

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11175 SENATE JUDICIARY

(9) an individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis;

(10) an individual employed in the search for placer or hard rock minerals;

(11) an individual under 18 years of age employed on a part-time basis not more than 30 hours in a week;

(12) employment by a nonprofit educational or child care facility to serve as a parent of children while the children are in residence at the facility if the employment requires residence at the facility and is compensated on a cash basis exclusive of room and board at an annual rate of not less than

(A) \$10,000 for an unmarried person; or

(B) \$15,000 for a married couple;

(13) an individual who drives a taxicab, is compensated for taxicab services exclusively by customers of the service, whose written contractual arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch services are based upon flat contractual rates and not based on a percentage share of the individual's receipts from customers, and whose written contract with owners of taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that the contract places no restrictions on hours worked by the individual or on areas in which the individual may work except to comply with local ordinances;

(14) a person who holds a license under AS 08.54 and who is employed by a registered guide or master guide licensed under AS 08.54, for the first 60 work days in which the person is employed by the registered guide or master guide during a calendar year;

(15) an individual engaged in activities for a nonprofit religious, charitable, civic, cemetery, recreational, or educational organization where the employer-employee relationship does not, in fact, exist, and where services are rendered to the organization under a work activity requirement of AS 47.27 (Alaska temporary assistance program); or

(16) an individual who

(A) provides emergency medical services only on a voluntary basis;

(B) serves with a full-time fire department only on a voluntary basis; or

(C) provides ski patrol services on a voluntary basis.

(17) an individual who is engaged in work and/or learning activities as part of an unpaid University of Alaska externship, practicum, or other course or program that combines academic instruction with work experience with a public or private employer covered by this chapter.

Relative to minimum wage and overtime responsibility, this proposal

1. provides assurance—by applying only to placements under University of Alaska programs—that employers will not be able to take advantage of employees through sham on-the-job training schemes.
2. increases the availability of practicum placement opportunities by reducing the disincentive to sites to take on students who must get practical training in the field of endeavor of the site.
3. provides fair protection to the sites, in that students in practicum placements do not materially reduce costs to the sites—often, they increase the costs.

#### **C. Workers compensation responsibility.**

For workers' compensation, I would propose amending AS 23.30.230. Persons not covered, to include our practicum students:

AS 23.30.230

(a) The following persons are not covered by this chapter:

- (1) a part-time baby-sitter;
- (2) a cleaning person;
- (3) harvest help and similar part-time or transient help;
- (4) a person employed as a sports official on a contractual basis and who officiates only at sports events in which the players are not compensated; in this paragraph, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper, organizer, or other person who is a neutral participant in a sports event;
- (5) a person employed as an entertainer on a contractual basis;
- (6) a commercial fisherman, as defined in AS 16.05.940;

(7) an individual who drives a taxicab whose compensation and written contractual arrangement is as described in AS 23.10.055(13), unless the hours worked by the individual or the areas in which the individual may work are restricted except to comply with local ordinances;

(8) a participant in the Alaska temporary assistance program (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than subsidized or unsubsidized work or on-the-job training; and

(9) a person employed as a player or coach by a professional hockey team if the person is covered under a health care insurance plan provided by the professional hockey team, the coverage is applicable to both work related and nonwork related injuries, and the coverage provides medical and related benefits as required under this chapter, except that coverage may not be limited to two years from the date of injury as described under AS 23.30.095(a); in this paragraph, "health care insurance" has the meaning given in AS 21.12.050.

(10) a participant who is engaged in work and/or learning activities as part of an unpaid University of Alaska externship, practicum, or other course or program that combines academic instruction with work experience with a public or private employer.

(b) The exclusion of certain persons under (a) of this section may not be construed to require inclusion of other persons as employees for purposes of compensation under this chapter.

(c) In this section,

(1) "on-the-job training" means training provided by an employer under a formal agreement with a department of the state, or an agent of a department, for which wages are paid by the employer to a participant in the Alaska temporary assistance program (AS 47.27) while the participant receives job training;

(2) "subsidized work" means employment, by an employer, of an Alaska temporary assistance program participant in a work placement for which the participant receives wages from the employer, subsidized by, and subject to an agreement between the employer and, a department of the state or an agent of a department; "subsidized work" does not include community work service, job sampling placements, or preplacement activities such as job readiness assessments, job searches, education, or vocational training;

(3) "unsubsidized work" means employment, by an employer, secured by an Alaska temporary assistance program participant, with or without the assistance of a department of the state or an agent of a department, for which the participant receives wages from the employer; "unsubsidized work" does not include self-employment.

SB

379

TESTIMONY OF SPONSOR  
SB 379

Thank you Mr. Chair. My name is Mikhael, from the Department of Law, and I am pleased to present to the committee SB 379, on behalf of the Administration.

The concept of SB 379 is quite simple: it provides that public members of the APFC Board of Trustees may be removed only for cause. The bill contemplates that the types of permissible cause for which a Board member may be removed include:

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

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

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

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

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

# MEMORANDUM

# State of Alaska

TO: Hon. Terry Miller  
Lieutenant Governor

DATE: November 7, 1980

ATTN: Patty Ann Polley, Director  
Division of Elections

FILE NO: J-66-001-81

TELEPHONE NO: 465-3665

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

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

By:

Laura L. Davis   
Assistant Attorney General

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

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

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

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

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

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

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

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

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

We hope that this answers your questions.

LLD/pjg

Enc.

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

## FELONIES INVOLVING MORAL TURPITUDE

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

SB 379



FRANK H. MURKOWSKI  
GOVERNOR  
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JUNEAU, ALASKA 99811-0001  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 24, 2004

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Therriault:

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

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

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

I urge your prompt and favorable action on this measure.

Sincerely yours,

Handwritten signature of Frank H. Murkowski in black ink.  
Frank H. Murkowski  
Governor

Enclosure

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: SB 379  
 (S) Publish Date: 3/26/04

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

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

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

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

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

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

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

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: SB 379  
(S) Publish Date: 3/26/04

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

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

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

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

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

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

Estimate of any current year (FY2004) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

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

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673  
Division Administrative Services Date/Time 2/4/04 8:41 AM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/4/2004  
Agency Department of Law

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 379  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Perm Fund Board Public RDU AK Permanent Fund Corporation  
Member Removal Component AK Permanent Fund Corporation  
 Sponsor Rules by Request  
 Requester Senate Judiciary Component No. 109

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

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

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

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

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 379 would allow the removal of public board members only for cause before the expiration of their term. This bill will not affect the management of the Fund or the operating expenses.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047  
 Division Alaska Permanent Fund Corporation Date/Time 4/1/2004  
 Approved by: Steve Porter, Deputy Commissioner Date 2/6/2004  
 Agency Department of Revenue

SB

385

## Explanation of Cs 385 ( ) 23-LS1907A

### I. Conceptual changes that were made to \D:

1. New Section 2 added: (Page 2, Line 4 through Page 7, Line 4) \*
2. Page 9, Line 16: Delete "looking" and replace it with "pertaining"
3. Page 9, Line 17: Insert constitutional limiting language pertaining to Department powers. "(B) are authorized under this chapter and are permissible under the constitution of the United States and the State of Alaska"
4. Page 14, Line 4: Undelete "[ENEMY]" and add the words "or terrorist"--- and make a similar change to Page 14, Line 5, so the subsection reads: "In the event of actual enemy or terrorist attack in or against the state, or credible threat of imminent enemy or terrorist attack,"
5. Page 15, Lines 10-12: Inserts limiting language pertaining to the Governor to read, "A state of emergency declared under (a) of this section may not remain in effect longer than 30 days unless extended by the legislature by concurrent resolution and may be terminated by law or withdrawal of the declaration."
6. Page 18, Line 31: Adds the words "unincorporated village" under definition of private agency.
7. Page 22, Lines 1-6: Adds a new subsection that allows 15 days after the effective date for the legislative committee to organize.

\* Creates a Legislative "Homeland Security and Emergency Management Committee".

### II. Policy decisions/ Clarifications to be made in Judiciary Committee:

1. Page 2, Line 29: "clearable"? Ask Department to clarify what this means.
2. Page 15, Line 11: We have been told by legislative drafters that the legislature cannot effect the powers of the Governor with a "resolution". If this opinion is held by the Judiciary Committee, then this should be changed to "by law". If this change is made, it probably should be conceptual so the sentence can be written to flow better.



## SENATOR FRED DYSON

*File*

### MEMORANDUM

April 20, 2004

To: Senator Ralph Seekins  
From: Senator Fred Dyson *Fred*  
RE: Request to expedite Judiciary hearing of SB 385

I request your consideration to hear SB 385 in Judiciary Committee tomorrow, April 21, or Thursday, April 22.

I make the request apologetically because I appreciate and respect the fact that your priorities and judiciary schedule have already been established. I am asking because I think it could be quite important that we pass this legislation this session if possible.

The rationale here is that the changes we want to make (that we have discussed), are extensive enough to make them difficult to get done on the floor and better handled in committee. This way we can maybe still get it out of the Senate this week.

If you share my concerns and choose to act, the following two things need to happen today on the floor.

1. Make a request to pull SB 385 back to Senate Judiciary Committee.
2. Request Suspension of Rule 23 for hearing SB 385 at a time specific (ex: Senate Judiciary Hearing, 8:00 AM, Wednesday, April 21) (11 votes required for this action)

# LEGAL SERVICES

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

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


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

## MEMORANDUM

April 19, 2004

**SUBJECT:** CSSB 385( ) (Work Order No. 23-LS1907A)

**TO:** Senator Fred Dyson  
Attn: Wes Keller

**FROM:** James P. Crawford   
Assistant Revisor

First, I added the concepts of preparedness and prompt response relating to the new committee to proposed AS 24.20.800. For consistency's sake, I also added these concepts to proposed AS 24.20.870 and AS 24.20.880.

Second, I added the security clearance language in the Department's fax to proposed AS 24.20.810(b).

Note that as a practical matter, for legislators who do not already possess a "secret" level clearance at the time of appointment, it may be impossible to tell whether they are "clearable" to that level. Thus, setting up a membership criterion of being "clearable" to the secret level as a condition to appointment to the committee may be unworkable.

Also, there are many other issues surrounding this clearance question. Although my information could be incorrect, I have read that an outfit called the Defense Security Service performs the checks and that there is a processing backlog of several months. If this is true, you may wish to consider the problems that might arise if a legislator lacks a "secret" level clearance at the time of appointment, is appointed on the assumption that the legislator is "clearable," but is ultimately denied a "secret" clearance after serving on the committee for a long period of time. What if the legislator in question is a co-chair of the committee? What if the reason for denial relates to some fact or facts that the legislator considers sensitive? What if some other person or persons want to find out the reasons for denial?

Attached are materials taken from the internet relating to federal security clearances for your perusal. I don't know if these materials are up to date, but they may at least provide a general idea of what is involved in applying for a security clearance. Take them for what they are worth. Be aware that federal security clearance forms may ask questions that some legislators would find annoying at best and highly intrusive or offensive at worst. Also, be aware that the FBI may retain permanent records of applications for federal security clearances regardless of whether the clearances are granted or denied.

Senator Fred Dyson  
April 19, 2004  
Page 2

Third, I added the constitutional limitation language in the Department's fax to the powers of the department in AS 24.20.020(4).

Fourth, I added the time limit language in the Department's fax to proposed subsection (b) of AS 26.20.040. I believe a portion of this language is unconstitutional.

The problem arises from allowing the legislature to extend the state of emergency declaration "by concurrent resolution." A state of emergency declaration has effects outside the legislature that affect the state as a whole. Of necessity, an extension of a state of emergency declaration also affects the state as a whole. In this regard, the Alaska Supreme Court has stated that (1) when the legislature takes a given action, and (2) that action has effects outside the legislature, *i.e.*, the action affects the state as a whole, then (3) that action must be done through a bill and may not be done through a concurrent resolution. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980).

There is a simple remedy to this problem: Change the language of subsection (b) so that "by concurrent resolution" is replaced with "by law."

Fifth, I gave the new committee the same effective date as the rest of the bill. You will notice a new transition provision (proposed bill section 22) that requires the committee to be organized within 15 days of the effective date of this act.

Sixth, bill section 21, relating to the department submitting additional requirements for membership, is still in this bill. In light of what the department has submitted relating to security clearances, should this be removed?

JPC:lmb  
04-116.lmb

Attachments

## Standard Form 86 Certification

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on page 2. If you have any questions, call the office that gave you the form.

The Standard Form 86 (SF 86), *Questionnaire for National Security Positions*, is completed by persons performing, or seeking to perform, national security duties for the Federal Government. The SF 86 is used by the Office of Personnel Management and by other Federal agencies to initiate the background investigation required to determine placement in national security positions in accordance with 42 U.S.C. 2165, 22 U.S.C. 2585, E.O. 10450, Security Requirements for Government Employment, issued April 27, 1953, and E.O. 12968, Access to Classified Information, issued August 2, 1995. There are many situations where individuals are required to fill out a new SF 86 when the sole purpose is to determine if any information on a previously executed SF 86 has changed. This requires extensive work by the individual even if nothing has changed. The SF 86C is a certification document that allows the reporting of changes in previously reported information on the SF 86. This certification will be in lieu of completing a new SF 86 and will allow the individual to indicate that there have been no changes in the data provided on the most recently filed SF 86. Or it will allow the individual to easily provide new or changed information. No investigation will be initiated based solely on the execution of this form.

Your Social Security Number (SSN) is needed to keep our records accurate, because other people may have the same name and birthdate. Public Law 104-134 (April 26, 1996) asks Federal agencies to use this number to help identify individuals in agency records. Giving us your SSN or any other information is voluntary. However, if you do not give us your SSN or any other information requested, we cannot process your application. Incomplete addresses and ZIP Codes may also slow processing.

### **Privacy Act Statement**

Solicitation of this information is authorized by Executive Orders 10450 and 12968 and 5 CFR 732. The U.S. Government conducts background reinvestigations to establish that individuals continue to be eligible for positions involving national security or special nuclear information or material. We may share this information with other Federal agencies; Congress (when requested); a court of competent jurisdiction, news media and the general public when the disclosure would be in the public interest and would not constitute an unwarranted invasion of privacy; public authorities responsible for enforcing, investigating or prosecuting violations of statute, rule, regulation or order (except as noted in Question 24 on the SF 86); and, in compliance with the National Security Act of 1947, the CIA Act of 1949, Executive Order 12333, and other such acts as may be promulgated. If you do not supply the requested information, the processing of your investigation may stop and any clearances or access you have may be terminated.

### **Public Burden Statement**

We think this form takes an average 15 minutes to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to the U.S. Office of Personnel Management, OPM Forms Officer, Paperwork Reduction Act (3206-0005), Washington, D.C. 20415-7900. OPM may not collect this information, and you are not required to respond, unless this number is displayed. **Do not send your completed form to this address.**

## Standard Form 86 Certification

**INSTRUCTIONS:** PLEASE TYPE OR LEGIBLY PRINT YOUR ANSWERS IN BLACK INK. Referencing information contained in your most recent Standard Form 86 (SF 86), *Questionnaire for National Security Positions*, (OMB No. 3206-0005), or information disclosed upon the date of your last background investigation, complete this Form. All questions on this Form must be answered. Any changes that you make to this Form after you sign it must be initialed and dated by you. The U.S. Criminal Code (Title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines of up to \$10,000 and/or 5 years imprisonment, or both.

Do not provide information you have already provided on your most recent SF 86. Any Yes responses under Blocks 2 and/or 3 must be explained in Block 4. If additional space is needed, use a blank piece of paper. Each blank piece of paper must contain your name, date, and Social Security Number at the top of the page. Conclude by certifying the accuracy of your answers in Block 5, the Certification Note. You may request an interview with a government security officer/agent if you have questions pertaining to Blocks 2 and 3. Contractors shall inform employees that this Certification Form may be completed in private and returned to security personnel in a sealed envelope. It is **IMPORTANT** that you keep your most recent Standard Form 86 and a **COPY** of this certification form in your personal records file for immediate retrieval.

### Block 1 - Identification

Full Name (Last, First, Middle, Maiden)		Social Security Number (SSN)	
Date of Birth (mm/dd/yyyy)	Place of Birth		
Telephone Numbers	Work	Home	Email

STOP! Check this box if you wish to consult with a government security officer before completing Blocks 2 and/or 3.

### Block 2 - Part 1 of the Standard Form 86

**Instructions:** The following Sections, noted in Blocks 2 and 3, correlate with your SF 86. If you report no change to a Section, place an "X" in the No box. If there is a change to report, place an "X" in the Yes box. All Yes answers must be explained under Block 4, Explanation/Remarks.

Yes	No	Section
		Section 5. (Other Names Used)
		Section 6. (Other Identifying Information, Height/Weight/Hair/Eye/Sex M-F) (Not Applicable)
		Section 7. (Telephone Numbers) (Provide under Block 1, above)
		Section 8. (Citizenship)
		Section 9. (Where You Have Lived)
		Section 10. (Where You Went To School)
		Section 11. (Your Employment Activities)
		Section 12. (People Who Know You Well) (Not Applicable)
		Section 13. (Your Spouse)
		Section 14. (Your Relatives and Associates)
		Section 15. (Citizenship of Your Relatives and Associates)
		Section 16. (Your Military History)
		Section 17. (Your Foreign Activities)
		Section 18. (Foreign Countries You Have Visited)



**Supplemental Instructions for Completing Standard Form 86 (SF-86)  
"Questionnaire for Sensitive Positions"**

A properly executed SF-86 is essential for initiating a background investigation. A poorly executed form often causes additional investigation in order to resolve ambiguous or incomplete information. This delays completion of your investigation.

**Please TYPE, insure information is recorded in a logical manner especially residence and employment. The form may contain NO HANDWRITTEN CORRECTIONS. Please answer ALL questions even if they do not apply to you. Type UNKNOWN, NONE, or N/A if it is not applicable.**

Form SF-86 asks for information about you in a series of numbered categories. In some categories, OPM needs more information than is required by the form. This is to assure that your investigation is as complete as possible. Your careful attention to furnishing all the information required by the form and these supplemental instructions will assist OPM in completing your background investigation in a timely manner.

The supplemental instructions below relate to and are listed by the numbered categories on the form:

Items 1 -7    Self-explanatory

Item 8        **CITIZENSHIP**

After marking the box at the right be sure to follow the instructions next to the box you marked. For example, answer 8b, 8c, 8d, or 8e. Please answer each question; however, if the question does not apply to you type "NONE" or "N/A" (not applicable). If you or your spouse are naturalized citizens, provide date, place, and U.S. District Court where naturalized (information concerning spouse can be included under Item 18). If naturalized by derivative, provide above information on parents.

Item 9        **WHERE YOU HAVE LIVED**

There must be **no gaps** in time in your listings of the places you have lived for the past **10 years**. Month and year of beginnings and termination of each residence should be listed. If residence is in an apartment complex, the name of the complex and specific apartment number should be included. Also, include residences while in college. It is essential that addresses are complete. That is, street number, street name, city, state and zip code. For addresses listed in the past 10 years, provide a person who knew you at that address. Telephone numbers must also be completed with area codes. **DO NOT LEAVE ANY GAPS IN TIME.**

Item 10

WHERE YOU WENT TO SCHOOL

List the month and year you began and ended your schooling at each educational institution. If you attended school within the last seven years, list professors, instructors, or others who are familiar with you and provide their complete addresses and phone numbers. List any high school, college/university, or vocational/trade school you have attended. Include complete addresses for all schools, including street number, street name, city, state and zip code. List degree, diploma, certificate, etc. and date received. If you received no such degree, indicate "NONE" or "N/A" (not applicable). If a general equivalency diploma was obtained, the state which issued it and date obtained should be noted.

Item 11

YOUR EMPLOYMENT ACTIVITIES

There must be **no gaps** in time in your employment history for the past **10 years**. List all employment, full or part-time, in chronological order (starting with current employment). All supervisors must be listed for each employment, including their telephone numbers with area codes. If not known, type "UNKNOWN" or "NONE." Insure complete address (street/city/state/zip code) is included for each employment and job description listed.

If a government employment or employment by some other large organization, show the department, bureau, division, and section or specific subdivision. This is particularly important for individuals who have had numerous assignments within the military, government, large corporations or institutions. If you are a member of a **military** reserve component or National Guard unit, list the organization, its location, and name of your immediate superior officer and the officer's phone number, if known, if not known, type "UNKNOWN", "NONE" or "N/A".

Include all periods of **self-employment** and **unemployment** including periods during which you were a **student**. For periods of unemployment, you must indicate (1) that you were a student and (2) how you were supported during that period (e.g. unemployment benefits, parents, spouse, etc.). Provide names, addresses and telephone numbers of persons who can verify **all** periods of unemployment or self-employment, such as individuals unemployed by your, landlords, parents, spouse, friends, roommates, competitors, or clients. **DO NOT LEAVE ANY GAPS IN TIME.**

Note: Employment listed on the Standard Form 86 needs to be the same as employment listed on the Optional Application for Federal Employment (OF-612) or the resume for the past 10 years.

Item 12 **PEOPLE WHO KNOW YOU WELL**

Please provide complete home or business address (including name of firm, street number, street name, city, state and zip code) and home or business telephone number. The telephone number listed should be a daytime number where the reference can be reached during normal working hours. References should reside in the continental United States.

Item 13 **YOUR SPOUSE** - Self-explanatory

Item 14 **YOUR RELATIVES**

**Full dates** (including month, date and year), **places of birth** (city and state) and **complete addresses** (including street, number, street name, city, state and **zip codes**) for all relatives should be listed. If relative is deceased place an "X" in the box and list date of birth, country of birth and country citizenship. If relative resides overseas, please indicate if they are in the military. (Do not list APO or FPO address).

Item 15 **Citizenship of your Relatives and Associates** - Self-explanatory

Item 16 **YOUR MILITARY HISTORY** - Follow instructions carefully

Item 17 **YOUR FOREIGN ACTIVITIES** - self-explanatory

Item 18 **FOREIGN COUNTRIES YOU HAVE VISITED**

Please provide the beginning and ending month and year that you have visited foreign countries in the past 10 years. This includes even short trips to Mexico and Canada. Enter "NONE" or "N/A" if you have not visited a foreign country.

Item 19 **YOUR MILITARY RECORD** - Self-explanatory

Item 20 **SELECTIVE SERVICE RECORD**

If you are a male born after December 31, 1959, please indicate whether or not you are registered with the Selective Service System. If yes, provide your registration number. **You may contact the Selective Service System at 847-688-6888 and they will provide you with your registration number.**

Item 21 **YOUR MEDICAL RECORD**

Please attach a separate sheet of paper to provide a detailed explanation of the treatment you have received in the last 10 years. Name and address of physician and condition for which you were treated should be provided. Please state whether you were hospitalized and if so, provide dates and location. Please obtain a written

statement from the physician on his or her letterhead indicating the diagnosis and prognosis. This statement should also contain the clinician's estimate as to the applicant's ability to make judgments and handle stress.

Item 22 **YOUR EMPLOYMENT RECORD**

Follow the instructions carefully

Item 23 **YOUR POLICE RECORD**

Please attach a separate sheet to provide full details regarding any arrests, contacts with law enforcement, and judicial actions, except minor traffic violations for which you paid less than \$150 fine and contacts before your 16<sup>th</sup> birthday. All other incidents must be included even if they were dismissed or you merely forfeited collateral. Any court records/documentation regarding the disposition of the charge should be included.

Item 24-25 **ILLEGAL DRUGS AND ALCOHOL**

Follow the instructions carefully. (Go back 10 years)

Item 26 **YOUR INVESTIGATIONS RECORD**

If known, please insure that agency conducting the investigation and the approximate date (month and year) of investigation are listed.

Item 27-28 **YOUR FINANCIAL RECORD**

List any accounts placed for collection, defaults, judgments, repossessions, etc. in the last 10 years. All delinquent debts and financial obligations must be explained in detail. If you have ever filed for bankruptcy, list the date, location of court, and case number (if known). Provide the complete name and address of the business bringing this action, the date (month and year), and the account number. **If the debt(s) has been satisfied, please provide proof, e.g. statement showing zero balance, cancelled checks, money orders, etc. If the debt has not been satisfied, please contact the business and establish a repayment plan. Please provide a letter on the business' letterhead agreeing to a repayment plan.**

Item 29-30 **PUBLIC RECORD CIVIL COURT ACTIONS AND YOUR ASSOCIATION RECORD**

Follow the instructions carefully.

Page 9 CONTINUATION SPACE

Use this space for additional answers to questions 9, 10 and 11.

Pages 9/10 SIGNATURE/DATE

We must have one completed ORIGINAL form. Our headquarters will not accept a photo copy. Please make 4 copies of this form. Each copy must have an original signature and date on both pages 9 and 10.

MISCELLANEOUS

When completing form, do not abbreviate names of cities. An abbreviation commonly used by residents of a city is not necessarily recognizable nationwide.

23-LS19071  
Crawford  
4/19/04

**CS FOR SENATE BILL NO. 385( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

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

**Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

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

1 "An Act relating to homeland security, to civil defense, to emergencies and to disasters,  
2 including disasters in the event of attacks, outbreaks of disease, or threats of attack or  
3 outbreak of disease; establishing the Alaska division of homeland security and  
4 emergency management in the Department of Military and Veterans' Affairs and  
5 relating to the functions of that division and that department; and providing for an  
6 effective date."

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

8 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 **PURPOSE.** The purpose of the establishment of the Alaska division of homeland  
11 security and emergency management in sec. 6 of this Act and the repeal of AS 26.23.030 in  
12 sec. 20 of this Act is to further the consolidation of the Department of Military and Veterans'  
13 Affairs' emergency services and homeland security functions into a single division in order to

1 provide for more efficient administration of those functions and to transfer functions of the  
2 division of emergency services into the division of homeland security and emergency  
3 management.

4 \* **Sec. 2.** AS 24.20 is amended by adding new sections to read:

5 **Article 6. Homeland Security and Emergency Management Committee.**

6 **Sec. 24.20.800. Homeland Security and Emergency Management**  
7 **Committee established.** The Homeland Security and Emergency Management  
8 Committee is established as a permanent interim committee of the legislature. The  
9 establishment of the committee recognizes the need for prompt legislative  
10 consideration of

11 (1) matters concerning homeland security and civil defense,  
12 emergencies, or disasters; or

13 (2) the state's preparedness for or ability to mount a prompt response to  
14 matters concerning homeland security and civil defense, emergencies, or disasters.

15 **Sec. 24.20.810. Membership; qualifications.** (a) Subject to (b) of this  
16 section, the committee is composed of six members, as follows:

17 (1) the respective chairs of the subcommittees of the House and Senate  
18 Finance Committees that consider the military and veterans' affairs budget;

19 (2) two senate members of the joint armed services committee if one  
20 exists, or if one does not exist, then two members of the Senate State Affairs  
21 Committee, selected by the president of the senate, one of whom is not a member of  
22 the political party to which a majority of members of the senate belong; and

23 (3) two house members of the joint armed services committee if one  
24 exists, or if one does not exist, then two members of the House State Affairs  
25 Committee selected by the speaker of the house of representatives, one of whom is not  
26 a member of the political party to which a majority of members of the house of  
27 representatives belong.

28 (b) To be eligible to serve on the committee, a legislator shall have a federal  
29 security clearance at the secret level or must be clearable at the secret level at the time  
30 of appointment and apply for and receive a federal security clearance at the secret  
31 level. A legislator may not serve on the committee, or if serving, may not continue to

1 serve, if the legislator has been convicted, including a conviction based on a guilty  
2 plea or a plea of nolo contendere, of a felony or of the crime of unsworn falsification  
3 under AS 11.56.210. If a legislator may not serve or may not continue to serve on the  
4 committee under this subsection, a vacancy in the membership of the committee  
5 exists.

6 **Sec. 24.20.820. Term of Membership.** (a) The committee shall be organized  
7 within 15 days after the organization of each legislature. Members of the committee  
8 who remain qualified under AS 24.20.810 serve for the duration of the legislature  
9 during which the members are appointed. If the member is reelected or the member's  
10 term of office extends into the next succeeding legislature and the member remains  
11 qualified under AS 24.20.810, the member shall continue to serve until reappointed or  
12 the appointment of the member's successor.

13 (b) When a member of the committee files a declaration of candidacy for an  
14 elective office other than that of member of either house of the legislature, and the  
15 member has not resigned from membership on the committee, the member's  
16 committee membership terminates on the date of filing, and a vacancy in the  
17 membership of the committee exists.

18 **Sec. 24.20.830. Vacancies.** When a vacancy occurs in the membership of the  
19 committee, the presiding officer of the house incurring the vacancy shall choose a  
20 successor. If the office of the president of the senate or speaker of the house of  
21 representatives becomes vacant and a vacancy from the affected house occurs among  
22 the membership of the committee, the remaining committee members from the house  
23 incurring the vacancy shall appoint a new member.

24 **Sec. 24.20.840. Travel and per diem allowances.** Members of the  
25 committee are entitled to reimbursement for travel expenses. Members of the  
26 committee shall receive per diem allowances in accordance with the policy adopted by  
27 the legislative council under AS 24.10.130(c).

28 **Sec. 24.20.850. Meetings.** (a) Four members of the committee constitute a  
29 quorum.

30 (b) The committee members shall select one member from the senate and one  
31 member from the house of representatives to serve as co-chairs of the committee.

1 (c) The committee may meet during sessions of the legislature and during  
2 intervals between sessions at the times and places the co-chairs may determine.  
3 Whenever possible, meetings shall be teleconferenced to reduce travel cost.

4 **Sec. 24.20.860. Staff.** The Legislative Affairs Agency shall provide the  
5 committee with professional and clerical assistance under the auspices of the  
6 legislative council.

7 **Sec. 24.20.870. Powers and duties.** The committee

8 (1) may review activities, plans, reports, recommendations, and other  
9 materials of the Alaska division of homeland security and emergency management in  
10 the Department of Military and Veterans' Affairs relating to

11 (A) matters concerning homeland security and civil defense,  
12 emergencies, or disasters; or

13 (B) the state's preparedness for or ability to mount a prompt  
14 response to matters concerning homeland security and civil defense,  
15 emergencies, or disasters.

16 (2) may review activities, plans, reports, recommendations, and other  
17 materials from other agencies or persons that perform activities relating to the subject  
18 matter described in (1)(A) or (1)(B) of this section;

19 (3) shall prepare a report of its activities for each legislature and notify  
20 the legislature that the report is available;

21 (4) may present to the legislature additional reports or  
22 recommendations relating to the subject matter described in (1)(A) or (1)(B) of this  
23 section as the committee from time to time determines appropriate; and

24 (5) may perform other functions appropriate for a committee of the  
25 legislature relating to the subject matter described in (1)(A) or (1)(B) of this section.

26 **Sec. 24.20.880. Requests for information.** The committee may request  
27 information relating to matters concerning homeland security and civil defense,  
28 emergencies, or disasters or to the state's preparedness for or ability to mount a prompt  
29 response to matters concerning homeland security and civil defense, emergencies or  
30 disasters as the committee determines appropriate in the performance of the  
31 committee's powers and duties under AS 24.20.870 from

1 (1) the Alaska division of homeland security and emergency  
2 management in the Department of Military and Veterans' Affairs; or

3 (2) other agencies or persons that perform activities relating to  
4 homeland security or civil defense, emergencies, or disasters in the state or to the  
5 state's preparedness for or ability to mount a prompt response to matters concerning  
6 homeland security and civil defense, emergencies, or disasters.

7 **Sec. 24.20.890. Disclosure of information; confidentiality.** (a) A person or  
8 entity providing information under AS 24.40.880 may request confidential treatment  
9 of the information provided to the committee by clearly identifying the information  
10 and the reasons supporting the request for confidential treatment. The committee shall  
11 keep the information confidential until the committee determines whether the  
12 requirements of (b) of this section are met. If the committee has not made a  
13 determination under (b) of this section within 14 days after receiving a request for  
14 confidential treatment, the request is considered denied. If the committee determines  
15 that the information does not meet the requirements of (b) of this section or if the  
16 committee fails to make a determination within 14 days after receiving a request for  
17 confidential treatment, the committee shall return the information and any copies of it  
18 at the request of the provider.

19 (b) If requested by a person or entity providing information under  
20 AS 24.20.880, the information provided to the committee shall be kept confidential if  
21 the committee determines, upon an adequate showing by the provider, that the  
22 information

23 (1) is not subject to public disclosure under AS 40.25.100 - 40.25.220;

24 (2) is subject to a privilege recognized under the laws of this state,  
25 whether at common law or by statute or by court rule; or

26 (3) is of such a nature that its disclosure would unreasonably interfere  
27 in the exercise of powers or performance of duties or functions by

28 (A) the Department of Military and Veterans' Affairs under  
29 AS 26.20.020;

30 (B) the Alaska division of homeland security and emergency  
31 management in the Department of Military and Veterans' Affairs under

1 AS 26.20.025 or AS 26.23.040;

2 (C) the governor under AS 26.20.040 or AS 26.23.020.

3 (c) Information determined to be confidential under (b) of this section is  
4 confidential under that subsection only so long as the reasons justifying the initial  
5 determination of confidentiality under that subsection continue to exist. The  
6 committee may not release information that the committee has previously determined  
7 to be confidential under (b) of this section without providing the person or entity  
8 providing the information notice and an opportunity to be heard.

9 (d) Notwithstanding the limitation in (c) of this section, information that is  
10 determined to be confidential under (b) of this section may be disclosed by the  
11 committee to the committee's staff, to other committees or legislators, or to the staff of  
12 other committees or legislators. Information that is exchanged under this subsection  
13 that was determined to be confidential under (b) of this section remains confidential  
14 except as provided in (c) of this section. The portions of the records and files of the  
15 other committees, legislators, or staff that reflect, incorporate, or analyze information  
16 that is determined to be confidential under (b) of this section are not public records.  
17 However, those portions may lose their confidential status as provided in (c) of this  
18 section unless separately made confidential by another statute or other law.

19 (e) Notwithstanding the limitation in (c) of this section, information that is  
20 determined to be confidential under (b) of this section may be disclosed by the  
21 committee to employees or agents of the legislative audit division, the legislative  
22 finance division, or the Legislative Affairs Agency. The portions of the records and  
23 files of the employees or agents that reflect, incorporate, or analyze information that is  
24 determined to be confidential under (h) of this section are not public records.  
25 However, those portions may lose their confidential status as provided in (c) of this  
26 section unless separately made confidential by another statute or other law. Before  
27 confidential information is disclosed under this subsection, the person receiving the  
28 information shall sign an appropriate confidentiality agreement if information received  
29 by the person in the normal course of the person's employment is not already required  
30 to be kept confidential by another statute or other law.

31 (f) Nothing in this section makes a record or file of the committee or a person

1 or entity receiving information under (d) or (e) of this section a public record that  
2 would not otherwise be a public record under AS 40.25.100 - 40.25.220.

3 **Sec. 24.20.895. Definitions.** In AS 24.20.800 - 24.20.895, "committee"  
4 means the Homeland Security and Emergency Management Committee.

5 \* **Sec. 3.** AS 26.20.010 is amended to read:

6 **Sec. 26.20.010. Policy and purpose.** (a) Because of the [NATIONAL  
7 EMERGENCY AND THE] possibility of [DISASTERS OR EMERGENCIES  
8 RESULTING FROM] enemy or terrorist attack, sabotage, or other hostile action  
9 against or in the state, and in order to ensure [INSURE] adequate preparations for  
10 attack [DISASTERS] or emergencies, and generally to provide for homeland  
11 security and the common defense, it is found and declared to be necessary

12 (1) to provide for a state homeland security and civil defense agency  
13 [, AND TO AUTHORIZE THE CREATION OF LOCAL ORGANIZATIONS FOR  
14 CIVIL DEFENSE];

15 (2) to confer upon the governor [AND UPON THE EXECUTIVE  
16 HEADS OF THE DISTRICTS OF THE STATE] the emergency powers provided in  
17 this chapter;

18 (3) to provide for mutual aid and cooperation among the state, local,  
19 and private agencies [DISTRICTS] of the state, with the other states of the United  
20 States, [AND] with the federal government, and with the provinces of another  
21 country, for carrying out homeland security and civil defense functions;

22 (4) to authorize the [ESTABLISHMENT OF ORGANIZATIONS  
23 AND] taking of steps that are necessary and appropriate to carry out the provisions of  
24 this chapter.

25 (b) It is further declared that the purpose of this chapter and the policy of the  
26 state is that all homeland security and civil defense functions of this state be  
27 coordinated to the maximum extent with the comparable functions of the federal  
28 government, including its various departments and agencies, of the states of the United  
29 States and localities, and of private agencies of every type, so that the most effective  
30 preparation and use may be made of the state's manpower, resources, and facilities for  
31 dealing with any attack [DISASTER] that occurs.

1 \* Sec. 4. AS 26.20.010 is amended by adding a new subsection to read:

2 (c) It is further declared that the purpose of this chapter and the policy of the  
3 state is that all homeland security and civil defense functions of this state be  
4 coordinated by and through the Department of Military and Veterans' Affairs, with the  
5 cooperation and assistance of all state agencies.

6 \* Sec. 5. AS 26.20.020 is amended to read:

7 **Sec. 26.20.020. Homeland security and civil [CIVIL] defense powers of**  
8 **the Department of Military and Veterans' Affairs.** (a) The Department of Military  
9 and Veterans' Affairs is responsible for carrying out the provisions of this chapter  
10 [AND, IN THE EVENT OF DISASTER OR EMERGENCY BEYOND LOCAL  
11 CONTROL, MAY ASSUME DIRECT OPERATIONAL CONTROL OVER ALL OR  
12 ANY PART OF THE CIVIL DEFENSE FUNCTIONS WITHIN THIS STATE].

13 (b) In performing its duties under this chapter, the department may

14 (1) issue, adopt, amend, and rescind the necessary orders and  
15 regulations to carry out this chapter, with consideration of the plans and programs of  
16 the federal government;

17 (2) prepare and implement [A] comprehensive plans [PLAN] and  
18 programs [PROGRAM] for the homeland security and civil defense of this state,  
19 and coordinate with state agencies in the preparation and implementation of  
20 those plans and programs, which shall be integrated into and coordinated with the  
21 homeland security and civil defense plans and programs of the federal government  
22 and of each state of the United States to the fullest possible extent, and coordinate the  
23 preparation and implementation of plans and programs for homeland security and  
24 civil defense by political subdivisions and private agencies of the [DISTRICTS OF  
25 THIS] state, which shall be integrated into and coordinated with the homeland  
26 security and civil defense plans [PLAN] and programs [PROGRAM] of this state to  
27 the fullest possible extent;

28 (3) ascertain the requirements of the state [OR THE DISTRICTS OF  
29 THE STATE] for food or clothing or other necessities of life in the event of attack and  
30 plan for and procure supplies, medicines, materials, and equipment, and use and  
31 employ any of the property, services, and resources within the state, for the purposes

1 set out [FORTH] in this chapter; make surveys of the industries, resources, and  
 2 facilities within the state that are necessary to carry out the purposes of this chapter;  
 3 institute training programs and public information programs; [,] and take all other  
 4 preparatory steps, including the partial or full mobilization of homeland security,  
 5 civil defense, and emergency organizations and personnel in advance of actual  
 6 attack [DISASTER], to ensure the furnishing of adequately trained and equipped  
 7 [FORCES OF CIVIL DEFENSE] personnel and adequate resources in time of need;

8 (4) cooperate with the [PRESIDENT AND HEADS OF THE ARMED  
 9 FORCES, AND THE CIVIL DEFENSE AGENCY OF THE UNITED STATES,  
 10 AND WITH THE] officers and agencies of the United States and the states of the  
 11 United States, in matters pertaining to the homeland security and civil defense of the  
 12 state and nation and the incidents thereof; and, in this connection, [TO] take any  
 13 measures that

14 (A) it considers proper to carry into effect a request of the  
 15 president and the appropriate federal officers and agencies for action  
 16 pertaining [LOOKING] to homeland security and civil defense; and

17 (B) are authorized under this chapter and are permissible  
 18 under the Constitutions of the United States and the State of Alaska [,  
 19 INCLUDING THE DIRECTION OR CONTROL OF

20 (A) BLACKOUTS AND PRACTICE BLACKOUTS, AIR  
 21 RAID DRILLS, MOBILIZATION OF CIVIL DEFENSE FORCES, AND  
 22 OTHER TESTS AND EXERCISES;

23 (B) WARNINGS AND SIGNALS FOR DRILLS OR  
 24 ATTACKS AND THE MECHANICAL DEVICES TO BE USED IN  
 25 CONNECTION WITH THEM;

26 (C) THE EFFECTIVE SCREENING OR EXTINGUISHING  
 27 OF LIGHTS AND LIGHTING DEVICES AND APPLIANCES;

28 (D) SHUTTING OFF WATER MAINS, GAS MAINS,  
 29 ELECTRIC POWER CONNECTIONS AND THE SUSPENSION OF  
 30 OTHER UTILITY SERVICES;

31 (E) THE CONDUCT OF CIVILIANS AND THE

1 MOVEMENT AND CESSATION OF MOVEMENT OF PEDESTRIANS  
2 AND VEHICULAR TRAFFIC DURING, BEFORE, AND AFTER DRILLS  
3 OR ATTACK;

4 (F) PUBLIC MEETINGS OR GATHERINGS; AND

5 (G) THE EVACUATION AND RECEPTION OF THE  
6 CIVILIAN POPULATION];

7 (5) exercise additional authority delegated by the governor to the  
8 department [TAKE ACTION AND GIVE DIRECTIONS TO STATE AND LOCAL  
9 LAW ENFORCEMENT OFFICERS AND AGENCIES AS ARE REASONABLE  
10 AND NECESSARY] to secure compliance with this chapter and with the orders and  
11 regulations issued or adopted under this chapter;

12 (6) employ measures and give directions to the state or local  
13 [BOARDS OF] health agencies as are reasonably necessary for the purpose of  
14 securing compliance with this chapter or with the findings or recommendations of  
15 state or local [BOARDS OF] health agencies due to conditions arising from  
16 [ENEMY] attack or the threat of [ENEMY] attack [OR OTHERWISE];

17 (7) obtain and utilize the services, [AND] facilities, and information  
18 of existing officers [,] and agencies of the state and of the political subdivisions  
19 [DISTRICTS] of the state, whose duty it is to cooperate with and extend their services,  
20 [AND] facilities, and information to the department as requested by it;

21 (8) [ESTABLISH AGENCIES AND OFFICES AND APPOINT  
22 EXECUTIVE, TECHNICAL, CLERICAL, AND OTHER PERSONNEL  
23 NECESSARY TO CARRY OUT THIS CHAPTER, INCLUDING, WITH  
24 CONSIDERATION TO THE RECOMMENDATION OF THE LOCAL  
25 AUTHORITIES, FULL TIME STATE AND DISTRICT DIRECTORS;

26 (9) delegate authority vested in the department under this chapter, and  
27 provide for the subdelegation of this authority;

28 (9) [(10)] sponsor and develop mutual aid and cooperation plans and  
29 agreements among [BETWEEN] the agencies [DISTRICTS] of the state, the political  
30 subdivisions of the state, and private agencies and organizations;

31 (10) [(11)] ESTABLISH DISTRICTS IN THE STATE AS ARE

1 NEEDED TO CARRY OUT THE PURPOSES AND INTENT OF THIS CHAPTER;  
 2 (12)] sell, lend, transfer, or deliver supplies or medicines to carry out  
 3 the policy and purposes set out [FORTH] in this chapter on terms and conditions that  
 4 the department considers reasonable;

5 (11) participate in and conduct exercises to implement homeland  
 6 security plans and to prepare for a potential attack;

7 (12) advise the governor and the legislature on appropriate policy  
 8 of the state for matters of homeland security and civil defense; and

9 (13) coordinate with state agencies in providing a recommendation  
 10 to the governor for state action in response to changes in threats of attack [, BUT  
 11 SUBJECT TO THE FOLLOWING:

12 (A) MONEY DERIVED FROM THE SALE OF SUPPLIES  
 13 AND MEDICINES SHALL BE DEPOSITED IN A SPECIAL FUND,  
 14 WHICH SHALL BE USED BY THE DEPARTMENT TO REPLENISH AND  
 15 PURCHASE THE NECESSARY SUPPLIES AND MEDICINES;

16 (B) A SALE UNDER THIS PARAGRAPH MAY NOT BE  
 17 FOR AN AMOUNT BELOW 10 PER CENT OF THE REQUISITION COST  
 18 UNLESS FIRST APPROVED BY THE DEPARTMENT].

19 \* Sec. 6. AS 26.20 is amended by adding a new section to read:

20 **Sec. 26.20.025. Creation and duties of the Alaska division of homeland**  
 21 **security and emergency management.** (a) There is established in the department  
 22 the Alaska division of homeland security and emergency management, possessing the  
 23 powers and duties as set out in this section and as delegated by the adjutant general of  
 24 the department.

25 (b) The Alaska division of homeland security and emergency management,  
 26 with the concurrence and approval of the adjutant general of the department, shall  
 27 prepare and maintain a state homeland security plan and keep it current. The plan may  
 28 include provisions for

29 (1) investigation and assessment of threats from attack to persons,  
 30 facilities, systems, infrastructure, and other property in this state;

31 (2) identification of geographical areas, municipalities, facilities,

1 systems, infrastructure, or other property or persons especially vulnerable to an attack;

2 (3) prioritization of measures to protect persons, facilities, systems,  
3 infrastructure, and other property in the state from attack;

4 (4) organization of personnel, including chains of command, and other  
5 resources;

6 (5) coordination and deployment of personnel, including the organized  
7 militia, state and local agency personnel, and authorized volunteers, and other  
8 resources to protect persons, facilities, systems, infrastructure, and other property in  
9 the state from attack or to respond to an attack;

10 (6) assistance to local officials and private agencies in designing local  
11 and private security plans;

12 (7) coordination of federal, state, local, and private agencies' homeland  
13 security activities;

14 (8) coordination of the state homeland security plan with the state  
15 emergency plan and with the homeland security and disaster plans of the federal  
16 government;

17 (9) other planning, preventive, preparedness, response, and mitigation  
18 measures designed to eliminate or reduce the threat or effect of an attack; and

19 (10) other actions necessary to carry out the purposes of this chapter.

20 (c) With the concurrence and approval of the adjutant general of the  
21 department, the Alaska division of homeland security and emergency management  
22 shall

23 (1) develop, coordinate, and maintain a prioritized list of critical  
24 infrastructure in the state;

25 (2) determine requirements of the state and its political subdivisions  
26 for food, medicine, clothing, and other necessities in the event of an attack;

27 (3) procure and pre-position personnel, supplies, medicines, materials,  
28 and equipment;

29 (4) plan and make arrangements for the availability and use of private  
30 facilities, services, and property and, if necessary and used, provide for payment for  
31 use under terms and conditions agreed upon by the state and the other parties or as

1 provided under AS 26.20.045;

2 (5) establish a register of persons with types of training and skills  
3 important in homeland security and emergency response functions;

4 (6) prepare, for issuance or adoption by the governor, orders,  
5 proclamations, and regulations as necessary or appropriate in coping with attacks;

6 (7) cooperate with the federal government and public or private  
7 agencies or entities in achieving the purposes of this chapter and in implementing  
8 programs for homeland security, civil defense, and attack prevention, preparedness,  
9 response, recovery, and mitigation;

10 (8) do other things necessary or proper for the implementation of this  
11 chapter.

12 (d) The division has the additional powers and duties set out in AS 26.23.040.

13 \* Sec. 7. AS 26.20.030 is amended to read:

14 **Sec. 26.20.030. Reciprocal aid agreements with other governments. In**  
15 **accordance with this chapter, the** [THE] governor may enter into reciprocal aid  
16 agreements with other states, [AND WITH] the federal government, **and provinces**  
17 [EITHER ON A STATEWIDE BASIS OR LOCAL DISTRICT BASIS OR WITH A  
18 NEIGHBORING STATE OF THE UNITED STATES OR A PROVINCE] of a  
19 foreign country. [THESE MUTUAL AID AGREEMENTS SHALL BE LIMITED  
20 TO THE FURNISHING OR EXCHANGE OF FOOD, CLOTHING, MEDICINE,  
21 AND OTHER SUPPLIES; ENGINEERING SERVICES; EMERGENCY HOUSING;  
22 POLICE SERVICES; NATIONAL OR STATE GUARDS WHILE UNDER THE  
23 CONTROL OF THE STATE; HEALTH, MEDICAL AND RELATED SERVICES;  
24 FIRE FIGHTING, RESCUE, TRANSPORTATION, AND CONSTRUCTION  
25 SERVICES AND EQUIPMENT; PERSONNEL NECESSARY TO PROVIDE OR  
26 CONDUCT THESE SERVICES; AND OTHER SUPPLIES, EQUIPMENT,  
27 FACILITIES, PERSONNEL, AND SERVICES THAT ARE NEEDED; THE  
28 REIMBURSEMENT OF COSTS AND EXPENSES FOR EQUIPMENT, SUPPLIES,  
29 PERSONNEL, AND SIMILAR ITEMS FOR MOBILE SUPPORT UNITS, FIRE-  
30 FIGHTING UNITS, POLICE UNITS, AND HEALTH UNITS. THE AGREEMENTS  
31 SHALL BE ON TERMS AND CONDITIONS THAT ARE CONSIDERED

1 NECESSARY.]

2 \* Sec. 8. AS 26.20.040 is amended to read:

3 Sec. 26.20.040. **Emergency powers of the governor.** In the event of actual  
4 enemy or terrorist attack in or against the state, or a credible threat of imminent  
5 enemv or terrorist attack, the governor may declare that a state of emergency exists,  
6 and, during the period of time that the state of emergency exists or continues, the  
7 governor has and may exercise the additional emergency power

8 (1) to enforce all laws and regulations relating to homeland security  
9 and civil defense and assume direct operational control of all homeland security and  
10 civil defense forces and helpers in the state;

11 (2) to seize, take, or condemn property if, and only to the extent that,  
12 the governor determines that the property is needed for the protection of the public  
13 [OR AT THE REQUEST OF THE PRESIDENT, THE ARMED FORCES OR THE  
14 CIVIL DEFENSE AGENCY OF THE UNITED STATES], including

15 (A) [ALL MEANS OF] transportation and communication  
16 equipment, except newspapers and news services;

17 (B) [ALL STOCKS OF] fuel [OF WHATEVER NATURE];

18 (C) food, clothing, equipment, materials, medicines, and  
19 supplies; and

20 (D) facilities including buildings and plants;

21 (3) to sell, lend, give, or distribute the fuel, food, clothing, medicines,  
22 and supplies among the inhabitants of the state and account to the commissioner of  
23 revenue for funds received for the property;

24 (4) to make compensation for the property seized, taken, or condemned  
25 on the basis described in AS 26.20.045;

26 (5) to suspend the provisions of a regulatory statute prescribing  
27 proccdures for the conduct of state business or the order or regulation of a state  
28 agency if compliance with the provisions of the statute, order, or regulation  
29 would prevent, or substantially impede or delay, action necessary to cope with  
30 the emergency;

31 (6) to use all available resources of the state government and of

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each political subdivision of the state as reasonably necessary to cope with the emergency;

(7) to transfer personnel or alter the functions of state departments and agencies or units of them for the purpose of responding to or facilitating the response to the emergency;

(8) to perform and exercise other functions, powers, and duties that are considered necessary to promote and secure the safety and protection of the civilian population.

\* Sec. 9. AS 26.20.040 is amended by adding new subsections to read:

(b) A state of emergency declared under (a) of this section may not remain in effect longer than 30 days unless extended by the legislature by concurrent resolution and may be terminated by law or withdrawal of the declaration.

(c) In this section, "credible threat of imminent enemy or terrorist attack" means a threat of attack against persons or property in the state that the adjutant general of the department or a designee of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety, certifies to the governor has a high probability of occurring in the near future; the certification must be based on specific information received from a local, state, federal, or international agency, or another source that the adjutant general or the designee of the adjutant general, in conjunction with the commissioner of public safety or a designee of the commissioner of public safety, determines is reliable.

\* Sec. 10. AS 26.20.100 is amended to read:

Sec. 26.20.100. Traffic control. In coordination with the Department of Public Safety and the Department of Transportation and Public Facilities, the [THE] department may

(1) formulate and execute plans and regulations for the control of traffic for the rapid and safe movement of evacuation over public highways and streets of people, troops, or vehicles and materials for homeland security and civil defense ; and

(2) establish and operate checkpoints along private or public roadways serving critical property or facilities in the state, at the direction of the

1 governor when the governor determines that a sufficiently high threat of attack  
2 exists to warrant the action; the checkpoints established under this paragraph  
3 may be in conjunction with closure of the roadway under AS 19.10.100;  
4 operation of a checkpoint shall be limited to enforcement of the roadway closure  
5 or reasonable inspection of persons and vehicles for weapons, explosives,  
6 chemicals, biological or biochemical agents, or other instruments capable of  
7 causing widespread or severe injury to persons or property [NATIONAL  
8 DEFENSE OR FOR USE IN A DEFENSE INDUSTRY, AND MAY COORDINATE  
9 THE ACTIVITIES OF THE DEPARTMENTS OR AGENCIES OF THE STATE  
10 AND OF THE DISTRICTS CONCERNED WITH PUBLIC HIGHWAYS AND  
11 STREETS, IN A MANNER THAT WILL BEST CARRY OUT THOSE PLANS].

12 \* Sec. 11. AS 26.20.110 is amended to read:

13 **Sec. 26.20.110. Lease or loan of state property and transfer of personnel.**

14 Notwithstanding any inconsistent provision of law,

15 [(1)] whenever the governor considers it is in the public interest [,] and  
16 the urgency of the situation demands, the governor may

17 (1) [(A)] authorize a department or agency of the state to lease or lend,  
18 on the terms and conditions that the governor considers necessary to promote the  
19 public welfare and protect the interests of the state, real or personal property of the  
20 state government to the president, the heads of the armed forces, or to the homeland  
21 security or civil defense agency of the United States;

22 (2) [(B)] enter into an agreement on behalf of the state for the use or  
23 loan to any political subdivision [DISTRICT] of the state, on terms and conditions  
24 the governor considers necessary to promote the public welfare and protect the  
25 interests of the state, of real or personal property of the state government, or the  
26 temporary transfer or employment of personnel of the state government, to or by any  
27 political subdivision [DISTRICT] of the state [;

28 (2) THE DIRECTOR OF EACH DISTRICT OF THE STATE MAY

29 (A) ENTER INTO A CONTRACT OR LEASE WITH THE  
30 STATE, OR ACCEPT A LOAN, OR EMPLOY PERSONNEL, AND THE  
31 DISTRICT MAY EQUIP, MAINTAIN, UTILIZE, AND OPERATE THE

1 PROPERTY AND EMPLOY NECESSARY PERSONNEL FOR THAT  
2 PURPOSE IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE  
3 CONTRACT IS EXECUTED;

4 (B) DO ALL THINGS AND PERFORM ALL ACTS THAT  
5 THE GOVERNOR CONSIDERS NECESSARY TO CARRY OUT THE  
6 PURPOSE FOR WHICH THE CONTRACT IS MADE].

7 \* Sec. 12. AS 26.20.145 is amended to read:

8 Sec. 26.20.145. Immunity of owners of public shelters. A person owning or  
9 controlling real estate who voluntarily and without compensation permits the  
10 designation or use of the whole or part of the real estate for the purpose of sheltering  
11 persons during an actual or practice attack or homeland security or civil defense  
12 emergency or practice drill shall, together with the person's successors in interest, be  
13 immune from suit for negligence arising out of the construction or maintenance of the  
14 property causing the death of, or injury to, any person using the shelter during an  
15 actual or practice attack or homeland security or civil defense emergency or  
16 practice drill.

17 \* Sec. 13. AS 26.20.150 is amended to read:

18 Sec. 26.20.150. Authority to accept services, gifts, grants, and loans. (a)  
19 Whenever the federal government or an agency or officer of the federal government  
20 offers to the state [, OR THROUGH THE STATE TO A DISTRICT,] services,  
21 equipment, supplies, materials, or funds by way of gift, grant, or loan, for the purpose  
22 [PURPOSES] of homeland security or civil defense, the department [STATE  
23 ACTING THROUGH THE GOVERNOR, OR THE DISTRICT, ACTING WITH  
24 THE CONSENT OF THE GOVERNOR AND THROUGH ITS EXECUTIVE  
25 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON  
26 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR  
27 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF  
28 THE STATE OR THE DISTRICT, AS THE CASE MAY BE, TO] receive the  
29 services, equipment, supplies, materials, or funds on behalf of the state [OR THE  
30 DISTRICT], subject to the terms of the offer and the regulations, if any, of the agency  
31 making the offer.

1 (b) Whenever a person offers to the state [OR TO A DISTRICT] services,  
2 equipment, supplies, materials, or funds by way of gift, grant, or loan, for purpose of  
3 homeland security or civil defense, the department [STATE ACTING THROUGH  
4 THE GOVERNOR, OR THE DISTRICT ACTING THROUGH ITS EXECUTIVE  
5 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON  
6 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR  
7 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF  
8 THE STATE OR OF THE DISTRICT, AS THE CASE MAY BE, TO] receive the  
9 services, equipment, supplies, materials, or funds on behalf of the state, [OR  
10 DISTRICT, AND] subject to the terms of the offer.

11 \* **Sec. 14.** AS 26.20 is amended by adding a new section to read:

12 **Sec. 26.20.195. Federal regulation of homeland security.** The requirements  
13 of this chapter do not apply to facilities, aircraft, vessels, and other means and modes  
14 of transportation that are subject to federal homeland security requirements, including  
15 aviation security requirements at 49 C.F.R. Chapter XII Subchapter B, Part 1520 and  
16 Subchapter C, Parts 1540 - 1550 and maritime and land security requirements at 33  
17 C.F.R. Chapter 1 Subchapter H, Parts 101 - 106 and 49 C.F.R. Chapter XII Subchapter  
18 D, Parts 1570 - 1572.

19 \* **Sec. 15.** AS 26.20.200 is amended by adding new paragraphs to read:

20 (4) "attack" means the use of weapons, explosives, chemicals,  
21 biological or biochemical agents, or other instruments with the potential for major  
22 force or impact, with apparent intent to inflict widespread or severe injury to persons  
23 or property;

24 (5) "homeland security" means the detection, prevention, preemption,  
25 and deterrence of, protection from, and response to, attacks targeted at territory,  
26 population, or infrastructure in this state;

27 (6) "political subdivision" means

28 (A) a municipality; or

29 (B) another unit of local government;

30 (7) "private agency" means a for-profit or nonprofit corporation,  
31 unincorporated village, association, or other group or entity operating in the state.

1 \* Sec. 16. AS 26.23.020(g) is amended to read:

2 (g) In addition to any other powers conferred upon the governor by law, the  
3 governor may, under AS 26.23.010 - 26.23.220,

4 (1) suspend the provisions of any regulatory statute prescribing  
5 procedures for the conduct of state business, or the orders or regulations of any state  
6 agency, if compliance with the provisions of the statute, order, or regulation would  
7 prevent, or substantially impede or delay, action necessary to cope with the disaster  
8 emergency;

9 (2) use all available resources of the state government and of each  
10 political subdivision of the state as reasonably necessary to cope with the disaster  
11 emergency;

12 (3) transfer personnel or alter the functions of state departments and  
13 agencies or units of them for the purpose of performing or facilitating the performance  
14 of disaster emergency services;

15 (4) subject to any applicable requirements for compensation under  
16 AS 26.23.160, commandeer or utilize any private property, except for all news media  
17 other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor  
18 considers this necessary to cope with the disaster emergency;

19 (5) direct and compel the relocation of all or part of the population  
20 from any stricken or threatened area in the state [,] if the governor considers relocation  
21 necessary for the preservation of life or for other disaster mitigation purpose;

22 (6) prescribe routes, modes of transportation, and destinations in  
23 connection with necessary relocation;

24 (7) control ingress to and egress from a disaster area, the movement of  
25 persons within the area, and the occupancy of premises in it;

26 (8) suspend or limit the sale, dispensing, or transportation of alcoholic  
27 beverages, [FIREARMS,] explosives, and combustibles;

28 (9) make provisions for the availability and use of temporary  
29 emergency housing;

30 (10) allocate or redistribute food, water, fuel, [OR] clothing, medicine,  
31 or supplies; and

1 (11) use money from the oil and hazardous substance release response  
2 account in the oil and hazardous substance release prevention and response fund,  
3 established by AS 46.08.010, to respond to a declared disaster emergency related to an  
4 oil or hazardous substance discharge.

5 \* Sec. 17. AS 26.23.040 is amended by adding a new subsection to read:

6 (g) The Alaska division of homeland security and emergency management has  
7 the additional powers and duties set out in AS 26.20.025.

8 \* Sec. 18. AS 26.23.210 is repealed and reenacted to read:

9 **Sec. 26.23.210. Relationship to homeland security and civil defense laws.**

10 (a) In the event of a conflict between this chapter and AS 26.20, including in the event  
11 the governor declares a disaster under this chapter due to an attack or imminent threat  
12 of attack as described in AS 26.23.900(2), the provisions of this chapter shall govern.

13 (b) The provisions of AS 26.20.140, providing for immunity of government,  
14 employees, and other authorized persons in certain circumstances, apply when the  
15 entities or persons covered by AS 26.20.140 perform duties under AS 26.23.010 -  
16 26.23.220, except as otherwise provided in AS 26.23.136 for entities or other persons  
17 providing assistance to the state under a compact in a form substantially as contained  
18 in AS 26.23.136.

19 \* Sec. 19. AS 26.23.900(2) is amended to read:

20 (2) "disaster" means the occurrence or imminent threat of widespread  
21 or severe damage, injury, loss of life or property, or shortage of food, water, or fuel  
22 resulting from

23 (A) an incident such as storm, high water, wind-driven water,  
24 tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,  
25 avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic,  
26 explosion, or riot;

27 (B) the release of oil or a hazardous substance if the release  
28 requires prompt action to avert environmental danger or mitigate  
29 environmental damage; [OR]

30 (C) equipment failure if the failure is not a predictably frequent  
31 or recurring event or preventable by adequate equipment maintenance or

1 operation;

2 (D) enemy or terrorist attack or an imminent threat of  
3 enemy or terrorist attack in or against the state that the adjutant general  
4 of the Department of Military and Veterans' Affairs or a designee of the  
5 adjutant general, in consultation with the commissioner of public safety or  
6 a designee of the commissioner of public safety, certifies to the governor  
7 has a high probability of occurring in the near future; the certification  
8 must meet the standards of AS 26.20.040(c); in this subparagraph,  
9 "attack" has the meaning given under AS 26.20.200; or

10 (E) an outbreak of disease or an imminent threat of an  
11 outbreak of disease that the commissioner of health and social services or  
12 a designee of the commissioner of health and social services certifies to the  
13 governor has a high probability of occurring in the near future; the  
14 certification must be based on specific information received from a local,  
15 state, federal, or international agency, or another source that the  
16 commissioner or the designee determines is reliable;

17 \* Sec. 20. AS 26.20.050, 26.20.060, 26.20.070, 26.20.080, 26.20.090, 26.20.120,  
18 26.20.130, 26.20.160, 26.20.170, 26.20.180, 26.20.200(3); AS 26.23.030, and 26.23.900(4)  
19 are repealed.

20 \* Sec. 21. The uncoded law of the State of Alaska is amended by adding a new section to  
21 read:

22 PREPARATION AND PRESENTATION OF PROPOSED LEGISLATION. If the  
23 adjutant general of the Department of Military and Veterans' Affairs determines that  
24 additional qualifications for membership on the Homeland Security and Emergency  
25 Management Committee established under AS 24.20.800, enacted by sec. 2 of this Act, would  
26 significantly enhance the security of sensitive materials or information coming before the  
27 committee in the course of its business, the adjutant general shall

28 (1) prepare a bill proposing amendments to AS 24.20.810, enacted by sec. 2 of  
29 this Act, for consideration by the committee; and

30 (2) present the bill to the committee not later than 30 days following the  
31 convening of the First Regular Session of the Twenty-Fourth Alaska State Legislature.

1 \* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 **TRANSITION.** Notwithstanding AS 24.20.820(a), enacted by sec. 2 of this Act, the  
4 Homeland Security and Emergency Management Committee established in AS 24.20.800,  
5 enacted by sec. 2 of this Act, shall be organized for the first time within 15 days after the  
6 effective date of this Act.

7 \* **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 **REVISOR'S INSTRUCTIONS.** (a) The revisor of statutes is instructed to change the  
10 heading of

11 (1) AS 26.20 from "Chapter 20. Civil Defense" to "Chapter 20. Homeland  
12 Security and Civil Defense";

13 (2) AS 26.23.040 from "Duties of the Alaska division of emergency services."  
14 to "Homeland security duties of the Alaska division of homeland security and emergency  
15 management."

16 (b) Wherever in the Alaska Statutes and the Alaska Administrative Code the term  
17 "division of emergency services," which is in the Department of Military and Veterans'  
18 Affairs, is used, it shall be read as the "division of homeland security and emergency  
19 management" when to do so would be consistent with the purpose of this Act.

20 (c) Under AS 01.05.031, the revisor of statutes shall implement this section in the  
21 statutes.

22 (d) Under AS 44.62.125(b)(6), the regulations attorney shall implement (b) of this  
23 section in the Alaska Administrative Code.

24 \* **Sec. 24.** This Act takes effect immediately under AS 01.10.070(c).


**Subject: SB 385 -- URGENT**

**Date:** Wed, 21 Apr 2004 08:16:27 -0800

**From:** "Jennifer Rudinger" <akclu@alaska.net>

**To:** <Senator\_Johnny\_Ellis@legis.state.ak.us>, <Sharon\_Clark@legis.state.ak.us>, <Senator\_Ralph\_Seekins@legis.state.ak.us>, <Senator\_Scott\_Ogan@legis.state.ak.us>, <Senator\_Gene\_Therriault@legis.state.ak.us>, <Senator\_Hollis\_French@legis.state.ak.us>

For Judiciary hearing today...

 SB 385 comments.doc	<b>Name:</b> SB 385 comments.doc <b>Type:</b> WINWORD File (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message
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# Alaska Civil Liberties Union

*An Affiliate of the American Civil Liberties Union*

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: Senate Judiciary Committee (Senator Seekins, Chair; Senator Ogan, Vice-Chair;  
Senator Ellis, Senator Therriault, and Senator French)  
CC: Senator Fred Dyson  
Tom Burgess, Director, Alaska Department of Homeland Security  
From: Jennifer Rudinger, Executive Director  
Date: April 21, 2004  
Re: Position statement on **Senate Bill 385**

Dear Senator Seekins and members of the Senate Judiciary Committee:

Thank you very much for the opportunity to submit written comments on SB 385 this morning, and thank you for hearing this bill in your committee and for giving it the very cautious, careful scrutiny that it deserves. I received a copy of the proposed work draft (version I) late yesterday afternoon, and I briefly outline some of our concerns about this proposed bill below:

1. We are generally pleased to see increased legislative oversight of these new powers and welcome the creation of the Homeland Security and Emergency Management Committee. The people's representatives are the watchdogs of our liberty and should be empowered to make sure that the appropriate balance between security and individual freedoms is struck.
  - a. Unfortunately, we have not had time to run this proposed language by an attorney who specializes in Alaska's open records law, so we cannot give any opinion at this time on whether this bill comports with federal and state "sunshine" laws.
  - b. Further, we have some questions about whether the Legislature has the authority to extend the declaration of a state of emergency by concurrent resolution, but we have not had time to research this.
  - c. Finally, we would like to see it made clear that the Committee has the power to request information from the Governor under Section 24.20.880 at the bottom of Page 4 and top of Page 5 in the work draft version I. There is an argument that the Governor is included under "other ... persons" in (2), but the Governor should specifically be subject to such requests for information on how he or she uses the sweeping new powers being granted by SB 385.
2. We have previously expressed our concerns about the breadth and scope of the powers being granted to the DMVA by this bill, particularly with language as broad as the phrase "any measures" in proposed Section 26.20.020(b)(4) of the HES committee substitute for SB 385 that moved out of committee. Authorizing this state agency to "take any measures that it considers proper to carry into effect a request" of the federal government could authorize the implementation of the

overreaching provisions of laws such as the USA PATRIOT Act that the Alaska Legislature and at least 12 local communities throughout Alaska have overwhelmingly and strongly criticized as violations of American's basic constitutional rights. The addition of the language in Sec. 26.20.020(b)(4)(B) on page 9 of work draft version I is a step in the right direction in terms of expressing legislative intent, but this language is superfluous and provides no real or meaningful protection for civil liberties. If any statute or action by a state agency or official ever fails to be "permissible under the Constitutions of the United States and the State of Alaska," then that statute or action is void as unconstitutional. We do not mean to suggest that this language should be stricken from the proposed bill; we are simply stating that the language does not provide real protection and we urge the Committee not to have a false sense of security from the inclusion of this clause. Our original concerns remain: the deletion of the language in lines 19-31 on Page 9 and lines 1-6 on Page 10 removes and clarity as to what powers specifically are intended to be authorized or created and leaves us simply with the vague term "any measures."

3. Further, the AkCLU urges the Legislature to be very wary of expanding the powers of the Governor to declare a state of emergency as proposed in this bill. State of emergency powers of the Governor are emergency measures – one Majority member of the Legislature accurately describes these as the powers to create a "police state" – that should only be used in the event of an actual emergency. These powers are drastic (i.e., seizure of private property), and they are used to restrict the liberties of the people of Alaska. Emergency powers are not invoked to prevent an attack from occurring; they are invoked to control the population and maintain order if there is an actual attack.
4. Finally, we are very concerned with the establishment of roadblocks and the authorization for the government to search people's cars and their persons when there is merely a threat of an emergency (not an actual emergency) and these individuals are not suspects in any criminal activity. It is one thing to close off a road and deter traffic if there is a need to protect a building or structure that our intelligence says is at a high risk of attack – but it is quite another, and in our view, excessive, to allow the government to stop people and search their clothes, bodies, purses, cars and other personal belongings without probable cause of criminal activity.

Again, thank you for the opportunity to submit written comments as you hear this bill today. We urge the Legislature to proceed cautiously and deliberately with this legislation and to carefully scrutinize the scope of the authority being created here. The bill was introduced just over two weeks ago, and it seems to have been racing through the Senate without sufficient opportunity for your constituents to even know about it, let alone submit their comments to you. Please do not make the mistakes that Congress made when it rushed adoption of the USA PATRIOT Act, resulting in what Don Young has called the "worst act [Congress] ever passed."

Please feel free to contact me at (907) 258-0044 or [akclu@alaska.net](mailto:akclu@alaska.net) if I may be of further assistance. Thank you very much.

S B

3 8 8



## Alaska State Legislature Senate Majority News

Web: <http://www.akrepublicans.org>

FOR IMMEDIATE RELEASE: April 16, 2004

CONTACT: Sen. Ralph Seekins 465-2199

### Seekins offers bill to help fund legal services *SB 388 would aid low income Alaskans*

(JUNEAU)—Low income Alaskans could have greater access to legal services under a bill introduced Thursday by Sen. Ralph Seekins (R-Fairbanks) through the Senate Judiciary Committee, which he chairs.

“We know the civil legal needs of low income people in Alaska aren’t being met due to inadequate funding of the organizations that provide those services,” Seekins said. “This is a way that we can use punitive damages for egregious offenses to provide those services for folks who otherwise couldn’t afford the necessary legal services to carry their case forward.”

Senate Bill 388 establishes a civil legal services fund into which the Legislature can appropriate the state’s share of punitive damages awards. State statute provides that 50 percent of punitive damages in tort cases go to the general fund. Under Seekins’ bill, that money could be placed in the civil legal services fund, which could then be appropriated to organizations that provide civil legal services for low income Alaskans, defined as an individual earning less than federal poverty guidelines.

“We’re not creating a drain on anything except those awards that come to the state under punitive damages awards,” Seekins said. “Instead of putting those awards toward the general fund, we are putting it toward a good purpose of funding legal services.”

###

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 388  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
Title Creation of a civil legal services fund RDU \_\_\_\_\_  
Component \_\_\_\_\_  
Sponsor Senate Judiciary Committee  
Requester Senate Judiciary Committee Component No. \_\_\_\_\_

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

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

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

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

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would not have a significant fiscal impact on any state agency. While the bill provides that the legislature may make appropriations from the legal services fund to organizations that provide civil legal services to low-income individuals, these appropriations are not mandatory and no funding is required.

Prepared by: Jack Kreinheder Phone 465-4676  
Division: Office of Management and Budget Date/Time 4/23/04 4:14 PM  
Approved by: Cheryl Frasca, Director Date 4/23/2004  
Agency: Office of Management and Budget

SB

397

23-LS1989\D  
Cook  
5/6/04

**CS FOR SENATE BILL NO. 397( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to legislative branch ethics, to open meetings guidelines applicable to  
2 legislators, to the confidentiality of complaints and proceedings involving alleged  
3 violations of AS 24.60, and to hearings on formal charges by the Select Committee on  
4 Legislative Ethics or its subcommittees."

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

6 \* Section 1. AS 24.60.037 is repealed and reenacted to read:

7       **Sec. 24.60.037. Open meetings guidelines.** (a) A meeting of a legislative  
8 body is open to the public in accordance with the open meetings guidelines established  
9 in this section. A legislator may not participate in a meeting held in violation of these  
10 open meeting guidelines.

11       (b) For purposes of the legislative open meetings guidelines, a meeting occurs  
12 when a majority of the members of a legislative body is present and action, including  
13 voting, is taken or could be taken, or if a primary purpose of the meeting is the  
14 discussion of legislative or state policy. The Uniform Rules of the Alaska State

1 Legislature control the procedure for conducting open and executive sessions of a  
2 legislative body.

3 (c) Legislators may meet in a closed caucus or in a private, informal meeting  
4 to discuss and deliberate on political strategy. Those meetings are exempt from the  
5 legislative open meetings guidelines. For purposes of this subsection, "political  
6 strategy" includes organization of the houses, assignment of committee membership,  
7 scheduling of bills, vehicles for adoptions, House-Senate relations, other procedural  
8 matters, caucus operations, meetings between majority and minority caucus leaders,  
9 meetings between majority and minority caucus leaders of both houses, meetings with  
10 the governor, deliberations with regard to political strategy, and discussions of issues  
11 in the context of political strategy.

12 (d) Notwithstanding AS 24.60.130(h) and (n), if a complaint alleges a  
13 violation of this section by a group of legislators that includes a legislative member of  
14 the committee and that member's alternate, the complaint shall be treated as two  
15 separate complaints with members of the group apportioned between them so that the  
16 legislative member is not disqualified from participating in a proceeding involving one  
17 of the complaints and the alternate is not disqualified from serving in a proceeding  
18 involving the other.

19 (e) The legislative open meetings guidelines are subservient to the Uniform  
20 Rules adopted by the Alaska State Legislature. In cases where there are conflicts  
21 between these guidelines and the Uniform Rules, the Uniform Rules prevail.

22 (f) The legislative open meetings guidelines are the guidelines that shall be  
23 used by the committee when considering complaints filed regarding open meetings.

24 (g) In the legislative open meetings guidelines,

25 (1) "caucus" means a group of legislators who share a political  
26 philosophy or who organize as a group with a common goal;

27 (2) "legislative body"

28 (A) includes

29 (i) the Senate;

30 (ii) the House of Representatives;

31 (iii) the Senate and the House of Representatives

1 meeting in joint session;

2 (iv) a committee of the legislature, other than the  
3 Committee on Committees, but including a standing committee, special  
4 committee, joint committee, conference or free conference committee,  
5 committee of the whole, and permanent interim committee;

6 (v) a legislative commission, task force, or other group  
7 established by statute or resolution; or

8 (vi) a caucus of members of one or more of the bodies  
9 set out in (i) - (v) of this subparagraph;

10 (B) does not include

11 (i) any committee or group of legislators considering  
12 only matters involving the organization of a committee or a house of  
13 the legislature, including selection of legislative officers;

14 (ii) any committee or group of legislators and the  
15 governor or staff of the Office of the Governor;

16 (iii) legislative leadership;

17 (iv) officers of a caucus;

18 (3) "meeting" does not include

19 (A) a gathering of members of a legislative body for primarily  
20 ministerial or social purposes; or

21 (B) forums where members of a legislative body have been  
22 invited to address a group on legislative issues or concerns.

23 \* Sec. 2. AS 24.60.170(j) is amended to read:

24 (j) If the committee has issued a formal charge under (h) of this section, and if  
25 the person charged has not admitted the allegations of the charge, the committee shall  
26 schedule a hearing on the charge. The committee may appoint an individual to  
27 present the case against the person charged if that individual does not provide  
28 and has not provided legal advice to the committee except in the course of  
29 presenting cases under this subsection. The hearing shall be scheduled for a date  
30 more than 20 days after service of the charge on the person charged, unless the person  
31 agrees to an earlier hearing date. At the hearing, the person charged shall have the

1 right to appear personally before the committee, to subpoena witnesses and require the  
2 production of books or papers relating to the proceedings, to be represented by  
3 counsel, and to cross-examine witnesses. A witness shall testify under oath. The  
4 committee is not bound by the rules of evidence, but the committee's findings must be  
5 based upon clear and convincing evidence. Testimony taken at the hearing shall be  
6 recorded, and evidence shall be maintained.

7 \* Sec. 3. AS 24.60.170(D) is amended to read:

8 (D) Proceedings of the committee relating to complaints before it are  
9 confidential until the committee determines that there is probable cause to believe that  
10 a violation of this chapter has occurred. The complaint and all documents produced or  
11 disclosed as a result of the committee investigation are confidential and not subject to  
12 inspection by the public. If in the course of an investigation or probable cause  
13 determination the committee finds evidence of probable criminal activity, the  
14 committee shall transmit a statement and factual findings limited to that activity to the  
15 appropriate law enforcement agency. If the committee finds evidence of a probable  
16 violation of AS 15.13, the committee shall transmit a statement to that effect and  
17 factual findings limited to the probable violation to the Alaska Public Offices  
18 Commission. All meetings of the committee before the determination of probable  
19 cause are closed to the public and to legislators who are not members of the  
20 committee. However, the committee may permit the subject of the complaint to attend  
21 a meeting other than the deliberations on probable cause. The confidentiality  
22 provisions of this subsection may be waived by the subject of the complaint. Except  
23 to the extent that the confidentiality provisions are waived by the subject of the  
24 complaint, if the committee finds that a complainant has violated any  
25 confidentiality provision, the committee shall immediately dismiss the complaint.

26 \* Sec. 4. Section 10, ch. 69, SLA 1994, is repealed.



# Alaska State Legislature

Please enter into the record my testimony to the STUD  
committee name

committee on SB 397, dated 5-7-04  
bill/subject

THIS IS THE COVER SHEET  
 FOR THE TESTIMONY  
 WRITTEN BY ROGER GAY  
 FROM THE MATSU.

1 of 2

Signed: \_\_\_\_\_  
Testifier

\_\_\_\_\_ Representing (Optional)

\_\_\_\_\_ Mailing Address

\_\_\_\_\_ Phone Number

I don't see anything in this bill worthy of passage.

Under our system of checks and balances it is important to give the illusion of fairness and impartiality. Having the legislature in total control of its own ethics is like having the fox in charge of the hen house. We have an Ethics Committee that proposes guidelines but the legislature fails to adopt them, and now you want to remove the Committee's ability to even make proposals.

As to Section 3 dealing with confidentiality this bill states that the Proceedings of the committee are confidential and closed to the public. If the proceedings are closed how would a complainant have access to documents produced as a result of the investigation.

If the goal of this bill is to suppress the information contained in the complaint it needs to be more specific because there is a difference between ~~the~~ a copy of the actual complaint and a disclosure of the subject of the complaint.

Finally if you want to stop violations of confidentiality you need to penalize the violator not reward the unethical "subject" of the complaint.

If an actual, serious, breach of ethics has occurred you cannot force yourself to ignore it by immediately dismissing the complaint. You just don't excuse one person's behavior because of the unrelated actions of another. The exercise of one right cannot be used to deny or disparage others retained by the people. Filing a complaint cannot result in a loss of the Freedom of Speech or the Press.

*Roger K. Fujita*

SJR

3



SENATOR FRED DYSON

## ***SJR 3***

### ***Sponsor Statement***

#### **"A Resolution Proposing an Appropriation and Spending Limit"**

*Updated: March 13, 2003*

*Contact: Senator Fred Dyson's office at (907) 465-2199*

***The adoption of an effective, reasonable constitutional spending limit is an integral step in the development of any effective long-range fiscal plan for the state. Senate Joint Resolution 3 (SJR 3) would amend Article IX, sec 16 of Alaska's Constitution by lowering the existing appropriation limit to better reflect Alaska's current revenue picture. Passage of SJR 3 would ensure a limit on the growth of state government and force the state to further reasonably reduce non-essential state spending.***

***The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. A primary reason for its failure is that the starting amount of \$2.5 billion was too high and its escalator factor based on population and inflation was too liberal. In fact, given the increases in inflation and population over the last 19 years, the general fund spending limit imposed by Article IX, Section 16 is over \$6 billion. That is about \$3 billion more than general fund spending in Fiscal Year 2002. SJR 3 more accurately reflects today's spending by amending the existing appropriation limit.***

***The appropriation limit proposed by this resolution is based on a non-cumulative amount appropriated from two years prior and would allow for up to a 2% increase per year (4% total) upon a simple majority vote. An additional 2% may be appropriated bringing the total to 6%. This additional 2% would require a two-thirds vote of both houses. Yet another 2% may be appropriated bringing the total allowable increase to 8%. This last 2% increase would require a three-fourths vote of both houses. The next year's appropriation limit would be based on the portion of the budget passed with a simple majority vote. If, for example, 6% more was appropriated for FY08 than FY 06, the FY08 limit would be based on the original 4% increase that passed with a simple majority, not the full 6%.***

***If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.***

***The existing provision that one-third of the budget be appropriated for capital expenditures is also removed in SJR 3. Over the years, several attorney general opinions have been written on the meaning of the constitutional limit; those opinions counter the plain English meaning of the language and have allowed the legislature and the administration to avoid this requirement. The resolution removes this arbitrary and superfluous requirement.***

***SJR 3 simplifies and clarifies exactly what spending counts towards the appropriation limit, something that is not clear in the existing constitutional language.***

***Without a meaningful constitutional amendment in place that limits the amount of state general fund expenditures, there is absolutely no guarantee that the state will restrain, let alone reduce, spending. This resolution would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.***



## SENATOR FRED DYSON

### ***SJR 3***

#### ***Sectional Analysis***

#### **"A Resolution proposing an appropriation and spending limit"**

*Updated: March 14, 2003*

*Contact: Senator Fred Dyson's office at (907) 465-2199*

##### ***Section 1***

- (a) Rewrites the existing constitutional spending limit formula. With the exception of certain types of appropriations and reappropriations, provides that appropriations made for a fiscal year shall not exceed by more than four percent the amount appropriated for the fiscal year two years preceding the fiscal year for which the appropriations are being made.***
- (b) Permits an appropriation that exceeds the limit under (a) to be made by affirmative vote of two-thirds of the members of each house, and establishes a limit on the amount of these types of appropriations.***
- (c) Permits an appropriation that exceeds the limit under (a) and (b) to be made by affirmative vote of three-fourths of the members of each house and establishes a limit on the amount of these types of appropriations.***
- (d) Directs the Governor to reduce expenditures to the extent necessary to avoid spending more than may be appropriated under (a), (b), and (c).***

##### ***Section 2***

***Adds a new section to the Alaska Constitution that requires a "reconsideration of appropriation and spending limit" choice to be included on the ballot at the general election and every eight years thereafter unless rejected.***

##### ***Section 3***

***The proposed amendments would be voted on during the 2004 general election.***

**Existing Alaska Constitution**  
(To be repealed and replaced by SJR 3)

Section 9.16 - Appropriation Limit.

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

23-LS0296\H  
Cook  
5/12/03

CS FOR SENATE JOINT RESOLUTION NO. 3( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR DYSON

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Alaska relating to an  
2 appropriation limit and a spending limit.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and  
5 readopted to read:

6 Section 16. **Appropriation and Spending Limit.** (a) Appropriations made  
7 for a fiscal year shall not exceed the amount appropriated for the fiscal year two years  
8 preceding the fiscal year for which the appropriations are made by more than the  
9 percentage equal to one-half of the product of the annual percentage rate of change in  
10 the Consumer Price Index for all urban consumers for the Anchorage metropolitan  
11 area compiled by the Bureau of Labor Statistics, United States Department of Labor,  
12 for the calendar year preceding the beginning of the fiscal year for which the  
13 appropriations are made multiplied by one-fourth of the annual percentage change in  
14 the statewide population as of July 1 of that calendar year. This subsection does not  
15 apply to an appropriation

16 (1) to the Alaska permanent fund;

1 (2) of Alaska permanent fund income for payments of permanent fund  
2 dividends to State residents;

3 (3) to meet a state of disaster declared by the governor as prescribed by  
4 law;

5 (4) for the Alaska Railroad;

6 (5) of State general obligation and revenue bond proceeds;

7 (6) required to pay obligations under general obligation bonds, revenue  
8 bonds, and certificates of participation issued by the State;

9 (7) of money received from the federal government;

10 (8) of money for expenditure by a State agency to provide services to  
11 another State agency that has also received an appropriation of the same money;

12 (9) of money received by the University of Alaska;

13 (10) of money received by the Alaska Vocational Technical Center; or

14 (11) made under (b) of this section.

15 (b) An appropriation that exceeds the limit under (a) of this section may be  
16 made for any public purpose upon affirmative vote of at least three-fourths of the  
17 members of each house of the legislature. The total amount of appropriations under  
18 this subsection made for a fiscal year may not exceed two percent of the amount  
19 appropriated for the fiscal year two years preceding the fiscal year for which the  
20 appropriations are made.

21 (c) If appropriations for a fiscal year exceed the amount validly appropriated  
22 under (a) and (b) of this section, the governor shall reduce expenditures by the  
23 executive branch for its operation and administration to the extent necessary to avoid  
24 spending more than the amount validly appropriated under (a) and (b) of this section.

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

# ***SJR 3***

## ***Sectional Analysis***

### **"A Resolution proposing an appropriation and spending limit"**

*Updated: May 12, 2003*

*Contact: Senator Fred Dyson's office at (907) 465-2199*

#### ***Section 1***

- (a) ***Rewrites the existing constitutional spending limit formula. With the exception of certain types of appropriations, provides that the appropriation increase made for a fiscal year shall not exceed 1/2 (annual percentage change of Consumer price index (CPIU) + 1/4 annual percentage change in population) over the amount appropriated for the fiscal year two years preceding the fiscal year for which the appropriations are being made.***

$$A = A_{-2} + A_{-2} [ 1/2 (\Delta \text{CPIU} + 1/4 \Delta p) ]$$

*(A = appropriations, A<sub>-2</sub> = appropriations two years ago, ΔCPIU = annual percentage change in Consumer Price index for urban consumers two years ago, and ΔP = annual percentage change in population two years ago)*

- (b) ***Permits an appropriation that exceeds the limit under (a) to be made by affirmative vote of three-fourths of the members of each house, and establishes a limit on the amount of these types of appropriations.***
- (c) ***Directs the Governor to reduce expenditures to the extent necessary to avoid spending more than may be appropriated under (a) and (b). This is the "spending limit" portion of the bill.***

#### ***Section 2***

***The proposed amendments would be voted on during the 2004 general election.***

# ***SJR 3***

## ***Sponsor Statement***

### **"A Resolution Proposing an Appropriation and Spending Limit"**

*Updated: May 12, 2003*

*Contact: Senator Fred Dyson's office at (907) 465-2199*

The adoption of an effective, reasonable constitutional spending limit is an integral step in the development of any effective long-range fiscal plan for the state. Senate Joint Resolution 3 (SJR 3) would amend Article IX, sec 16 of Alaska's Constitution by lowering the existing appropriation limit to better reflect Alaska's current revenue picture. Passage of SJR 3 would ensure a limit on the growth of state government and force the state to further reasonably reduce non-essential state spending.

The existing constitutional appropriation limit, adopted by voters in 1981, has not worked as anticipated and has never been effective in restraining state spending. A primary reason for its failure is that the starting amount of \$2.5 billion was too high and its escalator factor based on population and inflation was too liberal. In fact, given the increases in inflation and population over the last 19 years, the general fund spending limit imposed by Article IX, Section 16 is over \$6 billion. That is about \$3 billion more than general fund spending in Fiscal Year 2002. SJR 3 more accurately reflects today's spending by amending the existing appropriation limit.

The appropriation limit proposed by this resolution is tied to growth in the Consumer Price Index for Urban Consumers compiled by the U.S. Bureau of Labor Statistics and population growth by a simple formula. An increase beyond this formula would require a three-fourths vote of both houses.

If the amount appropriated exceeds the limit, the governor shall reduce expenditures by the executive branch for its operation and administration in order to bring expenditures back in line with the constitutional limit.

The existing provision that one-third of the budget be appropriated for capital expenditures is also removed in SJR 3. Over the years, several attorney general opinions have been written on the meaning of the constitutional limit; those opinions counter the plain English meaning of the language and have allowed the legislature and the administration to avoid this requirement. The resolution removes this arbitrary and superfluous requirement.

SJR 3 simplifies and clarifies exactly what spending counts towards the appropriation limit, something that is not clear in the existing constitutional language.

Without a meaningful constitutional amendment in place; one that limits the amount of state general fund expenditures, there is absolutely no guarantee that the state will restrain, let alone reduce, spending. This resolution would limit state spending and is a key component of any new long-range plan to ensure Alaska's long-term fiscal health.

**Existing Alaska Constitution**  
(To be repealed and replaced by SJR 3)

Section 9.16 - Appropriation Limit.

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

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SJR 3  
 (S) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Const Am: Appropriation/Spending Lin BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Senator Dyson  
 Requester Senate Judiciary 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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)

Prepared by: SENATE JUDICIARY COMMITTEE Phone 465-2327  
 Division \_\_\_\_\_ Date/Time 5/15/03 11:52 AM  
 Approved by: /s/Senator Seekins, Chair Date 5/15/2003  
 Agency \_\_\_\_\_



## SENATOR FRED DYSON

### MEMORANDUM

March 13, 2003

To: Senator Ralph Seekins, Chair  
Senate Judiciary Committee

From: Senator Fred Dyson *Sen. Dyson*  
*wcd*

RE: Hearing Request, SJR 3

I respectfully request the scheduling of SJR 3, "An Resolution Proposing an Appropriation and Spending Limit" at your earliest convenience. Thank You.

SJR

5



# ALASKA STATE LEGISLATURE

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SENATOR THOMAS H. WAGONER  
CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
VICE-CHAIR, SENATE RESOURCES COMMITTEE

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## Senator Tom Wagoner Sponsor Statement

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### SJR 5 - BRADY BILL INSTANT CHECK SYSTEM

In 1993 the United States Congress passed the Brady Handgun Bill, which established a system to keep firearms out of the hands of criminals. The "national instant criminal background check system", established by the Brady Bill, is used to check for a criminal background during firearm purchases. To ensure that non-criminal records were not retained, language was included addressing this issue. It clearly states that the intent is to destroy all records relating to non-criminal persons, except the identifying number and the date the number was assigned.

The problem arose when the Administration gave this clearly stated section a novel interpretation. Instead of immediately destroying all records of legitimate firearm purchases, these records would be retained for "audit" purposes and may be retained for a maximum of six months.

When the Administration extended the holding of non-criminal records for up to one hundred and eighty days, they violated both the spirit and letter of the Brady Handgun Bill.

This Senate Joint Resolution urges the President of the United States and the Congress to ensure that federal agencies do not use the Brady bill Act as a means to unlawfully collect data about legitimate firearm owners. Also, this resolution requests that the Congress make necessary changes to prevent this from occurring in the future.

I respectfully ask you to join me in supporting this resolution.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SJR 5  
 (S) Publish Date: 2/12/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
 Title "Urging the President of the United States and the Congress to act to ensure that federal agencies...." BRU Legislative Council  
 Component Session Expenses  
 Sponsor Senators Wagoner, Therriault,.....  
 Requester Senator Taylor Component No. 782

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

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

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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)

SJR 5 has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone 465-3852  
 Division Administrative Services Date/Time 2/11/03 2:19 PM  
 Approved by: Pamela A. Varni, Executive Director Date 2/11/2003  
 Agency Legislative Affairs Agency

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1  
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Sponsor: Senators Wagoner, Therriault,..... Component: Session Expenses  
Requester: Senator Taylor Component No.: 782

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

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

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

Estimate of any current year (FY2003) cost: 0.0

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

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

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Prepared by: Karla Schofield, Deputy Director  
Division: Administrative Services  
Approved by: Pamela A. Varni, Executive Director  
Agency: Legislative Affairs Agency

Phone 465-3852  
Date/Time 2/11/03 2:19 PM  
Date 2/11/2003