

ALABAMA LEGISLATIVE COUNCIL FILED, 2009-2010 80/2

11511 HOUSE JUDICIARY

Four years ago, 15-year-old Lewis Blackman went to a hospital in Charleston, S.C., for standard surgery to correct a chest malformation he was born with. The operation went well, the surgeon said. But soon things began to go wrong.

According to Lewis' mother, Helen Haskell, 53, a resident doctor prescribed an adult dosage of Toradol for postsurgical pain, and over the next four days Lewis received 17 doses, despite the drugmaker's recommendation not to give it to patients under 16.

The boy grew weaker, unable to keep food and liquids down. Three days after the operation he suddenly developed excruciating abdominal pain. His mother says the family asked for an attending physician to examine him, but all they saw was a parade of interns and residents and nurses who prodded him to get up and walk to ease his pain.

Finally, a fourth-year resident ordered a blood test. The results—delayed because the computers were down—shed little light on the case. Haskell says a blood count that would have shown bleeding or infection was never done.

Lewis's condition worsened dramatically—still no physician came to see him. The boy finally died, and a day later an autopsy showed that a large duodenal ulcer had eaten a hole in his intestines.

Lewis Blackman had bled to death.

Nobody expects to die from medical treatment. But they do every day—and in alarming numbers. The Institute of Medicine in Washington estimates that at least 98,000 people die in hospitals each year from medical errors. And about 20 million patients acquire infections, according to the U.S. Centers for Disease Control and Prevention.

Thousands more are injured because of mistakes made in doctors' offices, nursing homes and outpatient clinics. A new study by the Duke Clinical Research Institute in Durham, N.C., for example, found that inappropriate drugs are prescribed for one in five patients over 65.

In response to such pervasive mistakes—which cost billions of dollars every year and are often undocumented or even covered up—the House and Senate this year passed separate bills calling for a voluntary reporting system of errors. But experts say the bills, which have not yet been reconciled, are only a first step in protecting patients from medical missteps. So far, little has been done.

Why do so many die from botched and inadequate treatment in a country that claims to have the best medical system in the world?

The answer circles back to an increasingly complex system of care that was designed with efficacy, not necessarily patient safety, in mind. Ironically, as medical technology offers treatments and cures undreamed of four decades ago, safety has suffered. "Forty years ago medicine was safer but not as effective," says Robert Wachter, M.D., chief of medical service at the University of California San Francisco Medical Center. "These changes [in technology] require more specialized doctors, communication and teams working together." That doesn't always happen.

"Care is so poorly organized," says Carol Haraden, vice president of the Institute for Healthcare Improvement, a Boston nonprofit that works with practitioners in the delivery of care. "Right now doctors operate in fiefdoms. The lung specialist doesn't remember you have depression or a kidney disorder."

U.S. health care, Haraden says, is a system of add-ons. Each year new technology, new hospital wings and new medicines pop up without much thought about

David Shipp, husband

Shipp, a Louisville, Ky., resident, suspected mistakes led to the death of his wife, Doris, from colon cancer. When the doctors who reviewed her case refused to tell him their findings, Shipp set out to get Medicare to change its policy.

how they fit into the course of care. "The flow is horrible," she says. And shortages of nurses and other medical personnel don't help.

Take, for example, the recommendation that patients receive antibiotics one hour before surgery to reduce the risk of infection. Sounds simple, but some hospitals don't have procedures for making it happen. Who's responsible—the nurse on the floor, the anesthesiologist or the doctor waiting in the operating room?

"We have not devoted the attention, effort and resources to turn health care into a highly reliable industry," says Mark R. Chassin, M.D., executive vice president at Mount Sinai Medical Center in New York. "I don't see any real leadership, and there's still no demand from the public for excellence in health care."

In the absence of such leadership, a variety of businesses and hospital systems are pushing for improvements themselves. Their efforts, however laudable, are piecemeal at best, and they are finding that changing the culture of medicine to keep patients safe is about as easy as threading a needle in the dark.

If hospitals, for example, would adopt computerized drug-ordering systems



for doctors, experts say, the number of serious drug errors could be cut by 50 percent. Yet only about 10 percent of the country's 6,000 hospitals have a fully implemented system.

The Leapfrog Group, a nationwide consortium of more than 150 large companies that provide health benefits to their employees, is seeking more affordable and higher-quality care. The group began a voluntary campaign in 2001 to encourage hospitals to adopt computer drug-ordering systems and other reforms such as staffing intensive care units with specialists trained in critical care. Last year Leapfrog targeted 1,200 hospitals in metropolitan areas, but only 38 have complied with its standards for electronic drug ordering.

New York has done the best job, with 17 targeted hospitals adopting the system. In California only six hospitals have done so. But in much of the country, no hos-



John McCormack, father
Surgery was not performed fast enough to save McCormack's 13-month-old daughter, Taylor. After her death he fought for more accountability by Massachusetts doctors involved in medical error cases.

pitals meet the standards. Some are reluctant to make the investment, which ranges from \$500,000 to \$15 million, depending on the size of the hospital.

Doctors, too, have resisted. "Many see it as questioning their judgment or slowing down the work flow," says Leapfrog executive director Suzanne Delbanco. They have been slow to use computerized medical records and devices for electronic prescriptions to reduce errors. Some doctors balk at the startup costs, about \$20,000.

Consumers sometimes resist new technologies, too. Last month the Food and Drug Administration approved a tiny implantable chip bearing the individual's ID number that would give doctors access to his or her medical records. Proponents say the chips will reduce errors and speed necessary information to doctors in emergencies. But others fear the chips could infringe on the patient's right to privacy.

Patient advocates say there are many other ways to reduce medical mistakes—improved patient education, better coordination between primary care physicians and specialists, increased nursing staff in hospitals and nursing homes and more accountability by doctors and other providers. But until more of these measures take hold, the errors—and their subsequent cover-up—are unlikely to stop. And families will still have few places to turn, says Rosemary

What to Look Out For

Patients and their families need to know where medical errors most often occur and how to improve the chances of avoiding them.

WRONG MEDICATIONS

In a hospital with 100 patients who take four different drugs four times a day, with 10 possible places in the system where things can go wrong, there are 480,000 opportunities each month for an error to occur somewhere in the medication chain.

Doctors can prescribe the wrong drug. Pharmacists can misinterpret a doctor's handwriting, supply the wrong drug, mislabel it or mix it under unsanitary conditions. A nurse can give the drug to the wrong patient.

What you can do:

- Give hospital personnel a list of all the medicines you take including dietary supplements and over-the-counter drugs.
- Get a copy of your medication administration record, which lists the drugs you are supposed to take in the hospital. Protest if it's not accurate. Take it with you if you are transferred to another part of the hospital or a nursing home.
- If possible, go to a hospital with a computerized drug-ordering or bar-coding system, which matches the drugs patients receive with a bar code on their ID bracelet.
- Whenever you get a new prescription, tell the doctor if you are taking a similar drug for the same condition and what other medications and supplements you take. Read the prescription back to the doctor—if you can't read it, your pharmacist probably can't either.

HOSPITAL INFECTIONS

Infections are usually caused by the failure of doctors and nurses to wash their hands, the failure to give antibiotics before surgery and the improper handling of tubes and other invasive devices.

What you can do:

- Have a family member make sure you've received antibiotics before you go in for surgery.
- If you have a catheter in place, ask every doctor who examines you how long you will need it. Catheters can cause blood and urinary tract infections if kept in too long.
- Note whether hospital workers wash their hands or change gloves when examining you, inserting tubes or changing dressings. Raising the subject may prompt them to practice good hygiene.

INADEQUATE CARE

In 2003 the RAND Corp., a national research firm, found the chances of getting appropriate, adequate care that follows accepted medical guidelines are at best 50-50.

What you can do:

- Follow up on test results. Don't wait for the doctor to call you.
- Understand the treatment guidelines for your condition, which you can find on the National Guideline Clearinghouse's website at www.guideline.gov. Although the material may be technical, showing it to your doctor may prompt him or her to prescribe appropriate treatment.

Useful Websites

- For more on the safe use of medications, go to AARP's website, www.aarp.org/wiseuse.
- To find your state's Quality Improvement Organization, go to www.cms.hhs.gov/qio and click on "Directory."
- To find hospitals with computerized drug-ordering systems, go to the Leapfrog survey results at www.leapfroggroup.org/consumer.



Charles Smith, husband

His wife Polly's cancer went undetected until it was too late because follow-up tests were never prescribed. So Smith worked to have more nondoctors placed on Maine's medical licensing board.

Gibson, a senior program officer at the Robert Wood Johnson Foundation and co-author of *Wall of Silence: the Untold Story of the Medical Mistakes That Kill and Injure Millions of Americans* (Lifeline Press, 2003). "The CEO of the hospital sends condolences," she

says. "A letter to the Joint Commission on Accreditation of Healthcare Organizations goes in a file. It's a crapshoot whether the health department or the state medical board will look at their case."

Sometimes, frustrated families resort to costly malpractice suits to avenge the death of their loved ones. And some turn their anger into action, trying to change the system and to slow the wave of medical errors.

David Shipp is a retired textbook salesman from Louisville, Ky., who was suspicious of wrongdoing when his wife, Doris, 70, died of colon cancer in 1999 after an initial misdiagnosis of bladder abnormality. He asked a Peer Review Organization, a group of independent doctors who ensure that Medicare patients receive adequate treatment, to examine the case. Two doctors refused to disclose the results of the review, and Shipp received a letter saying only that the PRO would take any necessary action if warranted.

Shipp sought the help of Public Citizen, a consumer advocacy group in Washington. In 2001 the group successfully challenged Medicare's policy allowing doctors to block the release of review findings in federal District Court, and the U.S. Court of Appeals upheld the ruling. Medicare beneficiaries can now file complaints with state quality improvement organizations, the new name for PROs.

In Massachusetts, John McCormack was devastated by the death of Taylor, his 13-month-old daughter, when doctors at a local hospital failed to perform timely surgery that would have relieved swelling on her brain. He waged a campaign to allow the families of those who died from medical errors to be represented in their cases before the Massachusetts Board of Registration in Medicine, which disciplines doctors. Last spring the legislature finally approved such representation over objections from the Massachusetts Medical Society.

Charles Smith of Deer Isle, Maine, pushed for more lay people on the state Board of Licensure in Medicine to assure that doctors in medical error cases are appropriately disciplined; his efforts were in vain. His wife, Polly, 73, had died of ovarian

Sound Off— What do you think should be done to stop medical mistakes? We'd like to hear from you. Please send your ideas (no more than 125 words) online to www.aarp.org/bulletin or to **Sound Off on Mistake**: AARP Bulletin, 601 E St. N.W., Washington, DC 20049.

cancer 39 days after diagnosis. She'd had abdominal pains for years, and a radiologist who performed a CT scan three years before her death wrote that he could not rule out the possibility of an ovarian tumor. No more tests were done. "I note with great regret that the diagnosis never occurred to me," Polly's doctor said.

As for Helen Haskell, Lewis Blackman's mother, she's playing the waiting game. For more than a year she's been fighting to get a modest bill enacted in South Carolina that would require hospitals to display the ranks of medical personnel on name badges, to explain their roles in a patient's care and to give families an emergency number to call if they believe their patient is not getting proper medical attention. But the South Carolina Hospital Association has managed to stymie the proposal, calling it burdensome to hospitals. "We support the intent of the bill," says Patti Smoake, vice president of the group. "We want to make sure hands aren't tied, so staffing problems aren't created."

While Haskell vows to continue fighting for safe hospital care, there has been progress on one other front: In September 2002, two years after her son, Lewis, died, the label on Toradol, which is banned in five European countries, was changed to limit the use in children to a single injection—that's just 2 percent of the amount her son would have received had he lived long enough to finish the full course of treatment. ■

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TRUDY LEIBERMAN is a health journalist based in New York.

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MEMORANDUM


May 5, 2005

SUBJECT: HCS CSSB 101(JUD) -- The 2005 Revisor's Bill
(Work Order No. 24-LS0195\L)

TO: Representative Pete Kott
Chair, Legislative Council

Representative Lesil McGuire
Chair, House Judiciary Committee

Representative Norman Rokeberg
Chair, House Rules Committee

FROM: James P. Crawford 
Assistant Revisor

Enclosed is a suggested Sponsor Statement relating to the 2005 Revisor's Bill. If you have any questions, please do not hesitate to contact me.

JPC:med
05-352.med

Enclosure

Sponsor Statement
HCS CSSB 101(JUD) -- (Revisor's Bill)

Senate bill 101 -- HCS CSSB 101(JUD) -- is the 2005 Revisor's Bill. Under AS 01.05 036, this bill must be prepared annually for the legislature's consideration regarding proposed corrections to the Alaska Statutes as recommended by the revisor.

The changes in the House Judiciary Committee Substitute resulted from the Committee's desire to have the assistant revisor double-check the propriety of certain proposed changes with the Department potentially affected by them (these changes were found in bill secs. 25, 26, 28, and 91). Although the Department had earlier indicated approval of the amendments in question, to be safe, the assistant revisor recommended that the Committee remove these amendments from the bill while that process of double-checking continued. The Committee did so. When the checking process is complete, the amendments will simply be rolled into next year's bill if appropriate. This was the only change.

I encourage the members to vote "yes".

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MEMORANDUM

May 3, 2005

SUBJECT: HCS CSSB 101(JUD) (Work Order No. 24-LS0195M)

TO: Representative Lesil McGuire
Attn: Vanessa Tondini

FROM: James P. Crawford 
Assistant Revisor

Enclosed is a new committee substitute that reflects the adoption of Conceptual Amendment No. 1. This amendment removed bill sections 25, 26, and 28 from the bill; it also removed AS 14.08.031(d) from bill sec. 91, the repealer.

The reason for the change was this: The Department most affected by the statutes being corrected by amendment or repeal in these bill sections was not able to respond to questions by the time the bill was moved from committee. Thus, the conservative approach of taking these sections out of the bill was taken, at least until the Department is able to respond. No prejudice results from delaying these corrections for the time being and including them in next year's revisor's bill.

JPC:med
05-338.med

Enclosure

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Nancy Dahlstrom
Rep. Pete Kott
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
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House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 3, 2005
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 24-LS0195\I, SB 101, incorporating the attached amendment. The bill was passed out of committee today.

If you have any questions, please call me at 4990.
Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

Conceptual Amendment #1 - PASSED

to CSSB/01 (JUD)

by Rep. Gara

Delete the sections that address the
Bureau of Indian Affairs.

(Sections 25, 26, 28 & appropriate portion of 91)

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI,
GOVERNOR

LEGISLATION & REGULATIONS SECTION
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April 28, 2005

The Honorable Lesil McGuire, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, Alaska 99801-1182

Re: CSSB 101(JUD) -- Revisor's Bill

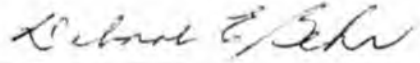
Dear Representative McGuire:

The Department of Law would appreciate scheduling of the above bill for a hearing in your committee, at your earliest convenience. The bill makes needed technical changes to the statutes.

If you have any questions, please feel free to contact me.

Sincerely,

DAVID W. MARQUEZ
ATTORNEY GENERAL

By: 
Deborah E. Behr
Chief Assistant Attorney General

DEB:pvp

cc: James Crawford, Assistant Revisor of Statutes
Kevin Jardell, Legislative Director, Office of the Governor
Randy Ruaro, Legislative Contact, Dept. of Law

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MEMORANDUM

April 28, 2005

SUBJECT: 2005 Revisor's Bill (Work Order No. 24-LS0195M)

TO: Representative Lesil McGuire
Chair, House Judiciary Committee

FROM: James P. Crawford 
Assistant Revisor

The following is a sectional analysis of a draft of the 2005 revisor's bill, which has been referred to the House Judiciary Committee. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 25, 26, 28, 29, 30, 32, 33, 34, 35, 41, 42, 46, 56, 57, 58, 59, 60, 61, 62, 64, 77, and 91 amend or repeal provisions that have become obsolete in whole or in part.

Sections that correct errors or oversights: Sections 2, 20, 21, 36, 38, 39, 47, and 53 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 27, 31, 37, 40, 43, 44, 45, 48, 49, 50, 51, 52, 54, 55, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, and 90, propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL ANALYSIS

Bill section 1 improves the form of AS 04.11.210(c). The term "includes" incorporates the concept of "is not limited to" under AS 01.10.040(b) and is the preferred usage for legal drafting in this situation.

Representative Lesil McGuire

April 28, 2005

Page 2

Bill section 2 corrects an error in AS 06.50.020(a)(2)(C). As originally set out in sec 3, ch. 116, SLA 2004, the term "convictions" modified all the items in sub-subparagraphs (i)-(iii). Following the bill's enactment, the Office of Legal Services, the Department of Law, and the administration personnel who administer this area noted that, strictly speaking, the concept of convictions did not fit correctly with the items in (ii) or (iii). The term is moved to (i), where the concept of corrections is most appropriate.

Bill section 3 improves the form of AS 10.06.960(a) in its reference to the Alaska Native Claims Settlement Act ("ANCSA"). At present, ANCSA proper actually consists of sections 1601 - 1629h, which comprise chapter 33 in title 43 of the U.S. Code. The last section, 1629h, was added in 2000. Like many statutes, AS 10.06.960(a)'s citation of the Act includes a spanned reference. However, every time another section is added to the Act, Alaska statutes that cite to it with a spanned reference become incorrect, necessitating their amendment.

An alternate way of referring to the Act avoids this necessity by citing to the first section, which does not change, followed by "et seq." This is the abbreviation for "*et sequentes*", which means "and the following." This citation form, when used in association with the Act, will automatically incorporate new additions to the Act as they occur and will obviate the need for amending each statute citing the Act after each addition.

Accordingly, all statutes in which the legislative intent appears to have been to refer to the Alaska Native Claims Settlement Act are amended to reflect this automatically inclusive citation form.

Bill sections 4, 5, 6, 7, 8, 9, 10, and 11 improve the form of AS 10.06.960(b), (c), (e), (f), (g), (h), (i), and (k), respectively, by capitalizing the first letter of "Act," which is the abbreviated version of the Alaska Native Claims Settlement Act. This is the preferred usage for legal drafting.

Bill section 12 improves the form of AS 10.06.960(n) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 13 improves the form of AS 10.06.960(o) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 14 improves the form of AS 10.06.960(p) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3. It also improves the form of AS 10.06.960(p) by changing the abbreviated reference to that Act to the preferred usage for legal drafting for the reason described in the explanation of bill secs. 4-11.

Bill section 15 improves the form of AS 10.06.961(a) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Representative Lesil McGuire

April 28, 2005

Page 3

Bill section 16 improves the form of AS 10.20.007 in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 17 improves the form of AS 13.12.102(b) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 18 improves the form of AS 13.16.705(a) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 19 improves the form of AS 13.16.705(g) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 20 corrects an error in AS 13.26.210, which was repealed and reenacted by sec. 21, ch. 84, SLA 2004. The court system pointed out that the language "incapacitated person" in subsection (g) was not the correct term for use with conservators, that "protected person" was the correct term, and that a substitution should be made. The court system's observation is supported by usage in AS 13.26. Specifically, AS 13.26.090 - 13.26.155, entitled "Article 3. Guardians of Incapacitated Persons," links guardians to "incapacitated persons," as the title of the article suggests. Additionally, AS 13.26.165 - 13.26.320, entitled "Article 4. Protection of the Property of Persons under Disability and Minors," links conservators with "protected persons."

Moreover, the phrasing of this section's other subsections, specifically (d) and (f), which were repealed and reenacted in the same bill as subsection (g), suggest that the "incapacitated person" language was used mistakenly and also support the change from "incapacitated person" to "protected person."

Bill section 21 corrects two oversights in AS 13.26.332, the statutory form power of attorney. As currently written, one part of the section provides that the agent that is being granted a power of attorney may exercise the powers that the principal has "checked below," and a list of specific powers follows. This is not correct. In actuality, the remainder of the section operates in such a way that to give the enumerated powers to the agent in question, the principal does nothing. The powers are conferred automatically. On the other hand, to keep a given power from the agent, the principal must line out the power and initial next to it. In any event, nothing is ever "checked." Accordingly, the first change, substituting "as indicated" for "as I have checked," reflects the way that the section actually operates.

The second change to this section removes the language "and the power to make your health care decisions" in the form's preamble, which generally describes what powers the form may grant to the agent who holds the power of attorney.

Last year, statutory provisions relating to health care decision were consolidated and moved to AS 13.52 by HB 25, enacted as Chapter 83, SLA 2004. As part of this consolidation, HB 25 repealed the specific paragraph in this form relating to the power to

Representative Lesil McGuire

April 28, 2005

Page 4

make decisions regarding "health care services" and transplanted it to the new chapter. See AS 13.52.010 and 13.52.300. However, the bill neglected to address the corresponding reference to the repealed paragraph in the introductory material. That oversight is corrected here.

Bill section 22 improves the form of AS 13.26.344(c) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 23 improves the form of AS 13.46.085(a) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 24 improves the form of AS 13.46.085(f) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 25 deletes an obsolete reference to the Bureau of Indian Affairs in AS 14.07.030(2). The Office of Legal Services confirmed with the Department of Law that the reference in paragraph (2) is outdated and should be removed because, as a general matter, the Bureau of Indian Affairs no longer operates or administers schools in Alaska.

Bill section 26 deletes an obsolete reference to the Bureau of Indian Affairs in AS 14.08.101(2) for the reasons set out in the explanation of bill sec. 25.

Bill section 27 improves the form of AS 14.57.210(a) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 28 deletes obsolete language relating to the Bureau of Indian Affairs in AS 14.60.010(6) for the reasons set out in bill sec. 25.

Bill section 29 updates AS 16.05.835(b)'s reference to hair crab. The Department of Law requested this change because the scientific classifying group I.T.I.S., which is the entity used by federal agencies, including the Department of Agriculture, has dropped "Korean" from the species name. This amendment makes the same change.

Bill section 30 deletes obsolete language in AS 16.10.520(e) relating to outdated date references.

Bill section 31 improves the form of AS 16.20.032(b) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 32 deletes obsolete language in AS 16.20.310(c) relating to the Agricultural Development Authority. This section was enacted in 1979, and the act did not create, define, or even otherwise refer to an "Agricultural Development Authority." It does not now exist or ever appear to have existed in statute. The reference to it is removed.

Bill section 33 updates AS 16.43.450(a)'s reference to hair crab for the reason set out in the explanation of bill sec. 29.

Bill section 34 updates AS 16.43.450(b)'s reference to hair crab for the reason set out in the explanation of bill sec. 29.

Bill section 35 updates AS 16.43.460(b) to reflect the repeal of AS 16.43.901 in 1996 and of AS 16.43.906 in 1997.

Bill section 36 corrects an apparent oversight in AS 17.20.330. This section relates to certain entities that disseminate an advertisement of another entity's product that is false.

In particular, the section provides that the disseminating entity is not liable for the dissemination of the false advertising unless the disseminating entity refuses to provide certain identification information about the other entity to the commissioner of health and social services. At the time this section was enacted, the commissioner of health and social services was responsible for the enforcement of the prohibition on the dissemination of false advertising, set out in AS 17.20.290(a)(5).

However, responsibility for enforcing the prohibition on dissemination of false advertising was split last year between two commissioners. See secs. 2 and 3, ch. 151, SLA 2004. The commissioner of health and social services remains responsible for the enforcement of false advertising relating to "drugs or devices" under AS 17.20.290(c). However, the commissioner of commerce, community, and economic development is now responsible for the enforcement of false advertising relating to "food or cosmetics" under AS 17.20.290(b).

Because the commissioner of commerce, community, and economic development now has been given enforcement responsibility, a corresponding reference to the commissioner should have been added as a part of the 2004 amendments to this chapter. It was not. This change corrects that omission.

Bill section 37 improves the form of AS 18.56.097 in its reference to one section of the Alaska Native Claims Settlement Act, which is changed to reflect the codified section number. It also improves the form of the section's reference to the Act generally for the reasons set out in the explanation of bill sec. 3.

Bill section 38 corrects an error in AS 21.34.170(a). This subsection relates to reporting requirements concerning, among other things, allocations of aggregate tax in the surplus lines insurance context. The Department of Law brought to our attention that AS 21.34.150, which is referenced in subsection (a), relates to the different issues of originating or accepting surplus lines insurance. The Department of Law recommended AS 21.34.180, which does relate to surplus lines tax, as the correct cite. We agree.

Representative Lesil McGuire

April 28, 2005

Page 6

Bill section 39 corrects an error in AS 21.34.180(a) in its description of a tax that is imposed under AS 21.09.210. Subsection (a) refers to the tax imposed by AS 21.09.210 as a "premium receipts tax." In fact, AS 21.09.210 describes the tax imposed under its terms simply as a "premium tax." Accordingly, subsection (a)'s reference to this tax is corrected to reflect that.

In other sections, the use of "premium receipts tax" appears correct. "Premium receipts tax" is the description given to the tax imposed under AS 21.33.055(a) and under AS 21.33.061(c). These descriptions of the tax have been unchanged since the sections were enacted 1968. Accordingly, these occurrences of the "premium receipts tax" terminology are left unchanged.

Bill section 40 improves the form of AS 22.10.025(a) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 41 deletes an obsolete reference to AS 26.05.260(c) in AS 26.05.330(e) to reflect the 1981 repeal of AS 26.05.260(c).

Bill section 42 updates AS 26.10.060(a) to reflect the repeal of federal law cited in the subsection. Specifically, subsections (b)-(h) of 50 U.S.C. App. 459, cited in the section, have been repealed by Act of Dec. 3, 1974, as shown in the notes relating to the 1974 amendments in the "History; Ancillary Laws and Directives" section following the text of section 459 in the U.S.C.S. volumes. These repealed subsections contained the re-employment provisions mentioned in the material being deleted. The Department of Law recommends that the section be amended as shown, in light of the federal repeal.

Bill section 43 improves the form of AS 29.45.050(m) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 44 improves the form of AS 34.15.075(b) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 45 improves the form of AS 34.45.760(10) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 46 updates AS 36.30.170(b)(4) to reflect the repeal of the old Uniform Partnership Act, AS 32.05, by sec. 8, ch. 115, SLA 2000 and its replacement in sec. 6 of the same act by AS 32.06, the new Partnership Act.

Bill section 47 corrects an oversight in AS 37.14.410(a) relating to the prohibition on crediting certain funds to oil and hazardous substance ("OHS") release mitigation accounts. Currently, subsection (a) restricts certain money from being credited to "the oil and hazardous substance release mitigation account under AS 46.04.010 or to an account established in AS 46.08.020 or 46.08.025." (Emphasis added).

Representative Lesil McGuire

April 28, 2005

Page 7

Problematically, AS 46.04.010 does not encompass one such account; it encompasses two. One is the OHS **release prevention** mitigation account, which is established in AS 46.08.020. The other is the OHS **release response** mitigation account, which is established in AS 46.08.025. It appears that the restriction was intended to apply to both OHS release mitigation accounts encompassed by 46.04.010, and this amendment, changing "the" to "an," makes that clear.

As originally enacted by sec. 1, ch. 1, FSSLA 1992, this subsection directed the crediting prohibition to "the oil and hazardous substance **release** mitigation account under AS 46.04.010 or AS 46.08.020." At that time there was only one such account. The account was described in AS 37.14.410(a) and in AS 46.04.010 as the "OHS **release** mitigation account," but it was referenced as OHS **release prevention** mitigation account in AS 46.08.020. In any event, because there was only one OHS release mitigation account in existence at the time, the "the" in AS 37.14.410(a) was correct.

However, in 1994 another OHS **release** mitigation account was established. Section 26, ch. 128, SLA 1994 enacted AS 46.08.025, which established the OHS **release response** mitigation account. In the same bill, sec. 19 changed the reference to "OHS **release** mitigation account" in AS 46.04.010 by adding "prevention" so that the reference read the "OHS **release prevention** mitigation account." This change conformed the existing reference in AS 46.04.010 to the reference in AS 46.08.020.

In addition to this change to AS 46.04.010, sec. 19 also inserted a new reference in the section to the "OHS **release response** mitigation account" that elsewhere had been established in AS 46.08.025. Thus, after these changes, AS 46.04.010 encompassed not one but two OHS **release** mitigation accounts. The "the" in 37.14.410(a) became incorrect.

Chapter 128's addition of the new OHS **release** mitigation account was only partially reflected in AS 37.14.410(a). Section 12 added to subsection (a)'s crediting prohibition the reference to accounts in AS 46.08.025 that exists today. This addition shows an intent that the account established there -- the OHS **release response** mitigation account -- was intended to be included in subsection (a)'s crediting restriction along with the OHS **release prevention** mitigation account in AS 46.08.020. Unfortunately, the corollary change -- turning the "the" preceding the reference to AS 46.04.010 to an "an" to reflect that that section now referenced both such accounts, was not made. That oversight is corrected here.

Bill section 48 improves the form of AS 38.05.073(c) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 49 improves the form of AS 38.95.050 in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Representative Lesil McGuire

April 28, 2005

Page 8

Bill section 50 improves the form of AS 41.17.041(b) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 51 improves the form of AS 41.17.900(f) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 52 improves the form of AS 41.21.025(b) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3. It also improves the form of the subsection by capitalizing references to "Native," which is the preferred usage for legal drafting.

Bill section 53 corrects an error in AS 43.50.460(d)(1). This paragraph refers to AS 43.50.530 in the context of a requirement that certain tobacco product manufacturers appoint registered agents.

However, this referenced section, AS 43.50.530, does not relate in any way to providing notice of the appointment of registered agents. It instead relates to sales of cigarette tax stamps by the Department of Revenue. The correct reference is to AS 43.50.475, which does relate to notice of appointments, and paragraph (d)(1) is amended to reflect this.

Bill section 54 improves the form of AS 43.98.015(a) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3. It also improves the form of the subsection by capitalizing a reference to "Native," which is the preferred usage for legal drafting.

Bill section 55 improves the form of AS 43.98.015(b) in the subsection's reference to a particular subsection of the Alaska Native Claims Settlement Act ("ANCSA"), which is changed to reflect the codified version.

Bill section 56 deletes obsolete language in AS 44.27.056 relating to an outdated date reference.

Bill section 57 updates AS 44.29.210(a) to reflect the repeal of federal provisions cited in the subsection and to incorporate the federal provisions that replace the repealed provisions. Subsequent to this section's enactment, the Act of July 10, 1992 repealed 42 U.S.C. sec. 300x-4a and 42 U.S.C. sec. 300x-2. That same act enacted 42 U.S.C. 300x-25, which allows the secretary of the Department of Health and Human Services to make grants to the state if the state sets up a certain type of revolving loan fund relating to alcohol or drug abuse. This is similar to the subject matter of AS 44.29.210 and of repealed 42 U.S.C. 300x-4a, and 42 U.S.C. 300x-25 appears to have been intended as the replacement for repealed sec. 300x-4a.

Although 42 U.S.C. 300x-2 has been repealed by the same act that repealed 300x-4, there is still a 300x-2 in the federal code because, unlike Alaska, the federal code re-uses section numbers. However, the current 300x-2 relates to "children with serious

emotional disturbances" and thus does not appear to have been intended as a replacement for repealed 300x-2. On the other hand, sec. 300x-25 itself cites 42 U.S.C. 300x-21, which was also enacted by the same federal act that repealed 300x-2 and 300x-4 and enacted 300x-25. 42 U.S.C. 300x-21 relates to federal grants for substance abuse and thus appears to have been intended to have been the replacement for repealed 300x-2. These substitutions are made in this section.

Bill section 58 updates AS 44.29.210(c) to reflect the repeal of a federal provision for the reason set out in the explanation of bill sec. 58.

Bill section 59 deletes obsolete language in AS 44.42.065(a) relating to an outdated date reference.

Bill section 60 deletes obsolete language in AS 44.62.350(c) relating to an outdated date reference.

Bill section 61 updates AS 44.83.425 to reflect the repeal of AS 44.83.380 in 1993.

Bill section 62 updates AS 44.88.085(c) to reflect the repeal of (h) of this section in 1998.

Bill section 63 improves the form of AS 45.55.138 in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 64 updates AS 45.57.090 to reflect the 1988 repeal of AS 10.05.597 - 10.05.696, which was the former article on foreign corporations, and the replacement of those sections by AS 10.06.705 - 10.06.788, which is the new article on foreign corporations.

Bill section 65 improves the form of AS 46.03.822(c) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 66 improves the form of AS 46.14.010(b) by conforming a state air quality control term relating to emissions to the term's federal counterpart as required by federal law. In 2003, sec. 59 of HB 160, which was sponsored by the House Rules Committee at the request of the governor, added the definition of "emission unit" to AS 46.14.990. AS 46.14.990 provides the definitions for AS 46.14, which deals with air quality control, and the "emission unit" definition in AS 46.14.990 adopted the federal regulations definition by reference.

As it turns out, the federal definition is in fact "emissions unit" -- with a "s" -- and federal regulations require exact conformity with federal definitions in this area. Furthermore, the Environmental Protection Agency has recently contacted the Department of Law to remind the department of this requirement. At the request of the department, this change is made in this subsection and throughout AS 46.14.

Representative Lesil McGuire

April 28, 2005

Page 10

Bill section 67 improves the form of AS 46.14.010(c) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 68 improves the form of AS 46.14.010(d) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 69 improves the form of AS 46.14.010(e) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 70 improves the form of AS 46.14.010(f) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 71 improves the form of AS 46.14.020 by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 72 improves the form of AS 46.14.130(b) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 73 improves the form of AS 46.14.180 by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 74 improves the form of AS 46.14.190(a) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 75 improves the form of AS 46.14.210 by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 76 improves the form of AS 46.14.250(c) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 77 deletes obsolete language in AS 46.14.250(f) to reflect the repeal of AS 46.14.250(e) in this bill's repeal section.

Representative Lesil McGuire

April 28, 2005

Page 11

Bill section 78 improves the form of AS 46.14.400(c) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 79 improves the form of AS 46.14.400(f) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 80 improves the form of AS 46.14.410(e) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 81 improves the form of AS 46.14.515(a) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 82 improves the form of AS 46.14.540(a) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 83 improves the form of AS 46.14.560 by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 84 improves the form of AS 46.14.990(11) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 85 improves the form of AS 46.14.990(20) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 86 improves the form of AS 46.14.990(21) by conforming a state air quality control term to the term's federal counterpart as required by federal law for the reason set out in the explanation of bill sec. 66.

Bill section 87 improves the form of AS 46.15.165(c) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 88 improves the form of AS 47.07.020(b) by removing initial capital letters in a reference to the aid to families with dependent children program to conform the reference to other references to the identical program in the same section and by conforming age references to the preferred usage for legal drafting.

Representative Lesil McGuire

April 28, 2005

Page 12

Bill section 89 improves the form of AS 47.08.060(c) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 90 improves the form of AS 47.55.020(d) in its reference to the Alaska Native Claims Settlement Act for the reasons set out in the explanation of bill sec. 3.

Bill section 91 is the repeal section.

The repeal of AS 14.08.031(d) removes obsolete material relating to the Bureau of Indian Affairs. Subsection (d) provided that "U.S. Bureau of Indian Affairs schools shall be included in a regional educational attendance area boundary." and this provision is obsolete for the reasons set out in the explanation of bill sec. 25.

The repeal of AS 18.50.950(4) removes obsolete language from the statutes. Specifically, paragraph (4) is the definition for the term "child adoption agency" for AS 18.50, the Vital Statistics Act. It is being repealed on the recommendation of the Department of Law, which correctly points out that the term "child adoption agency" is not used in the chapter anywhere and thus is extraneous.

The repeal of AS 46.14.250(e) removes obsolete material from AS 46.14.250. Subsection (e) relates to the Department of Environmental Conservation's duty to set an "initial fee rate" for emission fees established in AS 46.14.250 for "the first two years following approval of the permit program" under AS 46.14 by the relevant federal administrator (chapter 46.14 is entitled "Air Quality Control").

The effective date of the approval in question was December 5, 1996, as set out in the Federal Register, Vol. 61, No. 235, Thursday, December 5, 1996, pp. 64463-64475. Obviously, more than two years have passed since the effective date of approval, and this subsection has thus become obsolete.

Bill section 92 provides an immediate effective date for the bill.

JPC:jad

05-240.jad

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 101(STA)
 (S) Publish Date: 3/3/05

Revision Date/Time (Note if correction): _____ Dept. Affected: All
 Title An Act making corrective amendments RDU _____
to the Alaska Statutes Component _____
 Sponsor Senate Rules Committe _____
 Requester Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Revisor's bill does not change substantive law and has no fiscal impact on any state agency.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
 Division Office of Management and Budget Date/Time 2/23/05 8:46 AM
 Approved by: Cheryl Frasca, Director Date 2/23/2005
 Agency Office of Management and Budget

SB

104

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 6, 2005

FURTHER REFERRALS:

Date of Committee Action: May 2, 2005

The JUDICIARY Committee considered:

CSSB 104(JUD)

CS FOR SENATE BILL NO. 104(JUD)

PERMANENT FUND DIVIDEND FRAUD

"An Act relating to the crimes of unsworn falsification in the first and second degrees and false information or report; requiring the establishment of a permanent fund dividend fraud investigation unit in the Department of Revenue; and providing for an effective date."

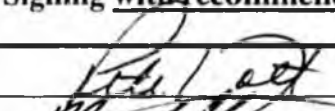
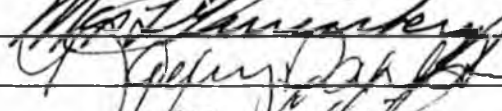
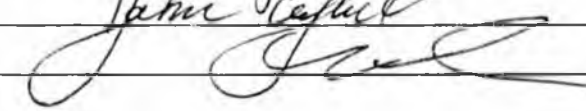

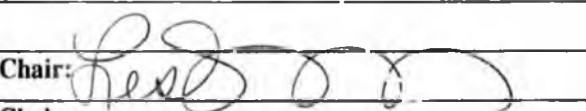

Recommends it be replaced with HCS or CS for CSSB 104 (JUD)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

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

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

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
LAW	2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	KOTT	✓			
	Greenberg				
	Larson			X	
	Cophill			✓	
	Gawa	✓			
Chair: 	Melure	✓			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 104 (JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Dividend Fraud RDU Revenue Programs & Support
 Component Permanent Fund Dividend
 Sponsor Seekins
 Requester _____ Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SB 104 establishes unsworn falsification penalties in the first and second degrees; defines unsworn falsification of permanent fund dividend eligibility as a first degree class C felony.

The bill also authorizes an investigation unit in the Department of Revenue to detect and investigate fraud in the permanent fund dividend program and to assist the Department of Law in the prosecution of such individuals. Although the department has administratively established an investigation unit, statutory designation is required for access to certain federal data bases (NCIC and NLETS). These data bases would facilitate more efficient and effective investigation of PFD crimes, especially those perpetrated by individuals living out of state.

Prepared by: Sharon Barton Phone 465-4785
 Division: Permanent Fund Dividend Date/Time 4/5/05 8:00 AM
 Approved by: Tom Boutin, Deputy Commissioner Date 4/5/2005
 Agency: Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to the crime of misrepresenting RDU: CIVIL
permanent fund eligibility..." Component: Commercial & Fair Business
 Sponsor: Senator Seekins
 Requester: Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would create a new statute in the criminal code making the crimes commonly associated with fraudulently applying for a permanent fund dividend a class C felony. Additionally, this bill would statutorily require the Department of Revenue to create a fraud investigation unit designed to detect and investigate permanent fund dividend crimes to aid in the prosecution of these offenses and the imposition of civil penalties. Currently Revenue has created a fraud investigation unit, but creating the unit in statute is necessary to facilitate access to information held by other law enforcement agencies. Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/22/05 11:21 AM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/22/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Dividend Fraud RDU Revenue Programs & Support
 Component Permanent Fund Dividend
 Sponsor Seekins
 Requester _____ Component No. 98

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SB 104 defines misrepresentation of permanent fund dividend eligibility and authorizes a class C felony penalty for misrepresenting permanent fund eligibility. Current Title 11 provisions for forgery only cover the forging of financial instruments and therefore do not cover PFD application documents.

The bill also authorizes an investigation unit in the Department of Revenue to detect and investigate fraud in the permanent fund dividend program and to assist the Department of Law in the prosecution of such individuals. Although the department has administratively established an investigation unit, statutory designation is required for access to certain federal data bases (NCIC and NLETS). These data bases would facilitate more efficient and effective investigation of PFD crimes, especially those perpetrated by individuals living out of state.

Prepared by: Sharon Barton Phone 465-4785
 Division Permanent Fund Dividend Date/Time 2/22/05 1:17 PM
 Approved by: Tom Boutin Date 2/22/2005
 Agency Department of Revenue

24-LS0519\S
Cook
4/13/05

HOUSE CS FOR CS FOR SENATE BILL NO. 104(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS SEEKINS, Therriault, Bunde, Wilken, Stedman, Cowdery, Guess, Elton, Kookesh, Wagoner, Ellis, Olson, Gary Stevens, Green, French, Huggins, Dyson, Ben Stevens

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the crimes of unsworn falsification in the first degree involving an**
2 **application for a permanent fund dividend and false information or report involving**
3 **eligibility for a permanent fund dividend; requiring the establishment of a permanent**
4 **fund dividend fraud investigation unit in the Department of Revenue; relating to service**
5 **in the peace corps and as a member of the United States Olympic Team as allowable**
6 **absences from the state for purposes of eligibility for permanent fund dividends and to**
7 **the period for filing an application for a permanent fund dividend; authorizing the**
8 **Department of Revenue to issue administrative orders imposing sanctions for certain**
9 **misrepresentations or other actions concerning eligibility for a permanent fund dividend**
10 **and providing for administrative appeal of those orders; and providing for an effective**
11 **date."**

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

1 * **Section 1.** AS 05.15.095(a) is amended to read:

2 (a) The applications and reports to the department required by this chapter
3 shall be signed under penalty of unsworn falsification in the second degree by the
4 following person, as applicable:

- 5 (1) the member in charge for the qualified organization;
6 (2) a person authorized to sign on behalf of the municipality;
7 (3) the operator or the operator's agent;
8 (4) the licensed pull-tab distributor or the distributor's agent; or
9 (5) the licensed pull-tab manufacturer or the manufacturer's agent.

10 * **Sec. 2.** AS 05.15.680(b) is amended to read:

11 (b) A person who, with the intent to mislead a public servant in the
12 performance of the public servant's duty, submits a false statement in an application
13 for a permit, license, or vendor registration under this chapter is guilty of unsworn
14 falsification in the second degree.

15 * **Sec. 3.** AS 06.05.045(a) is amended to read:

16 (a) Each state bank shall make at least four reports of condition each year to
17 the department on days designated by, and on forms prescribed by, the department.
18 The report shall be signed by a duly authorized officer of the bank and shall be signed
19 by at least three directors who certify under penalty of unsworn falsification in the
20 second degree under AS 11.56.210 that they, and each of them, have personal
21 knowledge of the facts stated in the report and that the facts are true. The reports must
22 exhibit in detail and under appropriate heads the resources and liabilities of the bank
23 and must be received by the department within 30 calendar days after the end of the
24 period covered by the report.

25 * **Sec. 4.** AS 06.50.310(a) is amended to read:

26 (a) On or before March 15 of each year, a licensee shall file with the
27 department a composite annual report for the preceding calendar year in the form
28 prescribed by the department relating to all advances made by the licensee. The
29 department may require that the report be submitted under oath or affirmation, or with
30 notice that false statements made are punishable as unsworn falsification in the
31 second degree under AS 11.56.210.

1 * Sec. 5. AS 08.88.460(a) is amended to read:

2 (a) Subject to (e) of this section, a person seeking reimbursement for a loss
3 suffered in a real estate transaction as a result of fraud, misrepresentation, deceit, or
4 the conversion of trust funds or the conversion of community association accounts
5 under the control of a community association manager on the part of a licensee
6 licensed under this chapter shall make a claim to the commission for reimbursement
7 on a form furnished by the commission. In order to be eligible for reimbursement by
8 the commission, the claim form must be filed within two years after the occurrence of
9 the fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of
10 community association accounts under the control of a community association
11 manager claimed as the basis for the reimbursement. The form shall be executed under
12 penalty of unsworn falsification in the second degree and must include the following:

- 13 (1) the name and address of each real estate licensee involved;
- 14 (2) the amount of the alleged loss;
- 15 (3) the date or period of time during which the alleged loss occurred;
- 16 (4) the date upon which the alleged loss was discovered;
- 17 (5) the name and address of the claimant; and
- 18 (6) a general statement of facts relative to the claim.

19 * Sec. 6. AS 10.20.655(b) is amended to read:

20 (b) The interrogatories shall be answered within 30 days after mailing, or
21 within the additional time fixed by the commissioner, and the answers shall be full and
22 complete, in writing and under penalty of unsworn falsification in the second degree
23 under AS 11.56.210. If the interrogatories are directed to an individual, they shall be
24 answered by that individual and, if directed to a corporation, they shall be answered by
25 the president, vice-president, secretary, or assistant secretary of the corporation.

26 * Sec. 7. AS 11.56 is amended by adding a new section to read:

27 **Sec. 11.56.205. Unsworn falsification in the first degree.** (a) A person
28 commits the crime of unsworn falsification in the first degree if the person violates
29 AS 11.56.210(a)(1) and the application is an application for a permanent fund
30 dividend.

31 (b) In this section,

1 (1) "application for a permanent fund dividend" includes a written or
2 electronic application and any other documentation submitted to support an
3 application for a permanent fund dividend;

4 (2) "permanent fund dividend" has the meaning given in
5 AS 43.23.095.

6 (c) Unsworn falsification in the first degree is a class C felony.

7 * **Sec. 8.** AS 11.56.210 is amended to read:

8 **Sec. 11.56.210. Unsworn falsification in the second degree.** (a) A person
9 commits the crime of unsworn falsification in the second degree if, with the intent to
10 mislead a public servant in the performance of a duty, the person submits a false
11 written or recorded statement that [WHICH] the person does not believe to be true

12 (1) in an application for a benefit; or

13 (2) on a form bearing notice, authorized by law, that false statements
14 made in it are punishable.

15 (b) Unsworn falsification in the second degree is a class A misdemeanor.

16 * **Sec. 9.** AS 11.56.220 is amended to read:

17 **Sec. 11.56.220. Proof of guilt.** In a prosecution for perjury or unsworn
18 falsification in the first or second degree it is not necessary that proof be made by a
19 particular number of witnesses or by documentary or other type of evidence.

20 * **Sec. 10.** AS 11.56.800(a) is amended to read:

21 (a) A person commits the crime of false information or report if the person
22 knowingly

23 (1) gives false information to a peace officer

24 (A) with the intent of implicating another in an offense; or

25 (B) concerning the person's identity while the person is

26 (i) under arrest, detention, or investigation for a crime;

27 or

28 (ii) being served with an arrest warrant or being issued a

29 citation;

30 (2) makes a false report to a peace officer that a crime has occurred or

31 is about to occur;

1 (3) makes a false report or gives a false alarm, under circumstances not
2 amounting to terroristic threatening in the second degree under AS 11.56.810, that a
3 fire or other incident dangerous to life or property calling for an emergency response
4 has occurred or is about to occur; [OR]

5 (4) makes a false report to the Department of Natural Resources under
6 AS 46.17 concerning the condition of a dam or reservoir; or

7 (5) gives false information to a public employee relating to a
8 person's eligibility for a permanent fund dividend under AS 43.23 and the false
9 information does not also violate AS 11.56.205.

10 * Sec. 11. AS 12.55.045(j) is amended to read:

11 (j) A defendant who is convicted of an offense for which restitution may be
12 ordered shall submit financial information as ordered by the court. The Alaska Court
13 System shall prepare a form, in consultation with the Department of Law, for the
14 submission of the information; the form must include a warning that submission of
15 incomplete or inaccurate information is punishable as unsworn falsification in the
16 second degree under AS 11.56.210. A defendant who is convicted of (1) a felony
17 shall submit the form to the probation office within 30 days after conviction, and the
18 probation officer shall attach the form to the presentence report, or (2) a misdemeanor
19 shall file the form with the defendant's response or opposition to the restitution
20 amount. The defendant shall provide a copy of the completed form to the prosecuting
21 authority.

22 * Sec. 12. AS 16.05.450(a) is amended to read:

23 (a) The commissioner or an authorized agent shall issue a crewmember fishing
24 license under AS 16.05.480 to each qualified person who files a written application at
25 a place in the state designated by the commissioner, containing the reasonable
26 information required by the commissioner together with the required fee. The
27 commissioner shall require the reporting of the applicant's social security number on
28 the application. The application shall be simple in form and shall be executed by the
29 applicant under the penalty of unsworn falsification in the second degree.

30 * Sec. 13. AS 16.05.450(b) is amended to read:

31 (b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel

1 license under AS 16.05.490 to each qualified vessel for which a written application
2 has been filed, at a place in the state designated by the commission, containing the
3 reasonable information required by the commission together with the required fee.
4 The application shall be simple in form and shall be executed by the applicant under
5 the penalty of unsworn falsification in the second degree.

6 * Sec. 14. AS 16.43.970(b) is amended to read:

7 (b) A person or entity who knowingly makes a false statement to the
8 commission for the purpose of obtaining a benefit, including the issuance, renewal,
9 duplication, or transfer of an entry or interim-use permit, vessel license, vessel
10 interim-use permit, or vessel entry permit, or a person who assists another by
11 knowingly making a false statement to the commission for the purpose of obtaining a
12 benefit for another, is guilty of the crime of unsworn falsification in the second
13 degree as set out in AS 11.56.210. Upon conviction, the person or entity is also
14 subject to suspension of commercial fishing privileges and revocation of commercial
15 fishing permits under (i) of this section.

16 * Sec. 15. AS 18.60.095(f) is amended to read:

17 (f) A person who knowingly makes a false statement, representation, or
18 certification with the intent to mislead in an application, record, report, plan or other
19 document filed or required to be maintained under AS 18.60.010 - 18.60.105 is guilty
20 of unsworn falsification in the second degree.

21 * Sec. 16. AS 18.65.710(a) is amended to read:

22 (a) The application for a permit to carry a concealed handgun must contain the
23 following information:

24 (1) the applicant's name, physical residence, mailing address, place and
25 date of birth, physical description, including height, weight, race, hair color, and eye
26 color, Alaska driver's license or identification card number, and the city and state of
27 each place the applicant has resided in the five years immediately preceding the
28 application;

2 (2) a statement that the applicant qualifies under AS 18.65.705;

30 (3) a statement that the applicant has been furnished with a copy of the
31 state laws and regulations relating to concealed handguns, has read those sections, and

1 understands them;

2 (4) a statement that the applicant desires a permit to carry a concealed
3 handgun for a lawful purpose, which may include self-defense;

4 (5) a statement by the applicant that all statements, answers, and
5 attachments to the application are true and complete;

6 (6) a conspicuous warning that an applicant who supplies a false
7 statement, answer, or document in connection with the application that the applicant
8 does not believe to be true may be prosecuted for unsworn falsification in the second
9 degree and, if found guilty, may be punished for violation of a class A misdemeanor,
10 and that, in such cases, the permit shall be revoked and the applicant may be barred
11 from any further application for a permit; and

12 (7) a statement that the applicant understands that a permit eligibility
13 investigation will be conducted as a part of the application process, that this may
14 involve computerized records searches, and that the applicant authorizes the
15 investigation.

16 * Sec. 17. AS 21.27.110(h) is amended to read:

17 (h) A notice of termination submitted to the director under this section must
18 include a statement of the reasons for the termination. A statement of the reasons for
19 termination is confidential and not subject to inspection and copying under
20 AS 40.25.110. A statement of reasons for the termination may not be admitted as
21 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
22 or authorized representative by or on behalf of a person affected by the termination,
23 except when the action or proceeding involves perjury, unsworn falsification in the
24 second degree, fraud, or failure to comply with this subsection.

25 * Sec. 18. AS 28.35.130 is amended to read:

26 **Sec. 28.35.130. False report or destruction of evidence.** An officer or
27 person who knowingly makes or subscribes a false report concerning an investigation
28 of a vehicle or damage or injury caused by a vehicle, as provided in this chapter, is
29 guilty of unsworn falsification in the second degree. A person who destroys,
30 obliterates, conceals or removes, or who aids, abets, or assists in the destruction,
31 obliteration, concealment, or removal from a vehicle, of evidence showing or tending

1 to show that the vehicle collided with a person or property, is punishable by a fine of
2 not more than \$500, or by imprisonment for not more than six months, or by both.

3 * Sec. 19. AS 28.35.135(a) is amended to read:

4 (a) A person may not knowingly make a false affidavit, statement, or
5 representation, or affirm falsely with respect to a matter or fact required to be set out
6 under this title, nor may the person use a name other than the person's true name. A
7 person convicted of violating this section is guilty of unsworn falsification in the
8 second degree and is punishable as prescribed by law.

9 * Sec. 20. AS 43.23.008(a) is amended to read:

10 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
11 is absent from the state during the qualifying year remains eligible for a current year
12 permanent fund dividend if the individual was absent

13 (1) receiving secondary or postsecondary education on a full-time
14 basis;

15 (2) receiving vocational, professional, or other specific education on a
16 full-time basis for which, as determined by the Alaska Commission on Postsecondary
17 Education, a comparable program is not reasonably available in the state;

18 (3) serving on active duty as a member of the armed forces of the
19 United States or accompanying, as that individual's spouse, minor dependent, or
20 disabled dependent, an individual who is

21 (A) serving on active duty as a member of the armed forces of
22 the United States; and

23 (B) eligible for a current year dividend;

24 (4) serving under foreign or coastal articles of employment aboard an
25 oceangoing vessel of the United States merchant marine;

26 (5) receiving continuous medical treatment recommended by a
27 licensed physician or convalescing as recommended by the physician that treated the
28 illness if the treatment or convalescence is not based on a need for climatic change;

29 (6) providing care for a parent, spouse, sibling, child, or stepchild with
30 a critical life-threatening illness whose treatment plan, as recommended by the
31 attending physician, requires travel outside the state for treatment at a medical

1 specialty complex;

2 (7) providing care for the individual's terminally ill family member;

3 (8) settling the estate of the individual's deceased parent, spouse,
4 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

5 (9) serving as a member of the United States Congress;

6 (10) serving on the staff of a member from this state of the United
7 States Congress;

8 (11) serving as an employee of the state in a field office or other
9 location;

10 (12) accompanying a minor who is absent under (5) of this subsection;

11 (13) accompanying another eligible resident who is absent for a reason
12 permitted under (1), (2), (5) - (12), or (16) [14] of this subsection as the spouse, minor
13 dependent, or disabled dependent of the eligible resident;

14 (14) serving as a volunteer in the federal peace corps program;

15 (15) because of training or competing as a member of the United
16 States Olympic Team;

17 (16) for any reason consistent with the individual's intent to remain a
18 state resident, provided the absence or cumulative absences do not exceed

19 (A) 180 days in addition to any absence or cumulative absences
20 claimed under (3) of this subsection if the individual is not claiming an absence
21 under (1), (2), or (4) - (15) [(4) - (13)] of this subsection;

22 (B) 120 days in addition to any absence or cumulative absences
23 claimed under (1) - (3) of this subsection if the individual is not claiming an
24 absence under (4) - (15) [(4) - (13)] of this subsection but is claiming an
25 absence under (1) or (2) of this subsection; or

26 (C) 45 days in addition to any absence or cumulative absences
27 claimed under (1) - (15) [(1) - (13)] of this subsection if the individual is
28 claiming an absence under (1) - (15) [(4) - (13)] of this subsection.

29 * Sec. 21. AS 43.23.008(b) is amended to read:

30 (b) An individual may not claim an allowable absence under (a)(1) - (15)
31 [(a)(1) - (13)] of this section unless the individual was a resident of the state for at

1 least six consecutive months immediately before leaving the state.

2 * Sec. 22. AS 43.23.011(a) is amended to read:

3 (a) An application for a permanent fund dividend shall be filed during the
4 period that begins January 1 [JANUARY 2] and ends March 31 of that dividend year.

5 * Sec. 23. AS 43.23.035(c) is amended to read:

6 (c) In addition to any criminal penalties imposed by state law, if the
7 department finds that a 'AN] individual [WHO], in claiming a permanent fund
8 dividend, or an individual [WHO], in certifying another person's eligibility, willfully
9 misrepresents, exercises gross negligence with respect to, or recklessly disregards a
10 material fact pertaining to, eligibility, the department may issue an order against
11 the individual for the

12 (1) forfeiture of [FORFEITS] the dividend;

13 (2) imposition of [, IS SUBJECT TO] a civil fine of up to \$3,000;
14 [\$5,000,] and

15 (3) loss of [LOSES] eligibility to receive the next five dividends
16 following the forfeited dividend [DIVIDENDS. THE COMMISSIONER MAY
17 COMMENCE PROCEEDINGS IN COURT TO ENFORCE THIS SUBSECTION].

18 * Sec. 24. AS 43.23.035 is amended by adding a new subsection to read:

19 (e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of,
20 and to appeal of, a decision under (c) of this section by an individual aggrieved by the
21 decision. When all appeals have been exhausted under this chapter or the time when
22 all of the appeals that could have been taken has expired, the order issued imposing a
23 civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same
24 manner as a judgment of the court.

25 * Sec. 25. AS 43.23.055 is amended by adding a new paragraph to read:

26 (10) establish a fraud investigation unit for the purpose of assisting the

27 (A) Department of Law in the prosecution of individuals who
28 apply for or obtain a permanent fund dividend in violation of a provision in
29 AS 11, by detecting and investigating those crimes; and

30 (B) commissioner to detect and investigate the claiming or
31 paying of permanent fund dividends that should not have been claimed by or

1 paid to an individual and to impose the penalties and enforcement provisions
2 under AS 43.23.035.

3 * **Sec. 26.** AS 43.65.020(a) is amended to read:

4 (a) A person subject to tax under this chapter shall make a return stating
5 specifically the items of gross income from the property, including royalty received
6 and the deductions and credits allowed by this chapter and the exploration incentive
7 credit authorized by AS 27.30, and other information for carrying out this chapter that
8 the department prescribes. The return must show the mining license number and must
9 be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of
10 unsworn falsification in the second degree. If receivers, trustees, or assigns are
11 operating the property or business, they shall make returns for the person engaged in
12 mining, or the recipient of royalty in connection with mining property. The tax due on
13 the basis of the returns shall be collected in the same manner as if collected from the
14 person of whose business they have custody and control. In a tax year in which a
15 taxpayer applies against the tax levied under this chapter the exploration incentive
16 credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit
17 the accounting of mining operation activities form required by AS 27.30.030(b).

18 * **Sec. 27.** AS 43.75.030(a) is amended to read:

19 (a) A person subject to the tax shall file a return stating the value of fisheries
20 resources processed during the license year, computed as required by this chapter, and
21 such other information as the department prescribes by regulation. The return must
22 show the license number and must be signed by the taxpayer or an authorized agent,
23 under penalty of unsworn falsification in the second degree. If a receiver, trustee, or
24 assign is operating the property or business, that person shall file the return for the
25 person. A tax due on the basis of such a return shall be collected in the same manner
26 as if collected from the person of whose business the receiver, trustee, or assign has
27 custody and control.

28 * **Sec. 28.** AS 43.75.110 is amended to read:

29 **Sec. 43.75.110. Duty of taxpayer and payment of tax.** A person subject to
30 taxes under AS 43.75.100 shall make a return stating the value of fisheries resources
31 taken, purchased, or otherwise acquired during the license year for sale to fisheries

1 businesses outside of the taxing jurisdiction of the state computed as required by
2 AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as
3 may be prescribed by the department. The return must contain the license number and
4 must be signed by the taxpayer or an authorized agent, under penalty of unsworn
5 falsification in the second degree. If a receiver, trustee, or assign is operating the
6 property or business, that person shall make the return for the person. A tax due on
7 the basis of such return shall be collected in the same manner as if collected from the
8 person of whose business the receiver, trustee, or assign has custody and control. The
9 requirements for time and place of payment of tax, and the obligation to keep records
10 and make the records available to the commissioner are the same as those prescribed
11 in AS 43.75.011 - 43.75.050.

12 * Sec. 29. AS 45.63.010(d) is amended to read:

13 (d) The notice of intent must be on a form or in a format provided and
14 established by the department by regulation. The department may require the notice
15 of intent to be submitted under oath or affirmation or with notice that false statements
16 made are punishable as unsworn falsification in the second degree under
17 AS 11.56.210. The notice of intent must include detailed information about the nature
18 of the solicitation campaign and the identity and business practices of the telephone
19 seller, including information on the employees, agents, and officers affiliated with the
20 telephone seller. The notice of intent must disclose criminal convictions, civil
21 judgments, orders, consent decrees, or administrative determinations involving
22 allegations of unfair or deceptive business practices by the telephone seller.

23 * Sec. 30. AS 45.68.010(f) is amended to read:

24 (f) The department may require the registration and registration renewal
25 statement required under (c)(1) and (d) of this section to be submitted

26 (1) under oath or affirmation; or

27 (2) with notice that false statements made in the statement are
28 punishable as unsworn falsification in the second degree under AS 11.56.210.

29 * Sec. 31. AS 45.68.055(c) is amended to read:

30 (c) The authorized contracting agent for the paid solicitor shall sign the report
31 required by (b) of this section. Signature of the report under this subsection must be

1 made under oath or affirmation, but submission of false information in a notice that is
2 not signed under oath or affirmation is punishable as an unsworn falsification in the
3 second degree under AS 11.56.210.

4 * Sec. 32. AS 46.03.550(a) is amended to read:

5 (a) Property for which a notice has been issued under AS 46.03.500 shall be
6 determined by the department to be fit for use if the owner certifies to the department
7 under penalty of unsworn falsification in the second degree that

8 (1) based on sampling and testing procedures established by the
9 department under AS 46.03.520(b) and performed by laboratories that are on the list
10 maintained by the department under AS 46.03.520(c), the limits on substances
11 specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

12 (2) if the property was ever sampled and tested under AS 46.03.520
13 and the test results showed the property to be unfit for use under AS 46.03.530,
14 decontamination procedures were performed in accordance with the guidelines
15 established under AS 46.03.540(b) and the requirements of (1) of this subsection have
16 been met; or

17 (3) a court has held that the determination that the property was an
18 illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

19 * Sec. 33. AS 47.12.120(b) is amended to read:

20 (b) If the minor is not subject to (j) of this section and the court finds that the
21 minor is delinquent, it shall

22 (1) order the minor committed to the department for a period of time
23 not to exceed two years or in any event extend past the day the minor becomes 19
24 years of age, except that the department may petition for and the court may grant in a
25 hearing (A) two-year extensions of commitment that do not extend beyond the minor's
26 19th birthday if the extension is in the best interests of the minor and the public; and
27 (B) an additional one-year period of supervision past age 19 if continued supervision
28 is in the best interests of the person and the person consents to it; the department shall
29 place the minor in the juvenile facility that the department considers appropriate and
30 that may include a juvenile correctional school, juvenile work camp, treatment facility,
31 detention home, or detention facility; the minor may be released from placement or

1 detention and placed on probation on order of the court and may also be released by
2 the department, in its discretion, under AS 47.12.260;

3 (2) order the minor placed on probation, to be supervised by the
4 department, and released to the minor's parents, guardian, or a suitable person; if the
5 court orders the minor placed on probation, it may specify the terms and conditions of
6 probation; the probation may be for a period of time not to exceed two years and in no
7 event to extend past the day the minor becomes 19 years of age, except that the
8 department may petition for and the court may grant in a hearing

9 (A) two-year extensions of supervision that do not extend
10 beyond the minor's 19th birthday if the extension is in the best interests of the
11 minor and the public; and

12 (B) an additional one-year period of supervision past age 19 if
13 the continued supervision is in the best interests of the person and the person
14 consents to it;

15 (3) order the minor committed to the custody of the department and
16 placed on probation, to be supervised by the department and released to the minor's
17 parents, guardian, other suitable person, or suitable nondetention setting such as with a
18 relative or in a foster home or residential child care facility, whichever the department
19 considers appropriate to implement the treatment plan of the predisposition report; if
20 the court orders the minor placed on probation, it may specify the terms and conditions
21 of probation; the department may transfer the minor, in the minor's best interests, from
22 one of the probationary placement settings listed in this paragraph to another, and the
23 minor, the minor's parents or guardian, the minor's foster parent, and the minor's
24 attorney are entitled to reasonable notice of the transfer; the probation may be for a
25 period of time not to exceed two years and in no event to extend past the day the
26 minor becomes 19 years of age, except that the department may petition for and the
27 court may grant in a hearing

28 (A) two-year extensions of commitment that do not extend
29 beyond the minor's 19th birthday if the extension is in the best interests of the
30 minor and the public; and

31 (B) an additional one-year period of supervision past age 19 if

1 the continued supervision is in the best interests of the person and the person
2 consents to it;

3 (4) order the minor and the minor's parent to make suitable restitution
4 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
5 under this paragraph,

6 (A) except as provided in (B) of this paragraph, the court may
7 not refuse to make an order of restitution to benefit the victim of the act of the
8 minor that is the basis of the delinquency adjudication; under this
9 subparagraph, the court may require the minor to use the services of a
10 community dispute resolution center that has been recognized by the
11 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
12 and the victim of the minor's offense as to the amount of or manner of payment
13 of the restitution;

14 (B) the court may not order payment of restitution by the parent
15 of a minor who is a runaway or missing minor for an act of the minor that was
16 committed by the minor after the parent has made a report to a law
17 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
18 away or is missing; for purposes of this subparagraph, "runaway or missing
19 minor" means a minor who a parent reasonably believes is absent from the
20 minor's residence for the purpose of evading the parent or who is otherwise
21 missing from the minor's usual place of abode without the consent of the
22 parent; and

23 (C) at the request of the department, the Department of Law,
24 the victims' advocate, or on its own motion, the court shall, at any time, order
25 the minor and the minor's parent, if applicable, to submit financial information
26 on a form approved by the Alaska Court System to the court, the department,
27 and the Department of Law for the purpose of establishing the amount of
28 restitution or enforcing an order of restitution under AS 47.12.170; the form
29 must include a warning that submission of incomplete or inaccurate
30 information is punishable as unsworn falsification in the second degree under
31 AS 11.56.210;

1 (5) order the minor committed to the department for placement in an
2 adventure-based education program established under AS 47.21.020 with conditions
3 the court considers appropriate concerning release upon satisfactory completion of the
4 program or commitment under (1) of this subsection if the program is not satisfactorily
5 completed;

6 (6) in addition to an order under (1) - (5) of this subsection, order the
7 minor to perform community service; for purposes of this paragraph, "community
8 service" includes work

9 (A) on a project identified in AS 33.30.901; or

10 (B) that, on the recommendation of the city council or
11 traditional village council, would benefit persons within the city or village who
12 are elderly or disabled; or

13 (7) in addition to an order under (1) - (6) of this subsection, order the
14 minor's parent or guardian to comply with orders made under AS 47.12.155, including
15 participation in treatment under AS 47.12.155(b)(1).

16 * Sec. 34. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 REGULATIONS AND APPLICATION. (a) The Department of Revenue may
19 immediately adopt regulations necessary to implement the changes made by secs. 22 - 24 of
20 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
21 before July 1, 2005.

22 (b) AS 43.23.035(c), as amended in sec. 23 of this Act, and AS 43.23.035(e), as
23 added in sec. 24 of this Act, apply only with respect to applications filed on or after July 1,
24 2005. AS 43.23.035(c) as it read immediately before July 1, 2005, applies with respect to
25 applications filed before July 1, 2005.

26 * Sec. 35. Section 34 of this Act takes effect immediately under AS 01.10.070(c).

27 * Sec. 36. Sections 1 - 19 and 22 - 33 of this Act take effect July 1, 2005.

28 * Sec. 37. Sections 20 and 21 of this Act take effect January 1, 2006.

HOUSE CS FOR CS FOR SENATE BILL NO. 104(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS SEEKINS, Therriault, Bunde, Wilken, Stedman, Cowdery, Guess, Elton, Kookesh, Wagoner, Ellis, Olson, Gary Stevens, Green, French, Huggins, Dyson, Ben Stevens

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crimes of unsworn falsification in the first degree involving an
2 application for a permanent fund dividend and false information or report involving
3 eligibility for a dividend; requiring the establishment of a permanent fund dividend
4 fraud investigation unit in the Department of Revenue; relating to service in the peace
5 corps and as a member of the United States Olympic Team as allowable absences from
6 the state for purposes of eligibility for permanent fund dividends and to the period for
7 filing an application for a dividend; relating to the permanent fund dividends of
8 individuals claiming allowable absences; authorizing the Department of Revenue to
9 issue administrative orders imposing sanctions for certain misrepresentations or other
10 actions concerning eligibility for a permanent fund dividend and providing for
11 administrative appeal of those orders; and providing for an effective date."

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

1 * **Section 1.** AS 05.15.095(a) is amended to read:

2 (a) The applications and reports to the department required by this chapter
3 shall be signed under penalty of unsworn falsification in the second degree by the
4 following person, as applicable:

- 5 (1) the member in charge for the qualified organization;
6 (2) a person authorized to sign on behalf of the municipality;
7 (3) the operator or the operator's agent;
8 (4) the licensed pull-tab distributor or the distributor's agent; or
9 (5) the licensed pull-tab manufacturer or the manufacturer's agent.

10 * **Sec. 2.** AS 05.15.680(b) is amended to read:

11 (b) A person who, with the intent to mislead a public servant in the
12 performance of the public servant's duty, submits a false statement in an application
13 for a permit, license, or vendor registration under this chapter is guilty of unsworn
14 falsification in the second degree.

15 * **Sec. 3.** AS 06.05.045(a) is amended to read:

16 (a) Each state bank shall make at least four reports of condition each year to
17 the department on days designated by, and on forms prescribed by, the department.
18 The report shall be signed by a duly authorized officer of the bank and shall be signed
19 by at least three directors who certify under penalty of unsworn falsification in the
20 second degree under AS 11.56.210 that they, and each of them, have personal
21 knowledge of the facts stated in the report and that the facts are true. The reports must
22 exhibit in detail and under appropriate heads the resources and liabilities of the bank
23 and must be received by the department within 30 calendar days after the end of the
24 period covered by the report.

25 * **Sec. 4.** AS 06.50.310(a) is amended to read:

26 (a) On or before March 15 of each year, a licensee shall file with the
27 department a composite annual report for the preceding calendar year in the form
28 prescribed by the department relating to all advances made by the licensee. The
29 department may require that the report be submitted under oath or affirmation, or with
30 notice that false statements made are punishable as unsworn falsification in the
31 second degree under AS 11.56.210.

1 * Sec. 5. AS 08.88.460(a) is amended to read:

2 (a) Subject to (e) of this section, a person seeking reimbursement for a loss
3 suffered in a real estate transaction as a result of fraud, misrepresentation, deceit, or
4 the conversion of trust funds or the conversion of community association accounts
5 under the control of a community association manager on the part of a licensee
6 licensed under this chapter shall make a claim to the commission for reimbursement
7 on a form furnished by the commission. In order to be eligible for reimbursement by
8 the commission, the claim form must be filed within two years after the occurrence of
9 the fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of
10 community association accounts under the control of a community association
11 manager claimed as the basis for the reimbursement. The form shall be executed under
12 penalty of unsworn falsification in the second degree and must include the following:

- 13 (1) the name and address of each real estate licensee involved;
- 14 (2) the amount of the alleged loss;
- 15 (3) the date or period of time during which the alleged loss occurred;
- 16 (4) the date upon which the alleged loss was discovered;
- 17 (5) the name and address of the claimant; and
- 18 (6) a general statement of facts relative to the claim.

19 * Sec. 6. AS 10.20.655(b) is amended to read:

20 (b) The interrogatories shall be answered within 30 days after mailing, or
21 within the additional time fixed by the commissioner, and the answers shall be full and
22 complete, in writing and under penalty of unsworn falsification in the second degree
23 under AS 11.56.210. If the interrogatories are directed to an individual, they shall be
24 answered by that individual and, if directed to a corporation, they shall be answered by
25 the president, vice-president, secretary, or assistant secretary of the corporation.

26 * Sec. 7. AS 11.56 is amended by adding a new section to read:

27 **Sec. 11.56.205. Unsworn falsification in the first degree.** (a) A person
28 commits the crime of unsworn falsification in the first degree if the person violates
29 AS 11.56.210(a)(1) and the application is an application for a permanent fund
30 dividend.

31 (b) In this section,

1 (1) "application for a permanent fund dividend" includes a written or
2 electronic application and any other documentation submitted to support an
3 application for a permanent fund dividend;

4 (2) "permanent fund dividend" has the meaning given in
5 AS 43.23.095.

6 (c) Unsworn falsification in the first degree is a class C felony.

7 * **Sec. 8.** AS 11.56.210 is amended to read:

8 **Sec. 11.56.210. Unsworn falsification in the second degree.** (a) A person
9 commits the crime of unsworn falsification in the second degree if, with the intent to
10 mislead a public servant in the performance of a duty, the person submits a false
11 written or recorded statement that [WHICH] the person does not believe to be true

12 (1) in an application for a benefit; or

13 (2) on a form bearing notice, authorized by law, that false statements
14 made in it are punishable.

15 (b) Unsworn falsification in the second degree is a class A misdemeanor.

16 * **Sec. 9.** AS 11.56.220 is amended to read:

17 **Sec. 11.56.220. Proof of guilt.** In a prosecution for perjury or unsworn
18 falsification in the first or second degree it is not necessary that proof be made by a
19 particular number of witnesses or by documentary or other type of evidence.

20 * **Sec. 10.** AS 11.56.800(a) is amended to read:

21 (a) A person commits the crime of false information or report if the person
22 knowingly

23 (1) gives false information to a peace officer

24 (A) with the intent of implicating another in an offense; or

25 (B) concerning the person's identity while the person is

26 (i) under arrest, detention, or investigation for a crime;

27 or

28 (ii) being served with an arrest warrant or being issued a

29 citation;

30 (2) makes a false report to a peace officer that a crime has occurred or
31 is about to occur;

1 (3) makes a false report or gives a false alarm, under circumstances not
2 amounting to terroristic threatening in the second degree under AS 11.56.810, that a
3 fire or other incident dangerous to life or property calling for an emergency response
4 has occurred or is about to occur; [OR]

5 (4) makes a false report to the Department of Natural Resources under
6 AS 46.17 concerning the condition of a dam or reservoir; or

7 (5) gives false information to a public employee relating to a
8 person's eligibility for a permanent fund dividend under AS 43.23 and the false
9 information does not also violate AS 11.56.205.

10 * Sec. 11. AS 12.55.045(j) is amended to read:

11 (j) A defendant who is convicted of an offense for which restitution may be
12 ordered shall submit financial information as ordered by the court. The Alaska Court
13 System shall prepare a form, in consultation with the Department of Law, for the
14 submission of the information; the form must include a warning that submission of
15 incomplete or inaccurate information is punishable as unsworn falsification in the
16 second degree under AS 11.56.210. A defendant who is convicted of (1) a felony
17 shall submit the form to the probation office within 30 days after conviction, and the
18 probation officer shall attach the form to the presentence report, or (2) a misdemeanor
19 shall file the form with the defendant's response or opposition to the restitution
20 amount. The defendant shall provide a copy of the completed form to the prosecuting
21 authority.

22 * Sec. 12. AS 16.05.450(a) is amended to read:

23 (a) The commissioner or an authorized agent shall issue a crewmember fishing
24 license under AS 16.05.480 to each qualified person who files a written application at
25 a place in the state designated by the commissioner, containing the reasonable
26 information required by the commissioner together with the required fee. The
27 commissioner shall require the reporting of the applicant's social security number on
28 the application. The application shall be simple in form and shall be executed by the
29 applicant under the penalty of unsworn falsification in the second degree.

30 * Sec. 13. AS 16.05.450(b) is amended to read:

31 (b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel

1 license under AS 16.05.490 to each qualified vessel for which a written application
2 has been filed, at a place in the state designated by the commission, containing the
3 reasonable information required by the commission together with the required fee.
4 The application shall be simple in form and shall be executed by the applicant under
5 the penalty of unsworn falsification in the second degree.

6 * Sec. 14. AS 16.43.970(b) is amended to read:

7 (b) A person or entity who knowingly makes a false statement to the
8 commission for the purpose of obtaining a benefit, including the issuance, renewal,
9 duplication, or transfer of an entry or interim-use permit, vessel license, vessel
10 interim-use permit, or vessel entry permit, or a person who assists another by
11 knowingly making a false statement to the commission for the purpose of obtaining a
12 benefit for another, is guilty of the crime of unsworn falsification in the second
13 degree as set out in AS 11.56.210. Upon conviction, the person or entity is also
14 subject to suspension of commercial fishing privileges and revocation of commercial
15 fishing permits under (i) of this section.

16 * Sec. 15. AS 18.60.095(f) is amended to read:

17 (f) A person who knowingly makes a false statement, representation, or
18 certification with the intent to mislead in an application, record, report, plan or other
19 document filed or required to be maintained under AS 18.60.010 - 18.60.105 is guilty
20 of unsworn falsification in the second degree.

21 * Sec. 16. AS 18.65.710(a) is amended to read:

22 (a) The application for a permit to carry a concealed handgun must contain the
23 following information:

24 (1) the applicant's name, physical residence, mailing address, place and
25 date of birth, physical description, including height, weight, race, hair color, and eye
26 color, Alaska driver's license or identification card number, and the city and state of
27 each place the applicant has resided in the five years immediately preceding the
28 application;

29 (2) a statement that the applicant qualifies under AS 18.65.705;

30 (3) a statement that the applicant has been furnished with a copy of the
31 state laws and regulations relating to concealed handguns, has read those sections, and

1 understands them;

2 (4) a statement that the applicant desires a permit to carry a concealed
3 handgun for a lawful purpose, which may include self-defense;

4 (5) a statement by the applicant that all statements, answers, and
5 attachments to the application are true and complete;

6 (6) a conspicuous warning that an applicant who supplies a false
7 statement, answer, or document in connection with the application that the applicant
8 does not believe to be true may be prosecuted for unsworn falsification in the second
9 degree and, if found guilty, may be punished for violation of a class A misdemeanor,
10 and that, in such cases, the permit shall be revoked and the applicant may be barred
11 from any further application for a permit; and

12 (7) a statement that the applicant understands that a permit eligibility
13 investigation will be conducted as a part of the application process, that this may
14 involve computerized records searches, and that the applicant authorizes the
15 investigation.

16 * Sec. 17. AS 21.27.110(h) is amended to read:

17 (h) A notice of termination submitted to the director under this section must
18 include a statement of the reasons for the termination. A statement of the reasons for
19 termination is confidential and not subject to inspection and copying under
20 AS 40.25.110. A statement of reasons for the termination may not be admitted as
21 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
22 or authorized representative by, or on behalf of a person affected by the termination,
23 except when the action or proceeding involves perjury, unsworn falsification in the
24 second degree, fraud, or failure to comply with this subsection.

25 * Sec. 18. AS 28.35.130 is amended to read:

26 **Sec. 28.35.130. False report or destruction of evidence.** An officer or
27 person who knowingly makes or subscribes a false report concerning an investigation
28 of a vehicle or damage or injury caused by a vehicle, as provided in this chapter, is
29 guilty of unsworn falsification in the second degree. A person who destroys,
30 obliterates, conceals or removes, or who aids, abets, or assists in the destruction,
31 obliteration, concealment, or removal from a vehicle, of evidence showing or tending

1 to show that the vehicle collided with a person or property, is punishable by a fine of
2 not more than \$500, or by imprisonment for not more than six months, or by both.

3 * **Sec. 19.** AS 28.35.135(a) is amended to read:

4 (a) A person may not knowingly make a false affidavit, statement, or
5 representation, or affirm falsely with respect to a matter or fact required to be set out
6 under this title, nor may the person use a name other than the person's true name. A
7 person convicted of violating this section is guilty of unsworn falsification in the
8 second degree and is punishable as prescribed by law.

9 * **Sec. 20.** AS 43.23.008(a) is amended to read:

10 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
11 is absent from the state during the qualifying year remains eligible for a current year
12 permanent fund dividend if the individual was absent

13 (1) receiving secondary or postsecondary education on a full-time
14 basis;

15 (2) receiving vocational, professional, or other specific education on a
16 full-time basis for which, as determined by the Alaska Commission on Postsecondary
17 Education, a comparable program is not reasonably available in the state;

18 (3) serving on active duty as a member of the armed forces of the
19 United States or accompanying, as that individual's spouse, minor dependent, or
20 disabled dependent, an individual who is

21 (A) serving on active duty as a member of the armed forces of
22 the United States; and

23 (B) eligible for a current year dividend;

24 (4) serving under foreign or coastal articles of employment aboard an
25 oceangoing vessel of the United States merchant marine;

26 (5) receiving continuous medical treatment recommended by a
27 licensed physician or convalescing as recommended by the physician that treated the
28 illness if the treatment or convalescence is not based on a need for climatic change;

29 (6) providing care for a parent, spouse, sibling, child, or stepchild with
30 a critical life-threatening illness whose treatment plan, as recommended by the
31 attending physician, requires travel outside the state for treatment at a medical

1 specialty complex;

2 (7) providing care for the individual's terminally ill family member;

3 (8) settling the estate of the individual's deceased parent, spouse,
4 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

5 (9) serving as a member of the United States Congress;

6 (10) serving on the staff of a member from this state of the United
7 States Congress;

8 (11) serving as an employee of the state in a field office or other
9 location;

10 (12) accompanying a minor who is absent under (5) of this subsection;

11 (13) accompanying another eligible resident who is absent for a reason
12 permitted under (1), (2), (5) - (12), or (16) [14] of this subsection as the spouse, minor
13 dependent, or disabled dependent of the eligible resident;

14 (14) serving as a volunteer in the federal peace corps program;

15 (15) because of training or competing as a member of the United
16 States Olympic Team;

17 (16) for any reason consistent with the individual's intent to remain a
18 state resident, provided the absence or cumulative absences do not exceed

19 (A) 180 days in addition to any absence or cumulative absences
20 claimed under (3) of this subsection if the individual is not claiming an absence
21 under (1), (2), or (4) - (15) [(4) - (13)] of this subsection;

22 (B) 120 days in addition to any absence or cumulative absences
23 claimed under (1) - (3) of this subsection if the individual is not claiming an
24 absence under (4) - (15) [(4) - (13)] of this subsection but is claiming an
25 absence under (1) or (2) of this subsection; or

26 (C) 45 days in addition to any absence or cumulative absences
27 claimed under (1) - (15) [(1) - (13)] of this subsection if the individual is
28 claiming an absence under (1) - (15) [(4) - (13)] of this subsection.

29 * Sec. 21. AS 43.23.008(b) is amended to read:

30 (b) An individual may not claim an allowable absence under (a)(1) - (15)
31 [(a) 1] - (13)] of this section unless the individual was a resident of the state for at

1 least six consecutive months immediately before leaving the state.

2 * **Sec. 22.** AS 43.23 is amended by adding a new section to read:

3 **Sec. 43.23.009. Dividends of individuals with allowable absences.** (a)

4 Notwithstanding other provisions regarding payment of dividends, the dividend of an
5 individual who was absent from the state during the qualifying year as allowed in
6 AS 43.23.008(a)(1) - (8) or (10) - (15) shall be paid to that individual on the first
7 subsequent year that the individual is eligible for a dividend without claiming an
8 allowable absence under AS 43.23.008(a)(1) - (8) c - (10) - (15). A dividend that has
9 not become payable under this subsection may not be paid under AS 43.23.005(h).

10 (b) If an individual who is eligible for a dividend that has not become payable
11 under (a) of this section fails to be eligible for a subsequent year dividend, the
12 individual's eligibility for the dividend that has not become payable under (a) of this
13 section is terminated, and that dividend may not be paid.

14 (c) Notwithstanding other provisions, a dividend that has not become payable
15 to an individual under (a) of this section is not subject to levy, execution, garnishment,
16 attachment, or any other remedy for the collection of debt until that dividend becomes
17 payable or is paid to the individual.

18 * **Sec. 23.** AS 43.23.011(a) is amended to read:

19 (a) An application for a permanent fund dividend shall be filed during the
20 period that begins January 1 [JANUARY 2] and ends March 31 of that dividend year.

21 * **Sec. 24.** AS 43.23.025(a) is amended to read:

22 (a) By October 1 of each year, the commissioner shall determine the value of
23 each permanent fund dividend for that year by

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

26 (A) the amount of income of the Alaska permanent fund
27 transferred to the dividend fund under AS 37.13.145(b) during the current year;

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

31 (C) less the amount necessary to pay prior year dividends from

1 the dividend fund in the current year under AS 43.23.005(h), 43.23.009, and
2 under AS 43.23.055(3) and (7);

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

7 (E) less appropriations from the dividend fund during the
8 current year, including amounts to pay costs of administering the dividend
9 program and the hold harmless provisions of AS 43.23.075;

10 (2) determining the number of individuals eligible to receive a
11 dividend payment for the current year and the number of estates and successors
12 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

13 (3) dividing the amount determined under (1) of this subsection by the
14 amount determined under (2) of this subsection.

15 * Sec. 25. AS 43.23.035(c) is amended to read:

16 (c) In addition to any criminal penalties imposed by state law, if the
17 department finds that an [AN] individual [WHO], in claiming a permanent fund
18 dividend, or an individual [WHO], in certifying another person's eligibility, willfully
19 misrepresents, exercises gross negligence with respect to, or recklessly disregards a
20 material fact pertaining to, eligibility, the department may issue an order against
21 the individual for the

22 (1) forfeiture of [FORFEITS] the dividend;

23 (2) imposition of [, IS SUBJECT TO] a civil fine of up to \$3,000;
24 [\$5,000,] and

25 (3) loss of [LOSES] eligibility to receive the next five dividends
26 following the forfeited dividend [DIVIDENDS. THE COMMISSIONER MAY
27 COMMENCE PROCEEDINGS IN COURT TO ENFORCE THIS SUBSECTION].

28 * Sec. 26. AS 43.23.035 is amended by adding a new subsection to read:

29 (e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of,
30 and to appeal of, a decision under (c) of this section by an individual aggrieved by the
31 decision. When all appeals have been exhausted under this chapter or the time when

1 all of the appeals that could have been taken has expired, the order issued imposing a
2 civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same
3 manner as a judgment of the court.

4 * Sec. 27. AS 43.23.055 is amended by adding a new paragraph to read:

5 (10) establish a fraud investigation unit for the purpose of assisting the

6 (A) Department of Law in the prosecution of individuals who
7 apply for or obtain a permanent fund dividend in violation of a provision in
8 AS 11, by detecting and investigating those crimes; and

9 (B) commissioner to detect and investigate the claiming or
10 paying of permanent fund dividends that should not have been claimed by or
11 paid to an individual and to impose the penalties and enforcement provisions
12 under AS 43.23.035.

13 * Sec. 28. AS 43.65.020(a) is amended to read:

14 (a) A person subject to tax under this chapter shall make a return stating
15 specifically the items of gross income from the property, including royalty received
16 and the deductions and credits allowed by this chapter and the exploration incentive
17 credit authorized by AS 27.30, and other information for carrying out this chapter that
18 the department prescribes. The return must show the mining license number and must
19 be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of
20 unsworn falsification in the second degree. If receivers, trustees, or assigns are
21 operating the property or business, they shall make returns for the person engaged in
22 mining, or the recipient of royalty in connection with mining property. The tax due on
23 the basis of the returns shall be collected in the same manner as if collected from the
24 person of whose business they have custody and control. In a tax year in which a
25 taxpayer applies against the tax levied under this chapter the exploration incentive
26 credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit
27 the accounting of mining operation activities form required by AS 27.30.030(b).

28 * Sec. 29. AS 43.75.030(a) is amended to read:

29 (a) A person subject to the tax shall file a return stating the value of fisheries
30 resources processed during the license year, computed as required by this chapter, and
31 such other information as the department prescribes by regulation. The return must

1 show the license number and must be signed by the taxpayer or an authorized agent,
2 under penalty of unsworn falsification in the second degree. If a receiver, trustee, or
3 assign is operating the property or business, that person shall file the return for the
4 person. A tax due on the basis of such a return shall be collected in the same manner
5 as if collected from the person of whose business the receiver, trustee, or assign has
6 custody and control.

7 * **Sec. 30.** AS 43.75.110 is amended to read:

8 **Sec. 43.75.110. Duty of taxpayer and payment of tax.** A person subject to
9 taxes under AS 43.75.100 shall make a return stating the value of fisheries resources
10 taken, purchased, or otherwise acquired during the license year for sale to fisheries
11 businesses outside of the taxing jurisdiction of the state computed as required by
12 AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as
13 may be prescribed by the department. The return must contain the license number and
14 must be signed by the taxpayer or an authorized agent, under penalty of unsworn
15 falsification in the second degree. If a receiver, trustee, or assign is operating the
16 property or business, that person shall make the return for the person. A tax due on
17 the basis of such return shall be collected in the same manner as if collected from the
18 person of whose business the receiver, trustee, or assign has custody and control. The
19 requirements for time and place of payment of tax, and the obligation to keep records
20 and make the records available to the commissioner are the same as those prescribed
21 in AS 43.75.011 - 43.75.050.

22 * **Sec. 31.** AS 45.63.010(d) is amended to read:

23 (d) The notice of intent must be on a form or in a format provided and
24 established by the department by regulation. The department may require the notice
25 of intent to be submitted under oath or affirmation or with notice that false statements
26 made are punishable as unsworn falsification in the second degree under
27 AS 11.56.210. The notice of intent must include detailed information about the nature
28 of the solicitation campaign and the identity and business practices of the telephone
29 seller, including information on the employees, agents, and officers affiliated with the
30 telephone seller. The notice of intent must disclose criminal convictions, civil
31 judgments, orders, consent decrees, or administrative determinations involving

1 allegations of unfair or deceptive business practices by the telephone seller.

2 * **Sec. 32.** AS 45.68.010(f) is amended to read:

3 (f) The department may require the registration and registration renewal
4 statement required under (c)(1) and (d) of this section to be submitted

5 (1) under oath or affirmation; or

6 (2) with notice that false statements made in the statement are
7 punishable as unsworn falsification in the second degree under AS 11.56.210.

8 * **Sec. 33.** AS 45.68.055(c) is amended to read:

9 (c) The authorized contracting agent for the paid solicitor shall sign the report
10 required by (b) of this section. Signature of the report under this subsection must be
11 made under oath or affirmation, but submission of false information in a notice that is
12 not signed under oath or affirmation is punishable as an unsworn falsification in the
13 second degree under AS 11.56.210.

14 * **Sec. 34.** AS 46.03.550(a) is amended to read:

15 (a) Property for which a notice has been issued under AS 46.03.500 shall be
16 determined by the department to be fit for use if the owner certifies to the department
17 under penalty of unsworn falsification in the second degree that

18 (1) based on sampling and testing procedures established by the
19 department under AS 46.03.520(b) and performed by laboratories that are on the list
20 maintained by the department under AS 46.03.520(c), the limits on substances
21 specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

22 (2) if the property was ever sampled and tested under AS 46.03.520
23 and the test results showed the property to be unfit for use under AS 46.03.530,
24 decontamination procedures were performed in accordance with the guidelines
25 established under AS 46.03.540(b) and the requirements of (1) of this subsection have
26 been met; or

27 (3) a court has held that the determination that the property was an
28 illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

29 * **Sec. 35.** AS 47.12.120(b) is amended to read:

30 (b) If the minor is not subject to (j) of this section and the court finds that the
31 minor is delinquent, it shall

1 (1) order the minor committed to the department for a period of time
2 not to exceed two years or in any event extend past the day the minor becomes 19
3 years of age, except that the department may petition for and the court may grant in a
4 hearing (A) two-year extensions of commitment that do not extend beyond the minor's
5 19th birthday if the extension is in the best interests of the minor and the public; and
6 (B) an additional one-year period of supervision past age 19 if continued supervision
7 is in the best interests of the person and the person consents to it; the department shall
8 place the minor in the juvenile facility that the department considers appropriate and
9 that may include a juvenile correctional school, juvenile work camp, treatment facility,
10 detention home, or detention facility; the minor may be released from placement or
11 detention and placed on probation on order of the court and may also be released by
12 the department, in its discretion, under AS 47.12.260;

13 (2) order the minor placed on probation, to be supervised by the
14 department, and released to the minor's parents, guardian, or a suitable person; if the
15 court orders the minor placed on probation, it may specify the terms and conditions of
16 probation; the probation may be for a period of time not to exceed two years and in no
17 event to extend past the day the minor becomes 19 years of age, except that the
18 department may petition for and the court may grant in a hearing

19 (A) two-year extensions of supervision that do not extend
20 beyond the minor's 19th birthday if the extension is in the best interests of the
21 minor and the public; and

22 (B) an additional one-year period of supervision past age 19 if
23 the continued supervision is in the best interests of the person and the person
24 consents to it;

25 (3) order the minor committed to the custody of the department and
26 placed on probation, to be supervised by the department and released to the minor's
27 parents, guardian, other suitable person, or suitable nondetention setting such as with a
28 relative or in a foster home or residential child care facility, whichever the department
29 considers appropriate to implement the treatment plan of the predisposition report; if
30 the court orders the minor placed on probation, it may specify the terms and conditions
31 of probation; the department may transfer the minor, in the minor's best interests, from

1 one of the probationary placement settings listed in this paragraph to another, and the
2 minor, the minor's parents or guardian, the minor's foster parent, and the minor's
3 attorney are entitled to reasonable notice of the transfer; the probation may be for a
4 period of time not to exceed two years and in no event to extend past the day the
5 minor becomes 19 years of age, except that the department may petition for and the
6 court may grant in a hearing

7 (A) two-year extensions of commitment that do not extend
8 beyond the minor's 19th birthday if the extension is in the best interests of the
9 minor and the public; and

10 (B) an additional one-year period of supervision past age 19 if
11 the continued supervision is in the best interests of the person and the person
12 consents to it;

13 (4) order the minor and the minor's parent to make suitable restitution
14 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
15 under this paragraph,

16 (A) except as provided in (B) of this paragraph, the court may
17 not refuse to make an order of restitution to benefit the victim of the act of the
18 minor that is the basis of the delinquency adjudication; under this
19 subparagraph, the court may require the minor to use the services of a
20 community dispute resolution center that has been recognized by the
21 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
22 and the victim of the minor's offense as to the amount of or manner of payment
23 of the restitution;

24 (B) the court may not order payment of restitution by the parent
25 of a minor who is a runaway or missing minor for an act of the minor that was
26 committed by the minor after the parent has made a report to a law
27 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
28 away or is missing; for purposes of this subparagraph, "runaway or missing
29 minor" means a minor who a parent reasonably believes is absent from the
30 minor's residence for the purpose of evading the parent or who is otherwise
31 missing from the minor's usual place of abode without the consent of the

1 parent; and

2 (C) at the request of the department, the Department of Law,
3 the victims' advocate, or on its own motion, the court shall, at any time, order
4 the minor and the minor's parent, if applicable, to submit financial information
5 on a form approved by the Alaska Court System to the court, the department,
6 and the Department of Law for the purpose of establishing the amount of
7 restitution or enforcing an order of restitution under AS 47.12.170; the form
8 must include a warning that submission of incomplete or inaccurate
9 information is punishable as unsworn falsification in the second degree under
10 AS 11.56.210;

11 (5) order the minor committed to the department for placement in an
12 adventure-based education program established under AS 47.21.020 with conditions
13 the court considers appropriate concerning release upon satisfactory completion of the
14 program or commitment under (1) of this subsection if the program is not satisfactorily
15 completed;

16 (6) in addition to an order under (1) - (5) of this subsection, order the
17 minor to perform community service; for purposes of this paragraph, "community
18 service" includes work

19 (A) on a project identified in AS 33.30.901; or

20 (B) that, on the recommendation of the city council or
21 traditional village council, would benefit persons within the city or village who
22 are elderly or disabled; or

23 (7) in addition to an order under (1) - (6) of this subsection, order the
24 minor's parent or guardian to comply with orders made under AS 47.12.155, including
25 participation in treatment under AS 47.12.155(b)(1).

26 * Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 REGULATIONS AND APPLICATION. (a) The Department of Revenue may
29 immediately adopt regulations necessary to implement the changes made by secs. 23, 25, and
30 26 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
31 but not before July 1, 2005.

1 (b) AS 43.23.035(c), as amended in sec. 25 of this Act, and AS 43.23.035(e), as
2 added in sec. 26 of this Act, apply only with respect to applications filed on or after July 1,
3 2005. AS 43.23.035(c) as it read immediately before July 1, 2005, applies with respect to
4 applications filed before July 1, 2005.

5 * **Sec. 37.** Section 36 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 38.** Sections 1 - 19, 23, 25, and 26 of this Act take effect July 1, 2005.

7 * **Sec. 39.** Sections 20 - 22 and 24 of this Act take effect January 1, 2006.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE LESIL MCGUIRE
HOUSE DISTRICT 23

Chair
Judiciary Committee

Member
House Leadership
Rules Committee
Health, Education
& Social Services
Committee
Oil & Gas Committee
Military & Veterans'
Affairs Committee

SPONSOR STATEMENT HB 127

"An Act relating to service in the peace corps and members of the United States Olympic Team as allowable absence from the state for purposes of eligibility for permanent fund dividends and to the period for filing an application for a permanent fund dividend; authorizing the Department of Revenue to issue administrative orders imposing sanctions for certain misrepresentations or other actions concerning eligibility for a permanent fund dividend and providing for administrative appeal of those orders; and providing for an effective date."

Alaskans are known for being proud of their great state. But even beyond that, Alaskans are proud to be Americans. Many Alaskans consider serving or volunteering their time as a way to give back to the country what has been given to them. Many serve in the military; others choose to make conditions better for others by devoting two years of their lives to the Peace Corps. These Alaskans play a major role in promoting democracy in other countries and representing us as Americans.

Peace Corps Volunteers sacrifice time with family, often live in less comfortable conditions, and many times place themselves in harms way to serve our country. We should not cause them to sacrifice further by requiring them to forfeit their permanent fund dividends during their time overseas.

The policy decision has been made to provide every qualifying Alaskan man, woman and child with a dividend from the permanent fund. Alaskan Peace Corps Volunteers meet all the requirements, have the intent to return to the state and yet they are denied their opportunity to receive a dividend. Peace Corps Volunteers were one of the original groups that were a recognizable exemption. In 1998, amid wide-range debate about who to add and who to leave off, Peace Corps Volunteers were cut from the list. If the Peace Corps Volunteers were added to the list of recognizable exemptions, it will make the difference of less than a penny on each Alaskan's dividend.

Peace Corps Volunteers deserve the gratitude that they have earned in their time as volunteers to have the opportunity to receive their permanent fund dividend. HB 127 will add Peace Corps Volunteers as an allowable absence for the purpose of filing and receiving an Alaska Permanent Fund Dividend.

Sponsor Statement

HB 273

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

The Alaska Permanent Fund Dividend was initiated to provide Alaskans with a share of the state's resource wealth, primarily derived from oil. As dividend values increase, the number of allowable absences also has increased. While receiving dividends out of state, many valuable Alaskans become highly educated and highly trained. Very few of these people ever return to the state. To encourage our best and brightest to return, HB 273 simply asks individuals to return to the state in order to collect their dividends.

Individuals collecting dividends out of state, leave little in net return to Alaska. In 2003, roughly 17,000 dividends were paid to people living out of state, removing \$19 million directly from the state's economy. With a dividend in the amount of \$1963 in 2000, roughly \$30 million left the state.

The system for paying dividends out of state is based on statutory absences created by the legislature. Unfortunately, the absences listed by statute are the only allowable absences, thus disadvantaging other Alaskans, who also wish to leave the state for other reasons. Nothing in the bill changes the eligibility requirements with regards to allowable absences. HB 273 creates a fair and equitable dividend system by requiring all people applying for dividends out of state to return to Alaska for one year in order to collect their dividends.

Distributing dividends in Alaska through HB 273's one-year return requirement, suggests that more money will be spent in Alaska. Knowing that a sizable nest egg had accrued in absence, HB 273 might encourage college graduates and our technically trained military personnel to return home. By distributing more dividends in state, HB 273 seeks to remedy Alaska's brain drain, while potentially pumping more money into the state's economy.

**Permanent Fund Dividend
HB 273
Projections Summary**

The current PFD data base is not configured to query precise information regarding applicant return. However, a sample of 202 applicants who received a 1995 dividend and were out on allowable absences for more than 180 days was manually tracked through 2004 and analyzed. The results were used to estimate:

The percent of individuals in each absence category who were paid one or more dividends and then did not return to Alaska

83.7%	Accompanying (spouses and children who accompany an individual who is absent for allowable reasons)
61.0%	Students
71.0%	Active Duty Military
55.3%	Medical

Note: the sample size does not result in statistically valid results. These percentages should be used with caution.

These percentages, weighted for relative numbers in each category in the sample, were then used to extrapolate the approximate total amount paid to all individuals, from 1995-2004, who were absent for more than 180 days and never returned.

The calculated average of no-return for all categories is 70.1%

The estimated sum of dividends paid to all applicants between 1995 and 2004 who were absent more than 180 days and never returned to the state, is \$86.1 million.

Again, use this number with caution, it is not based on a statistically valid sample.

ALASKA STATE SENATE



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Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

MEMORANDUM

Date: April 5, 2005

To: Office of Representative McGuire

From: Senator Ralph Seekins

Re: Request for Hearing of SB 104

AS for RS

Attached please find Senate Bill 104 along with a concomitant sponsor statement.

Senate Bill 104 elevates the crime of permanent fund dividend (PFD) fraud to a class C felony from a class A misdemeanor. It also codifies in law the Department of Revenue's PFD fraud investigation unit.

I respectfully request this bill be scheduled in the House Judiciary Committee at your earliest convenience. Thank you.

ALASKA STATE SENATE

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Senator Ralph Seekins
District D

Senate Bill 104 Sponsor Statement

“An Act relating to the crimes of unsworn falsification in the first and second degrees and false information or report; requiring the establishment of a permanent fund dividend fraud investigation unit in the Department of Revenue.”

Senate Bill 104 seeks to strengthen the Department of Revenue’s ability to investigate fraud associated with making a false application for a permanent fund dividend. Furthermore, submission of a fraudulent permanent fund dividend application would become a class C felony.

In 2004 the Department of Revenue (DOR) examined over 1,600 fraud tips and audited over 1,700 permanent fund dividend (PFD) applications suspected of being fraudulent. This resulted in \$1.4 million in denied or assessed dividends (1,500+ applications). Furthermore, there were three federal indictments and one conviction for crimes involving PFD fraud.

The most common PFD fraud offense involves persons who forge the signature of another on the application (or related documents) with the intent of receiving a dividend to which they are not entitled. It’s important to note that the bill is not intended to capture, for example, cases where husbands or wives sign for each other. However, the provisions of this legislation would apply in cases where the individual is attempting to steal from another person or from the state.

Current law (AS 11.46.500 - 510) describes three separate degrees of forgery — the two most serious offenses are punishable as class B and C felonies, but are limited to cases involving various types of financial instruments such as currency, securities, deeds of trust, etc.

Forgery in the third degree covers instances where a person intentionally makes a false statement on a written instrument (such as a PFD application). However, this offense is punishable as a class A misdemeanor only. The DOR’s proposal to elevate PFD fraud from a simple misdemeanor to a class C felony is expected to provide a more effective deterrent for this type of theft.

Furthermore, Senate Bill 104 aids in identifying and curing instances of permanent fund dividend fraud by codifying in statute a fraud investigation unit within the Department of Revenue. This unit will assist the Department of Law in detecting and investigating instances of PFD fraud.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Permanent Fund Dividend Fraud RDU: Revenue Programs & Support
 Component: Permanent Fund Dividend
 Sponsor: Seekins
 Requester: _____ Component No.: 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SB 104 defines misrepresentation of permanent fund dividend eligibility and authorizes a class C felony penalty for misrepresenting permanent fund eligibility. Current Title 11 provisions for forgery only cover the forging of financial instruments and therefore do not cover PFD application documents.

The bill also authorizes an investigation unit in the Department of Revenue to detect and investigate fraud in the permanent fund dividend program and to assist the Department of Law in the prosecution of such individuals. Although the department has administratively established an investigation unit, statutory designation is required for access to certain federal data bases (NCIC and NLETS). These data bases would facilitate more efficient and effective investigation of PFD crimes, especially those perpetrated by individuals living out of state.

Prepared by: Sharon Barton Phone 465-4785
 Division: Permanent Fund Dividend Date/Time 2/22/05 1:17 PM
 Approved by: Tom Boutin Date 2/22/2005
 Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the crime of misrepresenting RDU CIVIL
permanent fund eligibility..." Component Commercial & Fair Business
 Sponsor Senator Seekins
 Requester Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) 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 create a new statute in the criminal code making the crimes commonly associated with fraudulently applying for a permanent fund dividend a class C felony. Additionally, this bill would statutorily require the Department of Revenue to create a fraud investigation unit designed to detect and investigate permanent fund dividend crimes to aid in the prosecution of these offenses and the imposition of civil penalties. Currently Revenue has created a fraud investigation unit, but creating the unit in statute is necessary to facilitate access to information held by other law enforcement agencies. Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 2/22/05 11:21 AM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/22/2005
 Agency Department of Law

Sec. 11.56.210. Unsworn falsification. (a) A person commits the crime of unsworn falsification if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement which the person does not believe to be true

(1) in an application for a benefit; or

(2) on a form bearing notice, authorized by law, that false statements made in it are punishable.

(b) Unsworn falsification is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Cross references. — For the crime of false information or report, see AS 11.56.800.

NOTES TO DECISIONS

Double jeopardy. — Criminal prosecution for unsworn falsification was not barred on double jeopardy grounds in the case of a person who had lied in her unemployment insurance benefits application and

subsequently agreed to repay the unlawfully obtained benefits plus the fifty-percent penalty specified in AS 23.20.390(f). *Mitchell v. State*, 818 P.2d 1163 (Alaska Ct. App. 1991).

Sec. 11.56.220. Proof of guilt. In a prosecution for perjury or unsworn falsification it is not necessary that proof be made by a particular number of witnesses or by documentary or other type of evidence. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Annotator's notes. — The case cited in the notes below was decided under former AS 11.30.010.

Required proof. — To be guilty of perjury, it was necessary under former law to prove that a person under oath willfully and falsely swore. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

One could not be convicted of perjury on the uncorroborated testimony of one witness under former law. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

Testimony of perjury had to be corroborated by other evidence, either direct or circumstantial.

Nelson v. State, 546 P.2d 592 (Alaska 1976).

The purpose of such a rule was to prevent ill-founded retaliatory attacks by perjury prosecution upon a witness based on no more than the contrary oath of another. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

What was corroborative evidence. — In order to be corroborative, evidence had to induce a rational belief that what the witness said was true. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

Sufficiency of evidence. — See *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

Sec. 11.56.230. Perjury by inconsistent statements. (a) A person commits the crime of perjury by inconsistent statements if

(1) in the course of one or more official proceedings the person makes two or more sworn statements which are irreconcilably inconsistent to the degree that one of them is necessarily false;

(2) the person does not believe one of the statements to be true at the time the statement is made; and

(3) each statement is made within the jurisdiction of this state and within the period of the statute of limitations for the crime charged.

(b) In a prosecution under this section, it is not necessary for the state to prove which statement was false but only that one or the other was false and not believed by the defendant to be true at the time the defendant made the statement. Proof of the irreconcilable inconsistency of the statements is prima facie evidence that one or the other of the statements was false.

(c) Perjury by inconsistent statements is a class C felony. (§ 6 ch 166 SLA 1978)

Sec. 11.56.235. Retraction as a defense. (a) In a prosecution under AS 11.56.200 or 11.56.230, if the false statement was made in an official proceeding, it is an affirmative defense that the defendant expressly retracted the false statement

(1) during the course of the same official proceeding;

(2) before discovery of the falsification became known to the defendant;

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