

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11158 SENATE JUDICIARY

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 59
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Permanent Fund Ineligibility for DUI BRU Child Support Division
Component Child Support Division
Sponsor Senator Cowdery
Requester Senate Judiciary Committee Component No. 111

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would amend statute to add convictions for driving under the influence of an alcoholic beverage, inhalant or controlled substance and convictions for refusing to submit to a chemical test to the list of offenses that cause an individual to lose his or her eligibility to receive the Permanent Fund dividend. The list currently includes individuals convicted or incarcerated for a felony, a third misdemeanor, or a misdemeanor with a prior felony.

From the perspective of the Child Support Enforcement Division, any legislation that diminishes the ability of the Division to garnishee dividends from delinquent parents would deny a source of funds owed to custodial parents. Unfortunately, the dividend often is the only payment collected for some parents all year, and the dividend is the single largest source of collections for the Child Support Division (almost 15% of total annual collections in recent years). The more Alaskans added to the list of ineligible applicants for the dividend, the fewer dividends the Division can collect. By statute, child support takes first priority over all other garnishments against a dividend.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division Department of Revenue Date/Time 2/16/03 1.35 PM
Approved by: Larry Persily, Deputy Commissioner Date 2/16/2003
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 59
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: ... ineligibility for permanent fund dividends of BRU Civil Division
certain persons sentenced for driving while under the influence ... Component Collections and Support
Sponsor Senato Cowdery
Requester Senate Judiciary Committee Component No. 2210

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (GF/Prog Rcpts)			(*****)	(*****)	(*****)	(*****)
---	--	--	---------	---------	---------	---------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The collections unit of the Department of Law is responsible for collecting civil and criminal judgments owed to the State of Alaska, and beginning in January 2002, restitution on behalf of victims of all types of crimes (violent, non-violent, and property crimes) and delinquent acts. Criminal judgments include criminal fines, costs of incarceration, costs of appointed counsel, forfeited bonds, minor offense fines, and costs related to those fines. Civil judgments include cost and attorney fees awarded to the state in civil litigation, and APOC and OSHA penalties.

Approximately two-thirds of the state revenue generated by the unit is deposited in the general fund. The remaining revenue is appropriated as general fund program receipts both to support DUI incarceration and court appointed counsel programs, and to pay for the collections unit. Restitution revenue is paid to victims.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 2/18/03 2:50 PM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 2/18/2003
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 59

ANALYSIS CONTINUATION

The unit's primary collection tool is the permanent fund dividend attachment. Historically, over 85 percent of the unit's collections each year are received through the attachment of defendants' permanent fund dividends. During FY 02, the unit collected \$3,574,907 of which \$2,960,210 was through the dividend attachment. Although the unit may use other collection tools, such as wage withholding or attachment of funds in bank accounts, most of the judgments that the unit collects are simply not large enough to justify the cost of such collection actions. The cost of collection would exceed the amount collected. To succeed, the unit must be able to collect a high volume of relatively small judgments. The only cost-effective way to do this is through the electronic attachment process used for the permanent fund dividend attachment. As a practical matter, if the permanent fund dividend cannot be attached, most of these judgments would be uncollectible when the cost of collection is factored in the equation.

Because of the unit's reliance on the attachment of dividends, a bill that removes persons from eligibility for the permanent fund dividend will adversely affect the unit's collections. SB 59 will affect most significantly the collection of judgments for costs of incarceration which are almost exclusively limited to persons convicted of driving while under the influence under AS 28.35.030, but it will also affect the collection of fines and other judgments owed by such persons, including restitution owed to victims of these defendants.

The bill will delay the collection of such judgments for one year if the defendant has no prior convictions for this type of offense and for four years if the defendant has been convicted previously for a similar offense. Thus, the impact on collections will be attributable primarily to the delay. The unit has found that the earlier the collection proceedings begin the more likely the judgment will be collected. Over time, defendants leave Alaska, die, are incarcerated for new crimes, or incur debts with a higher priority under the dividend priority scheme. Thus, debts that the unit could have collected during the first year or two after the defendant is released from jail may be uncollectible after the one-year or four-year delay imposed by the bill.

It is extremely difficult to estimate the impact of this bill on the unit's collections. The impact will be masked initially because during the first year or two after the bill takes effect, the unit will be collecting judgments that pre-date the bill's effective date. These earlier judgments will be unaffected by the bill's restrictions because the bill applies only to defendants convicted of crimes committed after December 31, 2003. As collections continue on older judgments, the effect of the bill will be limited. In addition, the current law precludes defendants from receiving a dividend while incarcerated. In these cases, the unit would be unable to collect the judgment until the defendant was released from jail anyway. Thus, the unit will not begin to feel the effect of the bill until these new defendants begin to be released from incarceration. At that point, we should see a sharp drop in collections, as the old judgments are paid off and the new judgments are not collectible because the defendants are ineligible for the dividend.

As illustrated in the above discussion, there are many variables that will affect the actual loss in collections related to this bill over time. There can be no doubt that the provisions of SB 59 will reduce the collections of criminal fines, restitution for crime victims, and other judgments owed to the state. The actual amount of the reduction, however, cannot be determined at this time.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 59
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Ineligibility for DUI BRU Revenue Operations
 Component Permanent Fund Dividend
 Sponsor Senator Cowdery
 Requester Senate Judiciary Committee Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 2/16/03 1:10 PM
 Approved by: Larry Persily, Deputy Commissioner Date 2/16/2003
 Agency Department of Revenue

Department of Revenue

This legislation would amend AS 43.23.005(d) and AS 43.23.028(a) to add convictions for driving while under the influence of an alcoholic beverage, inhalant or controlled substance and convictions for the crime of refusing to submit to a chemical test to the list of offenses that cause an individual to lose his or her eligibility to receive the Alaska Permanent Fund dividend. The list currently includes individuals convicted or incarcerated for a felony, a third misdemeanor, or a misdemeanor with a prior felony.

This legislation would declare persons convicted of driving while under the influence of an alcoholic beverage, inhalant or controlled substance or convicted of refusing to submit to a chemical test ineligible for the dividend for the year after their conviction or incarceration. Second-time offenders would lose their eligibility for the dividend for five years after their conviction or incarceration.

The dividend money that otherwise would have gone to Alaskans convicted of driving while under the influence of an alcoholic beverage, inhalant or controlled substance or convicted of refusing to submit to a chemical test instead would be added to the funds already diverted from those convicted of felonies and misdemeanors and which is used to fund programs at the Department of Corrections, Department of Public Safety's Council on Domestic Violence and Sexual Assault, Crime Victim Compensation Fund, and Legislative Office of Victims' Rights.

This legislation would not affect the amount of the annual dividend.

Although it would not increase the cost of operations for the Dividend Division it likely would increase the number of appeals as some applicants would contest their denials and the Division would have to research and verify their conviction and/or incarceration records.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 59
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act related to PFD ineligibility for BRU Legal and Advocacy Services
DUI or Refusal conviction Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester (S) JUD Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: ***

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 See attached page for analysis.

Prepared by: Linda K. Wilson, Deputy Director
 Division: Public Defender Agency
 Approved by: Mike Miller, Commissioner
 Agency: Department of Administration

Phone (907)-334-4416
 Date/Time 2/19/03 9:26 AM
 Date 2/19/2003

Fiscal Note Analysis for SB 59: (continued)

This legislation would make a person convicted of DUI or Refusal ineligible for a PFD for the qualifying year they were convicted and if it was their second or subsequent offense, the person would be ineligible for five years.

The Public Defender Agency's operations may be affected by this bill. With these increased penalties for convictions for DUI and Refusal, more people charged with these offenses may choose to go to trial. This would increase the workload of the Agency. For many indigent people, the PFD is one of their primary sources of income, and when they are convicted of a crime and owe fines, restitution, surcharges, fees, and other financial obligations including child support, their PFD is often attached and used towards those amounts due. If people convicted of DUI or Refusal are ineligible for a PFD for a qualifying year, and/or four more years for repeat offenders, the dividend could not be used to offset restitution, fines, or other debts owed. If they are not able to pay restitution, fines, surcharges, or fees, whose payment is a condition of their probation or parole, and are in violation of those conditions, petitions to revoke probation or parole would be filed. This would also increase the caseload and workload of the Agency, however, it is not possible to determine the extent of that impact. The Agency represents indigent persons in both parole and probation revocations, and both may increase if this bill becomes law, but it is not possible to predict the increased number. Therefore, an indeterminate fiscal note is submitted.

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

February 19, 2003

SUBJECT: DWI: permanent fund dividend ineligibility (SB 59)

TO: Senator John Cowdery
Attn: Crystal Moore

FROM: Tamara Brandt Cook *TBC*
Director

SB 59 makes a person ineligible for a permanent fund dividend when (1) during the qualifying year the person was sentenced for DWI or refusal to submit to a chemical test; or (2) during the qualifying year or the four previous years the person was sentenced for DWI or refusal to submit to a chemical test and the person has prior convictions for either crime. Under bill section 4, the ineligibility provisions apply only to crimes committed after December 31, 2003. You ask whether the bill can be expanded to apply to prior convictions.

If the bill were expanded to disqualify people based on crimes committed before the effective date of the bill, there is a substantial likelihood that such an expansion would be struck down as an ex post facto law. However, if the bill is expanded so that past convictions are considered only for purposes of the enhanced period of ineligibility based on prior convictions, this is more likely to survive constitutional attack. The actual applicability section in SB 59 is tied to the beginning of a dividend year, rather than the effective date of the bill, for ease of administration.

The federal and state constitutions both prohibit the state from enacting ex post facto laws. (United States Constitution, art. I, sec. 10; Alaska Constitution, art. I, sec. 15) An ex post facto law is one that

- (1) makes criminal conduct that was innocent at the time that the act was performed;
- (2) aggravates a crime or makes the crime greater than at the time that it was committed;
- (3) permits imposition of a different or more severe punishment than was permissible when the crime was committed;
- (4) changes the legal rules of evidence to permit less or different testimony to convict the offender than was required when the crime was committed.

The first PFD disqualification provision under AS 43.23.005(d) was enacted in ch. 54, SLA 1991. It made ineligible for dividends felons who were incarcerated during a

current year regardless of the date of the crime that resulted in the incarceration. When it was challenged as an ex post facto law, the court upheld the provision largely because the court found that the purpose of the law was to reimburse the state for crime related costs rather than to increase punishment. (State v. Anthony, 816 P.2d 1377 (Alaska 1991) opinion on rehearing) The court stated at page 1387:

As we noted in our original opinion, the articulated purpose of AS 43.23.005(d) is to obtain funds for crime victims. In addition, we noted that the parties did not dispute at trial that a purpose of the statute is to reimburse the state for the cost of confinement. It is significant that a person convicted of a felony who is not sentenced to incarceration is not made ineligible for a permanent fund dividend. Since the purpose of the statute is compensatory rather than punitive, we conclude that it does not violate the ex post facto clause of either the United States or the Alaska Constitution.

The court, in the first appeal brought by Anthony, had earlier upheld the law on equal protection grounds. State v. Anthony, 810 P.2d 155 (Alaska 1991) Later the law was held not to be a separate punishment for double jeopardy purposes. (Hertz v. Storer, 943 P.2d 725 (Alaska 1997), cert. denied, 522 U.S. 1059 (1998))

AS 43.23.005(d) was expanded under ch. 46, SLA 1996 to add ineligibility for people sentenced during a current year or incarcerated during a current year for misdemeanors if they had been convicted of a prior felony or two or more prior misdemeanors. In order to avoid the possibility of an adverse ruling if the new law were challenged as an ex post facto law, sec. 6 of that 1996 law contained language essentially identical to that included in SB 59 under sec. 4. Because SB 59 greatly expands the category of people who are ineligible for dividends based on DWI related criminal activity, it is difficult to argue that the purpose of this legislation is "compensatory rather than punitive." Therefore, there is a reasonable chance that a challenge would succeed if the legislation is expanded to include all persons convicted in the past of DWIs or refusal to submit to a chemical test.

However, it might be possible to successfully defend against an ex post facto challenge if convictions that occur before the effective date of the measure are considered only for purposes of applying the enhanced period of ineligibility for prior convictions based upon the reasoning in Danks v. State, 619 P.2d 720 (Alaska 1980). The court held that the license of a defendant convicted of DWI for the third time could be revoked for three years under former AS 28.15.210(c), even though that statute was enacted after Danks' first two DWI convictions. The court followed a decision of the United States Supreme Court and ruled that the enhanced sentence was not to be viewed as a new jeopardy or additional penalty for the two earlier DWIs, but rather as a stiffened penalty for the most recent one.

DWI MISDEMEANORS & FELONIES FY02 AND JULY-DEC. FY03 DRIVING WITHOUT INSURANCE						
	FY02		FY03 JULY - DECEMBER			
	FDWI	MDWI	FDWI	MDWI	INSURANCE	
ANCHORAGE	157	1750	97	894	3	
BARROW	13	76	1	24	0	
BETHEL	18	146	5	74	1	
CORDOVA	0	20	1	10	0	
CRAIG	1	44	2	18	0	
DELTA JCT	0	16	0	4	0	
DILLINGHAM	4	59	3	31	0	
FAIRBANKS	50	978	51	551	15	
GLENNALLEN	1	24	0	15	1	
HAINES	1	11	0	5	0	
HEALY	0	21	0	14	0	
HOMER	4	129	4	76	19	
JUNEAU	19	256	5	112	1	
KENAI	18	442	10	180	27	
KETCHIKAN	11	160	15	73	9	
KODIAK	6	148	3	70	1	
KOTZEBUE	12	91	5	45	1	
NAKNEK	0	15	0	14	1	
NENANA	0	17	0	19	0	
NOME	3	75	3	49	0	
PALMER	57	605	No statistics available			
PETERSBURG	1	24	1	17	4	
SEWARD	7	121	3	48	0	
SITKA	4	78	1	48	0	
TOK	0	17	0	6	0	

2-19-03 Alaska Court System

UNALASKA		4	40		2	15	11
VALDEZ		1	72		3	29	0
WRANGELL		2	27		0	11	1
TOTAL		394	5462		215	2452	95

2-19-03 Alaska Court System

Figures provided by DPS + PFD

Alcohol Arrest Incidents	Number of Offenders	Percent of Offenders
1	52201	94%
2	3276	6%
3	203	0%
4	15	0%
5	2	0%
Ten-Year Total	<u>55,697</u>	100%

Year	DWI Arrests
1993	6,665
1994	6,446
1995	6,134
1996	6,009
1997	5,357
1998	5,676
1999	5,661
2000	5,652
2001	5,660
2002	6,172
	<u>59,432</u>

DWI Est 85% Conviction

5,665
5,479
5,214
5,108
4,553
4,825
4,812
4,804
4,811
5,246
<u>50,517</u>

	Approx. # DWI	% change		
1998	4825			
1999	4812	-0.3%		
2000	4804	-0.2%	4 year average	4813
2001	4811	0.1%		
2002	5246	9.0%		

	Median Case Dividend (from APFC)	4 year average DWI's	Potential Projected \$'s withheld
FY03	\$ 1,100	4813	\$ 5,294,204
FY04	\$ 840	4813	\$ 4,042,847
FY05	\$ 700	4813	\$ 3,369,039
FY06	\$ 770	4813	\$ 3,705,943
FY07	\$ 1,040	4813	\$ 5,005,429
FY08	\$ 1,310	4813	\$ 6,304,915

SB

64

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Honorable Ralph Seekins, Chair
Senate Judiciary Committee
Alaska Capital, Room 125
Juneau, AK 99801-1182

April 16, 2003

RE: SB 64 (French) - Support

Dear Chair Seekins:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the Senate Judiciary Committee to support SB 64, authored by Senator Hollis French, one of your Committee members, and co-sponsored by Senators Ellis, another Committee colleague and Senators Elton and Davis.

AARP has always recommended to our members and their families that credit reports with the three major agencies should be checked once a year. Despite what we feel is good consumer advice, we know that many people do not follow through on this annual check because of the fees involved with charges for up to \$8.50 per company. A free annual check-up will not only increase the number of people who do a check-up but it will also increase the potential of identifying identity theft earlier. As you and your Committee colleagues know, identity theft is a growing problem for people of all ages. A recent AARP Public Policy Institute analysis of FTC complaint data found that complainants age 50 and over were more likely to report a number of different identity crimes than complainants of all ages.

Credit reports and the ability for a consumer to access them at no cost will contribute to the ability of an individual to exercise control over the disclosure and subsequent uses of their personal information. AARP believes this is an essential component for good consumer protection. When you pass SB 64 you will help reduce the vulnerability of older Alaskans to fraud and unfair and deceptive marketing practices. With the widespread use of credit reports and credit scoring and other risk-based pricing models, SB 64 will help the individual consumer assure fair pricing and terms for credit and insurance, as well as access to rental housing and employment opportunities.

AARP urges an "AYE" vote on SB 64.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,

Marguerite Stetson

Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

cc: Vice-Chair Scott Ogan
Senator Gene Therriault
Senator Bettye Davis
Senator Hollis French
Senator Johnny Ellis
Senator Kim Elton
Marie Darlin
Patrick Luby

Marguerite Stetson
AARP Alaska
Executive Council Member
3009 Northwood Street
Anchorage, AK 99517
907.245.5259 voice
907.245.5279 fax

SB 64 - An Act requiring certain consumer reporting agencies to provide individuals with certain information without charge

SPONSOR STATEMENT

Identity theft is a growing problem both in our state and nationally. **SB 64 - "An Act requiring certain consumer reporting agencies to provide individuals with certain information without charge"** will provide Alaskans with an additional way to help protect themselves from identity theft and from the negative impacts of inaccurate credit reports.

Having your identity stolen is a devastating experience. More than 750,000 people may be victims of identity theft this year, and each will spend countless hours and, on average, more than \$1,000 to repair the damage done to his or her reputation and finances. Long after the initial damage is done, victims of identity theft continue to be turned down for loans, credit, and jobs. They are often made to feel like they are guilty parties and not, as is truly the case, the victims of a crime.

The first indication many consumers have that they have been the victim of identity theft is when problems crop up with their credit. Regularly reviewing one's own credit report is an easy way to stop identity theft in its early stages. Providing Alaskan consumers with one free credit report per year will help not only consumers but also the many, many businesses that extend credit. Minimizing the losses to the business community through identity theft is one aim of this legislation.

Businesses inspect consumers' credit histories when they evaluate applications for credit, insurance, employment, and even leases. Individuals' credit histories are recorded in files or records maintained by credit reporting agencies, which sell the reports. A credit record contains information about a person's income, debts, and credit payment history. It also indicates whether the person has been sued, been arrested, or filed for bankruptcy. If that information is incorrect, whether as a result of identity theft, fraud, or mistakes made by the consumer reporting agency, a consumer can suffer.

SB 64 will require consumer reporting agencies that maintain files on Alaskans to provide an individual with a free copy of his or her file (including all consumer credit reports) once annually, upon request. In passing this legislation, Alaska will join six other states whose legislatures have taken strong action to help consumers protect and, if necessary, correct, their credit ratings.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR FRENCH

TO: SB 64

1 Page 1, line 1:

2 Delete "requiring certain consumer reporting agencies to provide"

3 Insert "relating to a requirement that certain consumer reporting agencies
4 provide"

5

6 Page 1, following line 9:

7 Insert a new subsection to read:

8 "(b) The provisions of (a) of this section may not be interpreted to require a
9 person doing business to provide an individual with a notice of the individual's rights
10 under (a) of this section."

11

12 Reletter the following subsection accordingly.

SB 64 - An Act requiring certain consumer reporting agencies to provide individuals with certain information without charge

SECTIONAL ANALYSIS

Section 1. (a) Requires a consumer reporting agency that maintains a file on an individual who is a resident of Alaska to provide the individual with a free copy of the individual's file, including all consumer credit reports, upon request. One free report is required per year.

(b) Defines "consumer reporting agency" and "file."

Section 2. Adds violation of this Act to list of violations in AS 45.50.471(b), "unfair methods of competition" and "unfair or deceptive acts or practices."

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 64
(S) Publish Date: 4/4/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "...requiring certain consumer reporting agencies BRU Civil Division
to provide individuals with certain reports without charge." Component Fair Business Practices
Sponsor Senator French
Requester Senate Labor and Commerce Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill requires consumer reporting agencies who maintain a file on an individual who is an Alaska resident to provide a complete copy of that file, including consumer credit reports, to the individual once a year without charge. Failure to do so is an unlawful act under the unfair trade practices and consumer protection statutes.

The Department of Law's Consumer Protection unit anticipates any increased enforcement workload from passage of this bill could be handled by existing staff.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 2/18/03 3:25 PM
Approved by: Kathryn Daughettee for Gregg D. Renkes, Attorney General Date 2/18/2003
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 64
(S) Publish Date: 4/4/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Credit Information BRU Banking, Securities & Corporations(115)
Component Banking, Securities & Corporations
Sponsor Senator French
Requester Senate Labor & Commerce Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation provides that a consumer reporting agency that maintains a file on an Alaska resident shall, at the request of that individual, provide the individual with a complete copy of the individual's file, including all consumer credit reports each calendar year without charge. This legislation does not impact the operations of this division, and there are no fiscal impacts to the department.

Prepared by: Mark Davis, Director
Division Banking, Securities & Corporations
Approved by: Edgar Blatchford, Commissioner
Agency Department of Community & Economic Development

Phone 907-269-8452
Date/Time 2/19/03 11:11 AM
Date 2/19/2003



Alaska State Legislature House and Senate Democrats

www.akdemocrats.org

FOR IMMEDIATE RELEASE • February 7, 2003

CONTACT: Jordan Marshall • (907) 465-3842, Toll-free (888) 465-4919, Cell: 321-3682

Fax: 465-5125, Jordan_Marshall@legis.state.ak.us

Free Credit Report to Help Prevent Identity Theft

Putting Alaskans First 2003

JUNEAU – Alaskan consumers could receive a free credit report annually under a bill introduced today by Senator Hollis French (D-Anchorage) and Representative Harry Crawford (D-Anchorage). SB 64 and HB 85 require consumer reporting agencies that maintain files on Alaskans to provide a free copy of an individual's file upon request.

"Identity theft is a growing problem both in our state and nationally," said Senator French. "The first indication many consumers have that they have been a victim of identity theft is when problems crop up with their credit. This legislation provides consumers with an additional way to help protect themselves. A good credit rating is valuable. It is important for individuals to check their credit files and reports regularly."

Businesses inspect consumers' credit histories when they evaluate applications for credit, insurance, employment, and even leases. Individuals' credit histories are recorded in files or reports maintained by credit reporting agencies, which sell the reports. A credit record contains information about a person's income, debts, and credit payment history. It also indicates whether the person has been sued, been arrested, or filed for bankruptcy. Indeed, credit reports are even used by insurance companies to set premium rates, in the controversial practice known as credit scoring.

"Having your identity stolen is a devastating experience. More than 750,000 people may be victims of identity theft this year, and each will spend, on average, countless hours and more than \$1,000 to repair the damage done to his or her reputation and finances. There is only one truly effective way to keep your identity clean: check your credit report at least once a year. By requiring consumer reporting agencies to provide individuals with one free report every year, this bill will help Alaskans protect their privacy and avoid the trauma and expense of discovering, too late, that their identity has been hijacked," said Crawford.

###

Putting Alaskans First • Moving Alaska Forward 2003

Sen. Bettye Davis, Sen. Johnny Ellis, Sen. Kim Elton, Sen. Lyman Hoffman, Sen. Hollis French, Sen. Gretchen Guess, Sen. Georgianna Lincoln, Sen. Donny Olson, Rep. Ethan Berkowitz, Rep. Sharon Cissna, Rep. Harry Crawford, Rep. Eric Croft, Rep. Les Gara, Rep. Max Gruenberg, Rep. David Gultenberg, Rep. Reggie Joule, Rep. Mary Kapsner, Rep. Beth Kerttula, Rep. Albert Kookesh, Rep. Carl Moses



Honorable Con Bunde, Chair
Senate Labor and Commerce Committee
Alaska Capital, Room 506
Juneau, AK 99801-1182

February 17, 2003

RE: SB 64 (French) - Support

Dear Chair Bunde:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the Senate Labor and Commerce Committee to support SB 64, authored by Senator Hollis French, one of your Committee members, and co-sponsored by Senators Ellis and Elton.

AARP has always recommended to our members and their families that credit reports with the three major agencies should be checked once a year. Despite what we feel is good consumer advice, we know that many people do not follow through on this annual check because of the fees involved with charges for up to \$8.50 per company. A free annual check-up will not only increase the number of people who do a check-up but it will also increase the potential of identifying identify theft earlier. As you and your Committee colleagues know, identify theft is a growing problem for people of all ages.

AARP urges an "AYE" vote on SB 64.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,

Marguerite Stetson

Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

cc: Senator Ralph Seekins
Senator Bettye Davis
Senator Hollis French
Senator Johnny Ellis
Senator Kim Elton
Marie Darlin
Patrick Luby



AKPIRG

ALASKA PUBLIC INTEREST RESEARCH GROUP

WWW.AKPIRG.ORG

PO Box 101793 ♦ Anchorage, Alaska 99510-1093 ♦ Ph: (907) 278-3661 ♦ Fax: (907) 278-9300 ♦ email: akpirg@akpirg.org

February 12, 2003

Testimony on SB 64 – Consumer Credit Reports

AkPIRG wishes to express its strong support for SB 64 (Companion HB 85), which will require consumer reporting agencies to provide, free of charge, a complete copy of an individual's file annually.

This legislation will make Alaska only the seventh state with such forward-thinking consumer protection. Credit reports and credit scores have become crucial to a person's ability to participate in the modern marketplace. Erroneous credit reports have hindered consumers from obtaining home loans, car loans and other financial tools. These errors are often difficult to correct and make consumers feel guilty until such time as they are able to prove themselves innocent.

SB 64 will be a valuable tool for consumers, allowing them to more accurately monitor their credit history in an effort to keep their record current. Accurate information will help all involved in the credit industry and should help reduce credit risks for all involved.

Consumers have the right to know what is in their credit file. A once a year option to receive this information free of charge is not an undue burden on consumer reporting agencies.

Therefore, AkPIRG urges passage and adoption of SB 64.

Thank you,

Steve Cleary
Executive Director, AkPIRG
278-3661

SB

85

Senator Hollis French


Capitol Room 504
465-3892
465-6595 fax



MEMORANDUM

Date: ^{4/11/03} March 6, 2003

To: Senator Ralph Seekins, Chair
Senate Judiciary Committee

From: Senator Hollis French 

RE: Request for Hearing on CS SB 85 (STA)- "An Act relating to sentencing and to the earning of good time deductions for certain sexual offenders"

This is a request that you schedule CS SB 85 (STA) – "An Act relating to sentencing and to the earning of good time deductions for certain sexual offenders" for a hearing during the week of April 20 or, alternately, as soon after that as possible.

I have attached a copy of the bill, a sponsor statement, sectional analysis, fiscal notes and other supporting materials for the committee packet. Additional letters of support will be provided prior to the hearing.

Please arrange to have the hearing teleconferenced.

Many thanks --

Attachments

SPONSOR STATEMENT – CS SB 85 (STA)

An Act relating to sentencing and to the earning of good time deductions for certain sexual offenders

CS SB 85(STA) – “An Act relating to sentencing and the earning of good time deductions for certain sexual offenders” addresses a pressing public safety issue in Alaska. Our state has long had one of the highest rates of reported rapes per capita in the nation, ranking first among all states for 19 of the last 26 years, including 2001. It is time to do something about this undistinguished -- and shameful -- rating and to provide additional protection for Alaska’s women and children, the most frequent victims of sexual crimes. SB 85 addresses this issue by focusing on the worst of the worst – repeat sexual offenders, those who have been convicted of a sex offense and subsequently commit another sexual crime.

CS SB 85 (STA) has two purposes: first, to increase the penalties for repeat sex offenders and, second, to add repeat sexual offenders to the list of those who are not eligible to earn a “good time” reduction of their terms.

CS SB 85(STA) is designed to treat repeat sex offenders differently from other repeat felons. Research has shown that sexual offenders are not like other offenders. As noted in a National Institute of Justice (NIJ) research report on managing adult sex offenders, sex crimes flourish in secrecy. Many offenders are otherwise highly functioning and use their social skills to commit their crimes and to manipulate both victims and criminal justice officials. Offenders are often very accomplished at presenting a facade designed to hide the truth about themselves. Many sex offenders commit a wide range and large number of sexually deviant acts during their lives and show a continued propensity to offend. The NIJ study concludes that adult offenders who commit sex crimes should be managed, treated, and supervised differently from other criminals.

Current statutory guidelines in Alaska, however, treat all two-time felons as though they were the same, that is, all prior felony convictions are given equal weight when an individual is sentenced on a new offense. For example, a judge sentencing a person convicted of a second forgery or a second sexual offense has to operate under the same sentencing guidelines. SB 85 establishes a separate, and more stringent, set of sentencing guidelines for those who commit second or

subsequent sexual offenses or commit a sexual felony after a prior felony conviction.

The other proposed change in the law in CS SB 85 (STA) is to add repeat sexual offenders to the list of those who are not eligible to earn “good time” or a reduction in their prison terms for good behavior. Under current law, most prisoners, including sexual offenders, can earn a one-third reduction of their sentences for good behavior. CS SB 85 (STA) would require repeat sexual offenders to serve the full length of their sentences; they would not be eligible for parole.

By increasing sentences for repeat sexual offenses and actual time served for these offenses, SB 85 will help to protect Alaska’s women and children from some of the most heinous crimes against them, sexual felonies.

I urge your support of this legislation.

Senator Hollis French
April 11, 2003

SECTIONAL ANALYSIS -- CS SB 85 (STA)

An Act relating to sentencing and to the earning of good time deductions for certain sexual offenses

- Section 1** Amends AS 12.55.12(c) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 2** Amends AS 12.55.12(d) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 3** Amends AS 12.55.12(e) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 4** Corrects a reference to a subsection repealed in earlier legislation.
- Section 5** Establishes a separate, and more stringent, sentencing schedule for individuals convicted of "sexual felonies" (see below, Section 9). Increases maximum term for first offenses. Establishes new maximum and presumptive sentences (see Attachment A) for conviction of a second or subsequent sexual felony. Under current law, sentencing for a second felony, whether it is sexual felony or another type of felony, is controlled by the same statutory requirements for maximum and presumptive sentences.
- Section 6** Provides guidelines on how to consider prior convictions in Alaska or other jurisdictions when imposing sentences.
- Section 7** Corrects a reference to a subsection repealed in earlier legislation.
- Section 8** Corrects a reference to a subsection repealed in earlier legislation.
- Section 9** Provides a definition for "sexual felony."
- Section 10** Adds repeat sexual felons to the list of those not eligible for a "good time" reduction in their term of imprisonment.
- Section 11** Establishes that the provisions of the bill are applicable to sentencings and calculation of "good time" for offenses committed on or after the effective date of the Act.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB85
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Department of Corrections
Title Good Time Deductions BRU Administration & Operations
for Sexual Offenses Component _____
Sponsor Senator French Component No. _____
Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

While this legislation has the potential to result in additional incarceration of inmates, it is not possible for the Department to quantify the number of additional inmates in the first five years. We believe that the number would be small. The longer term sentences contained in SB 85 may result in the need for additional bed space in the correctional system 5-20 years in the future and beyond. Again, it is not possible for the Department to define the numbers of additional beds required in the future as this legislation may result in changes in law enforcement, judicial or offender behavior in the long run.

Prepared by: Jerry D. Burnett, Director
Division: Administrative Services
Approved by: Portia C.K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone 465-3339
Date/Time 4/1/03 2:27 PM
Date 4/1/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 85
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to sentencing and to the earning of good time deductions for certain sexual offenses." BRU Criminal Division
 Sponsor Senator French Component All
 Requester Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill increases the presumptive sentences and decreases the amount of good time that may be earned during imprisonment for persons convicted of certain felony sexual offenses.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 4/2/03 1:07 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 4/2/2003
 Agency: Department of Law

Sentencing Guidelines for Repeat Sexual Offenders

Current Law and CS SB 85(STA) Proposal

CRIME	UNCLASSIFIED FELONIES	CLASS A FELONIES	CLASS B FELONIES	CLASS C FELONIES
	Sexual Assault 1 Sexual Abuse of Minor 1	Attempted Sexual Assault 1 Attempted Sexual Abuse of Minor 1	Sexual Assault 2 Sexual Abuse of Minor 2	Sexual Assault 2 Sexual Abuse of Minor 3
CURRENT LAW PRESUMPTIVE SENTENCES				
First felony offense	8	5	1 to 4	0
One prior felony	15	10	4	2
Two prior felonies	25	15	6	3
MAXIMUM SENTENCE	30	20	10	5
PROPOSAL PRESUMPTIVE SENTENCES				
First felony offense	8	5	1 to 4	0
One prior felony	15	10	5	2
One prior sex felony	20	15	10	3
Two prior felonies	25	15	10	3
Two prior sex felonies	30	20	15	6
MAXIMUM SENTENCE	40	30	20	10

Patrick Dougherty
Vice President & Editor

Steve Lindbeck
Associate Editor

©1946 by Norman C. Brown

Katherine Fanning, Editor and Publisher, 1971-1983
Lawrence Fanning, Editor and Publisher, 1967-1971

OPINION

COMPASS: *Points of view from the community*

Get tough with repeat offenders

By SEN. HOLLIS FRENCH

Like most Alaskans, I am proud of our state. However, a recent news article disturbed me. The article reported that the rates of sex assault in Anchorage, and in Alaska as a whole, are among the highest in the nation. Since 1976, the state has ranked in the top five in the nation for reported rapes per capita.

I got to thinking about that and the question I kept coming back to is this: What am I going to say to the people of my district and the people of this state when I am rightly asked, "What did you do to stop this?" Did I help to strengthen the laws? Did I raise the community's awareness? Did I help get money for a shelter or help fund a study that would look at the pattern of the cases?

We can't go on leading the nation in sex assault. I feel ashamed about that. We must use all our power to get our rates down and keep them down.

Gov. Murkowski promised during the campaign and in his State of the State address to get tough on crime. I welcome the governor's attitude. I would encourage him to focus on the truly bad actors in the criminal justice system — on the individuals who, in just a few minutes of outrageous behavior, can inflict a lifetime of damage on a victim.

I have three proposals.

First, we must strengthen the laws on repeat sex offenders. We must carefully target those individuals who have been convicted of sex crimes in the past, and when they commit another sex crime we must



There's no Democratic way to feel about this, nor is there a Republican way to feel. There's only one way to feel, and that's outraged.

hammer them and hammer them hard.

The law as it stands treats all repeat felons the same. For example, if you commit a sex assault, do your prison time and upon release commit another sex assault, the law treats that first conviction as if it were the same as stealing a car or forging a check. All two-time felons are the same, according to the law. I would argue, however, that a two-time rapist is different. A two-time rapist needs to spend a long time in a small place where he can't hurt anyone else. I'll be proposing a change to the sentencing laws to deal with these hard-core repeat offenders.

My second idea jelled when I read about Carlos Rodriguez, who was released from prison recently. Rodriguez made his criminal career enticing young boys 12 to 14 years old with drugs and alcohol, then forcing sex on them. Most were too ashamed to go to the police. Several of his victims committed suicide over the years. Now Rodriguez is out of prison and in the care of an overworked parole officer.

Back in 1983, when he was convicted, Rodriguez was sentenced to 24 years in prison. So 1983 plus 24 should equal 2007.

Why was he released early? Good time. Prisoners earn good time for obeying the rules in prison. Good time is why Carlos Rodriguez is out on the streets. Repeat sex offenders should not get the same good-time reduction as other prisoners.

We also need to know more. A study has been proposed to provide demographic information about rape victims and offenders in Anchorage and to provide more details about the actual assaults. The same questions should be researched statewide.

The overwhelming majority of sex assaults committed in this state are inflicted upon women and children. There's no political angle to this subject. There's no Democratic way to feel about this, nor is there a Republican way to feel. There's only one way to feel, and that's outraged.

Please join me in sharing that feeling of outrage. Please join me in supporting legislation and funding to address Alaska's problems in this area. Alaska should not lead the nation in sex assaults. This is one area in which every Alaskan would be proud to be in last place.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



News Classifieds Marketplace Services Around Alaska Specials

24-Hour News
Go to....

Today's ads
Search ads
Place an ad

Transportation
Employment
Real Estate

Restaurants
Directory
Alaska stores

Visitors Guide
Wild City
Winter Guide

Iditarod
Photo Galleries
Editors' Picks

- Money
- Sports
- Outdoors
- Life
- Entertainment
- Obituaries
- Perfect World
- Video Clips
- Legislature
- Mike Doogan
- Opinion
- Letters to the Editor
- Voice of the Times
- Corrections
- Weather
- Newsletters
- Help
- Home

Search
In today's news

Search

- Previous days' news
- Advanced search
- Archives search

Editors' Picks
Read adn.com's best recent stories.

Top Ten Stories
See which stories other readers are sending to their friends.

Crossword
Play our interactive puzzle online.

ALASKA.com
Get information on travel, relocation and entertainment. The business directory allows you to locate stores and services.

TOP ALASKA STORIES

Local rape rates are increasing

ANCHORAGE: City had 5th highest number of reported sexual assaults in nation.

By Tataboline Brant
Anchorage Daily News
(Published: February 15, 2003)

Anchorage had the fifth highest rate of reported rape among 274 metropolitan areas in the United States, according to 2001 statistics released Friday by city officials.

The numbers are based on the FBI's 2001 Uniform Crime Reports and were condensed into a report by the SAFE City Program, part of the Municipality's Department of Health and Human Services.

Anchorage police presented the statistics, along with some of their own, on Thursday to the Alaska Native Women's Sexual Assault Committee, a volunteer task force that meets monthly. The committee had asked police to make the presentation, said committee member Karen Lee, program director for the Alaska Native Justice Center.

What they heard was alarming, she said: "We were surprised to see such a dramatic increase over the last three years."

According to Anchorage police statistics, the number of reported rapes in Anchorage per 100,000 population has been on the rise in recent years after dropping to 59.5 in 1999. It climbed to 75.2 in 2000 and 81.3 in 2001. That put the city fifth behind Rapid City, S.D.; Bremerton, Wash.; Panama City, Fla.; and Benton Harbor, Mich., according to SAFE City statistics.

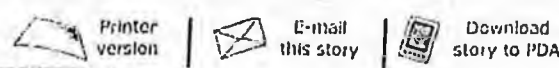
The 2002 rate is not yet tabulated, but police told committee members they expect another increase, Lee and others said.

Rape is not a new problem in Alaska. Since 1976, the state has ranked in the top five states in the nation for the highest rate of reported rape per capita, according to SAFE City statistics. For 19 out of the last 26 years -- including 2001 -- Alaska ranked highest in the nation, SAFE's numbers show.

Anchorage Assemblywoman Anna Fairclough, executive director of STAR, Standing Together Against Rape, said she wasn't surprised that the state ranked highest in 2001.

"We've always known at STAR that we have held the No. 1 spot," she said.

What was alarming were the statistics about Anchorage, Fairclough said. When you look at the overall rate for major crimes in the city -- homicide



statewide

School News
Find your child's classroom in SchoolNews.

Community News
Check our free Web sites for non-profit groups.

Aurora Borealis by Train
\$255
Alaska Railroad

RE/MAX Complete Alaska Listings search

BUYS of the WEEK
BEST BUY CLICK HERE

Bank on-line. You could win!
Northern Bank

when you look at the overall rate for major crimes in the city -- homicide, rape, burglary, aggravated assault, theft, robbery -- Anchorage looks like a pretty safe place to live compared with the rest of the nation. But look at the rape category alone and Anchorage "just screeches to the top," she said.

Fairclough did not know what may have caused the rate of reported rapes in Anchorage to rise in the last few years: "It would be a guess as to why."

Committee members Lee and Denise Morris, president of the Alaska Native Justice Center, said they too could only speculate on why the numbers have gone up.

The Alaska Native Women's Sexual Assault Committee was formed in 1999, after police released statistics indicating that more than 50 percent of the reported cases of sexual assault occurring in Anchorage had been reported by Alaska Native women, Morris said. Perhaps the committee had something to do with why the rates rose in 2000 and 2001, Lee said. "What happens sometimes when you bring awareness is people feel empowered to report," she said. "But that's only one scenario."

The committee will continue to study the issue and try to come up with solutions, said Morris, the committee chair. The task force already does "meet and greet" campaigns about three times a year, targeting Alaska Native women, Morris said. It hands out literature about how to stay safe.

"I think there's more that could be done," Morris said.

SAFE City wants to do a comprehensive study on sexual assaults in Anchorage, said Rhonda Grove, a statistical analyst with the program.

Funding for the study has not yet been secured, but officials already have plans to develop the methods for the study in the next year, she said.

The study would likely provide demographic information about rape victims and offenders and more details about the actual assaults, among other things, she said, which could be used to fight the problem.

Reporter Tataboline Brant can be reached at tbrant@adn.com and 907-257-4321.

SITKANS AGAINST FAMILY VIOLENCE

P.O. Box 6136 • Sitka, Alaska 99835
(907) 747-3370 • Fax 747-3450 • Crisis Line 1-800-478-6511



April 10, 2003

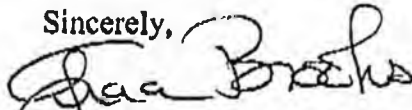
Senator French
Room 504
State Capitol Building
Juneau AK 99801

Dear Senator French:

I am writing to support SB85. We have learned that repeat sex offenders are very likely to continue to offend. I applaud your efforts to increase jail time for repeat sex offenders. Being raped causes so many scares and is such a trauma. It takes years of healing and never is forgotten. I support this bill in hopes that there will be fewer victims.

In Sitka SAFV is part of the Sexual Assault Response Team. We know only too well the trauma that victims experience and the struggle they have in reclaiming their lives. These crimes need to be responded to in a very serious manner and this bill address that.
Thank you

Sincerely,


Grace Brooks
Executive Director

cc: Senator Gary Stevens
Senator Cowdry
Senator Dyson
Senator Guess
Senator Hoffman



Member of the Alaska Network on Domestic Violence and Sexual Assault
United Way Member Agency

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB85(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Department of Corrections
 Title Good Time Deductions for Sexual Offenses BRU Administration & Operations
 Component _____
 Sponsor Senator French Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	*	*	*
Travel	0.0	0.0	0.0	*	*	*
Contractual	0.0	0.0	0.0	*	*	*
Supplies	0.0	0.0	0.0	*	*	*
Equipment	0.0	0.0	0.0	*	*	*
Land & Structures	0.0	0.0	0.0	*	*	*
Grants & Claims	0.0	0.0	0.0	*	*	*
Miscellaneous	0.0	0.0	0.0	*	*	*
TOTAL OPERATING	0.0	0.0	0.0	*	*	*

CAPITAL EXPENDITURES	0.0	0.0	0.0	*	*	*
-----------------------------	------------	------------	------------	---	---	---

CHANGE IN REVENUES ()	0.0	0.0	0.0	*	*	*
-------------------------------	------------	------------	------------	---	---	---

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not expect additional costs as a result of changes to sentencing in SB 85 in the first three years after enactment. For years beyond FY 07, there may be a cost to the department due to the increase in the length of sentences and the elimination of good time deductions for repeat sexual offenders, but it cannot be determined with any precision. Please see attached.

Prepared by: Jerry D. Burnett, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone 465-3339
 Date/Time 4/29/03 11:41 AM
 Date 4/29/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 85(STA)

ANALYSIS CONTINUATION

In an attempt to determine the potential impact on the Department of Corrections (DOC), the DOC Research Section researched the re-offend rate of sex offenders in the department's custody. The research section reported that there were 727 sex offenders in the department's custody on April 2, 2003.

Number of the 727 sex offenders who are repeat offenders (in the department's custody for any reason previously):

- In DOC custody on a sex offense	727	100%
- In DOC previously and released at some point	581	80%
- Average number of times sex offender admitted to DOC (up to 11/11/2001)	6.24	times
- Percent admitted to DOC 10 or more times (581= 100%)	302	52%

Major offenses committed when admitted to DOC (by the 727 sex offenders in custody on 04/02/03):

- Parole/Probation/Court violations, etc.	25%
- All sex offenses (sex assault/abuse/etc.)	15%
- All alcohol (DUI/Minor Consuming/etc.)	13%
- All Assaults	16%
- Theft/Burglary/Larceny/Robbery	11%
- All traffic	5%
- All Other	15%

Given the high level of recidivism for all offenses among this group of sex offenders, it is likely that many of the inmates who would receive a longer sentence under the provisions of SB 85 already would spend a significant portion of that time in prison for some charge regardless of passage of this legislation. Keeping this group of sex offenders in prison for longer periods for a single crime, and thus incarcerated in lower cost, long-term facilities, may reduce or contain costs for booking/intake, inmate transportation and may help contain increasing demands for pre-trial bed space.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 85
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to sentencing and good BRU Legal and Advocacy Services
for felony sexual offenses Component Public Defender Agency
 Sponsor Senator French
 Requester Senate State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	*	*	*	*	*	*
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page for analysis.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division: Public Defender Agency Date/Time 4/28/03 5:58 PM
 Approved by: Mike Miller, Commissioner Date 4/28/2003
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 85

ANALYSIS CONTINUATION

This bill has three distinct features. Sections 1-5 propose to increase the maximum sentences for all felony sexual offenses, and to increase the presumptive sentences for felony sexual offense convictions for first offenders and when the defendant has a prior sexual felony conviction. Section 6 eliminates the 10-year look back limitation for prior convictions for class B and C sexual offense felonies that the court considers when determining if presumptive sentencing applies and for general sentencing purposes in all sexual felony cases. Currently only prior felony convictions where less than 10 years from the date of the defendant's unconditional discharge on the immediately preceding offense and the commission of the present offense has elapsed may be considered by the court in class B and C felony sentencing proceedings. Lastly, Section 10 of the bill proposes to eliminate entirely the award of good time to prisoners convicted of a sexual felony who have a prior sexual felony conviction, no matter how old. Currently all prisoners convicted of a sentence that exceeds 3 days earn a one-third deduction for good behavior.

This bill will have a fiscal impact on the operations of the Public Defender Agency. There may be litigation on whether this bill violates equal protection of the laws under the Alaska or United States Constitution. In the past, Alaska courts have found that laws singling out particular offenses (rather than classes of offenses) for disparate treatment violate equal protection. Also, it is likely that more cases will be contested and go to jury trial because of the increased sentences, and the elimination of good time awarded for second offenders, as proposed in this bill. If conviction results at trial, it is equally likely that there will be more appeals from those convictions. The Agency represented indigent defendants in over 20,000 cases in FY02, over 3600 of which were felonies. It is expected that the Agency's caseload will increase by approximately 1,000 cases for FY03, from the half yearly figures for FY02, also increasing the number of felonies for FY03 by approximately 100 cases. A noticeable number of the felony sexual offense charges involve indigent native defendants with substance abuse issues surrounding the alleged offense. Felony sex offenses are costly cases to defend at trial. With the increase in maximum allowable sentences, it is also likely that any suspended portion of the sentence will also increase, which may result in more contested adjudications on petitions to revoke probation proceedings, because of the potential to have a larger sentence imposed upon revocation. This will also likely increase the workload of the Agency.

The Agency cannot predict with any accuracy what the fiscal impact will be on the Agency if this bill becomes law, but is sure there will be one. Therefore, an indeterminate fiscal note is submitted.

TUNDRA WOMEN'S COALITION
WORKING TOGETHER TOWARD A BRIGHTER FUTURE



April 30, 2003

To: Senate Judiciary Committee
From: Michelle DeWitt,
TWC Executive Director

Senate Judiciary Committee Members:

I support SB 85, the bill sponsored by Senator French that will increase sentences and eliminate "good time" for repeat sex offenders. TWC provides services for victims of family and sexual violence, and it is from our daily work with victims and knowledge of offenders' behaviors that I - and the staff at TWC - determined that we support this bill. I hope to see this bill moved out of committee.

Sincerely,

A handwritten signature in cursive script that reads "Michelle DeWitt".

Michelle DeWitt

TUNDRA WOMEN'S COALITION

WORKING TOGETHER TOWARD A BRIGHTER FUTURE



Senator Ralph Seekins
Room 125
State Capitol
Juneau, AK 99801-1182

April 28, 2003

Senator Seekins,

As the chairperson of the Senate Judiciary Committee, I would like to take this opportunity to ask for your support with Senate Bill 85, which is currently being reviewed by your committee. Thank you for your continued support.

Sincerely,

Zachary J. Fansler
Legal Advocate, Tundra Women's Coalition

Post-it® Fax Note	7671	Date	4/28/03	# of pages	1
To	Senator Ralph Seekins	From	Zach Fansler		
Co./Dept.	Alaska State Senate	Co.	Tundra Women's Coalition		
Phone #	907.465.2327	Phone #	907.543.3444		
Fax #	907.465.5241	Fax #	907.543.3752		

S B

8 7

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

SPONSOR STATEMENT-SB 87

Update of the Uniform Principal and Income Act

Statute 13.38 reflects the Alaska legislature's 1984 adoption of an early version of the Uniform Principal and Income Act. This Act provides rules for the determination of whether a trust's or estate's receipts should be considered income or principal. This distinction is often important because some beneficiaries may be entitled to income distributions, and others may be entitled to principal distributions. Senate Bill 87 updates the above-described statute to the most recent (1997) version of the Uniform Principal and Income Act. Articles 4 through 7 provide updated rules for determining whether receipts should be considered income or principal.

The drafters of the 1997 Uniform Principal and Income Act have recognized that there is a conflict between income and principal beneficiaries, and this conflict creates pressures on the fiduciary. The income beneficiaries want the fiduciary to invest so as to maximize annual income. The principal beneficiaries want the fiduciary to invest for long term equity growth. As a result, a trustee trying to satisfy both sets of beneficiaries will have to compromise with respect to the choice of investments. Consequently, the total return of the trust or estate will suffer. Two techniques have been adopted to avoid the need for such a compromise. These techniques allow the trustee to choose investment approaches which will maximize the total investment return of the trust or estate.

The first technique is provided by Article 1 of Senate Bill 87, which gives the trustee the discretionary power to adjust. This power allows the trustee to reallocate receipts from income to principal, or vice versa, when the trustee determines that it is fair and reasonable to do so. The second technique is provided by Article 2 of Senate Bill 87, which allows the trustee to convert a trust to a unitrust. This is a trust which provides that a certain percentage of its assets (often 4%) will be distributed each year to the income beneficiary.

Both of the above techniques will allow the trustee to choose investment approaches which will maximize the total return. As a result, both the income beneficiaries and the principal beneficiaries will receive greater distributions. Further, the trustee will not be struggling with the above-described conflict of interest in regard to investment approaches.

As of January, 2003, thirty states have adopted the 1997 Uniform Principal and Income Act. Of these, twelve states have included the unitrust provisions. Senate Bill 87 follows the legislation enacted by Pennsylvania, which includes both techniques which enable the trustee to maximize total returns. The State of Washington enacted this version in 2002. Georgia is presently considering it this year.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 87
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to principal and income in the BRU Civil Division
administration of trusts and decedents' estates . . ." Component Commercial
Sponsor Senator Seekins
Requester Senate Judiciary Committee Component No. 2211

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would bring current the Uniform Principal and Income Act, which provides rules for the determination of whether a trust's or estate's receipts should be considered income or principal, by adopting the 1997 version of the Act.

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

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 4/14/03 12:57 PM
Approved by: Joan M. Kasson for Gregg D. Renkes, Attorney General Date 4/14/2003
Agency Department of Law

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

March 10, 2003

SUBJECT: Sectional summary of SB 87, relating to the Uniform Principal and Income Act (Work Order No. 23-LS0366I)

TO: Senator Ralph Seekins
Attn: Brian

FROM: *TLB*
Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Substitutes a reference to the new principal and income chapter for a reference to the current principal and income chapter.

Section 2. Adds the new Alaska Principal and Income Act. Article 1 is entitled "Preliminary Provisions; Power to Adjust" and consists of secs. 13.38.200 - 13.38.220.

Sec. 13.38.200 provides some general guidelines for fiduciaries (personal representatives of estates and trustees) for handling the interaction between the new chapter and the instrument (e.g., will or trust document) that governs the trust or estate, and for handling the situation where the new chapter and the instrument do not provide a rule for allocating receipts and disbursements between principal and income. Directs a fiduciary to act impartially based on what is fair and reasonable to all of the beneficiaries unless the governing instrument clearly manifests an intention that the fiduciary may or shall favor a beneficiary. States that a determination in accordance with the new provisions is presumed to be fair and reasonable to all of the beneficiaries.

Sec. 13.38.210 allows a trustee to adjust between principal and income by allocating income to principal or vice versa if certain conditions are met. Lists the factors that a trustee may consider when deciding whether and to what extent to use this adjustment power. Prohibits a trustee from making an adjustment under certain listed circumstances. Allows another trustee, if there is more than one trustee, to make certain adjustments that another trustee would not be allowed to make. Allows a trustee to release the power of adjustment permanently, or for a specified period, if the trustee is uncertain whether possessing or exercising the power will cause certain results. States how to deal with a governing instrument that limits the trustee's power to adjust.

Sec. 13.28.220 prohibits a court from changing a fiduciary's decision about exercising a discretionary power under the new provisions, unless determined to be an abuse of discretion. When there is an abuse of discretion, provides for the restoration of income and remainder beneficiaries to positions they would have occupied if there hadn't been any abuse and establishes certain rules for handling the restoration.

Article 2 is entitled "Conversion to Unitrust" and consists of secs. 13.38.300 - 13.38.410.

Sec. 13.38.300 allows a trustee to release the power to adjust and convert a trust into a unitrust unless expressly prohibited by the governing instrument. Lists the conditions for when this may be done.

Sec. 13.38.310 allows a trustee to petition the court to approve a conversion of a trust to a unitrust under two conditions. Allows a beneficiary to request the conversion and to petition the court to order the conversion if the trustee does not convert. Directs a court to approve a conversion or to direct the requested conversion if court concludes the conversion will enable the trustee to better carry out the intent of the settlor or testator and the trust's purposes.

Sec. 13.38.320 lists certain factors that a trustee may consider when deciding whether to exercise the power to convert a trust to a unitrust.

Sec. 13.38.330 directs that after conversion, the trustee shall follow a specified investment policy and make certain distributions. Establishes a specific meaning for "income" in the governing instrument after conversion. Directs that after administration as a unitrust for three years, the four percent amount referred to in the meaning of "income" is to be averaged over the three preceding years.

Sec. 13.38.340 allows the trustee of a unitrust to determine certain listed items, including the effective date of the conversion, the frequency of distributions, and what valuation dates to use.

Sec. 13.38.350 provides for deduction from a unitrust distribution those expenses that would be deducted from income if the trust were not a unitrust. Unless the governing instrument provides otherwise, indicates what sources a unitrust distribution is considered to have been paid from.

Sec. 13.38.360 authorizes the trustee or a beneficiary, if the trustee declines, to petition the court to select a payout percentage, to provide for certain net income distributions, and to average the net asset valuation over a period other than three years.

Sec. 13.38.370 states that a conversion does not affect certain provisions in the governing instrument that relate to trustee distribution of principal or beneficiary withdrawal of principal.

Sec. 13.38.380 prohibits a trustee from converting a trust into a unitrust under certain described conditions.

Sec. 13.38.390 allows another trustee to make a conversion that one trustee may not, unless prohibited by the governing instrument. Allows the trustees to petition the court to direct a conversion if certain prohibitions apply to all of the trustees.

Sec. 13.38.400 authorizes a trustee to reconvert a unitrust back into a trust by following the procedures for conversion. Restores the trustee's power to adjust when there is a reconversion.

Sec. 13.38.410 allows, under certain circumstances, a trustee to release permanently or for a specified period the power to make a conversion.

Article 3 is entitled "Charitable Trust Election" and consists of secs. 13.38.440 - 13.38.490.

Sec. 13.38.440 allows a trustee of a trust held exclusively for charitable purposes to elect to be governed by this charitable trust election article unless the governing instrument expressly prohibits this election.

Sec. 13.38.450 requires that to make the election the trustee must adopt and follow an investment policy seeking a total return for the investments held by the trust. Establishes certain formalities for adopting the policy.

Sec. 13.38.460 directs a trustee, after making a charitable trust election, to select the percentage of the value of the trust that will be considered income and determine that it is consistent with the long-term preservation of the real value of the principal of the trust. Establishes certain limitations on what the percentage may be and how often it may be changed. Establishes that for charitable trusts required by the Internal Revenue Code to distribute a higher amount than otherwise selected under this section, the distribution amount required by the Internal Revenue Code controls over the percentage selected.

Sec. 13.38.470 authorizes a trustee to revoke a charitable trust election under certain conditions. Establishes certain formalities for establishing the revocation and an alternative investment policy.

Sec. 13.38.480 establishes what the value of the trust is for the purposes of applying the charitable election provisions. Allows for averaging the value of the trust over three or more preceding years when the trust has been administered as a unitrust under this section for at least three years.

Sec. 13.38.490 defines certain terms for the provisions dealing with the charitable trust election.

Article 4 is entitled "Decedent's Estate or Terminating Income Interest" and consists of secs. 13.38.500 - 13.38.510.

Sec. 13.38.500 gives a fiduciary certain directions regarding determinations, distributions, and reductions of principal and income receipts after a decedent dies, in the case of an estate, or after an income interest in a trust ends.

Sec. 13.38.510 indicates the distributions to which certain beneficiaries identified in the previous section are entitled. Establishes certain rules for determining a beneficiary's share of net income. Requires the fiduciary to maintain certain records regarding a beneficiary's interest, if the fiduciary doesn't distribute all of the collected but undistributed net income to each person as of a distribution date. Allows the fiduciary under certain conditions to apply this section's rules to certain net gains or losses from the disposition of a principal asset. Provides for using a distribution date that is when the fiduciary calculates the value of the assets.

Article 5 is entitled "Apportionment at Beginning and End of Income Interest" and consists of secs. 13.38.550 - 13.38.570.

Sec. 13.38.550 states that an income beneficiary is entitled to net income from the date when the income interest begins and establishes when an income interest begins. States when an asset becomes subject to a trust. States when an asset becomes subject to a successive income interest. Establishes when an income interest ends.

Sec. 13.38.560 indicates when a trustee is to allocate an income receipt or disbursement to principal and when to income. Indicates when an item of income or an obligation is considered to be due.

Sec. 13.38.570 gives directions on how to proceed when a mandatory income interest ends. Gives direction to a trustee on how to handle the final payment when the trustee's obligation to pay a fixed annuity or a fixed fraction of the trust's assets' value ends.

Article 6 is entitled "Allocation of Receipts during Administration of trust" and consists of secs. 13.38.600 - 13.38.740.

Sec. 13.38.600 directs the trustee when to allocate to income money received from an entity and when to allocate entity receipts from an entity to principal. States when money is considered to have been received in partial liquidation. Indicates when a trustee may rely on an entity's statement about the source or character of a distribution. Defines "entity" for the section.

Sec. 13.38.610 indicates when the trustee is to allocate to principal or income the income from a trust or an estate in which the trust has an interest other than a purchased interest. Indicates which sections apply to receipts from certain purchased interests.

Sec. 13.38.620 allows a trustee to maintain separate accounting records for activity conducted by the trust that is in the best interest of all the beneficiaries, whether or not the assets of the activity are segregated from other trust assets. Allows the trustee who accounts separately to make certain determinations relating to its net cash receipts. Under certain circumstances directs the trustee to account in the trust's general accounting records for the net amount received as principal from a sale of the activity's assets not made in the ordinary course of the activity. Lists the activities for which a trustee may maintain separate accounting records.

Sec. 13.38.630 directs the trustee to allocate to principal certain listed receipts.

Sec. 13.38.640 directs the trustee to allocate to income certain receipts from rental property. Indicates how to handle amounts received as refundable deposits.

Sec. 13.38.650 directs the trustee to allocate to income certain money received as interest. Requires the trustee to allocate to principal certain amounts received from the sale, redemption, or other disposition of an obligation to pay money to the trustee. Indicates how to allocate certain amounts received from short-term obligations to pay money to the trustee. Indicates that this section does not apply to obligations covered by certain listed sections.

Sec. 13.38.660 provides directions to the trustee on how to allocate to principal and income certain proceeds of and certain dividends from a life insurance policy or other contract in which the trust or its trustee is named as beneficiary. Directs a trustee to allocate to income the proceeds of certain other insurance contracts.

Sec. 13.38.670 provides direction to the trustee on how to handle allocations that are insubstantial. Indicates when an allocation is presumed to be insubstantial.

Sec. 13.38.680 provides directions to the trustee on how to allocate to income and principal certain payments that a trustee may receive over a fixed period of time or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments, including annuities, deferred compensation agreements, employee death benefits, individual retirement accounts, and pension plans.

Sec. 13.38.690 indicates how a trustee is to allocate between principal and income receipts from liquidating assets. Defines "liquidating asset" for the section.

Sec. 13.38.700 indicates, to the extent that a trustee accounts for receipts from an interest in minerals or other natural resources under this section, how a trustee is to allocate between principal and income receipts from minerals and other natural resources. Indicates how a trustee is to allocate between principal and income amounts received on account of an interest in renewable and nonrenewable water. States that this chapter

Senator Ralph Seekins

March 10, 2003

Page 6

applies whether or not a decedent or a donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

Sec. 13.38.710 indicates, to the extent that a trustee accounts for receipts from the sale of timber and related products under this section, how the trustee is to allocate between principal and income net receipts from the sale of timber and related products. States that this chapter applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

Sec. 13.38.720 allows a spouse to require a trustee to make certain trust property productive of income, convert the property within a reasonable time, or to exercise the power of adjustment under sec. 13.38.210(a) under certain circumstances related to federal estate or gift tax marital deductions. Indicates that for cases not governed by (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

Sec. 13.38.730 indicates that, to the extent that a trustee does not account under sec. 13.38.620 for transactions in derivatives, the trustee is to allocate to principal receipts from, and disbursements made, in connection with transactions in derivatives. Allocates to principal certain amounts related to options. Defines "derivative" for the section.

Sec. 13.38.740. Directs the trustee on how to allocate between principal and income payments from interest, or other current return, and from other proceeds of collateral financial assets. Directs the trustee on how to allocate between principal and income those payments received in exchange for the trust's entire interest in an asset-backed security. Defines "asset-backed security" for the section.

Article 7 is entitled "Allocation of Disbursements During Administration of Trust" and consists of secs. 13.38.800 - 13.38.860.

Sec. 13.38.800 requires a trustee to make certain listed disbursements from income.

Sec. 13.38.810 requires a trustee to make certain listed disbursements from principal.

Sec. 13.38.820 allows the trustee, in the trustee's discretion, to allocate, subject to AS 13.38.800 - 13.38.810, to income or principal ordinary expenses incurred in the administration, management, or preservation of trust property and the distribution of income.

Sec. 13.38.830 authorizes a trustee to transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation. Lists certain exceptions. States that an amount transferred to principal is not required to be held as a separate fund.

Senator Ralph Seekins
March 10, 2003
Page 7

Sec. 13.38.840 authorizes a trustee to transfer an appropriate amount from income to principal in order to reimburse principal or to provide a reserve for future disbursements under certain conditions. Allows for continuing the transfers from income to principal under certain conditions. States that this section does not apply to the extent the trustee has been or expects to be reimbursed by a third party.

Sec. 13.38.850 directs that a tax required to be paid by a trustee based on receipts allocated to income is to be paid from income. Directs that a tax required to be paid by a trustee based on receipts allocated to principal is to be paid from principal. Indicates how the payment of a tax required to be paid on the trust's share of an entity's taxable income is to be allocated between principal and income.

Sec. 13.38.860 allows a trustee to make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries arising from certain listed factors.

Sec. 13.38.900 requires that when applying these new provisions consideration be given to the need to promote uniformity among the state enacting these provisions.

Sec. 13.38.980 defines certain terms for the new provisions.

Sec. 13.38.990 gives the new provisions the name of "Alaska Principal and Income Act."

Section 3. Repeals the current chapter entitled "Principal and Income of Trusts."

Section 4. States to which trusts and estates, the new principal and income provisions apply.

Section 5. Makes this Act effective September 1, 2003.

If I may be of further assistance, please advise.

TLB:mdr
03-028.mdr

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

LAW OFFICES OF
DAVID G. SHAFTEL

A PROFESSIONAL CORPORATION
550 West Seventh Avenue, Suite 705
Anchorage, Alaska 99501

Attorneys:

David G. Shafte, J.D., LL.M. (Taxation)♦♦
Charles F. Schuetz, J.D., LL.M. (Taxation)♦
Caroline P. Wannmaker, J.D.♦♦
Donna Marie, J.D.♦♦
Bhrec Roumagoux, J.D.♦

Legal Assistants:

Linda J. Durr, PLS
Jack Jacobs

(907) 276-6015
FAX (907) 278-6015
E-MAIL: info@shafteflaw.com
www.shafteflaw.com

♦ Admitted in AK
• Admitted in CA
+ Admitted in WA

December 31, 2002

Senator Ralph Seekins
Seekins Ford Lincoln
1625 Old Steese Highway
Fairbanks, AK 99709

Re: Introduction of the Uniform Principal and Income Act

Dear Senator Seekins:

I am a member of an informal group of trust and estate attorneys who annually review legislation that would be advantageous for the State of Alaska in this area. We recommend that the Alaska Legislature consider and adopt the Pennsylvania version of the 1997 Uniform Principal and Income Act.

In 2002, Pennsylvania adopted the 1997 Uniform Principal and Income Act, with some significant changes. These include a power to convert to a unitrust and a number of other significant provisions. Also in 2002 the State of Washington adopted Pennsylvania's version of the Uniform Principal and Income Act.

Enclosed is the full report of the Advisory Committee on the Pennsylvania version of the Uniform Principal and Income Act. This report includes the various sections of the Uniform Act, the Uniform Commission's comments and, where Pennsylvania has changed the Act, additional Pennsylvania comments describing these changes.

I have conferred with several of the attorneys who participated in the Advisory Committee for the Pennsylvania version of the Act. They have recommended the following additional changes.

1. Section 8102, relating to definitions.
2. Section 8105(a)(2) and (3), relating to notice.
3. Section 8105(d)(3), relating to calculation of the unitrust amount.
4. Section 8105 [new letter subsection], relating to reconversion.

I have included all of the above changes.

Senator Ralph Seekins
December 31, 2002
Page 2

Thank you very much for agreeing to sponsor this Act. This updating of the Uniform Principal and Income Act will facilitate the administration of Alaska trusts, and therefore provide significant benefits to the residents of our state.

Sincerely,



David G. Shaftel

Enclosures: As stated

Terry Kerty ?

S B

8 9

Introduction of Senate Bill 89--Definition of Lobbying

Chapter 45 of Title 24—Regulation of Lobbying—leads off with a one sentence paragraph describing the Legislative Declaration of Purpose: "*The Legislature finds and declares that the operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for redress of grievances and to express freely to individual members of the legislature, to its committees, and to officials of the executive branch their opinions on pending legislation or administrative actions...*", (emphasis added).

The second half of this lengthy sentence goes on to say, "...and that the people are entitled to know the identity, income, expenditures, and activities of those persons who pay, are paid or reimbursed for expenses, or who make expenditures or other payments in an effort to influence legislative or administrative action."

The full Statute goes on to describe Reports, Records, Exemptions, and so on until finally arriving at the ubiquitous section pertaining to Definitions. Number eight defines the term "Lobbyist" in two ways. Clearly, definition "B" is applicable to the "professional" lobbyist. The sponsors of the proposed legislation fully recognize and appreciate the public interest which is well served by definition "B". Senate Bill 89 does *not* alter this in any way.

On the other hand, definition "A" is somewhat ambiguous to the extent that applicability rests on two terms: these being "substantial" and "regular". These terms were not defined in Statute. So we must look to the Administrative Code for guidance, specifically 50.545. There, under item "f", we see that "substantial" and "regular" mean that a person is considered to be a lobbyist if, "...within a 30-day period, he spends in excess of four hours in direct communication with a public official or legislative employee in activities directed toward influencing legislative or administrative action".

This definition amounts to *less* than 2.5% of a working month, given a standard eight-hour day. Webster's Dictionary tells us that substantial means "considerable" and that "considerable" means "large" and that "large" means "greater than average". Four hours out of 173 simply doesn't come close to fitting within any of these definitions.

Senate Bill 89 safeguards, as it should, the *second half* of the Declaration of Purpose by preserving definition (8)(B) pertaining to professional lobbyists. SB 89 seeks only to alter definition (8)(A) in the Statute by clearly defining the terms "substantial" and "regular". In so doing, this action accomplishes that which the legislature originally intended with respect to the Lobbying law. Specifically, by allowing the people the *fullest* opportunity to express their opinions freely to individual members of the legislature on matters regarding pending legislation.

Sec. 24.45.011. Purpose. The legislature finds and declares that the operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the legislature, to its committees, and to officials of the executive branch, their opinions on pending legislation or administrative actions; and that the people are entitled to know the identity, income, expenditures, and activities of those persons who pay, are paid or reimbursed for expenses, or who make expenditures or other payments in an effort to influence legislative or administrative action. (§ 2 ch 167 SLA 1976)

Sec. 24.45.020. [Repealed, § 1 ch 167 SLA 1976.]

Article 2. Administration.

Section

- 21. Administration
- 31. Powers and duties

Sec. 24.45.021. Administration. (a) This chapter shall be administered by the Alaska Public Offices Commission created under AS 15.13.020(a).

(b) The commission shall adopt regulations under AS 44.62 (Administrative Procedure Act) to implement the provisions of this chapter. (§ 2 ch 167 SLA 1976)

Sec. 24.45.030. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.031. Powers and duties. (a) In addition to its other duties under this chapter, the commission shall

(1) prescribe the forms for registration, reports, statements, notices, and other documents required by this chapter;

(2) prepare and publish instructions setting out the methods of accounting, bookkeeping, and preservation of records required to facilitate compliance with and enforcement of this chapter and explaining the duties of persons subject to the provisions of this chapter; the instructions shall be updated periodically;

(3) provide assistance to persons in complying with the provisions of this chapter;

(4) prepare and publish a biennial report of its activities, findings, and recommendations under this chapter, which shall be made available to the governor, legislature, and to the public by February 1 of each odd-numbered calendar year; the commission shall notify the legislature that the report is available;

(5) report suspected violations of this chapter to the attorney general.

(b) The commission may

(1) hold hearings and conduct investigations into compliance with the provisions of this chapter;

(2) in conjunction with (1) of this subsection, issue subpoenas, compel the attendance and testimony of witnesses, administer oaths and affirmations, and require the production of books, papers, records, documents, or other items material to the commission's duties or powers under this chapter;

(3) prepare, publish, and make available to the public, periodic, but at least biannually, summaries of the statements and reports received; these summaries shall list separately individual lobbyists and employers of lobbyists. (§ 2 ch 167 SLA 1976; am § 12 ch 126 SLA 1994; am § 50 ch 21 SLA 1995; am § 10 ch 6 SLA 1998)

Effect of amendments. — The 1998 amendment, effective June 28, 1998, substituted "biannually" for "quarterly and annually" in paragraph (b)(3).

(2) "agency" means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;

(3) "gift"

(A) means any payment to the extent that consideration of equal or greater value is not received;

(B) includes but is not limited to

(i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the purchase of tickets for travel or for entertainment events; and

(iii) the granting of discounts or rebates for goods or services not extended to the public generally;

(C) does not include

(i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars, or periodicals; however, payments for travel or reimbursement for expenses may not be considered "informational material";

(ii) food and beverages consumed in places of public accommodation;

(4) "immediate family" means the spouse and dependent children of an individual;

(5) "individual" means a natural person;

(6) "influencing legislative or administrative action" means promoting, advocating, supporting, modifying, opposing, or delaying or seeking to do the same with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, or analyses in written or oral form or format;

(7) "legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat, or rejection of any bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature, or by a standing, interim, or special committee of the legislature, or by a member or employee of the legislature acting in an official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding, or sustaining that veto and the action of the legislature in considering, confirming, or rejecting an executive appointment of the governor;

(8) "lobbyist" means

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agents with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which the person receives consideration is for the purpose of influencing legislative or administrative action; or

(B) a person who represents oneself as engaging in the influencing of legislative or administrative action as a business, occupation, or profession;

(9) "payment" means the disbursement, distribution, transfer, loan, advance, deposit, gift, or other rendering or tendering of money, property, goods, or services or anything else of value;

(10) "payment to influence legislative or administrative action" means any of the following:

(A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;

(B) a payment in support of or assistance to a lobbyist or the lobbyist's activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

Sponsor Statement

SB 89

“Proposing revisions to Alaska’s Regulation of Lobbying Act relating to regulations enacted by the Alaska Public Offices Commission defining who must register as a lobbyist.”

Regulations enacted by APOC defining a “lobbyist” unconstitutionally restrict business people from any meaningful contact with legislators or the administration. Currently, a person must register as a lobbyist if he or she spends in excess of four hours within a 30-day period in direct communication with a public official or legislative employee in activities directed toward influencing legislative or administrative action.

The revision provides a more reasonable level of access for Alaska businessmen and women to their elected representatives, their staffers, and state agency personnel. Traveling to Juneau, for most everyone in the state, is a significant event, both in cost and in time away from business. This revision would give business men and women the right to meet with legislators or the administration for a reasonable amount of time to discuss proposed legislation, regulations or permit applications that would directly affect business and not be required to become a registered lobbyist. Public employees are exempt from the statute and are therefore not held to the same restriction of their constitutional rights.

Registered lobbyists can only make personal contributions to political campaigns and are limited solely to contributions to candidates for the Legislature in a district in which the individual is eligible to vote. This revision gives businessmen and women access to state government without hampering their right of free association regarding political campaigns.

Currently social gatherings are included within the four-hour limitation, even where there is no discussion or attempt to influence legislation. For example, when APOC read in a newspaper that a prominent businessman was attending a golf tournament with legislators and legislative staffers, it contacted his company to verify that he was registered as a lobbyist. This revision would allow anyone to participate in social events with legislators or administrative staff.

The rules would remain the same as they are now for professional lobbyists.

This revision offers a simple fix to the current problem, which is consistent with the intent of the original lobbying legislation. It is supported by the over 700 members of the Alaska State Chamber of Commerce. The sponsors strongly urge you to support this revision.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 89
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Admin
 Title An act amending the definition of "lobt" BRU AK Public Offices Com.
 Component AK Public Offices Com.
 Sponsor Sen. Ralph Seekins
 Requester Senate Judiciary Component No. 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	92.0	63.0	63.0	63.0	63.0	63.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	2.7	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	94.7	63.0	63.0	63.0	63.0	63.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	129.7	98.0	98.0	98.0	98.0	98.0
1005 GF/Program Receipts	(35.0)	(35.0)	(35.0)	(35.0)	(35.0)	(35.0)
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	94.7	63.0	63.0	63.0	63.0	63.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time		1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary	1					

ANALYSIS: (Attach a separate page if necessary)
 This bill nullifies a 26-year old Commission regulation defining "substantial or regular" as it is used in the statutory definition of "lobbyist." The amendments in this bill will possibly result in no one being required to register and report under the lobbying law. Regulations will be required to implement how Commission staff monitor persons attempting to influence legislative or administrative action to determine when they meet either the 60 day or the 80 hour time requirement. Additional staff and an additional work station will be necessary in the Commission's Juneau office. In addition, it is likely that the Commission will lose \$35.0 in program receipts from lobbyist registration fees.
 35.0 Fund Source switch reflects general fund restoration of loss of program receipts for lobbyist registration fees.

Prepared by: Brooke Miles, Executive Director Phone 907-276-4176
 Division AK Public Offices Commission Date/Time 3/26/03 12:14 PM
 Approved by: _____ Date 3/26/2003
 Agency Administration

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

February 25, 2003

SUBJECT: Sectional Summary: definition of lobbyist
(Work Order No. 23-LS0396\A)

TO: Senator Ralph Seekins
Attn: Brian

FROM: Barbara R. Craver *BRC*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Defines "substantial" and "regular" in AS 24.45.171(8). These terms are not otherwise defined in the statutes, and have been defined more restrictively in the regulations.¹ A person who lobbies as a part of their job will not have to register as a lobbyist if they conduct lobbying activities for 60 days or less while the legislature is in session, or for less than 80 hours in a 30 day period.

If I may be of further assistance, please advise.

BRC:med
03-188.med

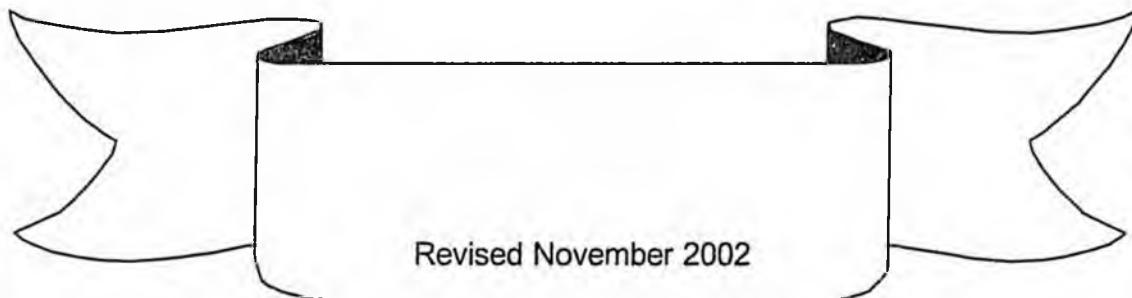
AS 24.45.171(1), (6), (7), and this chapter; when a person becomes a lobbyist upon meeting the tests of this section, he must register in accordance with AS 24.45.041 and must report in accordance with AS 24.45.051 and 2 AAC 50.

2 AAC 50.545(f)

ALASKA PUBLIC OFFICES COMMISSION



**MANUAL OF INSTRUCTIONS
FOR
LOBBYISTS AND EMPLOYERS OF LOBBYISTS**



FRANK H. MURKOWSKI

Governor of Alaska

LOREN LEMAN

Lieutenant Governor

ALASKA PUBLIC OFFICES COMMISSION

Andrea Jacobson, Chair
Mark Handley, Commissioner
John Dapcevich, Commissioner
Sheila Gallagher, Commissioner
Larry Wood, Commissioner

ALASKA PUBLIC OFFICES COMMISSION STAFF

Brooke Miles, Executive Director
Christina L. Ellingson, Assistant Director
Tammy Kempton, Regulation of Lobbyists, Juneau Office
Nancy Freeman, Financial Disclosure Administrator
Therese Bartlett, Campaign Disclosure Law -- Groups
Kim Wilson, Campaign Disclosure Law -- Candidates
Belinda Davis, Investigator
Corrine Finnie, Administrative Assistant
Cynthia Lind, Secretary
Wynona Sampson, Clerk
Connie Jeffers, Clerk, Juneau Office

Revised April 2002

TABLE OF CONTENTS

INTRODUCTION.....	1
ABOUT THE COMMISSION	1
ABOUT THE LOBBYING LAW:.....	2
REGISTRATION	2
ARE YOU SUBJECT TO THE LOBBYING LAW?	2
EXEMPTIONS FROM THE LOBBYING LAW	4
RESTRICTIONS ON POLITICAL ACTIVITIES OF REGISTERED LOBBYISTS:	5
OTHER PROHIBITIONS.....	5
COMPLETE AND FILE THE REGISTRATION STATEMENT	6
LOBBYIST REPORTS	8
COMPLETE AND FILE THE LOBBYIST REPORT	9
GIFTS AND LEGISLATIVE ETHICS.....	11
SCHEDULE A	12
EMPLOYER OF LOBBYIST REPORTS	13
COMPLETE AND FILE THE EMPLOYER OF LOBBYIST REPORT.	14
SCHEDULE A	16
SCHEDULE B	17

Introduction

About the Commission

The Alaska Public Offices Commission (APOC) administers four **disclosure laws**:

- AS 15.13 Campaign Disclosure
- AS 24.45 Lobbying
- AS 24.60 Legislative Financial Disclosure
- AS 39.50 Public Official Financial Disclosure (f/k/a Conflict of Interest)

These laws "follow the money" by requiring disclosure that permits citizens to trace the influence of private interests on public decision making. This disclosure, in turn, helps to limit privileged influence through revealing special interests.

Five Alaskan citizens serve as commissioners. They meet for two to three days, three or four times a year, to adjudicate complaints, hear civil penalty appeals, and decide policy matters.

The two political parties whose candidates for governor received the most votes at the last gubernatorial election each nominate two commission members. The four nominees nominate a fifth member from applicants from the general public. The governor appoints and the legislature confirms the nominations. Terms are for five years, with a different term expiring each year. The commission currently consists of two Republican Party members, two Democratic Party members, and one public member.

APOC Staff consists of ten full time employees and one part time employee; APOC has offices in Anchorage and Juneau.

Anchorage APOC Location and Mailing Address:

2221 East Northern Lights, Room 128

Anchorage, AK 99508

Phone: 907/276-4176

800-478-4176

Fax: 907/276-7018

Juneau APOC Location:

240 Main. Street, Room 201

Juneau, AK 99801

Phone: 907/465-4864

866-465-4864

Mailing Address:

PO Box 110222

Juneau, AK 99811

Fax: 907/465-4832

APOC's web address is <http://www.state.ak.us/apoc>.

About the Lobbying Law:

Alaska's lobbying law (AS 24.45) provides that the public has the right to know the identity, income, expenditures and activities of those who receive compensation or those who make payments in efforts to influence the actions of appointed or elected state officials. Under the law, lobbyists are required to disclose their name, address, employer(s), income and expenditures; those who retain or employ lobbyists must disclose their name, address, name(s) of their lobbyist(s), payments made to lobbyists, and payments made in support of lobbying activities.

The law authorizes APOC to administer the lobbying law and requires the Commission to publish instructions to facilitate compliance with the law. This manual is intended to fulfill that requirement and is made available to lobbyists, clients or employers of lobbyists, and members of the public. Throughout the manual specific sections of the statute (AS 24.45. __) and the administrative regulations (2 AAC 50. __) may be cited. Copies of the statute and regulations are available on our website; paper copies will be provided upon request.

Registration

Are you subject to the lobbying law?

Alaska law states that a lobbyist is a person who receives compensation for communicating directly with public officials in efforts to influence administrative or legislative action *if a substantial or regular portion of the activities for which the person receives compensation is for the purpose of attempting to influence administrative or legislative action.* AS 24.45.171(8).

"Substantial or regular" is defined in the Administrative Regulations of the Commission to mean that a person who is not employed or retained specifically as a lobbyist is subject to the lobbying law when he or she spends more than four hours in any 30-day period communicating directly with public officials in efforts to influence administrative or legislative action. 2 AAC 50.545(f).

"Communicate directly" means to talk in person, by telephone, or email with any public official or legislative employee. 2 AAC 50.545(c).

To determine whether you are subject to the lobbying law, consider the following:

(A) If you have a contractual agreement under which you receive compensation for communicating with public officials or legislative employees in efforts to influence legislative or administrative action;

or

you are employed primarily for communicating with state officials and legislative employees in efforts to influence legislative or administrative action:

You are a PROFESSIONAL LOBBYIST and you must file a lobbyist registration statement in accordance with AS 24.45.041 before engaging in lobbying activities.

(B) If you are employed and receive compensation and a part of your regular employment requires you to communicate with public officials and legislative employees in efforts to influence legislative or administrative action;

or

you have a contractual agreement under which you receive compensation and in the course of performing your services, you are required to communicate with public officials and legislative employees in efforts to influence legislative or administrative action in addition to performing other primary duties:

You are a PART-TIME LOBBYIST and you are subject to registration and reporting under the lobbying law if you spend more than four hours in any 30-day period engaging in lobbying activities. In calculating the four hours for purposes of registering, you need not include time spent attending public proceedings whether or not you give testimony or time spent providing professional services that do not include communicating with public officials or legislative employees. You must track the time spent in direct communication (outside of public proceedings) with public officials or legislative employees. Once you have exceeded four hours in any 30-day period, you must register in accordance with AS 24.45.041.

(C) If you participate in lobbying activities on behalf of a client without the benefit of compensation, other than reimbursement for travel and personal living expenses:

You are a REPRESENTATIONAL LOBBYIST under 2 AAC 50.511 and must file a registration statement under AS 24.45.041 and 2 AAC 50.511 before engaging in lobbying activities. You are not required to pay the registration fee or to file the monthly or quarterly lobbyist reports.

Note: A representational lobbyist is not employed by the entity that s/he has agreed to represent and may not receive a fee, retainer, or salary.

(D) If you participate in lobbying activities and receive no compensation whatsoever and accrue no expenses connected with lobbying activities other than for travel and personal living expenses that you pay from your personal resources:

You are a VOLUNTEER LOBBYIST and you are exempt from the lobbying law under AS 24.45.161(a)(1) and (2). You are not required to register as a lobbyist. You may submit a registration statement if you wish. Doing so will include your name in the published directory of lobbyists. Registering as a volunteer lobbyist does not subject you to the requirement to file lobbyist reports.

Exemptions from the Lobbying Law

AS 24.45.161. Exemptions. (a) This chapter does not apply to

(1) an individual

(A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay the individual's reasonable personal travel and living expenses; and

(B) who limits lobbying activities to appearances before public sessions of the legislature . . . or proceedings of state agencies;

(2) an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in an official capacity or within the scope of employment

Restrictions on political activities of registered lobbyists:

AS 15.13.074(a). An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

AS 24.45.121(a)(8). A lobbyist may not serve as a campaign manager or director, serve as a campaign treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a fund-raising event, directly or indirectly collect contributions for or deliver contributions to a candidate, or otherwise engage in the fund-raising activity of a legislative campaign or a campaign for governor or lieutenant governor if the lobbyist has registered, or is required to register as a lobbyist under this chapter during the calendar year. This provision does not apply to a representational lobbyist as defined in the regulations of the Commission, and does not prohibit a lobbyist from making personal contributions to a candidate as authorized by AS 15.13, or personally advocating on behalf of a candidate.

Other Prohibitions

In addition to the restrictions on gifts and campaign activities and contributions, the lobbying law provides other prohibited acts under AS 24.45.121. These include:

- Lobbying before filing a registration statement.
- Taking any action with the intent of placing a public official under personal obligation to you or your employer.
- Intentionally deceiving a public official with regard to material facts pertinent to pending or proposed official state action.
- Causing or influencing the introduction of legislation for the purpose of being employed to secure its passage or defeat.
- Causing a communication to be sent to a public official in a fictitious name or in the name of any real person, except with the permission of that person.
- Accepting or agreeing to accept payment in any way contingent upon the outcome of any proposed official action.
- Serving as a member of a state board or commission if your client could economically benefit from such service.

Complete and File the Registration Statement

APOC Form 24-1

LOBBYIST INFORMATION

Prepare one Registration Statement for each client or employer. Type or print (in ink) your name, mailing address, phone number, fax number, email address, and voter registration district (must be included whether or not you are registered to vote) in the spaces provided. If your address or phone numbers change, the law requires that you inform the Commission of the change within ten days.

A lobbyist who is married to or is a spousal equivalent of a legislator, legislative employee, or public official is required to disclose the name and position of the public official. Space is provided on the Registration Statement for this disclosure. If you are not married to or the spousal equivalent of a public official, just leave this section blank.

For purposes of this requirement, **Public Official** means the governor or lieutenant governor, a commissioner or deputy commissioner of a department, a director or deputy director of a division, a special assistant to a commissioner, a departmental legislative liaison, an assistant to the governor or lieutenant governor, the chair or a member of a state board or commission, the chief procurement officer appointed under AS 39.30.010, and the executive director of the Alaska Human Resources Investment Council.

CLIENT / EMPLOYER INFORMATION

Type or print the name of the business or organization of your client or employer, including the name and title of the person who will serve as the contact for purposes of the lobbying law. Include the complete business mailing address, the phone and fax numbers, and an email address for the contact person.

LOBBYIST EMPLOYMENT INFORMATION

Indicate whether you perform other duties in addition to lobbying for your client or employer. If you perform other duties, describe the services you provide in addition to lobbying services. Be specific enough in your description so that the reader will know what it is you do for the employer or client.

Check the appropriate box to indicate whether you will engage in administrative lobbying or legislative lobbying or both.

Indicate the date (month/day) on which you will begin lobbying this calendar year.

Check the appropriate box or boxes to indicate the nature of your compensation:

- If you are a **salaried employee**, you should reduce your salary to an hourly amount and show that amount on the line provided.
- If you are a **contract lobbyist** disclose the annual or monthly amount of your fee, or in the event you work hourly, your hourly wage.
- If you receive any reimbursement of expenses for disbursements in connection with lobbying, check the reimbursement box.
- If you are a **representational lobbyist**, check the reimbursement of expenses box.
- If you are a **volunteer lobbyist**, check the no compensation box.
- If your compensation is other than cash payments or if you receive additional benefits (other than standard employment benefits as a regular employee), check the other compensation box and describe the compensation.

Describe the subject matters on which you will lobby on behalf of your client or employer. General descriptions, such as "oil & gas" or "environment" are sufficient. Descriptions such as "anything of interest to the client" are too general and are not acceptable.

LOBBYIST CERTIFICATION

You must sign and date the registration.

CLIENT OR EMPLOYER OF LOBBYIST VERIFICATION

Your client or employer must verify your representation and authorize you to lobby on their behalf by signing the registration statement. Type or print the name and title of the person signing on behalf of your employer.

The registration statement may be mailed, hand delivered, or faxed to the Juneau APOC office. Make your check payable to the State of Alaska. If you are faxing the registration statement, you should note that payment is being mailed.

Registration statements will not be processed until they are complete, including client or employer signature and payment of the registration fee. Faxed registrations will not be processed until the registration fee is received. Registration statements submitted without the verification of the client or employer, or without the required registration fee, will be returned to the filer.

REPORTS

Lobbyist Reports

Who must file reports?

Alaska law requires lobbyists who receive a contractual fee or who are regular salaried employees to file reports disclosing the amount of compensation received and expenditures accrued in connection with lobbying activities for each reporting period.

Lobbyist reports also include disclosures regarding gifts and exchanges between lobbyists and public officials or family members of public officials, as well as exchanges between lobbyists and business entities owned or controlled by public officials.

What are the reporting periods?

Under AS 24.45.081, lobbyists file monthly reports while the legislature is in session and quarterly reports after adjournment. Reports must be submitted for each reporting period during which the lobbyist is registered, even if there is no reportable activity.

Monthly reports are due on or before the last day of the month following the month that is the subject of the report. Quarterly reports are due on or before the last day of the month following the calendar quarter that is the subject of the report. If a report's due date falls on a weekend or state holiday, no civil penalty is assessed if the report is filed no later than the first regular work day following the actual due date.

Lobbyist reports may be faxed, mailed, or delivered. If mailed, the postmark is considered to be the date filed. Reports that are received after the due date are subject to a civil penalty assessment of \$10 per day for each day the report is outstanding.

Complete and File the Lobbyist Report & Schedule A

APOC Forms 24-3 & 24-3A

GENERAL INFORMATION

Provide your name on each lobbyist report you submit. If your mailing address, phone number or fax number have changed since your registration, complete that information also. If you have not changed your mailing address or phone/fax numbers, you do not need to include them on each lobbyist report. During the legislative session, provide your Juneau address and phone/fax numbers if those are different from your permanent information.

REPORTING PERIOD

Indicate the reporting period covered by your report by marking the appropriate box. You must file a report for each reporting period during which you are registered, even if you have no activity to report.

In the event of a special session requiring an additional report, APOC staff will notify you of the reporting requirement and the due date.

SHORT FORM FOR ZERO REPORTS

If you did not accrue either compensation or expenditures during a reporting period, you may file a zero report. You need not submit a Schedule A for the client or employer disclosed as a zero report. Just check the box for zero reports and (if you have more than one client or employer) print or type the name of the client(s) or employer(s) for whom you are submitting a zero report.

GIFTS AND EXCHANGES

Answer the questions regarding gifts and exchanges by checking the applicable boxes. If you answer "yes" to any of the questions, provide the specific information regarding the gift or exchange in the space provided. Disclosure of gifts and exchanges is required under AS 24.45.051(3), (4) and (5). A "gift" includes a loan; a loan guarantee; forgiveness of a loan; payment, or an enforceable promise to make payment, of a loan by a third party; travel; entertainment; granting of discounts not available to the general public; and any payment to the extent that consideration of equal or greater value is not received. If equal or greater value has been received, it is an exchange.

Food and beverage consumed in places of public accommodation are not gifts, but are reportable lobbying expenditures. Food and beverage consumed in other places are

permissible gifts, but must be disclosed if the value of the food and beverage aggregates more than \$100 per calendar year.

Gifts and legislative ethics

Under AS 24.45.121(9), during the legislative session, it is a criminal violation of law for a lobbyist to offer, solicit, or facilitate a gift, other than food or beverage for immediate consumption, to any person covered by the legislative ethics law.

Under AS 24.60.080(a), a legislator or legislative employee may not solicit, receive, or accept a gift or series of gifts that in a calendar year aggregate \$250 or more and **may not solicit, receive, or accept a gift of any monetary value, with the exception of food and beverage for immediate consumption, from a lobbyist or a person acting on behalf of a lobbyist during a legislative session.**

Lobbyists should address their questions regarding gifts to the Commission's staff at (907) 465-4864. Persons subject to AS 24.60 should address their questions regarding gifts to the Legislative Ethics Committee's staff at (907) 269-0150.

LOBBYIST CERTIFICATION

You must certify your report as true, complete, and correct by affixing an original signature.

If the report was prepared by someone other than the certifying lobbyist, the preparer must also sign the report and must provide her/his name, mailing address, and title.