

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11063 HOUSE STATE AFFAIRS

Thomas S. Nukapigak,  
Pt. Lay, Alaska, Age 39

Employed by ICAS EPA. Current member of NSB Assembly and Pt. Lay Volunteer Search & Rescue. Former presidents of Pt. Lay Native Village IRA Council 2001-2002 and Pt. Lay Search & Rescue.

Charlie Soosuk Atungowruk,  
Fairbanks, Alaska, Age 65

Retired laborer. No prior experience on boards, councils, or other organizations.

#### **Continuing Directors Until 2004**

Alma M. Upicksoun, Esq.  
Anchorage, Alaska, Age 46

Cully Board member from 1998 to present with eighty-nine percent (89%) meeting attendance in 2002. Current Arctic Slope Regional Corporation Vice-President. Of General Counsel 2000 to current ASRC House Counsel from 1994 to 1999 Liaison Officer with NSB from 1990 to 1993. Visiting Professor of Political Science & Alaska Native Studies University of Alaska-Fairbanks from 1988 to 1989. Member of Alaska Bar Association.

Genevieve Tukrook  
Anchorage, Alaska, Age 57

Cully Board member Secretary/Treasurer from 1999-2001. Appointed in March, 2003 to complete seat 6 term. Employed as ASRC's Anchorage office receptionist since 1998. Formerly employed by US Federal Government from 1980-1998.

Martha Tukrook  
Point Lay, Alaska, Age 43

Cully Board member from April 1998 to present, Secretary /Treasurer from 2001 to present, with one hundred percent (100%) meeting attendance in 2002. NSB Apprenticeship Committee Member, 2000 to present. Pt. Lay Constructors Committee Member 1999 to present. Employed by Cully Corporation as Project Manager from January 2001 to present. Point Lay Mother's Club, Kali School Advisory Council. Past employee of NSB Mayor's Office from 12/96 to 1998.

#### **Continuing Directors Until 2005**

Ardys Akers  
Anchorage, Alaska, Age 53

Cully Board member from April 2002 to present, with one hundred percent (100%) meeting attendance in 2002. Employed since 1998 as Budget Analyst for the Federal government. Formerly employed by University of Alaska, Fairbanks.

Joseph A. Upicksoun  
Barrow, Alaska, Age 71

Cully Board member from 1971 to present, with one hundred percent (100%) meeting attendance in 2002. Previous employee of the NSB Housing Department. Past employee of Cully from 6/98 to 3/99. ASRC Board member 1971-1994.

### Compensation of Directors and Officers

The following table sets forth the total money paid to current officers or directors of the corporation for the fiscal year ending December 31, 2002 and for the and aggregate direct remuneration for all directors and officers as a group:

Name & Capacity	Total Remuneration	Pension Plan
Alma M. Upicksoun, Chair Person	\$ 0	-0-
Martha Norton-Awalin, President	\$53,848	-0-
Lily Anniskett, Vice President	\$ 1,750	-0-
Martha O. Tukrook Sec./Treas.	\$38,488	-0-
Ardys Akers, Director	\$ 700	-0-
Joseph Upicksoun, Director	\$ 2,150	-0-
Walter T. Toorak, Sr., Director	\$ 1,875	-0-
Genevieve Tukrook, Director	\$ 300	-0-
<b>Total Compensation</b>	<b>\$99,111</b>	

The Cully Board of Directors currently had no standing committees during the fiscal year ending December 31, 2002. The Cully Corporation Board of Directors has met nine (9) times within the past fiscal year.

### Cumulative Voting for Directors

In voting your shares for the election of directors, you may cumulate your votes as set forth by the Alaska Status [AS 10.06.420(d)] as follows:

“(d) Unless the articles of incorporation provide otherwise, at an election for directors each shareholder entitled to vote at the election may vote, in person or by proxy, the number of shares owned by the shareholder for as many persons as there are directors to be elected and for whose election the shareholder has a right to vote, or to cumulate votes by giving one candidate votes equal to the number of directors multiplied by the number of shares of the shareholder, or by distributing votes on the same principle among any number of candidates. The rights created by this subsection may not be limited by amendments to the articles when the votes cast against the amendment would be sufficient to elect one director if voted cumulatively at an election of the entire board. If you are entitled to vote one hundred (100) shares of stock, the manner in which these shares may be voted for the election of directors is illustrated as follows:

Number of shares	100
Directors to be elected	x2
 Total Numbers of votes	 200
(Multiply number of shares by 2)	

**Other Matters**

The corporation and its management know of no other matters other than those mentioned in the Proxy Statement to be brought before the meeting. However, if other matters do properly come before the meeting, it is the intention of the proxy holders to vote proxies in accordance with their best judgment, unless the proxy contains specific instructions otherwise.

March 15, 2003

BY ORDER OF THE BOARD OF DIRECTORS

A handwritten signature in cursive script, appearing to read "Martha O. Tukrook", written over a horizontal line.

Martha O. Tukrook  
Corporate Secretary/Treasurer

**Cully Corporation**  
**Proxy for Annual Meeting of Shareholders**  
**To Be Held on April 26, 2003**

The undersigned is entitled to vote at the meeting of the Cully Corporation shareholders to be held at the Dr. Albert Conference Hall, Ilisagvik College, Barrow, Alaska on Saturday, April 26, 2003 at 1:00 P.M.

1.) **Election of Directors:** There are two (2) directors to be elected at this annual meeting. You may cast all of your votes for one (1) person or you may divide your votes among all or any number of nominees. You have the total number of votes, as indicated on this proxy.

<b>Position</b>	<b>Name</b>	<b>Number of Votes</b>
Seat #1	Lily K. Anniskett	_____
Seat #1	Charlie Soosuk Attungowruk	_____
Seat #2	Walter Toorak, Sr.	_____
Seat #2	Thomas S. Nukapigak	_____

2.) I do not wish to vote my shares for any of the persons above and authority to vote my shares for any nominee is withheld.

WITHHELD (    )

This proxy will be voted as directed. If no direction is indicated, it will be voted as described in the proxy statement of March 15, 2003, and in the Board's discretion in the transaction of such other business as may properly come before the annual meeting or any adjournment of it.

\_\_\_\_\_  
Signature of Shareholder/Custodian

\_\_\_\_\_  
Date



# Cully Corporation

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MAR 21 2003

DEPARTMENT OF COMMUNITY  
AND ECONOMIC DEVELOPMENT  
SECURITIES SECTION

## NOTICE OF ANNUAL MEETING

P.O. Box 59089  
Point Lay, AK 99759  
Phone: (907) 833-2705  
Fax: (907) 833-2715

3820 Lake Otis Pkwy., # 106  
Anchorage, AK 99508  
Phone: (907) 569-2705  
Fax: (907) 569-2715

To the shareholders of Cully Corporation

NOTICE IS HEREBY GIVEN that the annual meeting of shareholders of Cully Corporation will be held at the Dr. Albert Conference Hall, Ilisagvik College in Barrow, Alaska, on Saturday, April 26, 2003 at 1:00 p.m. for the following purposes:

1. To elect Board of Directors as outlined in the accompanying Proxy Statement.
2. To transact such other business as may properly come before the meeting or any adjournment thereof.

Only shareholders of record at the close of business on March 15, 2003 are entitled to vote at the meeting. Shareholders are invited to vote at the meeting in person. If you will not be able to attend the meeting in person, you are requested to fill in, sign, and date the enclosed proxy and return it promptly in the envelope provided.

All proxies must be filed with the Corporate Secretary of the Corporation on or before 5:00 p.m. on April 25, 2002 in order to be voted at the meeting.

Pt. Lay, Alaska

March 15, 2003

By Order of the Board of Directors.

Martha Tukrook,  
Corporate Secretary

**CULLY CORPORATION AND SUBSIDIARY**

Consolidated Financial Statements  
and Supplemental Information

Years Ended December 31, 2002 and 2001



**NEWHOUSE & VOGLER**  
*Certified Public Accountants*

CULLY CORPORATION AND SUBSIDIARY

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**NEWHOUSE & VOGLER**  
*Certified Public Accountants*

237 E. Fireweed Lane, Suite 200  
Anchorage, Alaska 99503  
(907) 258-7555  
(907) 258-7582 Fax

Independent Auditor's Report

Board of Directors and Shareholders  
Cully Corporation and Subsidiary  
Point Lay, Alaska

Ladies and Gentlemen:

We have audited the accompanying consolidated balance sheets of Cully Corporation and subsidiary as of December 31, 2002 and 2001, and the related consolidated statements of loss, stockholders' equity, cash flows, and comprehensive (loss) earnings for the years then ended. These consolidated financial statements are the responsibility of the Corporation's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

Except as noted in the following paragraph, we conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As discussed in Note 5, the Corporation has not maintained accurate records of its land and buildings and related depreciation, and accordingly, no amounts have been recorded in the financial statements as required by generally accepted accounting principles.

In our opinion, except for the omission of fixed assets and provision for depreciation results in an incomplete presentation as explained in the preceding paragraph, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Cully Corporation and subsidiary as of December 31, 2002 and 2001, and the results of their operations and cash flows for the years then ended in conformity with generally accepted accounting principles accepted in the United States of America.

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The additional information is presented for the purpose of additional analysis and is not a required part of the consolidated financial statements. Such information has been subjected to the auditing procedures applied in the audits of the consolidated financial statements and, in our opinion, is fairly presented in all material respects in relation to the consolidated financial statements taken as a whole.

*Newhouse & Vogler*  
February 7, 2003

**CULLY CORPORATION AND SUBSIDIARY**

*Consolidated Balance Sheets*

*December 31, 2002 and 2001*

	<u>2002</u>	<u>2001</u>
<b>Assets</b>		
<b>Current assets:</b>		
Cash	\$ 411,301	653,047
Investments	<u>454,558</u>	<u>570,382</u>
	865,859	1,223,429
<b>Receivables:</b>		
Accounts receivable	980,791	161,753
Accounts receivable from SKW Eskimos	297,377	436,344
Income tax refund receivable	86,381	-
Contracts receivable	<u>-</u>	<u>104,444</u>
<i>Total receivables</i>	1,364,549	702,541
Other current assets	<u>124,213</u>	<u>73,435</u>
<i>Total current assets</i>	<u>2,354,621</u>	<u>1,999,405</u>
Building, furniture, and equipment, at cost	86,665	77,610
Less accumulated depreciation	<u>(23,895)</u>	<u>(10,062)</u>
<i>Net building, furniture, and equipment</i>	<u>62,770</u>	<u>67,548</u>
	 <u>\$ 2,417,391</u>	 <u>2,066,953</u>
<b>Liabilities and Stockholders' Equity</b>		
<b>Current liabilities:</b>		
Accounts payable and accrued expenses	\$ 201,265	160,380
Billings in excess of cost and estimated earnings on uncompleted contracts	562,048	101,412
Note payable	<u>169,447</u>	<u>182,965</u>
<i>Total current liabilities</i>	<u>932,760</u>	<u>444,757</u>
Minority interest	<u>252,871</u>	<u>214,937</u>
<b>Stockholders' equity:</b>		
Common stock, no par value; 12,000 shares authorized, none issued or outstanding	-	-
Contributed capital - Alaska Native Fund	536,558	536,558
Retained earnings	701,780	859,329
Unrealized (loss) earnings on securities available for sale	<u>(6,578)</u>	<u>11,372</u>
<i>Total stockholders' equity</i>	<u>1,231,760</u>	<u>1,407,259</u>
	 <u>\$ 2,417,391</u>	 <u>2,066,953</u>

See accompanying notes to the consolidated financial statements.

CULLY CORPORATION AND SUBSIDIARY

Consolidated Statements of Loss

Years Ended December 31, 2002 and 2001

	2002	2001
Revenues:		
Contract revenues	\$ 3,788,011	1,926,664
Fuel revenue	160,885	55,954
Rental Income	64,429	19,920
Interest income	9,529	24,480
7(i) income	8,843	5,799
Dividend income	5,679	180,189
Miscellaneous income	1,619	1,678
Loss on sale of securities	(90,709)	(132,701)
<i>Total revenues</i>	<u>3,948,286</u>	<u>2,081,983</u>
Costs and expenses:		
Construction costs	3,321,753	1,249,619
Payroll and payroll taxes	260,461	138,318
Professional services	185,975	63,455
Fuel	44,406	56,844
Administrative travel	34,053	23,153
Rent	21,236	21,028
Utilities	19,853	20,074
Travel and Board expenses	14,805	22,026
Depreciation	13,834	4,591
Office supplies and expenses	12,825	11,096
Investment fees	12,577	14,151
Annual meeting expenses	12,401	9,518
Miscellaneous expenses	11,324	10,741
Small tools	9,887	6,679
Equipment repair and maintenance	9,265	-
Insurance	7,419	1,401
Postage	2,967	-
Advertising	1,048	-
Land issues	-	65,452
Penalties	-	6,701
<i>Total costs and expenses</i>	<u>3,996,089</u>	<u>1,724,847</u>
<i>(Loss) earnings before minority interest</i>	(47,803)	357,136
Minority interest	<u>141,699</u>	<u>265,835</u>
<i>Net (loss) earnings before income taxes</i>	(189,502)	91,301
Income tax recovery (expense)	<u>31,953</u>	<u>(92,753)</u>
Net loss	<u>\$ (157,549)</u>	<u>(1,452)</u>

See accompanying notes to the consolidated financial statements.

**CULLY CORPORATION AND SUBSIDIARY**

*Consolidated Statements of Stockholders' Equity*

*December 31, 2002 and 2001*

	<u>Common Stock</u>	<u>Contributed Capital</u>	<u>Retained Earnings</u>	<u>Accumulated Comprehensive (Loss) Gain</u>	<u>Total Stockholders' Equity</u>
Balance at December 31, 2000	\$ -	536,558	860,781	(33,665)	1,363,674
Net loss	-	-	(1,452)	-	(1,452)
Unrealized gain on securities available for sale	-	-	-	45,037	45,037
Balance at December 31, 2001	-	536,558	859,329	11,372	1,407,259
Net loss	-	-	(157,549)	-	(157,549)
Unrealized (loss) gain on securities available for sale	-	-	-	(17,950)	(17,950)
Balance at December 31, 2002	\$ -	536,558	701,780	(6,578)	1,231,760

See accompanying notes to the consolidated financial statements.

**CULLY CORPORATION AND SUBSIDIARY**

*Consolidated Statements of Cash Flows*

*Years Ended December 31, 2002 and 2001*

	<u>2002</u>	<u>2001</u>
Cash flows from operating activities:		
Net loss	\$ (157,549)	(1,452)
Adjustments to reconcile net loss to net cash flows from operating activities:		
Depreciation	13,835	4,591
Minority interest	141,699	265,835
Loss on securities	90,709	132,701
(Increase) decrease in assets:		
Accounts receivable	(819,038)	362,210
Accounts receivable from SKW Eskimos	138,967	683,623
Contracts receivable	18,063	(80,109)
Other current assets	(50,778)	(17,939)
Cost and estimated earnings on uncompleted contracts in excess of billings	-	15,921
Increase (decrease) in liabilities:		
Accounts payable and accrued expenses	40,883	58,218
Billings in excess of cost on uncompleted contracts	460,636	(675,586)
<i>Net cash (used) provided by operating activities</i>	<u>(122,573)</u>	<u>748,013</u>
Cash flows from investing activities:		
Purchase of equipment	(9,055)	(48,134)
Purchase of securities	(495,966)	(457,220)
Proceeds from the sale of securities	503,131	491,955
<i>Net cash used by investing activities</i>	<u>(1,890)</u>	<u>(13,399)</u>
Cash flows from financing activities:		
Dividends paid to partners	(103,765)	(480,391)
Payments on note payable	(13,518)	(13,757)
<i>Net cash used by financing activities</i>	<u>(117,283)</u>	<u>(494,148)</u>
<i>Net (decrease) increase in cash</i>	<u>(241,746)</u>	<u>240,466</u>
Cash at beginning of year	<u>653,047</u>	<u>412,581</u>
Cash at end of year	<u>\$ 411,301</u>	<u>653,047</u>
Supplemental disclosure of cash flow information - Cash paid for income taxes	<u>\$ 9,446</u>	<u>139,989</u>

See accompanying notes to the consolidated financial statements.

**CULLY CORPORATION AND SUBSIDIARY**

*Consolidated Statements of  
Comprehensive (Loss) Earnings*

*Years Ended December 31, 2002 and 2001*

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	<u>2002</u>	<u>2001</u>
Net loss	\$ (157,549)	(1,452)
Other comprehensive (loss) gain, net of tax - Unrealized holding (loss) gain arising during period	<u>(6,578)</u>	<u>11,372</u>
<b>Comprehensive (loss) gain</b>	<b><u>\$ (164,127)</u></b>	<b><u>9,920</u></b>

See accompanying notes to the consolidated financial statements.

## CULLY CORPORATION AND SUBSIDIARY

### *Notes to Consolidated Financial Statements*

*December 31, 2002*

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#### **NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

##### **Principal Business Activities**

Cully Corporation and its subsidiaries are engaged in the business of construction contracting, land sales, and fuel sales in the Village of Point Lay, Alaska. Substantially all the Corporation's net income arises from construction contracting activities.

##### **Principles of Consolidation**

The consolidated financial statements include accounts of Cully Corporation and its subsidiaries, Beluga Construction, LLC, and Point Lay Constructors. Cully Corporation is a village corporation within the Arctic Slope region, organized pursuant to the Alaska Native Claims Settlement Act (the Act). The Corporation owns 100 percent of Beluga Construction, LLC, and 51 percent interest in Point Lay Constructors. Beluga Construction, LLC, is a certified participant in the Small Business Administrations' 8(A) and DBE Programs. Point Lay Constructors is a joint venture with SKW Eskimos, Inc. All material intercompany profits, transactions, and balances have been eliminated.

##### **Capitalization**

Stockholders' equity includes receipts from the U.S. Government and the State of Alaska under provisions of the Act. For operational purposes, the Corporation has utilized a roll comprised of 91 Alaskan Natives eligible to receive stock certificates as certified by the Secretary of the Interior.

One hundred shares of common stock are to be issued to each qualified stockholder upon completion of stockholder enrollment pursuant to the Act.

Pursuant to the Act, until December 18, 1991, stock could not be sold, pledged, assigned, or otherwise alienated except in certain circumstances by court decree or death. Stock dividends or other distributions are similarly restricted. The stock carries voting rights only if the holder is an eligible Native.

In February 1988, legislation commonly referred to as the "1991 Amendments" was enacted into law. Major provisions of this legislation relating to stock issued under the Act include the following:

- An automatic extension of stock restrictions referred to above. Only through stockholder approval can these restrictions be removed.
- Corporation shareholders may vote to: a) include in the settlement and as stockholders Alaskan Natives born after December 18, 1971, b) provide for specific benefits to stockholders over the age of 65, and c) add as stockholders Alaskan Natives who missed the original enrollment.
- Corporate stockholders may decide whether to provide for dissenters' rights in certain circumstances.

## CULLY CORPORATION AND SUBSIDIARY

### *Notes to Consolidated Financial Statements, continued*

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#### **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, continued**

##### **Natural Resources**

Under Sections 12(a) and 12(b) of the Act, the Corporation will receive entitlement to the surface estate of real property totaling 90,009 acres. The Corporation has received interim conveyance to 74,791.22 acres of surface estate land under Section 12(a) of the Act.

Land and surface rights conveyed under the Act have not been recorded at the date of conveyance unless the value is determined by independent appraisals or by other means subject to verification.

##### **Estimates**

The preparation of the financial statements in conformity with generally accepted accounting principles requires management to make certain estimates and assumptions that directly affect results of reported assets, liabilities, revenue, and expenses. Actual results may differ from these estimates.

##### **Cash and Equivalents**

For purposes of the statements of cash flows, the Corporation considers cash in the bank and any securities with an original maturity of three months or less to be cash equivalents.

##### **Investments at Fair Value**

The Corporation has adopted Statement of Financial Accounting Standards No. 115, *Accounting for Certain Investments in Debt and Equity Securities* (SFAS 115). In accordance with this statement, securities are classified as held to maturity, available for sale, or trading. The Corporation has classified all its marketable securities as available for sale.

Unrealized holding gains and losses for available-for-sale securities are excluded from earnings and reported, net of any income tax effect, as a separate component of stockholders' equity. Realized gains and losses are reported in earnings based on the average-cost method of securities sold.

##### **Method of Accounting for Long-term Construction Contracts**

The Corporation is engaged in various types of construction under long-term construction contracts. The accompanying consolidated financial statements have been prepared using the percentage-of-completion method of accounting and, therefore, take into account the cost, estimated earnings, and revenue to date on contracts not yet completed.

The amount of revenue recognized at the statement date is the portion of the total contract price that the cost expended to date bears to the anticipated final total cost, based on current estimates of the cost to complete.

Contract changes subject to negotiation (claims) are recorded where recovery is probable. The amounts, when recorded, do not include profit and do not exceed the probable recovery amount.

Contract costs include all direct labor and benefits, materials unique to or installed in the project, subcontract cost, and allocated indirect construction costs.

## CULLY CORPORATION AND SUBSIDIARY

*Notes to Consolidated Financial Statements, continued*

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### **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, continued**

#### **Method of Accounting for Long-term Construction Contracts, continued**

As long-term contracts extend over one or more years, revisions in estimates of costs and earnings during the course of the work are reflected in the accounting period in which the facts which require the revision become known.

At the time a loss on a contract becomes known, the entire amount of the estimated ultimate loss is recognized in the financial statements.

#### **Long-lived Assets**

Long-lived assets to be held and used are reviewed for impairment whenever events or changes in circumstances indicate that the related carrying amount may not be recoverable. When required, impairment losses on assets to be held and used are recognized based on the excess of the asset's carrying amount over the fair value of the asset, and long-lived assets to be disposed of are reported at the lower of carrying amount or fair value less cost to sell.

#### **Operating Cycle**

Assets and liabilities related to long-term contracts are included in current assets and current liabilities in the accompanying consolidated balance sheet, as they will be liquidated in the normal course of contract completion, although this may require more than one year.

#### **Income Taxes**

Deferred income taxes have been provided under the liability method. Deferred tax assets and liabilities are determined based upon the difference between the financial statement and tax basis of assets and liabilities as measured by the enacted tax rates which will be in effect when these differences are expected to reverse.

### **NOTE 2 - DEPOSITS WITH FINANCIAL INSTITUTIONS**

At December 31, 2002, the Corporation had cash deposits with a book value of \$360,189 and a bank balance of \$371,355, of which \$231,236 was not insured by Federal Depository Insurance. At December 31, 2001, the Corporation had cash deposits with a book value of \$603,047 and a bank balance of \$627,734 of which \$406,991 was not insured by Federal Depository Insurance.

**CULLY CORPORATION AND SUBSIDIARY**

*Notes to Consolidated Financial Statements, continued*

**NOTE 3 - INVESTMENTS AT FAIR VALUE**

The Corporation's investments are accounted for as "available for sale." Investment in marketable securities at December 31, 2002, was as follows:

	<u>Cost</u>	<u>Unrealized Gain (Loss)</u>	<u>Fair Value</u>
Merrill Lynch dividend fund	\$ 202,393	(11,514)	190,879
Merrill Lynch growth fund	<u>258,743</u>	<u>4,936</u>	<u>263,679</u>
	<u>\$ 461,136</u>	<u>(6,578)</u>	<u>454,558</u>

There was \$90,709 in realized losses on the sale of investments during 2002.

Investment in marketable securities at December 31, 2001, was as follows:

Merrill Lynch dividend fund	\$ 208,893	5,825	214,718
Merrill Lynch growth fund	<u>350,117</u>	<u>5,547</u>	<u>355,664</u>
	<u>\$ 559,010</u>	<u>11,372</u>	<u>570,382</u>

There was \$132,554 in realized losses on the sale of investments during 2001.

**NOTE 4 - COSTS AND ESTIMATED EARNINGS ON CONTRACTS IN PROGRESS**

	<u>2002</u>	<u>2001</u>
Costs incurred on uncompleted contracts	\$ 2,469,069	23,429,091
Estimated earnings	<u>435,398</u>	<u>3,854,155</u>
	2,904,467	27,283,246
Billings to date	<u>3,373,175</u>	<u>27,381,958</u>
<b>Contract revenue adjustment</b>	<u>\$ (468,708)</u>	<u>(98,712)</u>

This contract adjustment is included in the accompanying balance sheet under the following captions:

Billings in excess of costs and estimated earnings on uncompleted contracts	<u>\$ 562,048</u>	<u>101,412</u>
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## CULLY CORPORATION AND SUBSIDIARY

Notes to Consolidated Financial Statements, continued

### NOTE 5 - LAND, BUILDINGS, AND PROPERTY TAXES

The Corporation currently owes approximately \$83,442 in property taxes to North Slope Borough (NSB). The taxes pertain to properties and improvements for Point Lay Store, teacher housing, fuel tank farm, a five-plex property, and other land and buildings in Point Lay, Alaska. None of this land and improvements has been recorded on the books of the Corporation, as there is some question of its ownership and value. NSB is currently updating its tax assessment system and will evaluate ownership and related property taxes for these properties. The Corporation expects to have the issue resolved before the end of calendar year 2003.

### NOTE 6 - RELATED PARTY TRANSACTIONS

SKW Eskimos, Inc., the other partner in Point Lay Constructors, owes the Joint Venture \$297,377. This balance represents the operating cash balance held by SKW Eskimos as the managing partner of the Joint Venture.

### NOTE 7 - INCOME TAXES

The Corporation had an income tax recovery of \$(31,953) for the year ended December 31, 2002. Income tax expense for the year ended December 31, 2001, was \$92,753. Actual tax (recovery) expense differs from "expected" tax (recovery) expense (computed by applying U.S. federal corporation income tax rates to earnings before taxes) as follows:

Components of current-year income tax (recovery) expense follow:

	<u>2002</u>	<u>2001</u>
Computed "expected" tax (recovery) expense	\$ (67,642)	31,042
Penalties	-	2,278
Capital losses in excess of gains	30,842	45,118
Depreciation	1,039	(8,346)
Federal benefit of State taxes	(5,940)	10,176
Other	9,446	-
Under-accrual of prior-year liability	-	19,698
Surtax exemption	<u>302</u>	<u>(7,213)</u>
	<u>\$ (31,953)</u>	<u>92,753</u>

### NOTE 8 - MAJOR CUSTOMERS

Of total consolidated revenues, \$3,788,011, or 96 percent, is from construction contracts being performed in and around Point Lay, Alaska, for NSB.

## CULLY CORPORATION AND SUBSIDIARY

*Notes to Consolidated Financial Statements, continued*

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### **NOTE 9 - COMMITMENTS AND CONTINGENCIES**

In previous years, Bureau of Indian Affairs (BIA) and NSB built houses on Cully property. Ownership of the structures rests with shareholders of Cully Corporation. Ownership of the land that the structures were built on rests with Cully Corporation. At the time the BIA and NSB homes were built, several deeds were processed, but due to loss of records and relocations of the village site, most homes do not have deeds to the property. The first deed to a Cully shareholder was processed in 2002 for a nominal fee of \$1,000.

In order to deed this property to homeowners and prevent unequal distribution of property to individual shareholders, the Corporation expects to make a similar distribution of assets available to the remaining shareholders of Cully Corporation.

**SUPPLEMENTAL INFORMATION**

**CULLY CORPORATION AND SUBSIDIARY**

*Combining Balance Sheet*

December 31, 2002

	<u>Cully</u>	<u>Beluga Construction</u>	<u>Point Lay Constructors</u>	<u>Eliminations</u>	<u>Consolidated</u>
<b>Assets</b>					
<b>Current assets:</b>					
Cash	\$ 360,223	51,078	-	-	411,301
Investments	<u>454,558</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>454,558</u>
	<u>814,781</u>	<u>51,078</u>	<u>-</u>	<u>-</u>	<u>865,859</u>
<b>Receivables:</b>					
Accounts receivable	186,111	16,369	778,311	-	980,791
Accounts receivable from SKW Eskimos	-	-	297,377	-	297,377
Income tax refund receivable	<u>86,381</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>86,381</u>
<i>Total receivables</i>	<u>272,492</u>	<u>16,369</u>	<u>1,075,688</u>	<u>-</u>	<u>1,364,549</u>
Other current assets	<u>123,513</u>	<u>700</u>	<u>-</u>	<u>-</u>	<u>124,213</u>
<i>Total current assets</i>	<u>1,210,786</u>	<u>68,147</u>	<u>1,075,688</u>	<u>-</u>	<u>2,354,621</u>
Building, furniture and equipment, at cost	86,665	-	-	-	86,665
Less accumulated depreciation	<u>(23,895)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(23,895)</u>
<i>Net building, furniture, and equipment</i>	<u>62,770</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>62,770</u>
Due from/to subsidiary	37,143	(37,143)	-	-	-
Note receivable	200,000	-	-	(200,000)	-
Investment in Point Lay Constructors	260,769	-	-	(260,769)	-
Investment in Beluga Construction Company	<u>50,000</u>	<u>-</u>	<u>-</u>	<u>(50,000)</u>	<u>-</u>
	<u>\$ 1,821,468</u>	<u>31,004</u>	<u>1,075,688</u>	<u>(510,769)</u>	<u>2,417,391</u>
<b>Liabilities and Stockholders' Equity</b>					
<b>Current liabilities:</b>					
Accounts payable and accrued expenses	\$ 181,297	19,968	-	-	201,265
Billings in excess of cost and estimated earnings on uncompleted contracts	-	-	562,048	-	562,048
Note payable	<u>169,447</u>	<u>200,000</u>	<u>-</u>	<u>(200,000)</u>	<u>169,447</u>
<i>Total current liabilities</i>	<u>350,744</u>	<u>219,968</u>	<u>562,048</u>	<u>(200,000)</u>	<u>932,760</u>
Minority interest	<u>-</u>	<u>-</u>	<u>-</u>	<u>252,871</u>	<u>252,871</u>
<b>Stockholders' equity:</b>					
Common stock, no par value; 12,000 shares authorized, none issued or outstanding	-	-	-	-	-
Contributed capital	536,558	50,000	-	(50,000)	536,558
Retained earnings (loss)	940,744	(238,964)	513,640	(513,640)	701,780
Unrealized holding (losses) earnings	<u>(6,578)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(6,578)</u>
<i>Total stockholders' equity</i>	<u>1,470,724</u>	<u>(188,964)</u>	<u>513,640</u>	<u>(563,640)</u>	<u>1,231,760</u>
	<u>\$ 1,821,468</u>	<u>31,004</u>	<u>1,075,688</u>	<u>(510,769)</u>	<u>2,417,391</u>

See accompanying accountant's report.

**CULLY CORPORATION AND SUBSIDIARY**

*Combining Statement of Earnings (Loss)*

*Year Ended December 31, 2002*

	<u>Cully</u>	<u>Beluga Construction</u>	<u>Point Lay Constructors</u>	<u>Eliminations</u>	<u>Consolidated</u>
<b>Revenues:</b>					
Contract revenues	\$ 447,599	285,820	3,054,592	-	3,788,011
Fuel revenue	160,885	-	-	-	160,885
Income from equity in Point Lay Constructors	147,482	-	-	(147,482)	-
Rental income	64,429	-	-	-	64,429
Interest income	23,513	-	-	(13,984)	9,529
7(l) income	8,843	-	-	-	8,843
Dividend income	5,679	-	-	-	5,679
Miscellaneous income	1,030	589	-	-	1,619
Loss on sale of securities	(90,709)	-	-	-	(90,709)
<i>Total revenues</i>	<u>768,751</u>	<u>286,409</u>	<u>3,054,592</u>	<u>(161,466)</u>	<u>3,948,286</u>
<b>Costs and expenses:</b>					
Construction costs	329,804	226,538	2,765,411	-	3,321,753
Payroll and payroll taxes	128,720	131,741	-	-	260,461
Professional services	96,322	89,653	-	-	185,975
Fuel	44,406	-	-	-	44,406
Administrative travel	18,344	15,709	-	-	34,053
Rent	8,211	13,025	-	-	21,236
Utilities	19,853	-	-	-	19,853
Travel and Board expenses	14,805	-	-	-	14,805
Depreciation	13,834	-	-	-	13,834
Office supplies and expenses	5,779	7,046	-	-	12,825
Investment fees	12,577	-	-	-	12,577
Annual meeting expenses	12,401	-	-	-	12,401
Miscellaneous expenses	5,928	5,396	-	-	11,324
Small tools	-	9,887	-	-	9,887
Equipment repair and maintenance	4,314	4,951	-	-	9,265
Insurance	3,991	3,428	-	-	7,419
Postage	-	2,967	-	-	2,967
Advertising	-	1,048	-	-	1,048
Interest expense	-	13,984	-	(13,984)	-
<i>Total costs and expenses</i>	<u>719,289</u>	<u>525,373</u>	<u>2,765,411</u>	<u>(13,984)</u>	<u>3,996,089</u>
<i>(Loss) earnings before minority interest</i>	49,462	(238,964)	289,181	(147,482)	(47,803)
Minority interest	-	-	-	141,699	141,699
<i>Net (loss) earnings before income taxes</i>	49,462	(238,964)	289,181	(289,181)	(189,502)
Income tax recovery	31,953	-	-	-	31,953
<i>Net (loss) earnings</i>	<u>81,415</u>	<u>(238,964)</u>	<u>289,181</u>	<u>(289,181)</u>	<u>(157,549)</u>
Retained earnings, January 1, 2001	859,329	-	436,224	(436,224)	859,329
Distributions	-	-	(211,765)	211,765	-
<b>Retained earnings (loss), December 31, 2002</b>	<u>\$ 940,744</u>	<u>(238,964)</u>	<u>513,640</u>	<u>(513,640)</u>	<u>701,780</u>

See accompanying accountant's report.

**CULLY CORPORATION AND SUBSIDIARY**

*Consolidated Statement of Cash Flows*

Year Ended December 31, 2002

	Cully	Beluga Construction	Point Lay Constructors	Eliminations	Consolidated
<b>Cash flows from operating activities:</b>					
Net (loss) earnings	\$ 81,415	(238,964)	289,181	(289,181)	(157,549)
Adjustments to reconcile net (loss) earnings to net cash flows from operating activities:					
Depreciation	13,834	-	-	-	13,834
Minority interest	-	-	-	141,699	141,699
Income (loss) from equity in Point Lay Constructors	(147,482)	-	-	147,482	-
Loss on sale of securities	90,709	-	-	-	90,709
(Increase) decrease in assets:					
Accounts receivable	(125,650)	(16,369)	(677,019)	-	(819,038)
Accounts receivable from SKW Eskimos	-	-	138,967	-	138,967
Contracts receivable	18,063	-	-	-	18,063
Other current assets	(50,078)	(700)	-	-	(50,778)
Increase in liabilities:					
Accounts payable and accrued expenses	20,916	19,968	-	-	40,884
Billings in excess of cost on uncompleted contracts	-	-	460,636	-	460,636
<b>Net cash (used) provided by operating activities</b>	<u>(98,273)</u>	<u>(236,065)</u>	<u>211,765</u>	<u>-</u>	<u>(122,573)</u>
<b>Cash flows from investing activities:</b>					
Purchase of equipment	(9,055)	-	-	-	(9,055)
Purchase of investments	(495,966)	-	-	-	(495,966)
Proceeds from the sale of investments	503,131	-	-	-	503,131
Contribution from (to) partner	(237,143)	237,143	-	-	-
Distributions from partner	108,000	-	-	(108,000)	-
<b>Net cash (used) provided by investing activities</b>	<u>(131,033)</u>	<u>237,143</u>	<u>-</u>	<u>(108,000)</u>	<u>(1,890)</u>
<b>Cash flows from financing activities:</b>					
Dividends paid to partners	-	-	(211,765)	108,000	(103,765)
Payments on note payable	(13,518)	-	-	-	(13,518)
<b>Net cash (used) provided by financing activities</b>	<u>(13,518)</u>	<u>-</u>	<u>(211,765)</u>	<u>108,000</u>	<u>(117,283)</u>
<b>Net (decrease) increase in cash</b>	<u>(242,824)</u>	<u>1,078</u>	<u>-</u>	<u>-</u>	<u>(241,746)</u>
Cash at beginning of year	<u>603,047</u>	<u>50,000</u>	<u>-</u>	<u>-</u>	<u>653,047</u>
Cash at end of year	<u>\$ 360,223</u>	<u>51,078</u>	<u>-</u>	<u>-</u>	<u>411,301</u>
<b>Supplemental disclosure of cash flow information - Cash paid for income taxes</b>					
	<u>\$ 9,446</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>9,446</u>

See accompanying accountant's report.

**BERKSHIRE HATHAWAY INC.**

1440 KIEWIT PLAZA  
OMAHA, NEBRASKA 68131  
TELEPHONE (402) 340-1400  
FAX (402) 340-0476

WARREN E. BUFFETT, CHAIRMAN

March 30, 2004

Via Fax – Dictated but not read

Representative Bruce B. Weyhrauch  
Chairman, House State Affairs Committee  
Alaska State Legislature  
Alaska State Capitol  
Juneau, AK 99801-1182

Dear Chairman Weyhrauch:

I appreciate the invitation to testify before your committee, and I admire your commitment to writing statutes that keep alive entrepreneurial spirit while punishing those who abuse the system. However, I just have to decline to testify. I get asked to do so by a variety of State and Congressional Committees. If I appear before one, it becomes very hard to say no to dozens of others in various states in which Berkshire does business or with the Federal Government where we have extensive interaction.

In general, I can say I believe in quite stiff penalties against individuals – rather than corporations – when wrongdoing is found. It's individual people who commit wrongful acts and they should pay rather than the shareholders who are bystanders. It's easier, of course, to get a big corporation to pay a stiff fine, but real deterrence occurs when the company's officers pay out of their own pockets.

Sincerely,

*Warren E. Buffett/db*

Warren E. Buffett

WEB/db

# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

March 30, 2004

Via fax (402) 346-0476

ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273



Mr. Warren E. Buffett, Chairman  
Berkshire Hathaway  
1440 Kiewit Plaza  
Omaha, Nebraska 68131

Dear Mr. Buffett:

The Alaska Legislature is presently revising portions of our statutory scheme that govern the scrutiny that the State's Securities Division has over corporations. Among the amendments that the House State Affairs Committee is considering is increasing the penalties that can be assessed against corporations found guilty of wrongdoings, and to allow the State's Securities Division to recover its full cost of investigation.

We must insure, as a matter of state policy, that laws we enact do not thwart the need for an environment for the capitalist system to flourish. As a resource-based state with a wide array of rich natural resources, we want to maintain a business climate that invites private investment. However, we should also have a State government that can penalize corporations that profit at the expense of the public, and that pay appropriate fines when those corporations act wrongfully.

We invite you to briefly testify before our committee on Berkshire Hathaway's experiences in balancing its need to profit, in harmony with its Corporate Governance's Code of Business Conduct and Ethics, against the states' scheme of investigations and penalties to punish harmful conduct by corporations their officers and agents. What works and what does not?

We appreciate that your time is limited, but our request is for 15 minutes of your time. I deeply appreciate your consideration of this request. Please call to discuss this anytime. Our session is limited, so we would like this testimony to occur before next Wednesday if possible. Since we are three hours behind you, we could accommodate you during your lunch time if that would work.

Sincerely,

A handwritten signature in cursive script that reads "Bruce B. Weyhrauch".

Bruce B. Weyhrauch  
Chairman, House State Affairs Committee

# ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
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## STATE AFFAIRS COMMITTEE

HB 527

### THE ALASKA SECURITIES ACT

#### SPONSOR'S STATEMENT

In ascending order of importance, this bill would accomplish four things that the division of banking, securities, and corporations seeks to improvement its operations. First, it streamlines a technical definition for investment adviser representative that at present is redundant and, therefore, difficult to comprehend. This is very much a technical amendment.

Second, the bill would give the securities administrator the authority to fine a person who violates the Securities Act up to \$100,000 for multiple, knowing or purposeful violations. At present the upward limit is \$25,000. The fine for a single instance of a knowing violation is left at its present minimum level of \$2,500. The bill would also raise the possible fines for inadvertent violations or violations that cannot be proven to be knowing, from a minimum \$500 for a single violation to \$25,000 for multiple instances of infringement.

The third element of the bill would give to the securities administrator the authority to order restitution to the victim of a violation of the Act. At present, any fines collected are simply placed in the general fund and the victim is left with nothing but the right to sue. There are, however, instances where suit is impracticable or burdensome for a victim. For example, if a senior citizen is bilked of \$10,000, the state can fine the perpetrator, of course, but the senior is left with no other course but to bring an action in court. If the perpetrator is from out of state, as many are, he is almost insulated from an effective legal remedy because interstate actions are very expensive and cumbersome, even for lawyers. With the authority contained in this bill and the present ability to reduce fines and awards to judgment and bring interstate actions, the senior could be reimbursed at least a portion of the losses sustained. It would seem terribly unfair to leave the victim uncompensated. Most states, as well as the newly minted Uniform Securities Act, adhere to the principle of reimbursement for victims of wrongdoing.

The fourth and most important provision of the bill would lower the jurisdictional limit of the division for oversight of ANCSA corporation proxy matters to those corporations with more than 250 shareholders. At present, those corporations with 500 or more shareholders and \$1,000,000 in assets must file with the division copies of annual reports, consents and authorizations, proxies, proxy statements, and other materials related to proxy solicitations that are published or made available to 30 or more

~ More ~

Alaska resident shareholders. The asset limitation is not appropriate because virtually none of the corporations, from the smallest to the largest, book their assets at market value, especially their land holdings. Thus, a corporation could be wealthy in terms of land, yet only carry a much smaller asset balance on their books. This does exempt them from the current reporting requirements.

The limit on shareholders should be reduced, not to burden more corporations, but to enfranchise more Native shareholders in smaller corporations. Many times, the smaller village corporations are the ones that can be, at times, less sensitive to shareholder rights. With this simple reporting requirement imposed, it gives the division the ability to police such matters and educate where needed.

There is nothing in this legislative provision that adds any more burden on a corporation of any size save the requirement to make certain specific disclosures in their proxy statements and make the expenditure for postage to send their materials to the division. This is simply a matter of disclosing more fully to shareholders. The federal statute, ANCSA, already requires every Native corporation to submit its books to audit. This bill does not alter federal law, but adds a requirement of disclosure to shareholders. Title 10 of the Alaska Statutes imposes certain other conditions; not this bill. There is an existing requirement also, that a corporation publish a proxy statement as part of a proxy solicitation. The only requirement this bill would indirectly add by virtue of having a corporation submit to the division's regulations is that certain disclosures would become mandatory. This might add a page or two to the proxy statement, but is not burdensome.

This bill clearly contains beneficial provisions while protecting the investing public and letting shareholders in Native corporations have more information

Contact: Linda Sylvester  
Representative Bruce Weyhrauch  
465-4963

Released: March 1, 2004

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 527  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Alaska Securities Act RDU Banking, Securities & Corporations(115)  
 Component Banking, Securities & Corporations  
 Sponsor House State Affairs Component No. 1233  
 Requester House State Affairs

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (1156 )</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation, among other things, increases the civil penalties for people who violate Alaska's Security Act. Penalties increase from \$2,500 for a single knowing violation to a maximum of \$100,000 for multiple knowing violations, and from \$500 to \$25,000 for unintentional violations. The department estimates an additional \$79.0 in revenues will be collected as a result of this increase. The estimate, which is subject to significant variability, is based on the weighted average of the amount of fines levied and collected over the past five years. Fines have ranged from a low \$15.7 to a high of \$683.5. Collection rates vary from a low of 0.5% to 85%. This legislation has no fiscal impact on the operations of the division.

Prepared by: Mark Davis, Director Phone (907) 465-5451  
 Division Banking, Securities & Corporations Date/Time 3/8/04 2:22 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/8/2004  
 Agency Department of Community & Economic Development

# ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA  
STATE CAPITOL  
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~ More ~

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Contact: Linda Sylvester  
Representative Bruce Weyhrauch  
465-4963

Released: March 1, 2004

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**2004 LEGISLATIVE SESSION**

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 Sponsor House State Affairs  
 Requester House State Affairs Component No. 1233

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

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

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Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (1156)</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>	<b>79.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation, among other things, increases the civil penalties for people who violate Alaska's Security Act. Penalties increase from \$2,500 for a single knowing violation to a maximum of \$100,000 for multiple knowing violations, and from \$500 to \$25,000 for unintentional violations. The department estimates an additional \$79.0 in revenues will be collected as a result of this increase. The estimate, which is subject to significant variability, is based on the weighted average of the amount of fines levied and collected over the past five years. Fines have ranged from a low \$15.7 to a high of \$683.5. Collection rates vary from a low of 0.5% to 85%. This legislation has no fiscal impact on the operations of the division.

Prepared by: Mark Davis, Director Phone (907) 465-5451  
 Division Banking, Securities & Corporations Date/Time 3/8/04 2:22 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/8/2004  
 Agency Department of Community & Economic Development

HB

536



# Alaska State Legislature



## Representative Cheryll Heinze Sponsor Statement HB 536

**"An Act relating to applications for permanent fund dividends by certain individuals serving in the armed forces; and providing for an effective date."**

Currently, Alaskan men and women who serve in the armed forces are being denied their permanent fund dividend checks because they were in situations where communications were unavailable during the application period. Alaskans who fought in the recent wars in Iraq and Afghanistan have had their applications rejected because they either didn't get their application forms in time or were unable to send them out.

These Alaskan men and women are patriots who serve their country faithfully in times of crisis and need, they deserve to be praised for their bravery and fortitude not punished for it. HB 536 amends the current PFD application process to allow for members of the armed services who receive hostile fire/imminent danger pay during the application period to receive an application extension. This would give members of the armed services the leeway they need to submit their PFD applications on time. I urge you to support this bill.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 536  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Permanent Fund Application RDU Revenue Programs & Services  
Deadlines: Military Component Permanent Fund Dividend  
 Sponsor Rules by Request of EDT  
 Requester House Military and Veterans' Affairs Component No. 981

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	25.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1950 Permanent Fund Dividend Fund	25.0					
<b>TOTAL</b>	<b>25.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						0
Part-time						
Temporary						

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

This bill proposes to extend the filing period from March 31 to August 31 in any dividend year for individuals who are absent from the state, serving as a member of the US Armed Forces, and eligible for hostile fire or imminent danger pay. The fiscal note would cover costs for advertising the change in 2005.

Prepared by: Sharon Barton Phone 465-4785  
 Division Permanent Fund Dividend Division Date/Time 4/3/04 7:29 PM  
 Approved by: Steve Porter, Deputy Commissioner Date 4/3/2004  
 Agency Department of Revenue

### **Frequently Asked Questions.**

#### **When is the filing period for the Permanent Fund Dividend?**

The dividend filing period is January 2 through March 31 each year. You must file an application every year to apply for a dividend. Late applications will be denied.

#### **How do I know if the PFD Division needs any additional information?**

The Division will send you a letter if we need additional information. The letter will be sent to your most current address on file.

#### **How do I inform the PFD Division of an address change?**

Complete a Change of Address form and submit it to the Permanent Fund Dividend Division. You may obtain a Change of Address form by:

- ◆ downloading a form off our web site at [www.pfd.state.ak.us](http://www.pfd.state.ak.us) or
- ◆ contacting us at a PFD Information Office (back side of this brochure) and request a form.

#### **Do I need to submit a copy of my Leave and Earnings Statement (LES) with my application?**

No. The PFD Division will run a tape match with Department of Defense (DOD) to check for military members with Alaska as their state of legal residence. If for some reason your information does not match DOD records and the division needs a copy of your LES or other documents related to your enlistment or discharge, the division will contact you.

[www.pfd.state.ak.us](http://www.pfd.state.ak.us)

For detailed eligibility criteria, contact one of the dividend information offices below, or visit our web site at [www.pfd.state.ak.us](http://www.pfd.state.ak.us)

### **PFD Information Office Addresses**

#### **Anchorage Dividend Information Office**

Alaska Department of Revenue  
Permanent Fund Dividend Division  
1016 W. 6th Ave.  
Anchorage, AK 99501  
(907) 269-0370  
(907) 269-0384 (fax)  
Located on the corner of 6th and K

#### **Fairbanks Dividend Information Office**

Alaska Department of Revenue  
Permanent Fund Dividend Division  
1005 Cushman Street, Suite 1  
Fairbanks, AK 99701  
(907) 451-2820  
(907) 451-5142 (fax)

#### **Juneau Dividend Information Office**

Alaska Department of Revenue  
Permanent Fund Dividend Division  
PO Box 110461  
Juneau, AK 99811-0461  
(907) 465-2326  
(907) 465-3470 (fax)  
11th floor of the State Office Building  
333 Willoughby Avenue

Toll-free number (800) 733-8813

- ◆ Available in the state of Alaska year-round.
- ◆ Available from outside the state of Alaska October through March.

Or you can E-mail us at:

[dividend\\_information@revenue.state.ak.us](mailto:dividend_information@revenue.state.ak.us)

State of Alaska  
Department of Revenue

# *Military Guide for the Alaska Permanent Fund Dividend*

ALASKA



**Permanent Fund Dividend Division**

This brochure provides general information about the Permanent Fund Dividend program as it relates to active duty military and their spouse and dependents.

## **Active duty military**

### **How to establish Alaska Residency**

#### **You must:**

- ✓ Arrive in Alaska on or before December 31, of the year before the qualifying year and
- ✓ Take at least one step beyond just being physically present in Alaska.  
**For Example:**
  - ◆ Obtain an Alaska driver's license or ID card,
  - ◆ Register to vote,
  - ◆ Register a vehicle,
  - ◆ Sign a lease for non-governmental housing or purchase a home.
- ✓ Maintain Alaska residency at all times during the qualifying year and intend to remain an Alaska resident.
- ✓ **NOTE:** Qualifying year means the calendar year prior to the year you are applying for. For example, if you apply for a dividend in 2002, the qualifying year is 2001.

#### **What you will need to supply to the PFD Division**

- ✓ Original birth certificate, passport, or citizenship papers.
- ✓ A completed PFD adult application (including a supplemental schedule if required) and requested documentation.

[www.pfd.state.ak.us](http://www.pfd.state.ak.us)

## **Spouse**

### **How to establish Alaska Residency**

#### **A spouse must:**

- ✓ Arrive in Alaska on or before December 31, of the year before the qualifying year and
- ✓ Take at least one step beyond just being physically present in Alaska.

#### **For Example:**

- ◆ Obtain an Alaska driver's license or ID card,
- ◆ Register to vote,
- ◆ Register a vehicle, or
- ◆ Sign a lease for non-governmental housing or purchase a home.
- ✓ Maintain Alaska residency at all times during the qualifying year and intend to remain an Alaska resident.

#### **What a spouse will need to supply to the PFD Division**

- ✓ Original birth certificate, passport, or citizenship papers.
- ✓ A completed PFD adult application (including a supplemental schedule if required) and requested documentation.

## **Dependent Children**

For the PFD program, a child is a person under the age of 18 unless legally emancipated. A child's eligibility for the PFD is based on the eligibility of the parent or guardian who applies for the child. A child must also meet all other requirements of the PFD program.

#### **What you'll need to supply to the PFD Division for children**

- ✓ A completed PFD child application, and an original birth certificate, passport, or citizenship papers (if you are filing for the child's first dividend).

### **Filing for the PFD while stationed outside of Alaska?**

- ✓ An application will only be mailed if you specifically request one. You may also download an application form through our web site at [www.pfd.state.ak.us](http://www.pfd.state.ak.us)
- ✓ In addition to other requirements, you, your spouse and dependents must return to Alaska for at least 72 consecutive hours every 2 years to continue to be eligible for the dividend. Exception: If a child is born to or adopted by an eligible resident within the two calendar years immediately preceding the dividend year, that child is eligible for a dividend even though the child has not been physically present in Alaska during the two years.
- ✓ If you have been stationed outside for over 5 years, you will need to provide proof that you have spent at least 30 cumulative days in Alaska during the past 5 years to and be required to complete a detailed questionnaire.

#### **Words to the wise**

- ✓ Do not register to vote in another state or country.
- ✓ If you are required to file a tax return, file as a non-resident. Some states require you to file as a resident or part-time resident. PFD will know which states have this requirement.
- ✓ Do not execute a will, which describes residency in another state or country.
- ✓ Keep a copy of the form (Form DD 2058) you filled out requesting Alaska as your state of legal residence on your LES.
- ✓ Do not claim residency in the state or country of your duty station outside of Alaska.
- ✓ If you can not be readily contacted, for example you are on an extended tour of duty overseas, file a Power of Attorney to facilitate processing your PFD application.

E-mail [dividend\\_information@revenue.state.ak.us](mailto:dividend_information@revenue.state.ak.us)

## Your Absence from Alaska and the PFD Program

Are you going to be absent from Alaska this year? If you are, you need to be aware of the rules of the Permanent Fund Dividend (PFD) program for absences and how they affect your eligibility.

This document is intended to cover the most common circumstances related to absences as they pertain to the PFD program. This document refers to eligibility only in the context of an absence from Alaska – other requirements of the PFD program must be met to be otherwise eligible. Refer to PFD statutes and regulations for more detailed information or contact your nearest Dividend Information Office to get more specific information about your absence.

Anchorage Dividend Information Office  
616 E Street  
Anchorage, AK 99501  
(907) 269-0370

Fairbanks Dividend Information Office  
1005 Cushman Street  
Fairbanks, AK 99701  
(907) 451-2820

Juneau Dividend Information Office  
PO Box 110461  
Juneau, AK 99811-0461  
(907) 465-2326

TTY (Hearing Impaired) (907) 279-0098

Toll-free Number (800) 733-8813 (Available year-round in Alaska and from October 1 through March 31 from out of state).

### General Rule

You may be absent from Alaska in a calendar year for up to 180 days for any reason and still be eligible for a dividend, as long as you meet all other requirements of the program.

For certain absences, you may still be eligible for a dividend even though you are absent from Alaska for more 180 days. These absences are referred to as "allowable absences" and are described under the Allowable Absences section below.

### Absences and Residency

While you are absent, whether one day or the whole year, you must maintain your Alaska residency and intend to return to Alaska and remain a resident. If you do anything to establish residency in another state or country while you are out of Alaska, such as registering to vote or filing a resident income tax return, you will not be eligible for a dividend.

*Example. You move from Alaska in May to take a new job Washington and purchase a home there. After two weeks, you decide to come back to Alaska to live again. Even though you were gone less than 180 days, you will not qualify for the next dividend because you broke your Alaska residency and were not an Alaska resident for the entire calendar year.*

### Reporting Absences

You must report all absences if you were absent from Alaska for more than 90 total days during the calendar year, or were absent when you file your application. For purposes of the dividend program, absences are counted in cumulative days, not consecutive days, for a calendar year. The division counts the day you leave as a day in Alaska; the day you return is counted as an absence day.

*Example. You left Alaska on March 1 and return May 20, and again from October 1 through the 16<sup>th</sup>. The total number of absence days in this example is 95 days (80 for the March 1 through May 20 absence and 15 days for the October absence). All absences must be reported on your dividend application because your total absence days exceed 90 days. Since the total number of days is less than 180 days, you may still be eligible for a dividend.*

### **Allowable Absences**

Permanent Fund Dividend laws allow persons to be absent from Alaska for more than 180 days if they are absent for one or more of the following reasons:

- 1) Receiving secondary or postsecondary education on a full-time basis
- 2) Receiving vocational, professional, or other specific education not reasonably available in Alaska
- 3) Serving on active duty as a member of the U.S. armed forces or accompanying the eligible military member if you are a spouse, minor dependent or disabled dependent
- 4) Serving aboard an oceangoing vessel of the U.S. merchant marine
- 5) Receiving continuous medical treatment under a licensed physician's care if the treatment is not based on a need for climatic change
- 6) Providing care for your parent, spouse, sibling, child, or stepchild with a critical life-threatening illness that requires travel outside for treatment at a medical specialty complex
- 7) Providing care for your terminally ill parent, spouse, sibling, child or stepchild
- 8) Settling the estate of your deceased parent, spouse, sibling, child or stepchild provided the absence does not exceed 220 cumulative days
- 9) Serving as a member of the U.S. Congress
- 10) Serving on the staff of a member of the U.S. Congress
- 11) Serving as an employee of the state
- 12) Accompanying a minor who is absent under reason (5) above
- 13) Accompanying another eligible resident who is absent for reasons (1), (2), (5)-(12) as the spouse, minor dependent, or disabled dependent of the eligible resident

*Example. You are absent from Alaska for the entire calendar year while serving on active duty in the army in Fort Lewis, Washington. While out of state, you claimed Alaska on your Leave and Earnings Statement (LES) as your state of residency for the entire calendar year. You will be eligible for a dividend because you are on an allowable absence. However, note the 72-hour rule below.*

*Example. In January, you and your child moved to Eugene, Oregon to be with your wife who is a full-time student at the University of Oregon. Your wife was a full-time student for the whole year except summer school. You, your wife and child will all be eligible for a dividend because you are on allowable absences. Your wife is on the full-time student absence under (1) and you and your child are on allowable absence (13) accompanying an eligible resident. However, note the 72-hour rule below.*

### **72-Hour Rule**

All persons on allowable absences must be physically present in Alaska for at least 72 consecutive hours during the prior two years before the current dividend year.

*Example. You are an Alaska resident who has been stationed in Fort Benning, Georgia on active duty military service since July 1, 2000 and are applying for a 2003 dividend. You returned to Alaska from June 6 through June 11, 2001. You will be eligible for a 2003 dividend because you were in Alaska for more than 72 consecutive hours during the two prior years (2001 and 2002).*

The commissioner of the Department of Revenue may waive this rule for military members (and spouses, minor dependents and disabled dependents of the military members) during times of national emergency. If applicable, contact the Permanent Fund Dividend Division to see if there is a waiver in effect for the dividend period you are applying for.

### **5-Year Rule**

If you have been on an allowable absence for more than 5 years, the department will take a closer look at your application and look for indicators of your intent to return to Alaska. To maintain your eligibility under the dividend division will look at factors that indicate your intent to return to Alaska. You will need to spend at least 30 cumulative days in Alaska during the past 5 years, unless you can demonstrate that unavoidable circumstances prevented you from returning to Alaska. The department will look at such things as the length of the absence compared to the time spent in Alaska, home ownership in Alaska, and Alaska voter registration and vehicle license.

### **10-Year Rule**

Beginning with the 2008 dividend, you will not be eligible for a dividend if you have been on allowable absences for the 10 preceding years and continue to be on an allowable absence greater than 180 days in the qualifying year. This rule does not apply if you are a member of the U.S. Congress or serving on the staff of an Alaska member of the U.S. Congress.

### **Absences in addition to Allowable Absences**

If you were absent for more than 180 total days in a calendar year including one or more allowable absences during the year, you have a limited number of days that you may be absent for other reasons in order to still qualify for the dividend. There are different rules for the number of additional days depending on your circumstances as outlined below.

### ***Military Members and Family***

If you are on active duty, you and your family (spouse, minor dependent and disabled dependent) have 180 additional days if you are only claiming your active duty service time as an allowable absence. If you claim other allowable absences ([LINK TO AS 43.23.008 HERE](#)), your additional days will be limited as follows:

- If you claim an absence as a full-time student in addition to your active duty service time, you are limited to 120 additional days.
- If you claim any other allowable absence in addition to your active duty service time, you are limited to 45 additional days.

*Example: You are a military member and get discharged from active service on July 1. While you were serving in the military, your wife and minor child accompanied you. You and your family decided to spend time on the East Coast after your discharge and return to Alaska September 1 (62 days). In October, you take a vacation in California from October 2 to November 15 (44 days). You and your family will still be eligible for a dividend because you were not absent from Alaska for more than 180 days in addition to your allowable military absence.*

*Example: You are a student at the University of Washington and graduate May 14. You stay in Seattle after school until June 1 and then take an extended vacation in Mexico until September*

30 (139 days). You return to Alaska October 1. On October 15, you enlist for active duty military and are stationed outside of Alaska. Even though you are claiming a military absence and had less than 180 additional absence days, you will not be eligible for a dividend because you also claimed an allowable absence as a student. To be eligible for a dividend you would have need to be absent less than 121 additional days.

*Example.* You served as active duty military from January 1 to July 1 when you were discharged. You decide to take a vacation and spend time with family in Oregon after your discharge and come back to Alaska on September 1 (92 days). Later in the year, you leave Alaska to care for your terminally ill father in Oregon from November 20 through December 10 (21 days). Your total additional absence days were 102 days. Even though you are claiming a military absence and had less than 180 additional absence days, you will not be eligible for a dividend because you also claimed an allowable absence for the time you were caring for your father. To be eligible for a dividend, you would have needed to be absent less than 46 additional days.

### **Students**

If you are a full-time student in good standing, you and your family (spouse, minor dependent and disabled dependent) have 120 additional days if you are only claiming your student absence as an allowable absence. If you claim other allowable absences, your additional days will be limited to 45 days.

*Example:* You are a student in Seattle meeting the requirements of the education allowable absence and attend school from January 5 through May 15. You then take a summer job in Seattle for the summer and are out of school from May 16 through August 20 (96 days). For the remainder of the year, you are in school in Seattle from August 21 through December 15. You then return to Alaska to be with family for Christmas break from December 16 through January 4 the next year. You will still be eligible for a dividend since you were on an education allowable absence during the year and the additional days you were absent was less than 121 days.

*Example.* You are a student at the University of Washington and graduate May 14. From May 15 to July 31 (78 days), you took a vacation and visited family in California. Later in the year, you leave Alaska to care for your terminally ill father in Oregon from November 20 through December 10 (20 days). Your total additional absence days were 98 days. Even though you are claiming a student absence and had less than 120 additional absence days, you will not be eligible for a dividend because you also claimed another allowable absence for the time you were caring for your father. To be eligible for a dividend, you would have needed to be absent less than 46 additional days.

### **Others**

If you are not a military member or student, and you are on an allowable absence for more than 180 days, you are limited to 45 additional days.

*Example:* You are out of state from January 5 to April 8 receiving continuous medical treatment under a licensed physician's care (an allowable absence). Later that year you are absent from

*August 10 through September 29 for vacation (50 days). You are absent from October 20 through December 31 again receiving continuous medical treatment under a licensed physician's care. Even though you were on an allowable absence during the year, you will not be eligible for a dividend because you had more than 45 additional days of absences during the time you were on vacation in August and September. To be eligible for a dividend, you would have needed to be absent less than 46 additional days.*

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Topic Index

### Hostile Fire/Imminent Danger Pay ■ ■ ■

Active duty and Reserve/Guard members can qualify for \$225 for any month in which they are exposed to hostile fire or imminent danger. (Last Updated June 2003)

- ACTIVE DUTY
- RESERVE
- NATIONAL GUARD
- VETERANS
- RETIREES

A member of a uniformed service may be paid special pay at the rate of \$225 for any month in which he was entitled to basic pay and in which he:

• Was subject to hostile fire or explosion of hostile mines;

• Was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

• Was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

• Was on duty in a foreign area in which he was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

Reserve members are also eligible for Hostile Fire and Imminent Danger Pay.

#### RELATED TOPICS

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#### BENEFITS UPDATES

- [Resource: Hazardous Duty Incen...](#)
- [Degree Completion Program for ...](#)
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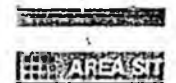
#### Attention Active Duty, Guard and Reserves

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- For TAM Cook



## DEPARTMENT OF THE NAVY

USS BENFOLD (DDG 65)  
FPO AP 06061-1293

IN REPLY REFER TO:

1000  
Ser DDG 65/039  
13 Jun 03

Alaska Department of Revenue  
Permanent Fund Dividend Division  
PO Box 110460  
Juneau, AK 99811-0460  
ATTN: Paul Dick

Subj: STATEMENT OF SERVICE ICO YN3 JOHN GRAMLICK, USN, 353-70-7316,  
USS HIGGINS (DDG 76)

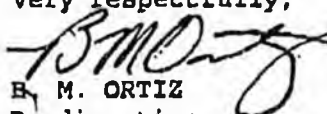
Dear Mr. Dick,

Petty Officer John Gramlick has been assigned to a seagoing and deployable United States Navy warship since 11 October 2000. He is currently assigned to USS BENFOLD (DDG 65), stationed at San Diego, California. YN3 Gramlick has just returned from a deployment in the Arabian Gulf in support of Operation Iraqi Freedom.

Presently, YN3 Gramlick's presence is required aboard BENFOLD. He is unable to leave the geographic area of BENFOLD's homeport of San Diego due to operational commitments. As a result of world events, his presence will be required in San Diego for an undetermined amount of time. I respectfully request that YN3 Gramlick be found eligible to receive the Alaska Permanent Fund Dividend despite his inability to travel to the State of Alaska. His inability to meet this requirement is due solely to his military service. I would be disappointed if his military service was a bar to his receiving this entitlement as a resident of the State of Alaska.

Thank you in advance for your assistance and support. Please contact my Command Legal Officer, LT Barbara Ortiz, directly if I may be of any assistance to you. She can be reached via phone at 619-556-3866 or via email at ortizb@benfold.navy.mil.

Very respectfully,



B. M. ORTIZ  
By direction

Christopher Rauchenstein is a Lance Corporal in the United States Marine Corps. Last year, like 4,193 other Alaskans he failed to file for his PFD in time and was denied his informal appeal for reconsideration. What makes Chris's problem special is the reason he failed to apply for the PFD.

Chris is currently stationed in Camp Pendleton, California. Born in Talkeetna in 1978, Chris decided to join the marines after graduating High School and was soon sent out of state for training and deployment. In 2003 Chris got leave from his superiors to come home for Christmas and visit his family. In the first week of January the Marines called Chris back to prepare for immediate deployment. This meant that he had to leave Alaska before his PFD packet had reached him.

His parents tried to mail it on to him in California but unfortunately mail sent to a marine from outside the base has to pass through many hands before it reaches its destination and Chris never received the application before he shipped out. He probably could have called the Permanent Fund office and requested another one but at the time he had other things on his mind.

Chris is a member of the First Marine Division. For those of you who followed the war in Iraq that name probably sounds familiar. The First Marine Division was one of the first American divisions to be deployed in Iraq and continued to lead the advance for practically the entire war. On the day of the deadline for turning in the PFD application Chris was on the outskirts of Baghdad preparing to liberate the city. Needless to say, filling out paperwork was the last thing on his mind.

Even if he had been inclined to take time out from his division's relentless advance and frequent skirmishes, Chris had no way to get the PFD

application out of Iraq. During the war mail service was unreliable at best and phone or Internet access was completely unavailable.

In the 25 years that Chris has lived in Alaska, this is the first dividend he has ever failed to file for. I think that says something about the seriousness of his situation in the month before he shipped out.

Currently Chris is making his way through the appeals process. His informal appeal request was denied this January, almost six months after it had been filed and now it's up for a formal appeal.

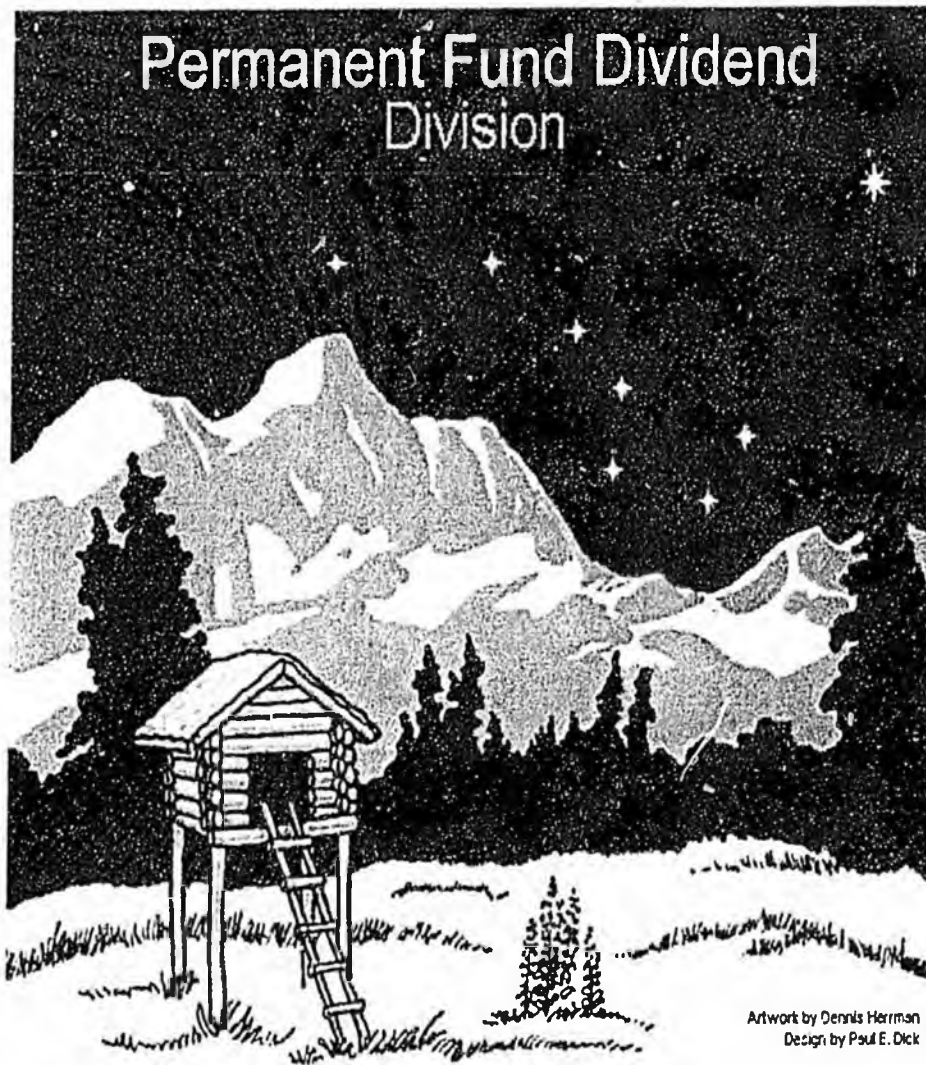
Unfortunately time ran out for Chris. On February 25<sup>th</sup> he was redeployed back to Iraq to finish what his Division started in 2003. Last year's dividend would have helped Chris take care of his obligations here at home while he is overseas protecting Iraq's fledgling. A soldier's duty to their country is difficult enough without penalizing them for circumstances outside their control.

HB 536 would give Chris and other Alaskans serving in the armed forces the extra time they need and deserve to fill out their PFD applications when they are subject to extenuating circumstances such as the recent war in Iraq. For those Alaskans who give the most of themselves for their country, it's the least we can do.

## **Dedication**

This year's annual report is dedicated to Alaskans who are serving in the U.S. armed forces. During 2003, there were about 13,500 Alaskans who were members of the active armed forces and about 4,300 members of the national guard and reserves stationed in Alaska. We are grateful to all the men and women fighting in Iraq, Afghanistan and throughout the world who are willing to risk their lives to keep our country safe from terrorism and preserve our freedom.

# 2003 Annual Report



*Alaskans' Cache for the Future*

*This report is available on the Internet*  
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---

## 2003

*This annual report provides information and data on the Permanent Fund Dividend program for calendar year 2003 and historical data.*

*The 2003 dividend application period was January 2 through March 31, 2003. Alaskans who were residents of the state for the entire calendar year 2002 and met other requirements were eligible for a 2003 dividend.*

---

**HB**

**541**

23-GH2134D  
Cook  
4/20/04

**CS FOR HOUSE BILL NO. 541(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to consideration by the legislature of the executive budget and other**  
2 **bills affecting appropriations; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 24.08.035 is amended by adding a new subsection to read:

5 (f) Before a bill that would result in an increased appropriation over the  
6 amount in the budget submitted under AS 37.07.020 is referred to the rules committee  
7 of either house, there shall be attached to the fiscal note of the bill by the person  
8 preparing the fiscal note one or more proposed bills that, if enacted into law, would  
9 provide

10 (1) an offsetting amendment to reduce the unobligated and unexpended  
11 balance of a valid existing appropriation;

12 (2) an offsetting amendment to reduce a component within a state  
13 agency budget; or

14 (3) new revenue necessary to cover the increased appropriations

1 related to the bill for which the fiscal note was prepared.

2 \* Sec. 2. AS 37.07.070 is amended by adding a new subsection to read:

3 (b) It is not in order, as a matter of legislative procedure, in the house of  
4 representatives, the senate, or the committees of those houses to consider a budget  
5 amendment increasing an appropriation to finance state agency budgets over the  
6 amounts in the budget submitted under AS 37.07.020 unless

7 (1) an offsetting amendment is adopted that reduces the unobligated  
8 and unexpended balance of a valid existing appropriation;

9 (2) an offsetting amendment is adopted that reduces another  
10 component within the state agency budgets;

11 (3) money from the federal government or another nonstate source that  
12 was not anticipated when the budget was prepared under AS 37.07.020 has been  
13 received by the state treasury; or

14 (4) the legislature has affirmatively voted on final passage for one or  
15 more bills that would raise new revenue necessary to cover the increased  
16 appropriations related to the budget amendment if the bill is enacted into law.

17 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

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

## MEMORANDUM

April 20, 2004

**SUBJECT:** Consideration of appropriations and bills that affect appropriations (CSHB 541( ))

**TO:** Representative Bruce Weyhrauch  
Attn: Ginny Austerman

**FROM:** Tamara Brandt Cook  
Director

TBC

Here is a draft in response to your request for a technical review and correction of HB 541. In response to the original memo I wrote to you about this bill dated April 16, 2004, identifying areas I was confused about, Ms. Ginny Austerman directed me to share the memo with the Attorney General's office and to work with that office. I have done so, and Jim Baldwin, Assistant Attorney General, has provided a written response to my questions together with a request for changes. I have incorporated the requested changes into this draft committee substitute.

In addition, I have clarified in AS 37.07.070(b) that certain budget amendments are "not in order" as a matter of legislative procedure rather than substantive law, to avoid any confinement problem that might arise if an amendment increasing an appropriation in violation of this provision is ever enacted into law. This comports with the intent of the provision as explained by Mr. Baldwin. I also originally asked who was to prepare proposed bills that are to be attached to fiscal notes under AS 24.08.035. In accordance with Mr. Baldwin's answer to that question, I have added the provision that the person who prepares the fiscal note must also prepare the draft bills.

I have enclosed a copy of Mr. Baldwin's memorandum for your information.

TBC:med  
04-425.med

Enclosure

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
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ORIGINAL  
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# MEMORANDUM

*Department of Law*

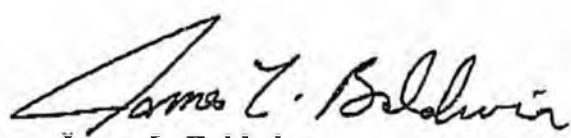
STATE OF ALASKA

To: Tamara Cook  
Director  
Legislative Legal Services

Date: April 19, 2004

File No.: 773-04-0134

Tel. No.: (907) 465-2133

  
From: James L. Baldwin  
Senior Assistant Attorney General

Subject: Response to Questions  
Raised by Tam Cook  
Regarding HB 541

Thank-you for your review and comments on HB 541. Please make the following changes in the draft Committee Substitute which are intended to address some your comments.

Page 1, line 6: delete "finance"

Page 1, line 11: delete "or"

Page 1, between lines 11 and 12 insert the following new material to read:

"(3) money from a non state source has been received by the state treasury that was not anticipated when the budget was prepared under AS 37.07.020 or... "

re-number remaining subparagraph accordingly.

In reply to of the questions set out in your memo, I offer the following:

(1) Sec. 1 of the bill makes an amendment to AS 37.07.070 which is addressing the legislature's review of the executive budget. Amendments are compared to the appropriation bill offered by the governor as required by the Executive Budget Act. The wording of the bill is intended to fit within the existing provision of 070 which address the budget under consideration by the legislature.

(2) This bill would not prevent the legislature from enacting budget amendments it considers to be in the best interest of the state. The statute would provide that consideration of a particular budget

Tamara Cook  
Director, Legislative Legal Services

April 19, 2004  
Page 2

amendment is "not in order." Once this fact is brought to the attention of a house, it could be appealed to the body which could vote to consider the matter notwithstanding the statute. If the house passes an offending appropriation bill, the operative effect of the process would be suspended. The restraint imposed by the statute is moral rather than legal in nature.

(3) The intent of the bill is not to force the legislature to enact the governor's budget, but rather to enforce accountability through knowledge of the consequences of amendments to the executive budget.

(4) As for the requirement to attach proposed bills to fiscal notes: This requirement would be the obligation of the person or agency responsible for preparing the fiscal note. The bills to generate revenue are attached for information purposes only. The requirement would be imposed to make certain that thought has been given to the method of raising revenue needed to fund the conditional appropriation represented by the fiscal note. Failure to comply with the requirement could be a basis for rejecting the fiscal note and therefore the consequences for non-compliance or imperfect compliance are moral or political in nature.

Thank-you for the careful review of this bill. Please let us know if we can assist you further.

**Subject: Fw: hb523/Hearing Today**  
**Date:** Wed, 21 Apr 2004 07:59:13 -0800  
**From:** Jim Sykes <jsykes@ak.net>  
**To:** terry.harvey@legis.state.ak.us

----- Original Message -----

**From:** Jim Sykes  
**To:** Representative Bruce Weyhrauch@legis.state.ak.us  
**Sent:** Wednesday, April 21, 2004 7:48 AM  
**Subject:** hb523/Hearing Today

**DT:** 4/21/2004  
**TO:** Rep. Bruce Weyhrauch, Chair  
House State Affairs Committee  
**FR:** Jim Sykes  
**RE:** HB 523

Hello Chairman Weyhrauch,

I will be online again today to speak to a couple of items on HB 523 near the end of the bill on political party status to which I invite your further consideration. Please distribute copies to all other committee members.

Pages 19 and 20, Section 43. The intent is to provide political party recognition for four years after a 3% statewide vote. It only provides two years if the 3% is gained during a non-Governor election year. It would simplify Division of elections tracking to simply provide 4 years for whichever statewide race qualified for 3%. The state has historically recognized party status for 4 years. The Libertarians got 6 years from 1982 until 1988, as I recall.

It would be logical to assume someone would go to court and argue that getting ballot status on a US House race in a non-Governor year should not be less valuable than obtaining ballot status in a Governor year election. It would be both more simple and straightforward to recognize ballot status for 4 years whenever more than 3% is obtained in a statewide race for Governor, US House or US Senate.

Secondly, Page 18, Sec 42 15.60.008 (3) (B) and the same provision on Page 20, Sec 43 AS15.60.01(21) (D) Both sections require a 3% registration test which is equal in number for a voter test, also 3%.

It is well recognized that it is many times more difficult to register people to a particular political party than it is to attract people to a candidate at the polls. Only 5 states have requirements that speak to both ballot test and registration test, but in no case is the registration test anywhere near the level of the ballot

test. I hope you received a statistical summary of ballot access requirements across the 50 states that I faxed last week.

States with ballot test AND registration test requirements

State	Vote Req	Registration Req.	% of Registration to vote test. to vote req.
AK	3%	3%	100.00
AZ	5%	2/3 of 1%	13.33
CO	1%	1000 reg. Voters	approx 1/10 of 1%
MA	3%	1%	33.33
NM	5%	plus 0.3% regis.	6.00

For quite a long time a majority of Alaskans have registered to *no* political party. Across the nation independent registrations are on the rise. There is no doubt that registering people to a specific political party is much more difficult to do than attract voters to a candidate in an election. For example Green Party statewide races have attracted as high of a percentage as 12.5% of the statewide vote, and yet registered voters are about 1% of the total.

Courts across the country have increasingly recognized the right for people to have fewer restrictions when it comes to ballot access rather than more restrictions.

I believe the committee is on the right track to guarantee Alaskans have reasonable access to the ballot. A small political party can be active without doing a statewide race every year. A more reasonable registration test would allow more stability and probably mean less work for the division of elections, in terms of tracking the recognition of political parties. Having the 1% registration test is not likely to invite more political parties than we already have, since it still requires a significant effort to register thousands of voters. It is worth noting that Colorado, with a considerably higher population, only requires 1,000 registered voters to qualify a party.

Your work in this area is very important, and thank you for your full consideration to these principles. If you have any questions I will endeavor to answer them as best I can. Thank you.

Sincerely,

Jim Sykes

Fw: hb523/Hearing Today

745-6962

**HB**

**544**

**HOUSE COMMITTEE REPORT**

(7)

Date Referred to Committee: March 25, 2004

FURTHER REFERRALS:

Date of Committee Action: May 10, 2004

The STATE AFFAIRS Committee considered:

HB 544

HOUSE BILL NO. 544

PERM FUND BOARD PUBLIC MEMBER REMOVAL

"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

Recommends it be replaced with [ ] HCS or [  ] CS for HB 544 ( )  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_ [  ] Same Title [ ] New Title

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>REV</u>				<input checked="" type="checkbox"/>

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
<u>LAW</u>	<u>1</u>			<input checked="" type="checkbox"/>
<u>REV</u>	<u>2</u>			<input checked="" type="checkbox"/>

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SEATON	<input checked="" type="checkbox"/>			
	Greenberg	<input checked="" type="checkbox"/>			
	Holmes	<input checked="" type="checkbox"/>			
	L. J. N. Coyne	<input checked="" type="checkbox"/>			
Chair:	Weyhrauch	<input checked="" type="checkbox"/>			
Chair:					

23-GH2142\H  
Cook  
5/4/04

**CS FOR HOUSE BILL NO. 544( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act providing that public members of the Board of Trustees of the Alaska**  
2 **Permanent Fund Corporation may be removed only for cause; and providing for an**  
3 **effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 37.13.070(a) is amended to read:

6 (a) **The governor may remove a nonpublic member from the board.** The  
7 governor may remove a **public** member of the board from office **only for cause.** A  
8 removal by the governor must be in writing and must state the reason for the removal.  
9 A member who is removed by the governor may not participate in board business and  
10 may not be counted for purposes of establishing a quorum after the member receives  
11 written notice of removal from the governor.

12 **\* Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

# Bill History/Action Display



**BILL:** HB 544

**SHORT TITLE:** PERM FUND BOARD PUBLIC MEMBER REMOVAL

**BILL VERSION:**

**CURRENT STATUS:** (H) STA

**STATUS DATE:** 03/25/04

**SPONSOR(s):** RLS BY REQUEST OF THE GOVERNOR

**HEARING:** (H) STA Apr 22 8:00 AM CAPITOL 102 TELECONFERENCE

**TITLE:** "An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

**Bill Root:**  [Display Bill Root](#) [Next Bill](#)

[Full Text](#) [Fiscal Notes](#)

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
03/25/04	<a href="#">3081</a>	(H) READ THE FIRST TIME - REFERRALS
03/25/04	<a href="#">3081</a>	(H) STA
03/25/04	<a href="#">3081</a>	(H) FN1: ZERO(LAW)
03/25/04	<a href="#">3081</a>	(H) FN2: ZERO(REV)
03/25/04	<a href="#">3081</a>	(H) GOVERNOR'S TRANSMITTAL LETTER
03/25/04	<a href="#">3081</a>	(H) REFERRED TO STATE AFFAIRS

Similar Subject Match or Exact Subject Match

BOARDS & COMMISSIONS

GOVERNOR

HEARINGS

PERMANENT FUND

PUBLIC CORPORATIONS

**Bill Root:**  [Display Bill Root](#) [Next Bill](#)

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[Return to Basis Main Menu \(23 Legislature\)](#)

[Return to Legislature Home Page](#)

23-GH2142\D

Cook

4/15/04

## CS FOR HOUSE BILL NO. 544( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to removal of public members of the Board of Trustees of the Alaska  
2 Permanent Fund Corporation, providing that public members may be removed only for  
3 cause; and providing for an effective date."

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

5 \* Section 1. AS 37.13.070(a) is amended to read:

6 (a) The governor may remove a public member of the board from office only  
7 for cause, including inefficiency, neglect of duty, misconduct in office, or because  
8 the member, while serving on the board, is convicted of a misdemeanor or felony  
9 involving moral turpitude. The grounds for [ . A] removal by the governor must be  
10 in writing and must state the reason for the removal. Before the removal is final, the  
11 member shall be given an opportunity to be heard in person or through counsel  
12 at a public hearing before the governor or the governor's designee. Notice of the  
13 time and place of the hearing shall be provided to the member at least 10 days  
14 before the hearing is held. The member may confront and cross-examine adverse

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witnesses at the hearing. A member who is removed by the governor may not participate in board business and may not be counted for purposes of establishing a quorum after the member receives written notice of the final removal determination from the governor. Upon removal, the governor or the governor's designee shall file, in the office of the lieutenant governor, the findings made by the governor or the governor's designee after the hearing held under this section, and a complete statement of all grounds for removal asserted by the governor against the member.

\* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to public members of the Board of Trustees of the Alaska Permanent Fund Corporation appointed under AS 37.13.050

(1) on or after the effective date of this Act; or

(2) before the effective date of this Act and serving in that capacity on the effective date of this Act.

\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

HB 544



FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US

P.O. BOX 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 24, 2004

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

Dear Speaker Kott:

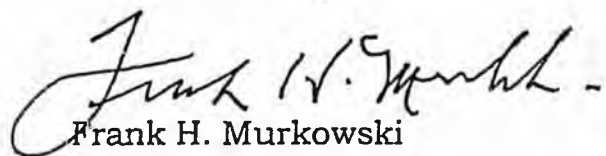
Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to removal of public members of the Board of Trustees of the Alaska Permanent Fund Corporation.

This bill would provide that public members of the Board of Trustees may be removed only for cause. The bill would provide grounds for the removal of public members of the board which includes, neglect of duty, misconduct in office or conviction of certain misdemeanor or felony charges. The bill also grants Board members the opportunity to be heard at a public hearing and requires at least ten days notice of the hearing.

Under existing law, it is possible to remove all Board members at a change in administration. This bill would insulate the Alaska Permanent Fund from partisan politics by making it more likely that Board members would be retained until the expiration of their terms. The state invests a great deal in the experience and training provided to Board members. It is in our best interests to reap the full benefit of this investment. The Alaska Permanent Fund Corporation benefits from having experienced Board members direct policy for management of the Permanent Fund.

I urge your prompt and favorable action on this measure.

Sincerely yours,

  
Frank H. Murkowski  
Governor

Enclosure

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 544  
 (H) Publish Date: 3/25/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title APFC Board Removal for Cause BRU AK Permanent Fund Corporation  
 Component AK Permanent Fund Corporation  
 Sponsor Rules  
 Requester Governor Component No. 109

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill institutes the "removal for cause" threshold for the four public members of the Alaska Permanent Fund Corporation Board of Trustees. It would not affect the financial operations of the Permanent Fund and therefore does not generate any costs or savings to the Fund.

Prepared by: Robert D. Storer, Executive Director Phone (907) 465-2047  
 Division Alaska Permanent Fund Corporation Date/Time 2/8/04 3:17 PM  
 Approved by: William Corbus, Commissioner Date 2/8/2004  
 Agency Department of Revenue

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 544  
(H) Publish Date: 3/25/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title "An Act providing that public members of the RDU CIVIL  
Board of Trustees of the Alaska Permanent Fund ..." Component Labor & State Affairs  
Sponsor Rules \_\_\_\_\_  
Requester Governor \_\_\_\_\_ Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would give members of Alaska Permanent Fund Corporation Board of Trustees protection in that a member could only be removed for cause after a public hearing. Under existing law, the governor may remove a board member by sending a letter that sets out reasons. Existing law does not require the governor to state grounds sufficient for removal for cause. Removal for cause customarily involves removal for neglect of office, misconduct or malconduct, or conviction of a crime.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director  
Division: Administrative Services  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General  
Agency: Department of Law

Phone 465-3673  
Date/Time 2/4/04 8:41 AM  
Date 2/4/2004

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## MEMORANDUM

## State of Alaska

TO: Hon. Terry Miller  
Lieutenant Governor

DATE: November 7, 1980

ATTN: Patty Ann Polley, Director  
Division of Elections

FILE NO: J-66-001-81

TELEPHONE NO: 465-3665

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Restoration of vot-  
ing rights to con-  
victed felons

By:

Laura L. Davis  
Assistant Attorney General



You have requested that we respond to an inquiry by Akeela House of Anchorage regarding the scope of the disqualification of convicted felons from voting. We discuss the applicable provisions of the 1980 Election Code below. We will send copies of this memo and the attached information to Akeela House.

Attached is our memorandum dated August 14, 1968 on this subject. It provides background on the disqualification of convicted felons from voting in Alaska. The 1980 Election Code revised AS 15.05.030 to provide as follows:

LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or municipal election from the date of his conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.

(b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction. § 4, ch. 100, SLA 1980.

The new Election Code also amends AS 15.60.010 to include the following definitions of terms used in AS 15.05.030:

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery; . . .

Patty Ann Polley, Director  
Division of Elections

November 7, 1980  
Page #2

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole. § 207, ch. 100, SLA 1980.

In our opinion, the new code has not changed the date upon which a voting disability or a felony conviction is imposed, but it has extended the disability to persons receiving suspended sentences. The disqualification attaches at the time of final judgment of conviction. A person is not disqualified from voting pending an appeal of a conviction. However, absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Under the former law, such persons would not have been disqualified.

Under the new code, the definition of felony involving moral turpitude has been revised. The statutory definition mentions several specific crimes, and includes all crimes which are "immoral or wrong in themselves." The Criminal Division of the Department of Law in cooperation with the Division of Corrections of the Department of Health & Social Services, has developed a list of crimes contained in the revised Criminal Code which constitute the felonies involving moral turpitude. This list is attached for your guidance.

We hope that this answers your questions.

LLD/pjg

Enc.

cc w/enc.: Mike Dunham, Outreach Counselor  
Akeela House - Anchorage

## FELONIES INVOLVING MORAL TURPITUDE

Murder in the First Degree  
Murder in the Second Degree  
Manslaughter  
Assault in the First Degree  
Assault in the Second Degree  
Kidnapping  
Sexual Assault in the First Degree  
Sexual Assault in the Second Degree  
Sexual Assault in the Third Degree  
Incest  
Unlawful Exploitation of a Minor  
Robbery in the First Degree  
Robbery in the Second Degree  
Extortion  
Coercion  
Theft in the First Degree  
Theft in the Second Degree  
Burglary in the First Degree  
Burglary in the Second Degree  
Arson in the First Degree  
Arson in the Second Degree  
Criminal Mischief in the First Degree  
Criminal Mischief in the Second Degree  
Forgery in the First Degree  
Forgery in the Second Degree  
Criminal Possession of a Forgery Device  
Offering a False Instrument for Recording  
Scheme to Defraud  
Falsifying Business Records  
Commercial Bribe Receiving  
Commercial Bribery  
Endangering the Welfare of a Minor  
Bribery  
Receiving a Bribe  
Perjury  
Perjury by Inconsistent Statements  
Escape in the First Degree  
Escape in the Second Degree  
Promoting Contraband in the First Degree  
Interference with Official Proceedings  
Receiving a Bribe by a Witness or Juror  
Jury Tampering  
Misconduct by a Juror  
Tampering with Physical Evidence  
Hindering Prosecution in the First Degree  
Terroristic Threatening  
Riot  
Criminal Possession of Explosives  
Unlawful Furnishing of Explosives  
Promoting Prostitution in the First Degree

TESTIMONY OF SPONSOR  
HB 544

Thank you Mr. Chair. My name is Mike Barnhill, from the Department of Law, Commercial Section, and I am pleased to present to the committee HB 544, on behalf of the Administration.

The concept of HB 544 is quite simple: it provides that public members of the APFC Board of Trustees may be removed only for cause. The bill contemplates that the types of permissible cause for which a Board member may be removed include:

- 1) inefficiency
- 2) neglect of duty
- 3) misconduct in office
- 4) conviction of a misdemeanor or felony involving moral turpitude

The bill provides for a measure of due process to the Board member, including a hearing before the governor or governor's designee, who will prepare a statement of findings and grounds for removal following the hearing.

The language of this bill is patterned after AS 16.05.280, which provides for similar grounds for removal and the same hearing process for board members of the Board of Fisheries.

The administration supports this bill because it will insulate the APFC Board from partisan politics when there is a change of administration. In doing so, it will enhance the institutional continuity of the Board and permit the Board to continue its important work without interruption when a change of administrations occurs.

Bob Storer, the executive director of the APFC, is here to elaborate further on the important policy reasons to enact this legislation. We thank you for your support and I would be happy to take any questions regarding the bill.

HB

547

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 29, 2004

FURTHER REFERRALS: Finance

Date of Committee Action: April 6, 2004

The STATE AFFAIRS Committee considered:

HB 547

HOUSE BILL NO. 547

PFD: DELAY PAYMENT FOR ALLOWABLE ABSENCES

"An Act relating to the dividends of individuals claiming allowable absences; and providing for an effective date."

Recommends it be replaced with  HCS or  CS for \_\_\_\_\_ (\_\_\_\_\_)   
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFC
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Mark Summers</i>	<i>Greenberg</i>		✓	Ⓛ	
<i>Paul R. Seaton</i>	SEATON	✓			
<i>[Signature]</i>	<i>Holm</i>			✓	
<i>[Signature]</i>	<i>Lynn</i>		X		
<i>[Signature]</i>	<i>Coghill</i>		✓		
Chair: <i>[Signature]</i>	<i>Weyrauch</i>	✓			
Chair:					

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 547  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title PFD: Delay Payments for Allowable AI RDU Revenue & Program Support  
Absences Component Permanent Fund Dividend  
 Sponsor House State Affairs  
 Requester House State Affairs Component No. 981

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	50.0					
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>50.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other PFD Fund	50.0					
<b>TOTAL</b>	<b>50.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 547 delays payments of dividends for Alaskans who are out of state on specified allowable absences. Payments would be delayed until the individual returns to Alaska and would be paid on the first subsequent year that the individual is eligible for a dividend without claiming any of the specified allowable absences.

If an individual fails to be eligible for a subsequent year dividend, the individual's eligibility for the delayed dividends is terminated and the dividends may not be paid.

Prepared by: Paul E. Dick Phone 465-4784  
 Division: Permanent Fund Dividend Division Date/Time 3/30/04 7:53 AM  
 Approved by: Steve Porter, Deputy Commissioner Date 3/30/2004  
 Agency: Department of Revenue

# LEGAL SERVICES

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

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

## MEMORANDUM

April 5, 2004

**SUBJECT:** Permanent fund dividend delayed payment (HB 547)  
(Work Order No. 23-LS1877\H)

**TO:** Representative Paul Seaton  
Attn: Christopher Knight

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

HB 547 delays the payment of permanent fund dividends to most people with allowable absences under the program. Payment of past dividends is made only when a person first qualifies for a dividend without claiming an allowable absence. If a year passes when the person does not qualify for a dividend, eligibility for payment of the back dividends is also lost.

(1) Does this bill pose equal protection problems?

This proposal has not been tested in court, so it is impossible to tell with certainty that the proposal would withstand an equal protection challenge, but the proposal stands a good chance of being upheld.

Under the state equal protection clause, a statute is evaluated on a sliding scale under which the goal of the legislation and the importance of the individual rights affected are considered. As the importance of the individual rights affected increases, the burden increases on the state to show that the state's goal justifies the intrusion on the individual's interests in equal treatment and that the state's goal is rationally related to the means chosen to achieve the goal. (State v. Anthony, 810 P.2d 155 (Alaska 1991) upholding a statute making certain criminal offenders ineligible for dividends despite their residency status) Our state supreme court has noted that even minimum equal protection scrutiny under the state constitution may be more demanding than under the federal constitution. (State, Department of Revenue v. Cosio, 858 P.2d 621 (Alaska 1993)) Consequently, if a statute (or regulation) survives state equal protection analysis, it is unlikely to suffer reversal under federal equal protection analysis.

The court has considered how to apply the state equal protection sliding scale analysis in the context of the permanent fund dividend program and concluded that, at least when no suspect classification such as race is involved, the right to receive a dividend is accorded a minimum level of protection because the right is not very important. An individual's

interest in receiving a permanent fund dividend is accorded a low level of protection under the state equal protection clause because only an economic interest is implicated, and that economic interest is not based on the need of the applicant. (Underwood v. State, 881 P.2d 322 (Alaska 1994)) Obviously, there is an equal protection question inherent in the allowable absences provision of the permanent fund dividend program simply because the state has drawn distinctions between people, based upon the reasons they may be absent from the state (judging some to be more acceptable than others), and it is not clear that those distinctions actually bear much relationship to the underlying question of whether a particular individual is or is not an actual state resident. However, the court has so far upheld differences in treatment between categories of absent individuals. (State, Department of Revenue v. Bradley, 896 P.2d 237 (Alaska 1995) upholding a difference in treatment between full-time and part-time students who are absent from the state; State, Department of Revenue v. Gazaway, 793 P.2d 1052 (Alaska 1990) upholding a regulation permitting absences from Alaska only if the absence was no longer than the time physically present in the state)

Under HB 547 individuals with allowable absences are treated differently with respect to when the dividends are paid: they get their dividends when they return and remain physically present in the state during a year for the eligibility period (180 days) without needing to rely on an allowable absence for eligibility. This, arguably, serves a legitimate state purpose in testing whether an individual who is absent from the state for considerable periods of time actually does have the intent to reside in the state indefinitely, imposing, if you will, an objective test of a subjective state of mind. (State, Department of Revenue v. Wilder, 929 P.2d 1280 (Alaska 1997) intent to return to the state must be established for purposes of dividend eligibility) The state supreme court has noted (Hicklin v. Orbeck, 565 P.2d 159 (1977), page 171, reversed on other grounds, 437 U.S. 518 (1978):

The state is constitutionally entitled to use reasonable administrative means to determine who is a bona fide resident and who is not. Domicile or bona fide residence contain an objective requirement of physical presence and a subjective intent requirement. It is not unreasonable to use the objective indicia.)

The delayed payment approach in HB 547 also has the benefit of establishing a "bright line" test of the sort that is administratively efficient to apply because there is no need to weigh and consider multiple factors involving each particular case in order to determine when to pay the dividend. Administrative efficiency is, itself, recognized to be a legitimate state goal.

(2) Under HB 547 the delayed payment approach will not apply to individuals who are absent from the state while serving as a member of the United States Congress. Does exempting this single allowable absence create equal protection problems?

Probably not, based on the fact that the legislature could reasonably determine that the residency of Congressional delegates is not as questionable as the residency of other

Representative Paul Seaton  
April 5, 2004  
Page 3

individuals who are not physically present in the state. The U.S. Constitution itself requires a member of the U.S. House or Senate to be "an inhabitant" of the state from which elected at the time of the election. (Art. I, secs 2 and 3, Constitution of the United States)

(3) Does HB 547 create issues of due process?

Procedural due process rights attach to administrative or judicial adjudicative proceedings under which the rights of particular individual are determined. Substantive due process is implicated by provisions of law that have the effect of depriving an individual of a vested property right. It is unlikely that a court would find that an individual's property interest in receiving a permanent fund dividend has become vested until all statutory requirements for receipt of the dividend have been satisfied, including those imposed under HB 547, if it is enacted. (Church v. State, 973 P.2d 1125 (Alaska 1999) claimant who was ineligible for a permanent fund dividend as a matter of law because he was out of state for more than 180 days was not denied procedural due process rights when his appeal was denied in a summary adjudication and was not denied substantive due process rights by the statutory scheme under which dividends are denied to individuals absent from the state for more than 180 days, whose absences do not fit within the excused categories)

TBC:mdr  
04-138.mdr

Year	Total Applicants	Applicants w/absences	Apps w/allow absences	Paid apps w/allow absences
2003	625,469	39,650	29,410	24,045
2002	620,770	39,710	29,304	23,909
2001	620,109	41,333	30,122	23,801
2000	618,726	41,829	28,612	22,894
1999	592,402	33,138	24,460	20,622

#### 2003 Allowable Absences by Type

Absence Type	Count of Absences
A - Accompanied	10,726
B - Enrolled College	9,271
C - Active Duty	6,814
D - Medical	838
E - Congressional	57
H - Employment	60
L - Cared for ill family	371
M - Settled estate	262
N - Care for terminally ill	583
P - Merchant Marine	57
Q - Attend Secondary	853

#### 2002 Allowable Absences by Type

Absence Type	Count of Absences
A - Accompanied	10,558
B - Enrolled College	9,440
C - Active Duty	6,622
D - Medical	844
E - Congressional	53
H - Employment	69
L - Cared for ill family	366
M - Settled estate	264
N - Care for terminally ill	568
P - Merchant Marine	48
Q - Attend Secondary	937

#### 2001 Allowable Absences by Type

Absence Type	Count of Absences
A - Accompanied	10,966
B - Enrolled College	9,742
C - Active Duty	6,658
D - Medical	775
E - Congressional	58
H - Employment	68
L - Cared for ill family	355
M - Settled estate	352
N - Care for terminally ill	607
P - Merchant Marine	56
Q - Attend Secondary	986

#### 2000 Allowable Absences by Type

Absence Type	Count of Absences
A - Accompanied	10,188
B - Enrolled College	9,473
C - Active Duty	6,154
D - Medical	758
E - Congressional	79
H - Employment	55
L - Cared for ill family	511
M - Settled estate	358
N - Care for terminally ill	594
P - Merchant Marine	47
Q - Attend Secondary	931