED IN THE PAST, REP FINKELSTEIN'S BILL SHOULD UNQUESTIONABLY INCLUDE LANGUAGE THAT WOULD PROHIBIT ANY CANDIDATE FOR LEGISLATIVE OFFICE FROM SIGNING HIS OR HER OWN VOTER REGISTRATION FORM TO ESTABLISH RESIDENCY TO QUALIFY AS A CANDIDATE IN ANY PARTICULARLY DISTRICT. /CHR

POMID: 03092805

DATE: 91/03/08

TIME: 09:28:05

LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES    REPRESENTATIVES    SENATORS

BAKER	BARNES	ADAMS
BOYER	BROWN	COLLINS
BRUCKMAN	CARNEY	COTTEN
CHOQUETTE	DAVIDSON	DUNCAN
B.DAVIS	C.DAVIS	ELIASON
ELLIS	FINKELSTEIN	FAHRENKAMP
FOSTER	GONZALES	FISCHER
GRUENBERG	GRUSSENDORF	FRANK
HANLEY	HUDSON	HALFORD
IVAN	JACKO	HOFFMAN
KOPONEN	KUBINA	JONES
LARSON	LEMAN	KERTTULA
LINCOLN	MACKIE	MENARD
MACLEAN	MARTIN	PEARCE
H.A.MILLER	H.W.MILLER	POURCHOT
MOYER	NAVARRA	RODEY
PARNELL	G.PHILLIPS	SHULTZ
R.PHILLIPS	SHARP	STURGULEWSKI
TAYLOR	ULMER	UEHLING
ZAWACKI		ZHAROFF

HB

8

(7)  
Date Referred: January 21, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-4-91

The JUDICIARY Committee considered:

HB 8

HOUSE BILL NO. 8

BUDGET PROCESS & APPROPRIATION LIMIT

"An Act relating to the statutory appropriation limit, and to balancing the budget and ensuring compliance with appropriation limits in the budget process."

RECOMMENDATIONS:  
 be replaced with CS HB 8 (Jud)  the same title  
 a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note Leg. Affairs  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Signature	Check appropriate column:		
	Do Not Pass	No Rec	Amend
<u>David Conley</u>			
<u>Kevin P. ...</u>			
<u>Mark ...</u>			
<u>Mark ...</u>			

David Conley  
 Chairman's Signature

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 8

BY REPRESENTATIVE HANLEY  
AND REPRESENTATIVE GRUENBERG

Page 2, line 1, after "in which":

Delete "it is enacted"

Insert "the first expenditure under that appropriation is authorized [IT IS ENACTED]"

After "to the" insert "first"

After "year in which" insert "an expenditure under"

Page 2, line 2, after appropriation:

Delete "is enacted"

Insert "was authorized [IS ENACTED]"



A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: HB 8

Page 3, line 8:

Delete "AS 37.07"

Insert "AS 24.05.100"

Delete "section"

Insert "subsection"

Page 3, line 9:

Delete "Sec. 37.07.115. FISCAL EMERGENCIES."

Insert "(c)"

Page 3, line 14:

Delete "AS 24.05.100(a)(1)"

Insert "(a)(1) of this section"



A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE HANLEY

TO: HB 8

Page 2, after line 8:

Insert a new bill section to read:

"\* Sec. 2. AS 37.05.540 is amended by adding a new subsection to read:

(f) An appropriation that exceeds the appropriation limit established in (b) of this section may be passed by the legislature upon affirmative vote of three-fourths of the members of each house of the legislature."

Renumber the following bill sections accordingly.

prop. by Rep Hanley -

Adopted

**DIVISION OF LEGAL SERVICES**

RECEIVED 3 1 1991

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

**MEMORANDUM**

January 31, 1991

**SUBJECT:** Governor's Authority to Call a Special Session (HB 8)

**TO:** Representative Dave Donley, Chair  
House Judiciary Committee

**FROM:** Tamara Brandt Cook *TBC*  
Director

Section 5 of HB 8 contains the following new provision of law:

Sec. 37.07.115. FISCAL EMERGENCIES. During the interim, if the governor determines that projected state revenue will be insufficient to pay for projected state expenditures during the remainder of the fiscal year, the governor may declare a state of fiscal emergency and issue a proclamation calling the legislature into special session. At a special session called under this section, only reductions in expenditures and increases in sources of revenue may be designated in the proclamation as subjects for legislation. Notwithstanding AS 24.05.100(a)(1), the date of convening stated in the proclamation shall be within 10 days after the proclamation is issued.

You have asked whether this provision unconstitutionally infringes upon the Governor's constitutional power to call the legislature into special session. In my opinion it does not because the provision does not purport to require the Governor to call a special session nor does it restrict the power of the Governor to call a special session under the authority of the constitution. It only sets out parameters for sessions called under that section if the Governor chooses to base a call on it.

Note that the existing law dealing with special sessions requires the Governor to give 15 days notice of a special session. (AS 24.05.100) All the new provision would do is permit this notice period to be reduced to 10 days or less for sessions dealing with fiscal emergencies. I agree that neither of these provisions would effectively prevent the Governor from calling a special session and providing a different notice period. I also agree that, were the new provision enacted, the Governor could not be

Representative Dave Donley

January 31, 1991

Page 2

prevented from designating additional subjects for legislation despite the restriction in that provision. (See Article II, Section 9 and Article III, Section 17) Nevertheless, as a practical matter, the Governor has in the past complied with AS 24.05.100 in calling special sessions and it might be that the proposed new provision would also be utilized if it were enacted.

TBC:mi:gc

91-015.mai

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

## MEMORANDUM

DATE: January 29, 1991  
TO: Members of the House Judiciary Committee  
FROM: Representative Max Gruenberg *MFG*  
RE: Sectional Analysis of HB 8

### Section 1

AS 32.05.540(b) reduces the existing statutory appropriation limit by removing the five percent add on from the preceding fiscal year.

### Section 2

AS 37.07.020(b)(2) requires the governor, when he submits his budget, to also submit revenue estimates and recommend expenditure limits for the following fiscal year.

### Section 3

AS 37.07.020(c) requires the Governor's budget to comply with the existing constitutional and statutory appropriation limits.

### Section 4

AS 37.07.030(c)(6) amends the statute that requires the legislature to pass a balanced budget to also require that in balancing the budget, the legislature shall look first to reductions in State expenditures and second to increasing revenues. This section also requires that the legislature pass a budget that meets the requirements of the existing constitutional and statutory appropriation limits.

### Section 5

AS 37.070.115 authorizes the governor to call a special session in the case of a revenue short fall.

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

## MEMORANDUM

DATE: January 29, 1991  
TO: Representative Max Gruenberg  
Representative Niilo Koponen  
FROM: Mark Handley *M Handley*  
RE: Existing constitutional and statutory appropriation  
limits

Enclosed is a package containing existing state statutory and constitutional appropriation limitations.

### I. CONSTITUTIONAL PROVISIONS

- A. Article IX, Section 16, the present constitutional appropriation limit. See Exhibit "A."
- B. Article IX, Section 8, the constitutional prohibition on contracting state debt without voter approval. See Exhibit "B."
- C. Article IX, Section 17, the new constitutional budget reserve fund which limits appropriations from the fund and diverts settlement money into the fund. See Exhibit "C."

### II. STATUTORY PROVISIONS

- A. AS 37.05.540, the statutory limit contained in the budget reserve fund statute. See Exhibit "D."
- B. AS 37.07.020(c) requires the governor to submit a balanced budget. See Exhibit "E."
- C. AS 37.07.030(5) and (6) require the legislature to pass a balanced budget as part of a six year balanced budget plan. See Exhibit "F."

# Exhibit A

~~Income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.~~

~~(The addition of this section was approved by the voters of the state November 2, 1976 and became effective February 21, 1977.)~~

## Article IX

### Appropriation Limit

SECTION 16. Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury. [Amendment approved November 2, 1982]

Purpose and  
Construction

Local  
Government  
Powers

Boroughs

Assembly

Service  
Areas

# Exhibit B

transferred, nor shall the public credit be used, except for a public purpose.

Exceptions

Dedicated  
Funds

SECTION 7. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Budget

Article IX

(The amendment to this section was approved by the voters of the state November 2, 1976 and became effective February 21, 1977. This amendment inserted "as provided in section 15 of this article or" in the first sentence.)

State Debt

SECTION 8. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective. [Amendment approved November 2, 1982]

Expenditures

Effect of amendments. - The amendment approved November 2, 1982, inserted "or unless authorized by law for housing loans for veterans" in the first sentence.

Legislative  
Post-Audit

Local Debts

SECTION 9. No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

Alaska  
Permanent  
Fund

Interim  
Borrowing

SECTION 10. The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

Maintenance and operations, functionality, indoor air quality, public convenience, design, and appearance; and be it

*Further Resolved* that a State Lease Task Force is established to study the issues raised by the goals set out in the previous resolves in order to determine the best method for achieving these goals; and be it

*Further Resolved* that the task force shall consist of nine persons appointed by the governor, two representatives appointed by the speaker of the state house of representatives, and two senators appointed by the president of the state senate; and be it

*Further Resolved* that the members of the task force appointed by the governor shall include two engineers licensed under AS 08.48, two architects licensed under AS 08.48, two representatives of local government, one representative from the Department of Transportation and Public Facilities, one representative from the Department of Administration, and one representative from the University of Alaska; and be it

*Further Resolved* that the terms of the task force members shall begin July 1, 1990, and that the task force shall terminate January 22, 1991; and be it

*Further Resolved* that the task force shall submit a report of its findings and recommendations to the governor and the legislature by January 21, 1991; and be it

*Further Resolved* that the administrative and legal services of the Legislative Affairs Agency shall be made available to the task force.

LEGISLATIVE RESOLVE NO. 129

(HCS CSSSSJR 5(Fin) am H)

Section 1. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

**SECTION 17. BUDGET RESERVE FUND.** (a) There is established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

129  
blic  
l to  
s in  
e it  
ons  
the  
ors  
by  
wo  
cal  
ta-  
of  
of  
all  
ary  
its  
by  
the  
ce.  
is  
ed  
nd.  
15  
s a  
an  
rt  
le  
or  
ty,  
et  
tes  
17  
nis  
as

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

Sec. 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

LEGISLATIVE RESOLVE NO. 130

(SJR 84)

~~Whereas title to the airport at Saint Paul, Alaska, was transferred to the State of Alaska under the terms of the Fur Seal Act Amendments of 1983 (P.L. 98-129) and a Transfer of Property Agreement entered into February 11, 1984; and~~

~~Whereas the local Native corporation agreed to lease or sell land needed for expansion of the airport, and state and federal agencies have committed themselves to take the steps necessary to implement the Transfer of Property Agreement; and~~

~~Whereas the economic well-being of Saint Paul, Alaska, is largely dependent upon the rapidly growing crab, surimi, and bottomfish industry; and~~

~~Whereas the Saint Paul airport facility provides the only year-round access to and from the community; and~~

~~Whereas the Saint Paul airport facility is critical to ensuring that the community's commercial and social ties with the state and nation are maintained; and~~

~~Whereas the Saint Paul airport is classified as a nonprimary commercial service airport under the Airport Improvement Program (AIP); and~~

~~Whereas nonprimary airports are only eligible to receive AIR discretionary funding and limited State of Alaska primary entitlement funding; and~~

under 42 U.S.C. 6508. It is the intent of the legislature that an initial appropriation be made to the Department of Community and Regional Affairs to cover anticipated impact grants, and that additional funds be made available through supplemental appropriations if the impact is greater than anticipated and the legislature considers the additional grants proposed by the department to be meritorious.

(e) A municipality may use the funds received under (d) of this section only for the following activities and services to alleviate the impact of the oil and gas development under 42 U.S.C. 6508 within the National Petroleum Reserve — Alaska:

(1) planning;

(2) construction, maintenance, and operation of essential public facilities by the municipality; and

(3) other necessary public services provided by the municipality.

(f) Funds appropriated under (d) of this section may not be used for the retirement of municipal debt.

(g) Amounts received by the state under 42 U.S.C. 6508 and not appropriated for grants to municipalities under (d) of this section lapse at the end of each fiscal year as follows:

(1) 50 percent to the principal of the Alaska permanent fund;

(2) .5 percent to the public school fund (AS 37.14.110); and

(3) the remainder to the general fund for use by the state for the following facilities and services:

(A) planning;

(B) construction, maintenance, and operation of essential public facilities; and

(C) other necessary public services. (§ 2 ch 94 SLA 1984; am §§ 2, 3 ch 53 SLA 1986)

Revisor's notes. — Formerly AS 37.25.040. Renumbered in 1988.

1986 Acts, see § 1, ch. 94, SLA 1984, and § 1, ch. 53, SLA 1986, respectively, in the Temporary and Special Acts.

Cross references. — For legislative findings in connection with the 1984 and

**Sec. 37.05.540. Budget reserve fund; appropriation limit.**

(a) There is established as a separate fund in the state treasury the budget reserve fund. The budget reserve fund consists of appropriations to the fund. Money received by the state that is subject to the appropriation limit under (b) of this section and that exceeds that limit, may be appropriated to the budget reserve fund.

(b) Except for appropriations to the permanent fund or for Alaska permanent fund dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a nonstate source in trust for a specific purpose, including revenue of a public enterprise or public corporation of the state that issues revenue bonds, appropriations from the

treasury made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more than five percent plus the change in population and inflation since the beginning of the preceding fiscal year. For purposes of applying this limit an appropriation is considered to be made in the fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in which the original appropriation is enacted. The determination of the change in population for purposes of this subsection shall be based on an annual estimate of population by the Department of Labor. The determination of the change in inflation for purposes of this subsection shall be based on the Consumer Price Index for all urban consumers for Anchorage prepared by the United States Bureau of Labor Statistics. The amount of money received by the state that is subject to the appropriation limit includes the balance in the general fund carried forward from the preceding fiscal year.

(c) If the legislature determines that the money subject to the appropriation limit received by the state in a fiscal year is less than the maximum permitted to be appropriated under (b) of this section, up to 25 percent of the balance of the budget reserve fund may be appropriated to the general fund.

(d) The Department of Revenue shall manage and invest assets of the budget reserve fund in the manner set out for the management and investment of the assets of the general fund under AS 37.10.070. Income from investment of the budget reserve fund may be appropriated to the fund each year by law.

(e) Notwithstanding other provisions of this section, appropriations may be made from the budget reserve fund needed by the governor to meet a disaster. In this subsection, "disaster" has the meaning given in AS 26.23.230. (§ 1 ch 58 SLA 1986)

Revisor's notes. — Formerly AS 37.05.156. Renumbered in 1988.

Editor's notes. — Section 3, ch. 58,

SLA 1986 provides that this section "applies to fiscal year 1988 and fiscal years thereafter".

Article 7. General Provisions.

Section

- 900. Interpretation of chapter
- 910. Applicability to University of Alaska
- 920. Fiscal year

Section

- 990. Definitions for chapter
- 995. Short title

~~Sec. 37.05.900. Interpretation of chapter. This chapter shall be construed as supplemental to all other state laws not in conflict with it. If a section or part of a section of this chapter is in conflict with federal requirements for a program for which federal grant-in-aid funds are available, the section or part to the extent of the conflict is inoperative. (§ 1 art VIII ch 82 SLA 1955; am § 18 ch 186 SLA 1957)~~

37.07.010

§ 37.07.020

PUBLIC FINANCE

§ 37.07.020

the Fiscal

(3) the preparation, coordination, analysis, and enactment of a budget that is organized to focus on the services provided by state agencies and on the cost of those services and that provides for implementation of policies and plans, in the succeeding budget period;

(4) the evaluation of alternatives to existing policies, plans and procedures that offer potential for more efficient state services;

(5) the regular appraisal and reporting of program performance;

(6) public participation in the development of the annual budget, including opportunity for the public to review and comment upon the plans and programs of the Office of the Governor and all state agencies in the executive branch, the legislature, the judicial system, the University of Alaska, and the public corporations of the state. (§ 1 ch 188 SLA 1970; am § 2 ch 168 SLA 1978; am §§ 1, 2 ch 2 SLA 1982)

r special ap-

Cross references. — For constitutional provisions as to budget, see Alaska Const., art. IX, § 12.

NOTES TO DECISIONS

Stated in M-K Eng'g Co. v. Alaska Power Auth., 662 F. Supp. 303 (D. Alaska 1986).

obstacle to  
ska subject  
this title.  
Gen.

Sec. 37.07.020. Responsibilities of the governor. (a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which must cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. The budget submitted by the governor shall be organized so that the proposed expenditures for each agency are presented separately. The budget must be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenue. The proposed general appropriation bill shall become public information on December 15 of each year at which time the governor shall submit copies to the legislature and make copies available to the public.

(D. Alaska

(b) In addition to the budget and general appropriation bill, the governor shall submit a capital improvements program and financial plan covering the succeeding six fiscal years.

his chap-  
nd finan-  
nd legis-  
the state  
dures for  
odic revi-  
financial

(c) Proposed expenditures may not exceed estimated revenue for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan may not exceed the estimated revenue and bond authorizations passed and proposed.

unge pro-  
ate goals

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus. (§ 1 ch 188 SLA 1970; am § 3 ch 168 SLA 1978; am § 4 ch 18 SLA 1980; am § 3 ch 2 SLA 1982; am § 1 ch 61 SLA 1984)

Effect of amendments. — The 1984 amendment added the last sentence in subsection (a).

**Sec. 37.07.030. Responsibilities of the legislature.** The legislature shall

- (1) provide for a budget review function;
- (2) analyze the comprehensive operating and capital improvements programs and financial plans recommended by the governor;
- (3) adopt legislation to authorize implementation of the governor's comprehensive operating and capital improvements programs and financial plans or appropriate alternatives to those plans;
- (4) provide for a post-audit function to cover financial transactions, program accomplishment, and compliance with legislative intent;
- (5) adopt or revise the estimate or receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;
- (6) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years. (§ 1 ch 188 SLA 1970; am § 4 ch 168 SLA 1978)

NOTES TO DECISIONS

<p>Budgetary system established by statutes implementing Constitution. — Statutory language implementing Alaska Const., art. IX, § 13, establishes a budgetary system in which all appropriations are</p>	<p>made by legislative act. Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (file Nos. 3050, 3104), 568 P.2d 3 (1977).</p>
---	---

**Sec. 37.07.040. Office of management and budget.** The Alaska office of management and budget shall

- (1) assist the governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of state agency goals and objectives, plans, and budget requests;
- (2) prepare for submission to the governor an annually updated six-year capital improvements program and the proposed capital improvements budget for the coming fiscal year, the latter to include individual project justification with documentation of estimated project cost;
- (3) develop procedures to produce the information needed for effective policy decision making, including procedures to provide for the

§ 37.05.550

§ 37.05.990 and also  
§ 2 SLA 1986; am

§ 36.90.290" for "AS  
graph (d)(3).

§ funds shall be  
general fund:

§ 44.68.130(c);

enterprises revolv-

each of the funds  
in excess of reve-  
from that fund.  
§ 92 ch 36 SLA

injury fund, and the  
effectively, should be  
the general fund.

vessel replace-  
a marine high-  
s of money ap-  
ed to the fund  
nage the fund.  
anted for sepa-  
y. The legisla-  
hment of exist-  
erry vessels, or  
ls.  
ey received by  
ceipts or from  
um Sands case  
case (State v.  
ka permanent

§ 37.05.800

PUBLIC FINANCE

§ 37.07.030

fund under AS 37.13.010(a)(1) or (2) or into the public school trust  
fund under AS 37.14.150. (§ 1 ch 145 SLA 1990)

**Cross references.** — For Alaska Ma-  
rine Highway System Fund and budget,  
see AS 19.65.050 — 19.65.100.

**Effective dates.** — Section 1, ch. 145,  
SLA 1990, which enacted this section,  
took effect on September 19, 1990.

### Article 6A. Miscellaneous Provisions.

#### Section

800. Restriction on use of state money for  
residential contracting

**Effective date of article.** — Section  
13, ch. 99, SLA 1990, provides: "This Act  
takes effect July 1, 1991."

**Sec. 37.05.800. Restriction on use of state money for residen-  
tial contracting.** (a) The state may not grant or loan money or pur-  
chase a loan for the construction or alteration of a privately-owned  
residential structure of one to four units unless the grant or loan  
requires the construction or alteration to be undertaken by a residen-  
tial contractor with an endorsement issued under AS 08.18. In this  
subsection, "alteration" means changes that have a value greater  
than 25 percent of the value of the structure being altered.

(b) The restriction of (a) of this section does not apply to a state loan  
or grant or purchase of a loan made for work described in AS  
08.18.161 that is exempt from the requirements of AS 08.18. (§ 10 ch  
99 SLA 1990)

### Chapter 07. Executive Budget Act.

#### Section

30. Responsibilities of the legislature

**Sec. 37.07.030. Responsibilities of the legislature.** The legisla-  
ture shall

- (1) provide for a budget review function;
- (2) analyze the comprehensive operating and capital improvements  
programs and financial plans recommended by the governor;
- (3) adopt legislation to authorize implementation of the governor's  
comprehensive operating and capital improvements programs and fi-  
nancial plans or appropriate alternatives to those plans;
- (4) provide for a post-audit function to cover financial transactions,  
program accomplishment, and compliance with legislative intent;

(5) adopt or revise the estimate of receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;

(6) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years. (§ 1 ch 188 SLA 1970; am § 4 ch 168 SLA 1978)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

**Sec. 37.07.080. Program execution.**

Cross references. — For definition of "program receipts" applicable to this section, see AS 37.05.146.

**Chapter 10. Public Funds.**

**Article**

2. Accounting (§ 37.10.050)
3. Investment and Deposit of State Funds (§ 37.10.085)

**Article 2. Accounting.**

**Section**

50. Charges for state services; collection, accounting and deposit of state money

**Sec. 37.10.050. Charges for state services; collection, accounting and deposit of state money.** (a) A state agency may not charge for the provision of state services unless the charge (1) is set or otherwise authorized by statute; and (2) where a regulation is necessary, is set by or provided for in a regulation that meets the standards of AS 44.62.020 and 44.62.030. A fee or other charge that is set by regulation may not exceed the estimated actual costs of the state agency in administering the activity or providing the service unless otherwise provided by the statute under which the regulation is adopted; this limitation does not apply to sales of property by a state agency. Unless specifically exempted by statute, a state agency authorized to collect or receive fees, licenses, taxes, or other money belonging to the state shall account for and remit the receipts, less fees to which the collector is entitled by statute or regulation, to the Department of Revenue at least once each month. The commissioner of administration shall separately account under AS 37.05.142 for receipts deposited under this subsection.

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

## MEMORANDUM

DATE: January 29, 1991

TO: Members of the House Judiciary Committee

FROM: Representative Max Gruenberg *Max*  
Representative Niilo Koponen *Niilo*

RE: HB 8, "An Act relating to the statutory appropriation limits and to balancing the budget, and ensuring compliance with appropriation limits in the budget process."

I would very much appreciate your support for HB 8. Under this bill, appropriations will generally be limited to the same level as the preceding fiscal year adjusted for inflation and population changes.

It also requires the governor to provide to the legislature an estimate of anticipated state revenues and expenditures for the fiscal year after the fiscal year for which the governor's budget is submitted. It adds a statutory requirement that proposed expenditures must be within statutory and constitutional appropriation limits.

The bill requires the legislature to cut expenditures as well as adjust revenues, if necessary, to balance the budget or meet constitutional and statutory spending limits. The bills also allows the governor to call a special session to deal with a revenue shortfall.

Alaska's fiscal health depends on responsible legislative actions to deal with changing revenues available and changing state needs. HB 8 is an important step in the right direction.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 8

Revision Date: \_\_\_\_\_ Department Affected: Legislative Affairs Agency

Title: "An Act relating to the statutory appropriation limit and to balancing..." BRU: Legislative Council

Component: Session Expenses, Legal Services

Sponsor: Representative Gruenberg

Requestor: Representative Gruenberg COMPONENT SERIAL NO. 

	7	8	2
	7	8	1

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director *Pamela A. Stoops* Phone: 465-3800

Division: Administrative Services Date: January 24, 1991

Approved by Commissioner: Warren W. Endicott, Executive Director *Warren W. Endicott*

Agency: Legislative Affairs Agency Date: January 24, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB

9

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 21, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 1-30-91

The JUDICIARY Committee considered:

HB 9

HOUSE BILL NO. 9

LIMIT FREE SAMPLES OF TOBACCO PRODUCTS

"An Act relating to tobacco."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_  the same title

have attached amendments(s)  a new title

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note LAW, Public Safety

zero fiscal note(s) \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

	Check appropriate column:	Do Not	No Rec	Amend
		Pass		
<i>Dave Buckley</i>				
<i>W. H. ...</i>			<input checked="" type="checkbox"/>	
	<i>Terry ...</i>		<input checked="" type="checkbox"/>	
	<i>Mark ...</i>		<input checked="" type="checkbox"/>	
	<i>Kevin ...</i>		<input checked="" type="checkbox"/>	
	<i>Michael W. ...</i>		<input checked="" type="checkbox"/>	

*Dave Buckley*  
\_\_\_\_\_  
Chairman's Signature

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

BILL NO. HB 9

Revision Date: \_\_\_\_\_ Department Affected: Department of Law

Title: "An Act relating to tobacco." BRU: Legal Services

Component: Operations

Sponsor: Representative Gruenberg

Requestor: Representative Gruenberg COMPONENT SERIAL NO. 

		9	3
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

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

Estimate of current year impact: -0-

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

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: January 24, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: January 24, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 9

This bill amends AS 11.76 by adding a new section that provides that a person may not provide tobacco to another person without charge or for a nominal fee, for the purpose of promoting retail sales. The bill does allow a person to provide small samples of tobacco without charge or for a nominal fee to a person 19 years of age or older for the purpose of promoting retail sales, if the samples are provided in a retail store that sells primarily tobacco, or at trade shows or conventions from which the general public is excluded, or in conjunction with a separate sale of tobacco by a retailer, manufacturer, or distributor.

In the past, the tobacco industry represented that state jurisdiction of tobacco promotions is preempted by 15 U.S.C. 1334(b), which places responsibility for regulating tobacco advertising at the federal level. It is the Department of Law's view, however, that the distribution of free samples falls under 15 U.S.C. 1332(6), which places the responsibility for the regulation of the distribution of tobacco, whether for sale or not, at the state level. If the bill is approved and is then subsequently challenged in court, the department will handle a challenge using its existing staff. Consequently, fiscal note costs are not required.

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 9

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Tobacco  
Sponsor: Rep. Gruenberg  
Requestor: H. JUD

Department Affected: Public Safety  
BRU: Alaska State Troopers  
Component: Detachments

COMPONENT SERIAL NO. 

	7	9	9
--	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-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						
OTHER/PROG RCPT						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact No fiscal impact anticipated.

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

Prepared by: Gayle A. Horetski, Dep. Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 1/25/91  
 Approved by Commissioner: *Gayle A. Horetski* Richard L. Burton  
 Agency: Department of Public Safety Date: 1/25/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)  
914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

## MEMORANDUM

TO: Members of the House Judiciary Committee  
FROM: Representative Max Gruenberg  
DATE: January 24, 1991  
SUBJECT: HB 9, the Anti-Tobacco Sample Bill

I would very much appreciate your support of HB 9, the anti-tobacco sample bill.

Under the present law it is legal to give adults unsolicited free samples of cigarettes and other tobacco products.

This bill prohibits giving away tobacco products in order to promote retail sales except in limited circumstances, such as in tobacco shops or conventions.

Deaths and serious illnesses from tobacco use are some of society's most serious substance abuse problems. This bill discourages tobacco use by prohibiting this type of aggressive marketing.

This is the same bill that passed the House last year by a vote of 29-4 as HB 466.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

January 28, 1991

Charles E. Cole  
Attorney General  
P.O. Box K  
Juneau, Alaska 99811

Re: HB 9 -- Prohibiting the free distribution or sampling of tobacco products

Dear Attorney General Cole:

Last year the Attorney General concluded that HB 466 was not preempted by federal statute (opinion attached). The Judiciary Committee would like an opinion from you as to whether HB 9, which is substantially identical to last year's HB 466, is preempted by federal statute.

Thank you for your attention to this request.

Very truly yours,

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

Dave Donley, Chair

DD:lho

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

## MEMORANDUM

DATE: January 28, 1991  
TO: Representative Max Gruenberg  
FROM: Mark Handley  
RE: Sectional Analysis of HB 9, "An Act relating to Tobacco"

### Section 1

AS 11.76.100 (a) amends statutes prohibiting sales of tobacco to persons under the age of 19 by changing the definition of tobacco to that used in the state revenue statutes.

### Section 2

AS 11.76.105 (a) amends the statute prohibiting possession of tobacco by a person under 19 by changing the definition of tobacco to that used in the revenue statutes.

### Section 3

AS 11.76.108 prohibits giving away free samples of tobacco for the purpose of promoting retail sales except under certain circumstances.

### Section 4

AS 11.81.90 (b) (58) defines tobacco in all of title 11 as "cigarette" or "tobacco product" as defined in the revenue statutes.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

465-2696

DIVISION OF ENVIRONMENTAL HEALTH  
P.O. BOX 0, JUNEAU, AK 99811-1800

### POSITION PAPER CSHB 446 (JUDICIARY)

March 18, 1990

Contact: Douglas Donegan

#### Title

An act relating to tobacco

#### Effect of the Bill

The bill prohibits the sale of tobacco to minors and adds a section regulating promotional sale of tobacco.

#### Department Position

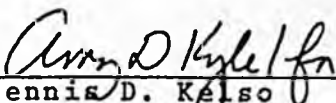
The Department supports CSHB 446. The adverse health effects of the use of tobacco products are well recognized. Smoking represents the major preventable cause of death and disease in the U. S. today. Prohibiting the free distribution of tobacco samples to minors and adults can serve to discourage their initial and subsequent addiction to tobacco.

#### Suggested Revisions

None

#### Fiscal Effect

There is no fiscal impact on the Department.

  
\_\_\_\_\_  
Dennis D. Kelso  
Commissioner

KETCHIKAN MEDICAL CLINIC, INC.

3612 Tongass  
Ketchikan, Alaska 99901

H.J. Henrickson, M.D., F.A.A.F.P.  
D.E. Johnson, M.D., F.A.A.P.

Phone 225-5144

March 13, 1990

The Honorable Max F. Gruenberg, Jr.  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Dear Representative Gruenberg:

Thank you for your letter of March 7, and for sending me a copy of House Bill 466. At risk of burdening you with information you can't use, I have taken the liberty of enclosing quite a packet. It is not as overwhelming as it might look, and I will explain the sequence of things and what they are.

The first item is self explanatory. The second item is a set of statistics from the Wall Street Journal that showed that cigarette companies are increasing their inflation adjusted prices, not simply their consumer price. Cigarettes generated approximately 31 billion dollars for the tobacco companies in 1982, and netted the tobacco companies 38 billion dollars in 1989! Excise taxing has not kept pace.

Next in this packet are several first sheets on articles from the **Journal of the American Medical Association** of January 1989. Starting smoking is decreasing among young men, while it is remaining about the same or increasing slightly among young women. Smoking prevalence is declining in all educational groups, but is declining more among the higher educated. Projections to the year 2000 suggest that at current rates at least 30% of those who have a high school education or less will be smokers, whereas less than 10% of those who graduate from college will smoke. Approximately 1.3 million people per year stop smoking, but about 1 million start smoking, most of them young people.

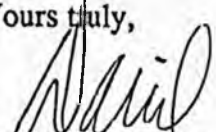
Pregnant women smoked only 70% as much as non-pregnant women, mostly because pregnant women were more likely to have quit smoking than non-pregnant women. "However, unmarried pregnant white women were 40% more likely to smoke than their non-pregnant counterparts."

Even with a program that reduced illegal over-the-counter sale of cigarettes to minors, sales to minors from vending machines were not reduced at all. An eye-tracking study showed that the commercial artists employed by tobacco companies are very skillful at keeping the warnings out of perception. Bill board advertising also effectively excludes the surgeon general's warnings from readability, and for comparison, I have attached a headline from the **Seattle Post Intelligencer** that grabs attention much more effectively.

The packet of articles that follows is four of the articles whose first sheets I sent, and an editorial on smoking from **JAMA**. Please contact me or Rick Urion if you need any further information. The Health Sciences Library in the University of Alaska Anchorage can help you with getting articles from the list of references.

Thank you again for your efforts in this area.

Yours truly,

  
David E. Johnson, M.D.

DEJ:bjh

cc: Representative Cheri Davis