

11516

HOUSE

JUDICIARY

SB

143

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0851
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Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3684

SENATE DISTRICT F

To: Representative Lesil McGuire, Chair
House Judiciary Committee

From: Senator Therriault, Chair
Senate State Affairs Committee

Date: April 13, 2005

Re: Request for Hearing SB 143(STA)

I respectfully request Senate Bill 143 be scheduled for hearing before the House Judiciary Committee at your earliest convenience.

SB 143 was introduced to address oversight of the Legislature's information systems as a result of the elimination of the Telecommunication Information Council under Executive Order 113.



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: STATE AFFAIRS
Current Version: CS SB 143 (STA)
Contact: Heather Brakes, 465-4522

Fact Sheet for: Senate Bill 143

Short Title: STATE INFO SYSTEM PLAN: LEGISLATURE

Summary:

- Exempts the telecommunications operations of the legislature and University of Alaska from oversight by the executive branch.
- Clarifies that the executive director of the Legislative Affairs Agency, at the direction of Legislative Council, establishes information system guidelines for the legislature.

Benefits:

- Reflects the reality that the legislature already oversees its own telecommunications operations.

Background:

- Executive Order No. 113 eliminated the Telecommunications Information Council and transferred its responsibilities to the Alaska Department of Administration. SB 143 complements that order by exempting the telecommunications operations of the legislature and University of Alaska from oversight by the executive branch. It clarifies that the executive director of the Legislative Affairs Agency, at the direction of Legislative Council, establishes information system guidelines for the legislature.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 143(STA)
 (S) Publish Date: 3/30/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: State Info System Plan RDU: Enterprise Technology Sr
 Component: Enterprise Technology Sr
 Sponsor: (S) SIA
 Requester: _____ Component No. 2082

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						

ANALYSIS: (Attach a separate page if necessary)

This bill will not have a fiscal impact upon the agency.

Prepared by: Stan Herrera, Director Phone 465-5735
 Division: Enterprise Technology Services Date/Time 3/22/05 7:21 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 3/22/2005
 Agency: Department of Administration

Introduced in the House: January 10, 2005
Referred: State Affairs

Introduced in the Senate: January 10, 2005
Referred: State Affairs

EXECUTIVE ORDER NO. 113

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
2 with AS 24.08.210, I order the following:

3 * **Section 1** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 FINDINGS. As governor, I find that the transfer of certain functions relating to the
6 development and implementation of state telecommunications policy from the
7 Telecommunications Information Council to the Department of Administration and the
8 governor would be in the best interests of efficient administration. Additionally, I find that
9 with the transfer of these functions there is no longer a need for the Telecommunications
10 Information Council and its elimination would be in the best interests of efficient
11 administration. These actions will encourage the development of expertise, eliminate
12 duplication of function, and provide a single point of responsibility for state
13 telecommunications policy, resulting in increased performance and accountability.

14 * **Sec. 2.** AS 44.21 is amended by adding a new section to read:

15 **Article 4A. Telecommunications Information.**

16 **Sec. 44.21.350. Powers and duties.** (a) The commissioner shall

17 (1) establish guidelines and prepare a state short-range and long-range
18 information systems plan to meet state needs;

19 (2) in accordance with the state information systems plan, establish
20 guidelines and direct state agencies to prepare agency information systems plans,

21 (3) in accordance with statutes governing the availability and
22 confidentiality of information, establish guidelines for the accessing of information by
23 the public.

24 (b) In addition to the commissioner's duties under (a) of this section, the

1 commissioner may establish information-related policies and engage in information-
2 related activities the commissioner considers necessary or appropriate.

3 (c) This section does not grant the commissioner responsibility for broadcast
4 programming content. Program design, production, and use are the responsibility of
5 the program-sponsoring agency or other entity.

6 (d) This section does not prohibit a state agency from developing information
7 systems that are inconsistent with the guidelines established in (a) of this section if the
8 commissioner gives written authorization for the user agency to engage in the
9 independent design, development, management, or operation. The commissioner may
10 authorize independent development only upon a showing of necessity. A description
11 of authorization under this subsection shall be included in the annual report required
12 under this section. Written authorization under this subsection is not required for
13 intra-agency use of microcomputers.

14 (e) A state agency, including an agency authorized to develop an independent
15 system under (d) of this section, shall coordinate the design, development,
16 management, and operation of its information systems with the commissioner.

17 **Sec. 44.21.360. Court system.** The administrative director of courts shall
18 establish information systems guidelines and prepare a short-range and long-range
19 information systems plan for the court system. The guidelines and plan must be
20 consistent with the telecommunications information guidelines and plan adopted by
21 the commissioner under AS 44.21.350 - 44.21.390 and must be adapted to the special
22 needs of the judicial branch as determined by the administrator of courts.

23 **Sec. 44.21.390. Definitions.** In AS 44.21.350 - 44.21.390,

24 (1) "commissioner" means the commissioner of administration;

25 (2) "state agencies" means all departments, divisions, and offices in the
26 executive and legislative branches of state government and the University of Alaska; it
27 does not mean the Alaska Railroad Corporation or an agency of the judicial branch of
28 government.

29 * **Sec. 3.** AS 14.40.095(b) is amended to read:

30 (b) The center may

31 (1) provide support for education, training, and research in information

1 technologies to students, professionals, and the general public;

2 (2) support research on the applications, effects, and management of
3 information technologies and provide research results to the general public;

4 (3) maintain an inventory of telecommunication research in the state;

5 (4) develop and maintain a collection that includes state documents,
6 research reports, and other telecommunication applications materials including
7 videotapes, software, lesson plans, and scripts;

8 (5) support the development and expansion of the geographic
9 information system curriculum of the University of Alaska, including the possible
10 establishment of undergraduate and masters programs;

11 (6) develop and sponsor land record and geographic information
12 system training workshops and continuing education seminars in cooperation with the
13 appropriate departments of the university;

14 (7) support or undertake research projects that apply geographic
15 information technology to state issues and problems;

16 (8) provide information on the availability of federal, state, municipal,
17 and other sources of geographic information, including aerial photography and digital
18 data bases related to surveying and land records, natural resource inventories, and
19 related data;

20 (9) prepare and publish on a regular basis research findings and
21 periodicals relating to the center's activities;

22 (10) assist state agencies and municipalities in the development of
23 policies, procedures, and capabilities for public access to automated geographic
24 information;

25 (11) recommend, in consultation with the commissioner of
26 administration [TELECOMMUNICATIONS INFORMATION COUNCIL] and
27 affected state and local agencies and advisory boards, model standards and strategies
28 relating to the implementation, indexing, documentation, mapping, data exchange, and
29 other aspects of land records management and geographic information system
30 development.

31 * Sec. 4. AS 40.25.115(g) is amended to read:

1 (g) Each public agency shall establish the fees for the electronic services and
 2 products provided under this section. The governor [TELECOMMUNICATIONS
 3 INFORMATION COUNCIL] may cancel the fees established by a public agency in
 4 the executive branch, except the fees of the University of Alaska and the Alaska
 5 Railroad Corporation, if the governor [COUNCIL] determines that the fees are
 6 unreasonably high.

7 * Sec. 5. AS 40.25.123(a) is amended to read:

8 (a) The Department of Administration [TELECOMMUNICATIONS
 9 INFORMATION COUNCIL] shall supervise and adopt regulations for the operation
 10 and implementation of AS 40.25.110 - 40.25.140 by public agencies in the executive
 11 branch, except the Alaska Railroad Corporation.

12 * Sec. 6. AS 44.21.045(c) is amended to read:

13 (c) Except as provided in (b) of this section, money in the fund established
 14 under (a) of this section may be expended only in accordance with legislative
 15 appropriations. Money appropriated to the fund may be used for

16 (1) the costs of the commissioner in carrying out the
 17 commissioner's duties under AS 44.21.350 - 44.21.390
 18 [TELECOMMUNICATIONS INFORMATION COUNCIL], including the [ITS]
 19 costs of performing reviews and studies considered necessary by the commissioner
 20 under AS 44.21.350 [COUNCIL];

21 (2) necessary expenses of providing information services to political
 22 subdivisions and state agencies;

23 (3) additions, replacements, or improvement of capital equipment for
 24 information services; requests by the department for capital equipment expenditures
 25 shall be included in the budget submitted by the governor to the legislature under
 26 AS 37.07; and

27 (4) other purposes as specified in an appropriation to the fund.

28 * Sec. 7. AS 44.21.045(f) is amended to read:

29 (f) Fees and surcharges for information services of the department are subject
 30 to annual review and approval by the commissioner of the department
 31 [TELECOMMUNICATIONS INFORMATION COUNCIL].

1 * Sec. 8. AS 44.21.150 is amended to read:

2 **Sec. 44.21.150 Declaration of purpose.** It is the purpose of AS 44.21.150 -
3 44.21.170 to designate the Department of Administration as the department
4 responsible for the operation and management of automatic data processing resources
5 and activities of the executive and legislative branches of state government and the
6 judicial branch to the extent requested by that branch [, TO PROVIDE FOR
7 COOPERATION BETWEEN THE DEPARTMENT AND THE
8 TELECOMMUNICATIONS INFORMATION COUNCIL IN THE OFFICE OF THE
9 GOVERNOR.] and to provide for periodic review of state automatic data processing
10 procedures and mechanisms. It is further the purpose of these sections to encourage
11 cooperation between the state government and local governments in the use of
12 automatic data processing systems.

13 * Sec. 9. AS 44.21.160(a) is amended to read:

14 (a) Except as otherwise provid. d in (g) of this section, the department shall
15 comply with the state information systems plan adopted by the commissioner
16 [TELECOMMUNICATIONS INFORMATION COUNCIL IN THE OFFICE OF
17 THE GOVERNOR] in providing automatic data processing services responsive to the
18 needs of state government.

19 * Sec. 10. AS 44.21.160(b) is amended to read:

20 (b) To carry out (a) of this section the department may, consistent with the
21 state information systems plan adopted by the commissioner
22 [TELECOMMUNICATIONS INFORMATION COUNCIL] and with the
23 departmental information systems plan.

24 (1) maintain a central staff of systems analysts, computer
25 programmers, and other staff members sufficient to provide systems analysis and
26 computer programming support required by the executive and legislative branches of
27 state government;

28 (2) develop and maintain both short-range and long-range data
29 processing plans for state government and provide managerial leadership in the use of
30 automatic data processing;

31 (3) review all budget requests for automatic data processing services

1 and recommend to the commissioner [TELECOMMUNICATIONS INFORMATION
2 COUNCIL] and the governor approval, modification, or disapproval;

3 (4) recommend implementation priorities of requested data processing
4 systems;

5 (5) determine and satisfy the data processing equipment and supply
6 requirements of the executive and legislative branches, departments, and agencies of
7 state government;

8 (6) provide all facilities, equipment, and staff required to convert data
9 to a form suitable for processing on automatic data processing equipment;

10 (7) develop and publish systems analysis, computer programming and
11 computer operations standards;

12 (8) review state automatic data processing systems to encourage
13 effectiveness, measure performance, and assure adherence to the standards developed
14 under AS 44.21.150 - 44.21.170;

15 (9) develop and conduct an automatic data processing training program
16 designed to serve the technical and managerial needs of state government;

17 (10) charge a state agency or other governmental agency for the cost of
18 the automatic data processing services provided or procured by the department for the
19 agency.

20 * Sec. 11. AS 44.21.160(d) is amended to read:

21 (d) In accordance with the state information systems plan adopted by the
22 commissioner [TELECOMMUNICATIONS INFORMATION COUNCIL], the
23 department and the University of Alaska may develop and implement a plan for the
24 integration of automatic data processing facilities of the university with the state
25 facilities.

26 * Sec. 12. AS 44.21.160(e) is amended to read:

27 (e) If the action is not contrary to the state information systems plan adopted
28 by the commissioner [TELECOMMUNICATIONS INFORMATION COUNCIL],
29 this section does not prohibit

30 (1) the department from obtaining necessary contractual assistance for
31 automatic data processing activities;

1 (2) the legislature from recruiting and employing data processing
 2 personnel or from obtaining necessary contractual assistance for automatic data
 3 processing activities;

4 (3) the judicial branch from establishing independent data processing
 5 policies and implementation procedures; however, the policies and procedures must
 6 permit information exchange and implementation procedures compatible with other
 7 branches of government whenever practical.

8 * Sec. 13. AS 44.21.266 is amended to read:

9 **Sec. 44.21.266. Duties of the commission.** The commission shall

10 (1) apply for federal and private funds for public broadcasting
 11 purposes and receive all federal, state, or private funds, property, or assistance that
 12 may be appropriated, granted, or otherwise made available to the commission for
 13 public broadcasting purposes, and use and disburse funds and property for purposes
 14 consistent with the terms of AS 44.21.256 - 44.21.290, subject to reasonable
 15 limitations imposed by the grantor;

16 (2) provide consultative services in all aspects of public broadcasting
 17 to all public or private agencies in the state that request them;

18 (3) serve as a library and clearinghouse for public broadcasting
 19 information;

20 (4) through grants to qualified entities, develop an integrated public
 21 broadcasting network for the state;

22 (5) through grants to qualified entities, develop and distribute public
 23 broadcasting programming in the state;

24 (6) prepare and submit to the governor and the legislature, in
 25 compliance with the state information systems plan adopted by the commissioner of
 26 administration [TELECOMMUNICATIONS INFORMATION COUNCIL IN THE
 27 OFFICE OF THE GOVERNOR], a long-term plan for the development of public
 28 broadcasting stations and systems in the state, and biennially update the plan; and

29 (7) perform all other functions necessary to ensure the orderly and
 30 coordinated development of public broadcasting in the state.

31 * Sec. 14. AS 44.21.310(a) is amended to read:

1 (a) In accordance with the state information systems plan adopted by the
2 commissioner [TELECOMMUNICATIONS INFORMATION COUNCIL] and with
3 the departmental information systems plan, the department shall

4 (1) advise the commissioner [COUNCIL] and the governor on matters
5 of policy and comprehensive state planning for telecommunications services;

6 (2) [REPEALED

7 (3)] coordinate, manage, and supervise state programs in
8 telecommunications, including the management of those telecommunication services
9 for the state obtained from common carriers and from the communications industry;

10 (3) [(4)] when requested, provide technical and consulting assistance to
11 the executive, judicial, and legislative branches of state government, to the University
12 of Alaska, and to private noncommercial entities which request that assistance in
13 facility procurement and leasing and in identifying long-range goals and objectives for
14 the state and its political subdivisions in all aspects of telecommunications, including
15 public, educational, and instructional telecommunications;

16 (4) [(5)] prepare and maintain a state comprehensive
17 telecommunications development plan to further state telecommunications
18 development and to meet state telecommunications needs and prepare and maintain a
19 comprehensive inventory of all state communications facilities;

20 (5) [(6)] whenever feasible, procure services from private enterprise or
21 certified and franchised utilities and contract for the construction, management,
22 operation, and maintenance of telecommunications systems and develop a
23 procurement policy consistent with AS 36.30 (State Procurement Code); the
24 procurement policy must seek to achieve the maximum benefit to the public, and
25 methods of procurement, including lease, purchase, rental, or combinations of lease,
26 purchase, and rental, must be selected on the basis of factors such as the ratio of long-
27 range costs versus benefits, life cycle costing, and the costs to the communications
28 industry to the extent that these costs may affect local and long distance basic
29 telephone rates; procurement, contracting, construction, and maintenance under this
30 paragraph is governed by AS 36.30;

31 (6) [(7)] provide information and assistance to state agencies to

1 promote governmental coordination and unity in the preparation of agency plans and
2 programs involving the use of telecommunications;

3 (7) [(8)] apply for and accept federal and private money, property, or
4 assistance, that may be appropriated, granted, or otherwise made available to the
5 department and use and disburse money and property for purposes consistent with
6 AS 44.21.300 - 44.21.330 and AS 44.21.256 - 44.21.290, subject to reasonable
7 limitations imposed by the grantor;

8 (8) [(9)] participate with other governmental units in planning, and
9 assist local governments and governmental conferences and councils in the state in
10 planning and coordinating their activities relating to telecommunications;

11 (9) [(10)] provide for the orderly transition to new telecommunications
12 services and systems by state agencies;

13 (10) [(11)] serve as a clearinghouse for information, data, and other
14 materials that may be necessary or helpful to federal, state, or local governmental
15 agencies in the development of telecommunication systems;

16 (11) [(12)] coordinate department services and activities with those of
17 other state departments and agencies to the fullest extent possible to avoid unnecessary
18 duplication; and

19 (12) [(13)] provide that all activities of the department are responsive
20 to state statutes and regulations, and to the regulations and rulings of the Federal
21 Communications Commission.

22 * Sec. 15. AS 44.21.315(a) is amended to read:

23 (a) In accordance with the state information systems plan adopted by the
24 commissioner [TELECOMMUNICATIONS INFORMATION COUNCIL] and with
25 the departmental information systems plan, the department shall provide

26 (1) technical consultation to educational and public
27 telecommunications users;

28 (2) coordination and support to telecommunications services for
29 instruction, including technical assistance and assistance in preparation of applications
30 for grants related to program development as may be requested by

31 (A) public school districts and the Department of Education

1 and Early Development;

2 (B) the University of Alaska; and

3 (C) other state agencies as approved by the commissioner;

4 (3) coordination and support for health and safety-related functions,
5 including the administrative and client services provided by state, federal, and private
6 agencies;

7 (4) coordination and support to telecommunications services for public
8 participation in state-financed services, including the public hearing process, as may
9 be statutorily required or otherwise appropriate;

10 (5) assistance, through design, development, and promotion, to local
11 school districts or other local and regional education agencies for the regionalization
12 of instructional telecommunications services;

13 (6) establishment of operational policies for public
14 telecommunications services other than public broadcasting; and

15 (7) assistance to the Alaska Public Broadcasting Commission and any
16 commission-designated subcommittees, as necessary to perform assigned department
17 functions: the department shall cooperate with the commission and subcommittees in
18 order to develop policies which are responsive to the user groups which are
19 represented on the commission.

20 * Sec. 16. AS 44.21.320(a) is amended to read:

21 (a) Except as provided in (d) of this section, the department may, consistent
22 with the provisions of AS 44.21.310(a)(5) [AS 44.21.310(a)(6)]

23 (1) plan, design, construct, manage, and operate all
24 telecommunications systems owned or leased by state agencies;

25 (2) manage centrex and other telephone-related services of state
26 agencies;

27 (3) be responsible generally for telecommunications systems and
28 design for state agencies; and

29 (4) coordinate with state agencies in performing their data and word
30 processing tasks.

31 * Sec. 17. AS 44.21.320(e) is amended to read:

1 (e) Nothing in AS 44.21.305 - 44.21.330 prohibits a state agency from
2 developing telecommunications systems within its own agency if the agency is in
3 compliance with the state information systems plan adopted by the commissioner
4 [TELECOMMUNICATIONS INFORMATION COUNCIL] and with the agency's
5 own information systems plan and if the commissioner gives written authorization for
6 the agency to engage in its own design, development, management, or operation. The
7 commissioner may authorize independent development only upon a showing of
8 necessity.

9 * Sec. 18. AS 40.25.220(4); AS 44.19.502, 44.19.504, 44.19.506, and 44.19.519 are
10 repealed.

11 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
14 heading of existing article 4 of AS 44.21 from "Article 4. Telecommunications" to "Article 4.
15 Telecommunications Services and Operations."

16 * Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
19 pending under a law repealed or amended by this Order, or in connection with functions
20 transferred this Order, continue in effect and may be continued and completed
21 notwithstanding a transfer, repeal, or amendment provided for in this Order.

22 (b) Regulations adopted by the former Telecommunications Information Council
23 under authority of AS 40.25.123, as that statute existed on the day before the effective date of
24 this Order, remain in effect, and may be implemented and enforced by the Department of
25 Administration, until regulations are adopted by the Department of Administration under
26 AS 40.25.123, as amended by this Order, and take effect.

27 (c) Contracts, rights, liabilities, and obligations created by or under a law repealed or
28 affected by this Executive Order, and in effect on the effective date of this Order, remain in
29 effect notwithstanding this Order's taking effect. Records, equipment, appropriates, and other
30 property of an agency of the state whose functions are transferred under this Order shall be
31 transferred to implement the provisions of this Order.

1 * Sec. 21. This Order takes effect March 14, 2005.

DATED: _____

Frank H. Murkowski
Governor

SB

154

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
(907) 465-4990
Fax (907) 465-6592

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-LS0789\F, SB 154, incorporating the attached two amendments. 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 CS SB 154 (JUD)

by Rep. Gruenberg

Page 6, L. 23

After "matter"

Insert "^{and} ~~or~~ unfair to the juvenile"

Conceptual Assessment 2-PASSED

Case

Insert @ p. 6

line 23 after (and unfair to the juvenile)

"matter" ~~was~~ as follows

"and personal contact between counsel and the juvenile ~~is~~ ^{are} not needed for case preparation."

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 154(STA)
(S) Publish Date: 4/8/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to the jurisdiction for RDU: CRIMINAL
proceedings relating to delinquent minors and to telephonic..." Component: Criminal Justice Litigation
Sponsor: Senator Therriault
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 - Regulatory Cost Charge						
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)

This bill amends AS 47.12 (Delinquent Minors) by expanding jurisdiction of the juvenile court to allow prosecution of people who commit crimes as juveniles but it is not discovered until they are adults, or the state is unable to file a petition case before the person turns 18. There are not many cases that will fall into this group. The bill also expands the use of telephonic hearings in juvenile cases. Currently a minor has the right to be present at almost every stage of the proceeding. The bill would expand those hearings (such as regular status hearings) where telephonic participation is allowed.

Passage of this legislation will have no fiscal impact on the Department of Law aside from some minor savings in the cost of transportation.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division: Administrative Services Division Date/Time 4/6/05 2:40 PM
Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 4/6/2005
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSSB 154(STA)
 (S) Publish Date: 4/8/05
 Dept. Affected: Health & Social Services
 RDU: Juvenile Justice
 Component: McLaughlin Youth Center

Revision Date/Time (Note if correction):

Title: JUVENILE DELINQUENCY PROCEEDINGS

Sponsor: THERRIAULT

Requester: SENATE (STA)

Component No.: 264

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 (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Matc.						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
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: _____

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)

This fiscal note captures two different aspects of the bill. The first is related to juvenile jurisdiction. The bill would change the statute to allow for juvenile pro-ceedings for individuals over 18 years of age when the person is alleged to have committed a violation of the criminal law of the state, the violation occurred when the person was under 18 years of age, and the statute of limitations for the offense has not expired. Currently, there is no jurisdiction for this if the matter is not brought before the court before they turn 18. The second aspect of the bill is related to court appearances by juveniles. The bill would allow certain juvenile court hearings to be conducted through telephonic or televised participation of the juvenile.

The Division has determined that the fiscal impact of this bill will be zero. The potential savings in court appearances will be offset by the cost to the division to process additional referrals or offenders who fall under

Prepared by: Sherry Hill, Special Assistant
 Division: Office of the Commissioner
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-1618
 Date/Time: 04/05/2005
 Date: 04/04/2005

**FISCAL NOTE
FN # 3**

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. CSSB 154(STA)

ANALYSIS CONTINUATION

the jurisdictional provisions of the bill.

THERE IS ZERO FISCAL IMPACT ON ANY OF THE YOUTH FACILITIES OPERATED BY THE DIVISION. THIS FISCAL NOTE FOR MCLAUGHLIN YOUTH CENTER SERVES AS A PROXY FOR THE OTHER FACILITIES AS WELL.

Alaska State Legislature

SENATOR
GENE THERRIALT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

SPONSOR STATEMENT SENATE BILL 154

"An Act relating to the jurisdiction for proceedings relating to delinquent minors and to telephonic and televised participation in those proceedings; amending Rules 2, 3, 4, 8, 12, 13, 14, 15, 16, 21, 22, 23, 24.1, and 25, Alaska Delinquency Rules; and providing for an effective date."

Senate Bill 154 addresses two concerns of juvenile justice in Alaska: first, improving the state's ability to hold juvenile offenders accountable for their conduct; and second, increasing the efficiency of the juvenile justice system by allowing telephonic hearings where personal appearance is not necessary for the fair determination of an issue.

Senate Bill 154 fills a serious gap in Alaska's statutes that allows young offenders to avoid prosecution if their role in a crime is not discovered until after the offender becomes 18 years of age, or if charges are not filed before the offender turns 18.

- Currently, when a person under 18 commits a delinquent act, the juvenile justice system is responsible for the matter; when a person over 18 commits a crime, the adult criminal system is responsible for prosecution;
- Recent court decisions have highlighted a loophole in the law: that is where a youth commits a delinquent act while under 18 years of age, but is not discovered or proceedings aren't filed until the person reaches 18. Neither the adult or juvenile system has clear jurisdiction.
- This gap is illustrated by a recent case that arose in Kenai: The State filed a Petition for Adjudication of Delinquency on a 19-year-old who was alleged to have committed a sexual assault when he was 17 years old. The Superior Court dismissed the petition, holding "there

is nothing in the statutes that suggests the legislature contemplated adjudication trials for adults who committed crimes as juveniles.”

- Senate Bill 154 will fill this gap in jurisdiction by holding the juvenile accountable. The key change is found in proposed AS 47.12.020(b); it provides that the delinquent minor statutes (AS 47.12) apply to a person who commits a violation of the criminal law of the state or a municipality while under 18 years of age, if the period of limitation under AS 12.10 has not expired.

Senate Bill 154 also amends Alaska's Delinquency Rules to allow for telephonic participation by juvenile offenders in certain proceedings. The law would still require a juvenile offender to be present for all hearings where personal presence is necessary for a fair determination of the issue. However, it would avoid expensive travel, where juveniles are transported to court appearances such as status hearings, when telephonic or televised appearance is adequate for the matter to be fairly decided.



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault
Current Version: CSSB 154 (JUD)
Contact: Heather Brakes, 465-4522

Fact Sheet for: Senate Bill 154

Short Title: JUVENILE DELINQUENCY PROCEEDINGS

Summary:

- Applies the State's juvenile delinquency laws to a person 18 years or older if the person is alleged to have committed a violation of criminal law that occurred when the person was under 18, and the period of limitation has not expired.
- Amends Court Rule 3(e), Alaska Delinquency Rules, to allow juvenile offenders to participate telephonically in certain proceedings in which personal appearance is not essential to the fair disposition of the matter. Court Rule changes require two-thirds vote of the legislature.
- Specifies that a juvenile has the right, and the ability to waive the right, to be physically present in court for: arraignment, adjudication, disposition, probation revocation, extension of jurisdiction and waiver of jurisdiction hearings.

Benefits:

- Improves the State's ability to hold juvenile offenders accountable for their conduct.
- Allowing juveniles to appear telephonically increases the efficiency of the juvenile justice system and avoids expensive and time-consuming travel.

Background:

- SB 154 fills a serious gap in Alaska statutes that allows young offenders to avoid prosecution if their role in a crime is not discovered or charges are not filed until after the offender becomes 18 years of age. Under current law, the juvenile justice system is responsible when a person under 18 commits a delinquent act, and the adult system is responsible when a person over 18 commits a crime. However, recent court decisions have exposed a loophole that gives neither the adult nor juvenile system clear jurisdiction when a minor commits a crime but it is not discovered, or proceedings are not filed, until the person reaches 18. In a recent case in Kenai, the State filed a Petition for Adjudication of Delinquency on a 19-year-old who was alleged to have committed a sexual assault when he was 17. The Superior Court dismissed the petition, holding "there is nothing in the statutes that suggests the legislature contemplated adjudication trials for adults who committed crimes as juveniles."

Jurisdiction. The court heard oral argument on the motion to dismiss on September 2, 2003, and the matter is now ripe for decision.¹

██████ alleges that since he was 20 years old at the time of the filing of the Petition for Adjudication of Delinquency, this court cannot obtain juvenile jurisdiction over him. ██████ relies on AS 47.12.160 which reads in part:

(a) The court retains jurisdiction over the case and may at any time stay execution, modify, set aside, revoke, or enlarge a judgment or order, or grant a new hearing, in the exercise of its power of protection over the minor and for the minor's best interest, for a period of time not to exceed the maximum period otherwise permitted by law or in any event extend past the day the minor becomes 19. . . .

(c) If a minor is adjudicated a delinquent before the minor's 18th birthday, the court may retain jurisdiction over the minor after the minor's 18th birthday for the purpose of supervising the minor's rehabilitation, but the court's jurisdiction over the minor under this chapter never extends beyond the minor's 19th birthday, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. . . .

AS 47.12.020 provides that proceedings involving a minor under 18 years of age are governed by AS 47.12, Delinquent Minors. The Alaska Supreme Court stated In the Matter of P.H. v. State of Alaska, 504 P. 2d 837 (Alaska 1972) that the age of 18 established by the statute refers to the age of the accused at the time of the alleged offense. Since ██████ was under the age of 18 at the time of the offenses alleged in the Petition for Adjudication of Delinquency, the provisions of AS 47.12, including AS 47.12.020, apply. That statute reads:

¹ In his original Motion to Dismiss ██████ claimed that the court lacked jurisdiction due to invalid service of process. Subsequent to that time ██████ was personally served with process. At the September 2, 2003 hearing the court allowed ██████ 5 days to file any challenge to service. None was filed. Accordingly, the court considers that issue to be moot.

Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the minor is alleged to be or may be determined by a court to be a delinquent minor as a result of violating a criminal law of the state or a municipality of the state.

The specific wording of AS 27.12.020 makes AS 47.12.160 applicable to this case. By its specific wording, AS 47.12.160(a) terminates juvenile jurisdiction "the day the minor turns 19 . . ." Juvenile jurisdiction can extend past the age of 19 for an additional one year period only upon the minor's consent. AS 47.12.160 (c).² For this reason, the court concludes that since the Petition for Adjudication of Delinquency was filed after [REDACTED] 20th birthday, there is no juvenile jurisdiction. Since there is no juvenile jurisdiction, the court cannot waive jurisdiction under AS 47.12.100. The court cannot waive jurisdiction which it did not acquire.

The charge in Count V of the Petition must be analyzed differently. AS 47.12.030 makes the provisions of AS 47.12 inapplicable in some cases with respect to minors who were 16 years or older at the time of the alleged offense. As to certain offenses listed in AS 47.12.030, such minors shall be charged, sentenced and incarcerated as an adult. AS 47.12.030 (a) (1) (2) (3). None of the listed offenses include the charge contained in Count V of the Petition.³ Since [REDACTED] is not charged with any of the offenses listed in AS 47.12.030 (a), the provisions of AS 47.12 apply to the charge in Count V of the Petition, including AS 47.12.160. Thus, by the same reasoning applicable to Counts I-IV

² AS 47.12.030 cannot apply to the first four counts of the Petition for Adjudication of Delinquency since [REDACTED] was under 16 years of age at the time of the alleged offenses.

³ AS 47.12.030 (a) provides that if "the minor is convicted of an offense other than an offense specified" in subsection (a) (1), (2), (3), the minor may attempt to prove that the minor is amenable to treatment under AS 47.12.

of the Petition, Count V is not within the jurisdiction of the juvenile court. This conclusion is consistent with State v. T.M., 860 P. 2d 1286 (Alaska App. 1993). In that case the superior court set aside a juvenile adjudication after the court's jurisdiction had expired. Addressing the predecessor of AS 47.12.160, the Court of Appeals stated:

Under AS 47.10.100 (a), the superior court "retains jurisdiction over [a delinquent juvenile's] case . . . in any event [not to] extend past the day the minor becomes 19, unless sooner discharged by the court . . ."

Because T.M. and J.B. filed their motions after this time limitation on the court's jurisdiction had expired, the superior court based its action, not on AS 47.10.100 (a), but on the court's "inherent" power to vacate any delinquency adjudication it had previously entered—even an adjudication it had previously entered—. . . We conclude that the superior court does not possess this kind of inherent authority.

In T.M. the Court of Appeals recognized that the court's jurisdiction had expired under the time limit of AS 47.10.100 (a). Moreover, the court had no inherent authority to exceed that time limit. The same reasoning applies to this case.

The court recognizes the state's concern that this interpretation can allow juvenile criminal activity to go unpunished if the crime did not come to light until after the juvenile's 18th (or 19th) birthday. This court shares Judge Coat's concern in State v. Jack, 67 P. 3d 673 (Alaska App. 2003):

This case [is] very difficult for me because it seems obvious that the State should have jurisdiction. Id. at 677.

This result is not of the court's making. For whatever reason, the legislature has mandated that juvenile jurisdiction in all cases comes to an end at the time of the

This provision applies only if the defendant is convicted of a lesser offense included within the charged offense. Wilson v. State, 967 P. 2d 98 (Alaska App. 1998).

juvenile's 19th birthday unless the juvenile consents to a longer period. The resolution of this problem rests, not with the court, but the legislature.

For the foregoing reasons the Petition for Adjudication of Delinquency filed in this case is DISMISSED.

Dated at ██████████, Alaska this 15 day of September, 2003.

[Handwritten Signature]

██████████
SUPERIOR COURT JUDGE

I certify that a copy of the foregoing was mailed/faxed/placed in box in the Clerk's Office to the following at their addresses of record:

memo to DJS, ago - faxed
guardian-mail

Date: 9/15/03 Clerk: [Signature]

To
John D. or
Royak

RECEIVED
AUG 18 2004
OFFICE OF THE DISTRICT ATTORNEY GENERAL
3RD JUDICIAL DISTRICT
ANCHORAGE, ALASKA

THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT [REDACTED]

In the Matter of:

[REDACTED]
A Minor Under the Age
of Eighteen (18) Years.
Date of Birth: [REDACTED]

Case No. [REDACTED] CP

ORDER

[REDACTED] filed a Motion to Dismiss Petition for Adjudication of Delinquency on June 9, 2004. The Motion states that [REDACTED] turned 19 years of age on [REDACTED] 2004, and argues that AS 47.12.160 does not permit the court to retain jurisdiction beyond a juvenile offender's 19th birthday. The state has opposed the Motion and argues that AS 47.12.160 applies to the disposition phase of juvenile cases. The state suggests that although [REDACTED] is no longer subject to disposition because of his age, the law still requires [REDACTED] to appear at an adjudication trial. The state's position is not supported by the applicable statutes, and the Petition for Adjudication of Delinquency is dismissed.

CHRONOLOGY

The state alleges that on the late evening of July 1, 2002, [REDACTED] (17 years old at the time) arrived at M.Y.'s Seward residence with a backpack full of alcoholic

16522

beverages. M.Y. drank what [REDACTED] offered, became very intoxicated, and [REDACTED] [REDACTED] digitally penetrated her vagina and anus.

[REDACTED] is from Wisconsin and was spending the summer with an uncle at the time of the alleged assault. When summer ended [REDACTED] returned to Wisconsin. The Division of Juvenile Justice filed a Petition for Adjudication of Delinquency based on the July 2002 events on January 14, 2003. [REDACTED] was apprehended and placed in the [REDACTED] County, Wisconsin jail on June 23, 2003 pending extradition. [REDACTED] was 18 when he was apprehended. The [REDACTED] court released [REDACTED] to his parents pending trial on July 18, 2003.

At the October 2, 2003, omnibus hearing, [REDACTED] attorney, [REDACTED], stated that he did not have discovery. According to [REDACTED], Chris Evenson from the Division of Juvenile Justice had been contacted and had promised to mail discovery.

At trial call on November 6th [REDACTED] stated he received a copy of a police report, but had not received copies of interview tapes. Chris Evenson said that he thought the Seward Police Department was going to send [REDACTED] a copy of the tapes when they sent the tapes to him. Mr. Evenson said that he would make copies of the tapes and get them to Mr. Montague. The trial was continued until January.

At the January 9, 2004, trial call, [REDACTED] stated that he had received the tapes from Mr. Evenson on December 4, 2004, but did not have the photographs taken by the nurse during the victim's Sexual Assault Response Team Examination. Assistant Attorney General John Darnell, appearing for the Division of Juvenile Justice, asked for a continuance. Mr. Darnell stated that the Division was having trouble getting the S.A.R.T.

ORDER

ITMO: T. T. CASE NO [REDACTED] CP

Page 2 of 5

photographs because they were in the custody of the Central Peninsula General Hospital. Mr. Darnall stated that he thought the Division would need an order to get the photographs. Trial was continued until March.

No motion for release of records was filed, and at the March 4, 2004, trial call, the S.A.R.T. photographs were still not in the Division of Juvenile Justice's hands. Aaron Poland, appearing for the Division, stated that he had talked to someone from Central Peninsula General Hospital that morning and he expected to have the S.A.R.T. photographs within one month. Trial call was continued until May.

On March 10, 2004, the Division submitted and the court signed orders requiring the hospital to produce the victim's S.A.R.T. records. At the May 6, 2004, trial call, [REDACTED] stated that he still did not have the photographs. Aaron Poland said that he had some difficulty getting the photographs from Central Peninsula General Hospital, but did get them in late April and had sent the photos to Copy Cats Printing to be copied, and the photos should be there for [REDACTED].

The trial was continued until June. At the June 9, 2004, trial call, [REDACTED] stated that he still had not received the S.A.R.T. photographs that the Division of Juvenile Justice said were available at Copy Cats. [REDACTED] also filed a Motion to Dismiss, based upon the fact that his client had turned 19 on May 16, 2004. Assistant Attorney General Karen Hawkins objected to the motion as untimely and objected to continuing the trial. On June 14, 2004, Ms. Hawkins filed a Notice of Expert.

DISCUSSION

██████████ argues that AS 47.12.020 gives the court jurisdiction over minors under 18 years of age, and Alaska Statute 47.12.160 allows the court to retain jurisdiction until the minor's 19th birthday. Since he turned 19 before he was brought to trial, ██████████ argues that the petition filed against him should be dismissed.

The state argues that AS 47.12.160 applies to disposition orders and has no effect until a juvenile has been adjudicated a delinquent. The state is asking the court to allow ██████████'s trial so that if the jury finds he has committed the delinquent acts alleged in the petition, a record will exist to be considered if ██████████ commits a crime as an adult.

The state's position is not supported by the statutes governing juvenile delinquents. There is nothing in the statutes that suggests the legislature contemplated adjudication trials for adults who committed crimes as juveniles. Moreover, there is nothing in the statutes that suggests the legislature has authorized adjudication trials when the court has no jurisdiction to enter a disposition order. It may even be prejudicial to hold an adjudication trial when the court lacks authority to modify the judgment as soon as it is entered because of the age of the defendant. See AS 47.12.160; State v. T.M., 860 P.2d 1286 (Alaska App. 1993).

For the above-stated reasons, the Petition for Adjudication of Delinquency is dismissed.

Dated at Kenai, Alaska this 15th day of August, 2004.



CHARLES T. HUGUELST
SUPERIOR COURT JUDGE

I certify that a copy of the foregoing was mailed/faxed/placed in box in the Clerk's Office to the following at their addresses of record:

[REDACTED], D.T.S., Hawkins/REG,
Parent

Date: 8/17/04 Clerk: PK Gude

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSSB 154(JUD)
 (S) Publish Date: 4/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Juvenile Delinquency Proceedings RDU _____
 Component _____
 Sponsor Therriault _____
 Requester Senate Judiciary 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
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Medical 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)

Prepared by: SENATE JUDICIARY COMMITTEE Phone _____
 Division _____ Date/Time 4/18/05 10:45 AM
 Approved by: /s/ Senator Seekins, Chair Date 4/18/2005
 Agency _____

SB

172

ALASKA STATE LEGISLATURE

SENATOR
Gene Therriault
119 N. Cushman Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
FAX (907) 488-4271



While in Juneau
State Capitol
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Senate
Senate District F

Senate Bill 172

"An Act relating to the presentation
of initiatives and referenda on the ballot."

SPONSOR: Senator Gene Therriault

SPONSOR STATEMENT:

AS 15.45.180(a) currently provides that once an initiative petition is certified as containing the number of valid signatures required for placement on the ballot, the lieutenant governor shall prepare both a ballot title and a proposition for the election ballot. The same mechanism applies at AS 15.45.410(a) for referenda. Under existing law, the ballot title must indicate the "general subject of the proposition," and may not exceed six words. The proposition must give a "true and impartial summary" of the proposed law, in not more than 100 words.

With the increasing complexity of laws being proposed by initiative, it is difficult to provide an accurate description of the contents of a proposed law in only six words. Likewise, the Legislature is currently taking on more controversial and complex legislation that some voter groups may attempt to overturn through use of the referendum.

The current word length limitations on ballot titles contributes to the likelihood that voters will not fully understand the scope and effect of initiative propositions and referenda that are placed before them. Allowing the lieutenant governor up to 25 words for the ballot title will provide the opportunity for a more accurate description of the contents of the proposed law.



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault

Current Version: SB 172

Contact: Joseph Balash, 465-4797

Fact Sheet for: Senate Bill 172

Short Title: INITIATIVE/REFERENDUM BALLOT SUMMARY

Summary:

- Increases the word limit for initiative and referenda ballot titles from six words to 25 words.

Benefits:

- Provides the opportunity for a more accurate description of laws proposed by initiative or potentially overturned by referenda.

Background:

- AS 15.45.180(a) currently provides that once an initiative petition is certified as containing the number of valid signatures required for placement on the ballot, the lieutenant governor shall prepare both a ballot title and a proposition for the election ballot. The same mechanism applies at AS 15.45.410(a) for referenda. Under existing law, the ballot title must indicate the "general subject of the proposition," and may not exceed six words. The proposition must give a "true and impartial summary" of the proposed law, in not more than 100 words.

With the increasing complexity of laws proposed by initiative, it is difficult to provide an accurate description of the contents of a proposed law in only six words. Likewise, the Legislature is currently taking on more controversial and complex legislation that some voter groups may attempt to overturn through use of the referendum.

The current word length limitations on ballot titles contributes to the likelihood that voters will not fully understand the scope and effect of initiative propositions and referenda that are placed before them.



**STATE OF ALASKA
SAMPLE BALLOT
GENERAL ELECTION - NOVEMBER 2, 2004**

Completely fill in the oval opposite the name of each candidate or question for whom you wish to vote.

BALLOT MEASURES

**BALLOT MEASURE NO. 1
House Joint Resolution No. 5
Signatures for Initiative and Referendum
Petitions**

This amendment changes how to gather signatures for an initiative or referendum petition. It requires signatures from more of the voting districts in the State. It says that signers must be from at least 30 of the 40 house districts, three more than now required. It further requires signatures from each of 30 districts to be at least equal to seven percent of the voters who voted in each of these districts in the last general election. Currently only one signer from a district satisfies the requirement for district participation. The total number of statewide signatures required does not change.

Should this constitutional amendment be adopted?

- YES
 NO

**BALLOT MEASURE NO. 2
Initiative to Legalize Marijuana
01MRNA**

This bill would remove civil and criminal penalties under state law for persons 21 years or older who grow, use, sell or give away marijuana or hemp products. State or local government could not require a permit or license for personal cultivation or distribution of marijuana but could regulate marijuana like alcohol or tobacco. It removes all existing state restrictions on prescription of marijuana by a doctor for all patients, including children. It allows for laws limiting marijuana use in public and to protect public safety.

Should this initiative become law?

- YES
 NO

**BALLOT MEASURE NO. 3
Prohibiting Bear Baiting or Feeding
03BEAR**

This bill would make it illegal for a person to bait or intentionally feed a bear to hunt, photograph, or view a bear. A person could not feed a bear on purpose or use any item or substance, including food or other edible matter to entice a bear into an area, or to stay in an area. A person who violates this law would be guilty of a Class A misdemeanor, punishable by up to one-year imprisonment and a fine of up to \$10,000.

Should this initiative become law?

- YES
 NO

**BALLOT MEASURE NO. 4
Temporary Replacement of U.S. Senator
03SENV**

This measure would repeal state law by which the Governor makes a temporary appointment of a person to fill a U. S. Senate vacancy until a special or regular election can be held. Under existing law the seat remains vacant until an appointment is made. Under the initiative the seat would remain vacant until the election is certified and the senate meets. Existing law provides that a special election will be held within 60 to 90 days to fill a vacancy unless the vacancy occurs within 60 days of the primary election for that seat. This initiative does not change that provision.

Should this initiative become law?

- YES
 NO

Sample Ballot

Ballot Measures

BALLOT MEASURES

BALLOT MEASURE NO. 1 Constitutional Convention Question

Shall there be a Constitutional Convention?

YES

NO

BALLOT MEASURE NO. 2 Initiative Moving Location of Legislative Sessions 01CHGE

This bill would move all sessions of the state legislature to the Matanuska Susitna (Mat-Su) Borough. If facilities fit for these sessions can not be found in that borough, sessions would be held in Anchorage until facilities are available in the Mat-Su Borough. The bill would repeal the requirements that before the state can spend money to move the legislature, the voters must be informed of the total costs as would be determined by a commission, and approve a bond issue for all bondable costs of the move.

Should this initiative become law?

YES

NO

BALLOT MEASURE NO. 3 Initiative on Gas Pipeline Development Authority 01GSLN

This bill would create the Alaska Natural Gas Development Authority (Authority) as a public corporation of the State. The Authority would acquire and condition North Slope natural gas, and construct a pipeline to transport the gas. The Authority's powers would include buying property or taking it by eminent domain, and to issue state tax-exempt revenue bonds. The gasline route would be from Prudhoe Bay to tidewater on Prince William Sound and the spur line from Glennallen to the Southcentral gas distribution grid. The Authority would operate and maintain the gas pipeline, ship the gas, and market the gas.

Should this initiative become law?

YES

NO

24-LS0859\1

Kurtz

5/6/05

HOUSE CS FOR SENATE BILL NO. 172(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the presentation of initiatives and referenda on the ballot."**

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

3 *** Section 1.** AS 15.45.180(a) is amended to read:

4 (a) If the petition is properly filed, the lieutenant governor, with the assistance
5 of the attorney general, shall prepare a ballot title and proposition. The ballot title
6 shall, in not more than 25 [SIX] words, indicate the general subject of the proposition.
7 The proposition shall [~~IN NOT MORE THAN 100 WORDS,~~] give a true and
8 impartial summary of each section of the proposed law in not more than 100 words
9 for each section.

10 *** Sec. 2.** AS 15.45.410(a) is amended to read:

11 (a) The lieutenant governor, with the assistance of the attorney general, shall
12 prepare a ballot title and proposition upon determining that the petition is properly
13 filed. The ballot title shall, in not more than 25 [SIX] words, indicate the general
14 subject area of the act. The proposition shall, in not more than 100 words, give a true
15 and impartial summary of the act being referred.

**EXPLANATION OF PROPOSED LEGISLATION RELATING
TO THE PREPARATION OF INITIATIVE BALLOT TITLES AND PROPOSITIONS**

AS 15.45.180(a) currently provides that once an initiative petition is certified as containing the number of valid signatures required for placement on the ballot, the lieutenant governor shall prepare both a ballot title and a proposition for the election ballot. Under existing law, the ballot title must indicate the "general subject of the proposition," and may not exceed six words. The proposition must give a "true and impartial summary" of the proposed law, in not more than 100 words.

With the increasing complexity of laws being proposed by initiative, it is difficult to provide an accurate description of the contents of a proposed law in only six words. It is equally difficult to provide a "true" summary of the contents of a proposed law in only 100 words. The current word length limitations on ballot titles and propositions contribute to the likelihood that voters will not fully understand the scope and effect of initiative propositions that are placed before them. Allowing the lieutenant governor up to 25 words for the ballot title will provide the opportunity for a more accurate description of the contents of the proposed law. Requiring the lieutenant governor to provide a brief summary of each section of a proposed law, not more than 100 words for each section, will ensure that voters are aware of all of the provisions contained in the proposed law.

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
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 8, 2005
Re: CS Request

Please create a work draft House Judiciary Committee Substitute for work order # 24-LS0859I, SB 172, incorporating the attached language. The bill is scheduled to be reheard in committee today (not sure what time), but please just get the CS to us as soon as you can.

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

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.

Amendment to House CS for Senate Bill No.172 (Jud) – Work Draft, Version I (5/6/05)

Page 1, line 9, following the word “section” add the following:

“For purposes of this subsection, “section” means

- (1) a provision of the proposed law enacting, amending or repealing and re-enacting a separate section, subsection or subparagraph of the Alaska Statutes;**
- (2) a provision of the proposed law repealing a separate section, subsection or subparagraph of the Alaska Statutes; and**
- (3) a provision of the proposed law, regardless of the form in which the proposed law is drafted, that is distinct from other provisions in purpose or subject matter and that the lieutenant governor, with the assistance of the attorney general, determines would have been set out in a separate section of the Alaska Statutes if drafted in conformity with legislative drafting procedures followed by the Department of Law.**

ALASKA STATE LEGISLATURE

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



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 6, 2005
Re: CS Request

Please create a work draft House Judiciary Committee Substitute for work order # 24-LS0859\Y, SB 172, incorporating the attached changes (delete sections 2 & 4 and add the additional underlined language).

The bill will likely be heard in committee tomorrow. 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.

HOUSE CS FOR SENATE BILL NO. 172(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 5/5/05
Referred: Judiciary

Sponsor(s): SENATOR THERRIAULT

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the presentation of initiatives and referenda on the ballot."

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

3 * Section 1. AS 15.45.180(a) is amended to read:

4 (a) If the petition is properly filed, the lieutenant governor, with the assistance
5 of the attorney general, shall prepare a ballot title and proposition. The ballot title
6 shall, in not more than 25 [SIX] words, indicate the general subject of the proposition.
7 The proposition shall, in not more than 100 words, give a true and impartial summary
8 of the proposed law.

9 * Sec. 2. AS 15.45.180 is amended by adding a new subsection to read:

10 (a) The lieutenant governor shall submit the ballot title and proposition to the
11 director not later than 30 days after the date of the adjournment of the first regular
12 legislative session convened after the petition is filed.

*delete
mis
section*

13 * Sec. 3. AS 15.45.410(a) is amended to read:

14 (a) The lieutenant governor, with the assistance of the attorney general, shall
15 prepare a ballot title and proposition upon determining that the petition is properly

1 filed. The ballot title shall, in not more than 25 [SIX] words, indicate the general
2 subject area of the act. The proposition shall, in not more than 100 words, give a true
3 and impartial summary of the act being referred.

Sec. 4. AS 15.45.410 is amended by adding a new subsection to read:

~~(c) The lieutenant governor shall submit the ballot title and proposition to the
director not later than 60 days after the date the petition is filed.~~

delete
this
section

DRAFT
Susan Burke
586-2777
03-15-05

A BILL
FOR AN ACT ENTITLED

"An Act relating to the preparation of initiative ballot titles and propositions; and providing for an effective date."

* Section 1. AS 15.45.180(a) is amended to read:

(a) If the petition is properly filed, the lieutenant governor, with the assistance of the attorney general, shall prepare a ballot title and proposition. The ballot title shall, in not more than 25 [SIX] words, indicate the general subject of the proposition. The proposition shall give a true and impartial summary of each section of the proposed law, in not more than 100 words for each section. [THE PROPOSITION SHALL, IN NOT MORE THAN 100 WORDS, GIVE A TRUE AND IMPARTIAL SUMMARY OF THE PROPOSED LAW.]

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

add this language
(conceptually +/or making any necessary conforming changes, new section, etc.)

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
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 6, 2005
Re: CS Request

Please create a work draft House Judiciary Committee Substitute for work order # 24-LS0859\Y, SB 172, incorporating the attached changes (delete sections 2 & 4 and add the additional underlined language).

The bill will likely be heard in committee tomorrow. 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.

DRAFT
Susan Burke
586-2777
03-15-05

A BILL
FOR AN ACT ENTITLED

“An Act relating to the preparation of initiative ballot titles and propositions; and providing for an effective date.”

* **Section 1.** AS 15.45.180(a) is amended to read:

(a) If the petition is properly filed, the lieutenant governor, with the assistance of the attorney general, shall prepare a ballot title and proposition. The ballot title shall, in not more than 25 [SIX] words, indicate the general subject of the proposition. **The proposition shall give a true and impartial summary of each section of the proposed law, in not more than 100 words for each section.** [THE PROPOSITION SHALL, IN NOT MORE THAN 100 WORDS, GIVE A TRUE AND IMPARTIAL SUMMARY OF THE PROPOSED LAW.]

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

AMENDMENT

#1

OFFERED IN HOUSE STATE AFFAIRS
TO SB 172

initiative

After line 8 insert a new subsection to read:

AS 15.45.180 (c)

"The lieutenant governor shall submit the ballot title and proposition to the director not later than 30 days after the date of the adjournment of the first regular legislative session convened after the petition is filed"

AMENDMENT

#2

OFFERED IN HOUSE STATE AFFAIRS
TO SB 172

referenda

After line 14 insert a new subsection to read:

AS 15.45.410 (c)

"The lieutenant governor shall submit the ballot title and proposition to the director not later than 60 days after the date the petition is filed."

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271

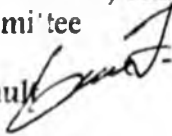


Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

MEMORANDUM

TO: Representative Lesil McGuire, Chair
House Judiciary Commi'tee

FROM: Senator Gene Therriault 

DATE: May 5, 2005

SUBJECT: Scheduling of SB 172

I respectfully request that Senate Bill 172 be scheduled for a hearing in the House Judiciary Committee.

SB 172 increases the word limit for initiative and referenda ballot titles from six words to 25 words. Allowing the lieutenant governor up to 25 words for the ballot title will provide the opportunity for a more accurate description of the contents of the proposed law.

Please contact me if you have any additional questions.

ALASKA STATE LEGISLATURE

SENATOR
Gene Therriault
119 N. Cushman Suite 101
Fairbanks Alaska 99701
(907) 488-0857
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
FAX (907) 465-3884

Senate
Senate District F

Senate Bill 172

"An Act relating to the presentation
of initiatives and referenda on the ballot."

SPONSOR: Senator Gene Therriault

SPONSOR STATEMENT:

AS 15.45.180(a) currently provides that once an initiative petition is certified as containing the number of valid signatures required for placement on the ballot, the lieutenant governor shall prepare both a ballot title and a proposition for the election ballot. The same mechanism applies at AS 15.45.410(a) for referenda. Under existing law, the ballot title must indicate the "general subject of the proposition," and may not exceed six words. The proposition must give a "true and impartial summary" of the proposed law, in not more than 100 words.

With the increasing complexity of laws being proposed by initiative, it is difficult to provide an accurate description of the contents of a proposed law in only six words. Likewise, the Legislature is currently taking on more controversial and complex legislation that some voter groups may attempt to overturn through use of the referendum.

The current word length limitations on ballot titles contributes to the likelihood that voters will not fully understand the scope and effect of initiative propositions and referenda that are placed before them. Allowing the lieutenant governor up to 25 words for the ballot title will provide the opportunity for a more accurate description of the contents of the proposed law.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 172
 (S) Publish Date: 4/20/05

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act relating to the presentation RDU Elections
of initiatives and referenda on the ballot." Component Elections
 Sponsor Senator Therriault
 Requester Senate State Affairs Committee Component No. 21

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						
-----------------------------	--	--	--	--	--	--

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)

This legislation has no fiscal impact on the Division of Elections.

Prepared by: Gail Fenumiai, Asst. Admin. Director Phone 465-3885
 Division: Office of the Governor, Division of Administrative Services Date/Time 4/19/05 9:10 AM
 Approved by: Laura Glaiser, Director Date 4/19/2005
 Agency: Division of Elections



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault

Current Version: SB 172

Contact: Joseph Balash, 465-4797

Fact Sheet for: Senate Bill 172

Short Title: INITIATIVE/REFERENDUM BALLOT SUMMARY

Summary:

- Increases the word limit for initiative and referenda ballot titles from six words to 25 words.

Benefits:

- Provides the opportunity for a more accurate description of laws proposed by initiative or potentially overturned by referenda.

Background:

- AS 15.45.180(a) currently provides that once an initiative petition is certified as containing the number of valid signatures required for placement on the ballot, the lieutenant governor shall prepare both a ballot title and a proposition for the election ballot. The same mechanism applies at AS 15.45.410(a) for referenda. Under existing law, the ballot title must indicate the "general subject of the proposition," and may not exceed six words. The proposition must give a "true and impartial summary" of the proposed law, in not more than 100 words.

With the increasing complexity of laws proposed by initiative, it is difficult to provide an accurate description of the contents of a proposed law in only six words. Likewise, the Legislature is currently taking on more controversial and complex legislation that some voter groups may attempt to overturn through use of the referendum.

The current word length limitations on ballot titles contributes to the likelihood that voters will not fully understand the scope and effect of initiative propositions and referenda that are placed before them.

SB

186

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire
Chair, Judiciary Committee

Fax

To: Leg Legal **From:** Shalon Szymanski, HJUD Committee Aide

Fax: 2029 **Pages:** 6 (including coversheet)

Phone: **Date:** February 23, 2006

Re: Request for Final **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

● **Comments:**

ALASKA STATE LEGISLATURE

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



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal
From: Shalon Szymanski, Committee Aide
House Judiciary Committee
Date: February 23, 2006
Re: CS Request (FINAL)

Please create a final Committee Substitute (JUD) for work order # 24-LS0874\C, CSSB 186 mirroring #24-LS0874\C, but also adding:

- 4 Attached Amendments

If you have any questions or need further information, please feel free to contact me.

My direct line x6841

Thank you!

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PASSED
AMENDMENT # ~~1~~ 1

OFFERED IN THE HOUSE
TO: HCS CSSB 186(STA)

BY REPRESENTATIVE GRUENBERG

1 Page 3, following line 21:

2 Insert a new bill section to read:

3 "* Sec. 7. AS 39.52 is amended by adding a new section to read:

4 **Sec. 39.52.165. Professional misconduct.** A public officer may not, in taking
5 official action, violate or be required to violate a provision of a code or canon of
6 professional ethics if the public officer's professional conduct is bound by the code or
7 canon of professional ethics as a condition of obtaining or retaining a license to
8 engage in or to practice the profession."

9
10 Renumber the following bill sections accordingly.

CONCEPTUAL AMENDMENT # 3(B)

OFFERED IN THE HOUSE

BY: REP GARA

TO: HCS CSSB 186 (STA)

Page 8, Lines 12-13

Delete:

“(2) did not reasonably believe the facts alleged in the complaint, if proven, would constitute a violation of this chapter.”

CONCEPTUAL AMENDMENT

OFFERED IN THE HOUSE

BY: REP GARA

TO: HCS CSSB 186 (STA)

Page 6, Lines 13

Insert:

"until the finding of probable cause"

After:

"the report is confidential"

LEGAL SERVICES

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

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


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

MEMORANDUM

February 24, 2006

SUBJECT: HCS CSSB 186(JUD): additional changes to the bill due to amendments to SB 186 by the House Judiciary committee (Work Order No. 24-LS0874P)

TO: Representative Lesil McGuire
Chair of the House Judiciary Committee

FROM: Dan Wayne 
Legislative Counsel

As requested I have provided a final draft of a House Judiciary CS for the CS for Senate Bill 186(STA). While incorporating the amendments provided by your committee I discovered the need for three technical changes and made them.

First, I changed the title to delete reference to an effective date.

On page 7, lines 6 and 14, I changed "until *after* the board makes a finding of probable cause" by removing the word "after." This was done to conform those lines to two other references in the draft bill to the board making a finding of probable cause, and also to remove any doubt about exactly when confidentiality terminates.

On page 8, line 14, I deleted all of subsection (b), which only related to (a)(2) that your committee deleted by amendment.

If I may be of further assistance, please advise.

DCW:med
06-160.med

Enclosure

ALASKA STATE SENATE

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2127
(907) 465-5241 Fax



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

Senator Ralph Seekins
District D

Senate Bill 186 & 187 Sponsor Statement

“An Act relating to the Alaska Executive Branch Ethics Act.” (SB 186)

“An Act relating to legislative ethics open meetings guidelines, to the public members of the Select Committee on Legislative Ethics, to alternate members of the legislative subcommittees, to advisory opinions, and to confidential information and proceedings regarding legislative ethics complaints and investigations.” (SB 187)

There has been much discussion throughout the Capitol hallways and committee rooms regarding ethics laws. The Senate Judiciary Committee, in particular, has taken great interest and much testimony on this important topic. Over the last three months a substantial amount of research has been conducted on ethical treatises and other states' ethics laws. Furthermore, CPAs, judges and employment law attorneys have been interviewed along with legislators from around the country. This effort has resulted in the introduction of two bills — SB 186 & 187 — designed to improve the Executive and Legislative Code of Ethics, respectively.

Senate Bill 186 revises the Executive Branch Code of Ethics. The terms “substantial” and “insignificant” defy clear definition and consequently are removed from AS 39.52.110(b). Furthermore, this section gains key language outlining specific types of personal or financial activity which the public employee should take into consideration prior to taking official action on matters which could create a conflict.

Of particular note is the inclusion of a recommendation originating from the Bundy Report pertaining to stock ownership. Here, the limiting factors are one percent with a total value of less than \$10,000. This section also includes new language detailing methods by which the public official can avoid even the slightest perception of impropriety. This can be accomplished through the placement of financial assets into a blind trust or other instrument in which the official has no management control.

Two new terms are brought into use throughout AS 39.52 — “business associate” and “household”. These terms are intended to better define close relationships maintained by the state employee particularly as these relationships affect, or are affected by, action taken by the employee in his or her official capacity.

State law currently sets out two remedial options available to a supervisor when a determination has been made that an ethics violation could exist or will occur. Currently, the supervisor could either reassign the employee or require divesture of the financial interest creating the potential conflict. Senate Bill 186 provides a logical third option. That is to place the financial interest into a blind trust or other investment tool whereby the employee has no management control.

Recent experience has highlighted a significant procedural ambiguity existing in current statute pertaining to a potential violation involving the governor, lieutenant governor or attorney general. Senate Bill 186 clarifies this by adding language spelling out a clear procedural path to be followed in the unlikely event this situation should arise in the future.

Senate Bill 186 proposes that in a case involving the governor or lieutenant governor, the attorney general refers the matter to the personnel board which appoints an independent counsel to investigate. Results of the investigation are submitted to the attorney general, via written report, who then makes a determination as to whether a violation has occurred. If so, then the report is automatically converted to a complaint and forwarded to the personnel board for resolution.

In a case involving the attorney general, it is the governor that refers the matter to the personnel board at which point the same procedure as that described in the previous paragraph is followed. Of course, in this case the written report is then submitted back to the governor who makes the determination as to the necessity for further action through the personnel board.

One feature common to both Senate Bill 186 and 187 has received much attention. That is the civil fine of up to \$5,000 which could be levied on an individual for violating confidentiality requirements. This provision *will not* discourage people with righteous complaints from coming forward and making them. It *will* remind people with less than pure intent that there are legal requirements to abide by and liabilities attached to violations.

Our ethics statutes recognize the paramount importance of maintaining the presumption of innocence prior to any finding of probable cause being made. Current state law explicitly requires members of the State Personnel Board and the Select Committee on Legislative Ethics, and others assisting in an investigation, to maintain confidentiality. Why is this? Why should they be bound to this ethic? The clear answer to this question lies in the moral responsibility of fairness our system of justice provides to the accused during the investigatory pursuit of truth.

We must remember that when investigating an ethics complaint, it is no less than the subject's reputation which is at stake. An adverse finding could negatively affect an individual's career for years to come. But a false accusation could have the very same effect. How fair is that?

As it stands now, fair application of our ethics laws is being perverted through a parallel process of faux justice commonly known as trial by media. The fact is, where violations of ethics are alleged, it seems to be more important for a complainant to get the immediate gratification provided by a news flash than to let the Personnel Board or the Select Committee proceed with their statutory function and render a decision based on facts.

Restated, current law allows a complainant to use an ethics violation as a political hatchet. In these cases the end result is not nearly as important as the opening salvo. In fact, a complainant's entire purpose may be completely satisfied over the course of a single day's news cycle. Charged, tried and convicted in the court of public opinion. Case closed. Is this fair? Or even ethical?

If truth and justice are the complainant's pure motivating factors, then process and procedure should be welcomed along with the requisite confidentiality demanded of all parties involved. If the members of the Personnel Board and the Select Committee and others associated with an investigation must

maintain confidentiality why shouldn't the complainant be required to do the same? That seems only fair.

Senate Bill 187 revises the Legislative Standards of Conduct. To start with, this bill adds succinct language which simply restates a truism — where matters of legislative procedure are concerned, the Alaska State Constitution¹ and the Uniform Rules of Procedure² take precedence over statute. The bill also clarifies application of the Uniform Rules of Procedure with respect to open meetings guidelines. This, too, is an explicit restatement of Constitutional authority.

With respect to the Select Committee on Legislative Ethics, Senate Bill 187 seeks to empanel public members representing a broad cross section of Alaskans. While current law does not favor a particular profession or background, practical experience suggests that, as a matter of convenience, this ideal may be somewhat overlooked. As a result, the Committee may not have the opportunity to benefit from a full range of professional and geographic experience which may otherwise be available.

Senate Bill 187 also seeks to make the Committee more efficient in another important way. It provides that alternate legislative members may attend all meetings and hearings. This allows the alternate to cast informed votes should the need arise due to the absence of a regular member.

Where advisory opinions are concerned, clarifying language is added which makes clear that if the requestor of the opinion identifies another person in the request, then that person, too, shall not only receive the opinion but also be bound by the same standard of confidentiality applying to the requestor in current law. However, the opinion may be released if all parties provide written consent.

Much of the text found in Senate Bill 187 relates directly to AS 24.60.170. This section addresses proceedings before the Committee. New subsection "s" replaces much, if not all, of the confidentiality language scattered throughout this section. Subsection "s" provides the language establishing the new link in the chain of confidentiality whereby an individual may not disclose the filing of a complaint or the intention to file a complaint, or the intention of another to file a complaint.

All proceedings and actions taken by the Committee will be confidential. All documents filed with the Committee, produced by the Committee or obtained or disclosed as result of Committee investigation, discovery, or a hearing will be confidential. *However*, should the Committee, after investigation, find probable cause to believe that the subject of a complaint has committed a violation that may require sanctions instead of or in addition to corrective action, then the Committee will formally charge the individual. A finding of probable cause triggers public disclosure of the complaint.

It's important to note that the subject of a complaint may waive the confidentiality requirements spelled out in subsection "s". If confidentiality is waived with respect to a meeting or proceeding, then the proceeding is open to all members of the public. If confidentiality is waived with respect to a document or other information, then the document or information is available to all members of the public.

In summary, Alaska's ethics code applies not just to a handful of individuals but to 15,000+ state employees. It seems we should be keeping this in mind when we look at designing a system that not only seeks fairness to the individual employee but also justice for the public at large. Senate Bills 186 and 187 implements a number of features which are intended to accomplish these dual purposes in a straightforward fashion.

¹ Article II, Section 12

² Rules 53 & 55 and Section 4 of Mason's Manual of Legislative Procedure, 2000 edition

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 186
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title Executive Branch Ethics RDU Central Administrative Services
 Component Personnel
 Sponsor Senator Seekins
 Requester (S) STA Component No. 56

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the Division of Personnel.

Prepared by: Mila Cosgrove, Director Phone 465-4429
 Division Personnel Date/Time 1/31/06 10:25 AM
 Approved by: Mike Tibbies, Deputy Commissioner Date 1/31/2006
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB186-LAW-OA&E-1-
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the Alaska Executive RDU CIVIL
Branch Ethics Act..." Component Opinions, Appeals & Ethics
 Sponsor Senator Seekins
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes numerous amendments to the Executive Branch Ethics Act. It amends AS 39.52.110(b) (Scope of Code) by establishing a "bright line" test for when a personal or financial interest is insignificant under the ethics act. The bill amends AS 39.52.130(f) (Improper Gifts) and 39.52.150(a), (c) and (d) (Contracts, Leases, Loans) to add "business associate" to the list of people whose interests must be considered. A change to AS 39.52.210 and AS 39.52.410 would allow a financial interest that violates the ethics act to be placed in a blind trust or similar arrangement. AS 39.52.230 is changed to add a new subsection (b) that describes how reporting of violations of the ethics act should be handled if the report concerns the governor, lieutenant governor, or the attorney general. Changes are also made to AS 39.52.335 and .340 regarding confidentiality and reporting requirements by the personnel board. AS 39.52.340 is also amended by adding new subsections dealing with

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 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 1/30/2006
 Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

BILL NO. CSSB186

ANALYSIS CONTINUATION

confidentiality and imposing a civil penalty of up to \$5000 for those who violate the confidentiality requirement, and giving the attorney general the authority to enforce this section by filing an appropriate civil action.

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

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Frist Was Updated On Blind Trust

WASHINGTON, Sept. 26, 2005

(AP) Blind trusts are designed to keep an arm's-length distance between federal officials and their investments, to avoid conflicts of interest. But documents show that Senate Majority Leader Bill Frist knew quite a bit about his accounts from nearly two dozen letters from the trust administrators.

Frist, R-Tenn., received regular updates of transfers of assets to his blind trusts and sales of assets. He also was able to initiate a stock sale of a hospital chain founded by his family with perfect timing. Shortly after the sale this summer, the stock price dived.

A possible presidential contender in 2008, Frist now faces dual investigations by the U.S. attorney for the Southern District of New York and the Securities and Exchange Commission into his stock sales.

Sheldon Cohen, who was the trustee for Democrat Walter Mondale's blind trust when he was vice president, and drafted Democrat Lyndon Johnson's blind trust for Johnson's presidency, said that in the executive branch, "You don't tell them how it's composed." He said Frist, like any federal official, "absolves himself of conflict by not knowing what he owns."

Cohen said that when Mondale left office, he told Cohen to sell his assets. "He had no idea what I was holding," the Washington attorney and former Internal Revenue Service commissioner said.

Frist spokesman Bob Stevenson said the senator received approval from the Senate Ethics Committee before he initiated the stock sale. All the information Frist received complied with federal law and Senate ethics rules, Stevenson added.

The stock was in HCA Inc., a chain of hospitals founded in the late 1960s by Frist's father and brother. At the time of the sale, insiders also were selling. Shortly after that sale, the stock price dipped because of a warning that earnings would not meet Wall Street expectations.

"If, in fact, Frist was actively involved in this decision, he certainly has to supply an explanation of how that's consistent with a blind trust," said Bob Bauer, a Washington attorney who has set up blind trusts for Democratic members of Congress.

Bauer said he has no knowledge of Frist's dealings with the trustees of his investments.

Whether Frist knew too much about his investments, or took advantage of insider trading, is not known. But the potential political damage increased in recent days.

Frist also knows first hand how a Senate leader's career can suddenly roll downhill. His predecessor, Sen. Trent Lott, R-Miss., lost his leadership post after praising the late Sen. Strom Thurmond's segregationist campaign for the presidency in 1948.

Documents on file with the Senate show the trustees for Frist and his immediate family wrote the senator nearly two dozen times between 2001 and July 2005.

The documents list assets going into the account and assets sold. Some assets have a dollar range of the investment's value and some list the number of shares.

The trust is considered blind because eventually, through the sale of transferred assets and the purchase of new assets, the official will be shielded from knowing the assets he owns. The knowledge Frist learned about his holdings potentially makes it more difficult to avoid a conflict of interest.

Frist's 2005 financial disclosure form lists blind trusts valued between \$7 million and \$35 million.

Frist, a heart surgeon, has been the Senate's leader as the chamber has considered Medicare legislation and many other issues that would affect HCA's hospitals and doctors.

Another political problem for Frist: His own statements suggest he had no knowledge of his blind trust investments.

Asked in a television interview in January 2003 whether he should sell his HCA stock, responded, "Well, I think really for our viewers it should be understood that I put this into a blind trust. So as far as I know, I own no HCA stock"

Frist, referring to his trust and those of his family, also said in the interview, "I have no control. It is illegal right now for me to know what the composition of those trusts are. So I have no idea."

Stevenson, the Frist spokesman, said there limited instances "where federal law and Senate ethics regulations call for the

disclosure of certain transactions or events to the Ethics Committee and to Senator Frist as the trust's owner.

"Except in these very limited instances, Senator Frist does not receive information related to the disposition of his assets under the control of the trustee."

Frist sold the HCA stock at a time when insiders in the company also were selling off shares worth \$112 million from January through June of this year. Aides to the senator said he acted to avoid a conflict of interest, and that he had no information about the company that wasn't available to the public.

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Executive Commission on Ethical Standards

Blind Trusts

Pursuant to Executive Order No. 10, blind trusts may be utilized by a public officer or public employee or his or her spouse or dependent children for certain categories of assets. Blind trusts must be approved by the Executive Commission on Ethical Standards and shall contain the following characteristics:

- a. The trust shall not contain investments or assets in which the holder's ownership right or interest is required to be recorded in a public office or those assets whose permanency makes transfer by the trustee improbable or impractical; these investments or assets would include, but not be limited to, businesses, real estate, security interests in personal property and mortgages;
- b. The trust shall contain a clear statement of its purpose, namely, to remove from the grantor control and knowledge of investment of trust assets so that conflicts between grantor's responsibilities and duties as a public officer or employee of the State of New Jersey and his or her private business or financial interests will be eliminated;
- c. The trust shall be irrevocable, and shall be terminated only upon the death of the public officer or employee or upon termination of his or her status as a public officer or employee, whichever shall first occur;
- d. The trustee shall be directed not to disclose to the grantor any information about any of the assets in the trust;
- e. The trustee shall be required either to:
 - i. prepare and file grantor's personal income tax returns, withholding from distribution of the trust's net income amounts sufficient to pay the grantor's tax; and further to participate in the audit of the grantor's returns during the period of the trust with authority to compromise the grantor's tax liability; or
 - ii. submit to the grantor, for income tax purposes, a certification of income paid without identifying the assets producing such income;
- f. Among its other powers, the trustee shall have authority to determine whether any of the assets originally transferred to the trustee are to be sold and, if so, when;
- g. a provision shall be included in the trust agreement prohibiting the trustee from investing the trust property in corporations or businesses which it knows to a significant amount of business with the State of New Jersey or from knowingly

making any investment in a corporation, business or venture over which the grantor has regulatory or supervisory authority by virtue of his or her official position;

- h. The grantor shall retain no control over the trustee nor shall he or she be permitted to make any recommendations or suggestions as to the trust property;
- i. The trustee shall be a commercial trustee and not a natural person;
- j. The principal benefit to be retained by the grantor shall be the right to receive income from the assets transferred to the trust;
- k. The trust shall not become effective until submitted and approved by the Executive Commission on Ethical Standards; and
 - 1. The trust agreement shall provide that the trustee will give the Executive Commission on Ethical Standards access to any records or information related to the trust which is necessary for the performance of the Commission's duties.
 - 2. A copy of the executed blind trust agreement shall be filed with the Executive Commission on Ethical Standards and with the head of the department in which the State officer or employee holds his or her position. Attached to such copy shall be a brief statement outlining the business or financial interests from which the State officer or employee seeks to remove himself or herself and the actual or potential conflicts of interest, or appearance of such conflicts, which he or she seeks to avoid by use of the trust agreement.

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