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A defined contribution plan by contrast, the government is responsible only for a specified contribution each year. This is completely under the government's control, depending only on what the government agrees to pay. This means in turn greater certainty and predictability in budgeting. There is no possibility that taxpayers will be surprised with a large, unexpected cost that will require increased taxes.

Reduced Costs. A defined contribution plan can also significantly reduce costs. Defined benefit plans have large administrative costs for the government employer. The government must maintain and pay for the management of the large common pool of assets. Moreover, federal law imposes many regulatory requirements on such plans, regarding distribution of benefits, eligibility, investment policies, etc. Complying with and reporting on these requirements significantly adds to costs.

With a defined contribution plan, by contrast, administrative costs are negligible. The government simply pays an amount into each employee's own account as part of payroll processing. The worker takes over administration of the account after that.

A defined contribution plan may save the government on funding cost as well. The discussion above showed that workers can get high benefits, paying more even than their final salaries, with only 10% of salary paid into the individual defined contribution accounts. Indeed, these benefits can be substantially higher than under typical defined benefit plans. Yet, such plans typically cost more than 10% of payroll. With a defined contribution plan, government employers may be able to get a better deal for their workers while paying less into the plan.

In California, the state Department of Finance estimated that the defined contribution plan offered by Assemblyman Howard Kaloogian would save the state's taxpayers \$1,642 per employee each year, due to the above factors. That adds up to a very large benefit for taxpayers.

Improved Employee Recruitment. Finally, because of the advantages to employees noted above, defined contribution plans can help employers attract better employees. Highly talented workers may not be willing to commit to state government employment long-term. But they may be willing to work for a state or local government for a few years. The defined contribution plan would make it easier to recruit such workers because it is fully portable, and the workers can take the saved contributions with them when they leave. Moreover, these and other workers would favor the freedom of choice, personal control, and possibly higher benefits that they could get through defined contribution plans.

STUDY OF RETIREMENT PLAN DESIGNS

FOR

THE STATE OF COLORADO

OFFICE OF THE STATE AUDITOR

PURSUANT TO SENATE BILL 01-149

**Prepared by
Buck Consultants, Inc.**

November 20, 2001

COLORADO PLANS

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November 20, 2001

Members of the Legislative Audit Committee:

This report contains the results of the study of retirement plan designs for Colorado. The study was conducted pursuant to Senate Bill 01-149, which authorized the State Auditor to conduct a comprehensive study of defined benefit and defined contribution retirement plan designs for members of the Colorado Public Employees' Retirement Association. The report presents our findings and conclusions.

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EXECUTIVE SUMMARY

PURPOSE AND SCOPE

This study was conducted by Buck Consultants under contract to the State Auditor in accordance with Senate Bill 01-149, enacted by the General Assembly in 2001. The bill authorized the State Auditor to:

"conduct a comprehensive study of defined benefit and defined contribution retirement plan designs for state employees and for other employees who are members of the [Colorado Public Employees' Retirement] Association or eligible to be members. The study shall include a comparison of the benefits, cost, and portability of Association benefits with the benefits, cost, and portability of benefits provided by other defined benefit and defined contribution retirement plans for public and private sector employees in Colorado and other states, including Social Security, and a review of the effectiveness of retirement plan designs for attracting and retaining qualified state and school employees. The study shall also include any topics recommended by the [Colorado Public Employees' Retirement Association] Board or by the Legislative Audit Committee for the study."

This report presents the results of our work.

BACKGROUND

The two main types of retirement plans referred to in this report are Defined Benefit (DB) and Defined Contribution (DC). DB plans provide income for retirement based on a formula that is fixed; thus there are "defined benefits." DC plans define the contribution level rather than the retirement income level. The benefit provided in a DC plan is determined by the contributions and investment earnings accumulated in an individual employee's account over the course of his or her career. A variation on the traditional DB plan, a Cash Balance plan calculates benefits in a manner similar to a DC plan. Under a Cash Balance plan, benefits accrue at a steady pace throughout a worker's years of service, and are available to the employee on termination.

The pattern of benefit values over an employee's working career is typically different between DB and DC plans. For example, a DC benefit pattern is generally higher than a DB benefit during an employee's early years but lower during later stages of an employee's career. Some employers offer both types of plans or have hybrid designs that blend features of each plan.

DESCRIPTION OF COLORADO PERA

The Public Employees' Retirement Association (PERA) of Colorado covers State employees, all Colorado school districts except Denver, the State's judicial system, numerous municipalities, special districts, public health departments, and other local government agencies. As of January 1, 2001, PERA's membership included just over 53,000 active state members and nearly 97,000 active school members, as well as about 52,000 current retirees and beneficiaries. PERA was conceptualized as a complete retirement program and still maintains that philosophy today. PERA does not participate in Social Security and therefore is designed and funded with the intent of supplying retirees with the income replacement needed at retirement to sustain the approximate lifestyle the members enjoyed prior to retirement.

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The current PERA retirement program is a comprehensive plan that includes the following components:

- The Defined Benefit (DB) plan provides a minimum pension based on employee contributions of 8% of pay, with interest, and employer contribution. (currently 8.8% of pay). PERA also provides a cost-of-living increase (currently 3.5% per year).
- The Cash Balance plan (Money Purchase Retirement Benefit) allows members to receive a refund of both employee and some employer contributions, payable in a lump sum, in lieu of a monthly pension.
- The Defined Contribution (DC) plan (MatchMaker) provides an employer match for voluntary member contributions to a DC plan. The matching amount, set annually by the PERA Board, is currently 100% of the member contribution to a maximum of 3% of pay.
- The Health Care Trust Fund subsidizes the medical premium costs of retired members who participate in PERA's health care program. Employer contributions of 1.1% of pay fund the Health Care Trust Fund.

PERA pre-funds pension payments to members. Employee and employer contributions are placed into a trust fund and invested for future growth. The PERA Board sets the investment policy, including the asset allocation. As of December 31, 2000, the majority of PERA's assets are allocated to domestic and international stocks (over 67%) with the remainder being allocated to fixed income, real estate, cash and alternative investments.

PERA's funded ratio has improved over the last sixteen years, reaching 102% as of December 31, 2000. A funded ratio of 100% or greater indicates a well-funded plan. From 1970 through 1984, PERA's annualized rate of return on investments was 9.31% and from 1985 through 2000 it was 12.49%. These returns have far exceeded the assumed actuarial rate of return during the period, helping to improve PERA's funded status and funding benefit increases.

BENEFITS

We used various approaches to assess the benefits provided by PERA. First, we evaluated the extent to which PERA provides an adequate post-retirement income to members. We found the PERA defined benefit plan generally provides a career employee (one who works for 30 to 35 years and who retires at an unreduced retirement age) with a benefit which permits the employee to retire with total retirement income approximately equal to his or her pre-retirement take-home-pay.

Second, we analyzed PERA's DB benefits relative to a hypothetical DC plan. We concluded that employees who remain in employment until they are eligible for early retirement generally are better off under the current PERA defined benefit plan than they would be under a defined contribution plan. Viewed from this perspective, the PERA defined benefit plan provides greater retirement security than a defined contribution plan having the same employer and employee contribution rates. Employees who terminate before age 50 generally are better off under a defined contribution plan than under the current PERA defined benefit plan.

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Third, we compared PERA to other public sector plans. We calculated the present value of benefits payable for Normal Retirement, Early and Vested Retirement (where applicable), Post-retirement Death, and COLAs for an average employee using consistent assumptions. We compared these calculations for PERA with ten other state retirement systems and assigned scores to rank the systems. As the following table shows, PERA ranks second among the comparison states when all benefits are considered.

BENEFIT ANALYSIS FOR COLORADO PERA AND TEN OTHER STATE RETIREMENT SYSTEMS							
Rank	State	Benefit Points					Total Points
		Normal	Early	Vested	COLA	Post-Ret Death	
1	New Mexico	88	20	12	14	12	146
2	Colorado ⁽¹⁾	62	16	15	17	10	120
3	Missouri	67	15	8	15	13	118
4	Utah	63	14	8	17	12	114
5	South Dakota	46	14	13	16	12	101
6	Wyoming	47	17	10	14	9	97
7	Nebraska ⁽²⁾	43	16	19	8	10	96
8	Iowa	45	18	11	15	5	94
9	North Dakota	55	12	6	10	6	89
10	Kansas	50	14	5	10	5	84
11	Minnesota	35	11	5	14	5	70

¹ Not participating in Social Security.
² Defined contribution plan.
Source: Buck Consultants analysis of data provided by PERA and other states.

We also used Buck's Retirement Designer software to compare PERA benefits to a number of other statewide systems that maintain both DB and DC plans or that have made changes recently to implement a DC plan or hybrid. We found that PERA benefits are higher at all age/years of service levels than other DB plans in our comparison. In addition, the income replacement provided by PERA is higher than that provided by the DC only and DB plus DC plans of other states in our comparison.

Fourth, Buck contacted ten large Colorado employers to obtain relevant information on their retirement programs for comparison with PERA. We concluded that PERA has a competitive retirement benefit package due to higher benefits and lower employee contributions. Most private employers provide lesser benefits, particularly because of the trend to reduce benefits and switch from more generous defined benefit plans to less generous defined contribution plans. It is important to note that all private employers are required to participate in Social Security which is funded through employer and employee contributions of 6.2% of payroll each, up to the Social Security wage base. The bottom line is that only one of the ten employers in our comparison provides benefits as high as those provided under the current PERA structure and three provide benefits at only about half the level of PERA. The following table compares PERA with the average private employer.

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PERCENT OF REPLACEMENT INCOME PROVIDED				
Replacement Income From:	PERA Covered Employee	Avg. Private Employee with Annual Salary of:		
		\$25,000	\$50,000	\$75,000
Social Security	0.0%	23.0%	17.1%	14.0%
DB Plan	75.9%	12.2%	12.4%	13.6%
DC Plan - Employer non-elective	0.0%	2.2%	2.2%	2.2%
Subtotal Non-elective	75.9%	37.4%	31.7%	29.8%
DC Plan - Employee Voluntary	13.4%	25.9%	25.9%	25.9%
DC Plan -- Match	13.4%	17.3%	17.3%	17.3%
Subtotal - Voluntary and Match	26.8%	43.2%	43.2%	43.2%
Total Replacement Income	102.7%	80.6%	74.9%	73.0%
Required Employee Contributions	8.0%	6.2%	6.2%	6.2%
Voluntary Employee Contributions	3.0%	5.8%	5.8%	5.8%
Total Employee Contributions	11.0%	12.0%	12.0%	12.0%

Source: Data provided by private companies and PERA.
 Assumptions: Employee is hired today at age 30 and retires at age 62. Compensation increases by an average of 5.5% per year. DC plan investments earn 7.5% per year. Benefit levels do not change.

COSTS

As described above, we collected information on other state and school retirement plans and analyzed the overall value of PERA relative to other public sector plans when costs and benefits are considered together. We concluded that PERA has the lowest retirement benefit cost of any of the public systems in our comparison. The comparative contribution rates for both employees and employers in other systems include an added 6.2% for Social Security where applicable. Systems like PERA that do not participate in Social Security generally have lower costs due to the efficiency of pre-funding retirement benefits. The following chart shows how PERA contribution rates compare to the average of the other state and school systems we reviewed.

CONTRIBUTION RATES FOR STATE AND SCHOOL RETIREMENT SYSTEMS AS OF 12/31/2000				
State/System	Social Security Coverage?	With Social Security (6.2%)		
		Employee	Employer	Total
<i>Colorado State & School</i>	<i>No</i>	<i>8.00%</i>	<i>8.80%</i>	<i>16.80%</i>
Average State System	Yes	9.84%	13.53%	23.37%
Average School System	Yes	10.82%	12.78%	23.60%

Source: Buck Consultants analysis of data provided by PERA and other states.

We also found that PERA scores the highest within our comparison with other public systems for both State and School employees when considering both cost and benefit levels. The relative value of benefits delivered by each public retirement system in our comparison can be measured when considering both costs and benefit levels. To determine a value score, the score for costs and benefits are added together.

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Finally, we reviewed the costs of retirement plans offered by private employers. It is difficult to compare the costs of the DB plans offered by private employers because most of them are overfunded and no contributions are currently being made. However, the 2000 Employee Benefits Study recently published by the U.S. Chamber of Commerce surveyed the benefit programs of 532 companies and found the average employer cost for retirement and savings plans was 6.6% of pay. When mandatory Social Security cost of 6.2% of pay (up to the maximum wage base) is added, the average cost of a retirement program in the private sector is over 12% of pay, about 3 percentage points higher than the current employer cost under PERA. When compared to private employers, PERA has a competitive retirement benefit package due to higher benefits and lower employee contributions.

In order for DC plans, which are common to the private sector, to provide the same benefit value as PERA's DB plan for an employee at age 60 after 30 years of service, the DC plans would need to earn a higher investment return or be funded with higher contributions than the PERA DB plan. Hence, it is more expensive for a DC plan to provide a career employee with the same level of retirement benefits as a DB plan with the same investment return, although DC plans are often more valuable for short service employees.

PERA's status as a well-funded plan relates to its investment returns which are the result of investment policy and asset allocation decisions of the PERA Board and its investment managers. We calculated an expected rate of return for PERA of 9.03%, after expenses, and an average rate of return for an average DC plan of 7.52%, after expenses.

PORTABILITY

Portability is an important element of retirement plans, particularly for shorter-term, younger employees who change jobs and want to be able to receive value for the contributions and earnings in their retirement accounts. Portability can be characterized by the following three important features:

- **Vesting** – the years of service required for an employee to be eligible to receive the benefit funded by the employer contribution upon termination of service. Vesting of employer-funded benefits generally occurs earlier in defined contribution plans than in defined benefit plans.
- **Amount** – the value of the benefit the terminating employee is eligible to receive. The benefit amount or value of a traditional final average pay DB plan is generally lower than a DC account balance for younger, shorter service employees but the value of the DB plan benefit almost always exceeds the DC account balance by the time an employee is eligible to retire.
- **Transferability** – the ability to transfer, rollover, or cash-out the value of the retirement benefit upon termination of service. While lump sum cash-outs are available in a limited number of DB plans, virtually all DC plans offer lump sum payments. Transferability is probably the most valued aspect of portability.

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Some states are adding portability features to their existing DB plans as an alternative to offering a DC plan. Along with Colorado, South Dakota and Wisconsin added improved refund benefits to their DB plans. This feature, which allows a refund to include either all or a portion of the employer contribution, operates much like a cash balance plan benefit within the existing DB plan. The contribution balances are credited with interest at a defined rate under the plan. When a member terminates or retires, he or she can choose a lump sum refund of the cash balance or a monthly pension.

We found the portability of employee and employer contributions is a substantial strength of PERA. The following is a breakdown of the contributions that are immediately vested and available to PERA members who terminate service prior to reaching retirement age, for members who are and are not making voluntary contributions to a DC plan.

	<u>Contribution Rate</u>		
	<u>Employee</u>	<u>Employer</u>	<u>Total</u>
<u>No DC Plan Contributions</u>			
Portable DB Contributions	8.0%	4.0%	12.0%
Total Contributions	8.0%	8.8%	16.8%
Portability Rate (Portable Contributions ÷ Total)			71.4%
<u>With DC Plan (MatchMaker) Contributions</u>			
Portable DB Contributions	8.0%	4.0%	12.0%
Portable DC Contributions	<u>3.0%</u>	<u>3.0%</u>	<u>6.0%</u>
Total Portable Contributions	11.0%	7.0%	18.0%
Total Contributions	11.0%	8.8%	19.8%
Portability Rate (Portable Contributions ÷ Total)			90.9%

Source: Buck Consultants analysis of data provided by PERA.

RECRUITMENT AND RETENTION

An important element of our study was to review the effectiveness of retirement plan designs in attracting and retaining qualified state and school employees. In our review of employee attraction and retention research, health insurance was found to be the most important employee benefit, while savings and pension plan benefits were a distant second and third, respectively. These results indicate that employers looking to adjust or improve their benefit packages to meet employee recruitment and retention goals are more likely to achieve their goals by improving health insurance benefits than by enhancing retirement benefits. Of the workers surveyed in the research, only 6% of those covered by a DB plan, and only 5% of those covered by a DC plan, said they have accepted, quit, or changed jobs because of the type of retirement plan offered.

Benefits definitely play a role in attracting and retaining qualified employees but they are not the only factor, nor are they usually the most important factor, in an organization's ability to attract and retain employees.

We do not believe that any changes in the PERA benefit design would significantly improve recruitment and retention. If other evidence is found which demonstrates that a recruitment or retention problem exists, we would recommend that prior to further consideration of changes to

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PERA, the State identify if the problem is related to pay issues, work environment issues, or other benefit issues. We also believe that an enhancement in the communication of PERA's strong portability benefits may improve recruitment.

ALTERNATIVES FOR COLORADO

We identified no significant weaknesses in the current structure of PERA since the plan offers a blend of both DB and DC features and a high degree of portability, and compares favorably to other public and private sector plans. Based on our analysis of PERA turnover and the PERA plan design, we do not believe that any significant change in PERA benefit design would improve recruitment and retention. Communication of PERA's strong portability features to potential recruits may need to be enhanced. Unless a major problem arises with the PERA retirement program, we see no compelling reason for significant changes. Therefore, the Legislature is in a favorable position in terms of considering the need for and extent of any changes to PERA. The following four alternatives offer options for consideration, but are dependent on the State's overall goals and objectives. Some of the alternatives are geared toward enhancing benefits for workers who value portability; others toward workers who seek full retirement benefits. It is important to note that the cost estimates for all the alternatives presented are general in nature. PERA's actuary would need to prepare official fiscal analysis on proposals before any alternative plan designs are implemented.

Alternative 1 - Make No Changes: Maintain PERA as is with both DB and DC elements, including the gain sharing program as a mechanism to reduce future employer contributions. Benefits and costs would remain unchanged. Under gain sharing, 20% of the ten-year amortization of overfunding, determined as a percentage of pay, reduces the employer contribution rate otherwise payable in the following year. Communication of PERA's MatchMaker and portability benefits should be increased to improve understanding of the portability benefits available to both current employees and in materials available to potential new employees.

Alternative 2 - Add Minor Enhancements: Maintain the current PERA DB structure and consider making one or more of the changes described below. The new features suggested in this alternative would not result in a change in the basic public policy with regard to providing retirement income for Colorado public employees since the basic PERA DB plan structure remains unchanged. The changes could be implemented in a time frame of several months with minimal additional costs to PERA.

- a) Redesign the DC benefit to help attract younger employees. This change would replace the MatchMaker program with an employer basic contribution to the DC plan for all employees, thereby allocating the MatchMaker contribution more evenly to younger and lower paid employees. The employer basic contribution would be set by the PERA Board each year, with approximately 2.5% of pay available long-term. As a further alternative, the basic contribution could be directed to a flexible benefit plan, giving employees the choice of using the funds to pay for health insurance premiums, or in cash which can be contributed to a DC plan.

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- b) Enhance portability for younger workers. Any of the following three changes would improve portability which may improve recruitment and retention of younger workers:
- *Increase the employer match on the Cash Balance plan feature from 50% to 75% of the Member Contribution Balance after five years of service.* This would increase the amount employees could receive if they terminate service before retirement, increasing the employer match feature from 50% to 75% of the Employee Contribution Balance after five years of service. This change would reduce the funds available to match contributions to the DC plan from the current maximum of 3% of pay to an estimated 2.4% of pay.
 - *Provide a full refund of employer contributions in the Cash Balance benefit after five years of service.* The full employer contribution rate would be allocated to the Cash Balance benefit, thus redirecting most of the additional DB funding to younger members. This change would reduce the funds available to match contributions to the DC plan from the current maximum of 3% of pay to an estimated 1.4% of pay.
 - *Index the deferred vested benefit from the DB plan by 3.5% per year.* Cost-of-living adjustments would be applied to the DB retirement benefit equal to a fixed annual increase of 3.5% per year from date of termination to the benefit commencement date. The DB retirement benefit would have a greater value for younger terminated members. This change would reduce the funds available to match contributions to the DC plan from the current maximum of 3% of pay to an estimated 1.3% of pay.
- c) Enhance features to retain experienced staff. Adding a Deferred Retirement Option Plan (DROP) provision may help retain older skilled workers by offering lifetime retirement income *plus* a lump sum benefit. DROPs allow a retirement-eligible employee to promise to retire on a date certain in the future. The employee's benefit entitlement is calculated immediately and the monthly benefit amount is paid to an escrow account on the employee's behalf. On the agreed date, the employee retires with the monthly lifetime benefit as calculated when he or she entered the DROP and the DROP account (with accrued interest) is distributed as a lump sum at actual retirement.

Alternative 3 – Enhance Hybrid Features: In addition to the current PERA program, make a combination DB/DC plan available to future PERA members only. This alternative would increase the contribution to the DC plan, most likely resulting in enhanced benefits for employees leaving PERA at younger ages which may increase the perceived value for potential employees. However, the change would also result in smaller benefits for most career employees at retirement. This alternative results in a shift in public policy since it reduces the guaranteed lifetime income provided by PERA and allocates some of the current funding to enhanced DC benefits.

Alternative 3 would be designed to have the same relative costs as the current program when compared to the funding available but the DB plan cost is expected to be 9.0% of pay. This alternative would require that PERA develop a new program for new members that would have a different or reduced benefit structure. This would significantly increase administrative costs. We estimate that Alternative 3 would require up to one year to implement. To maintain cost-

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neutrality of the plan, no MatchMaker contribution would likely be available to new members who elect the combination DB/DC plan.

Alternative 4 – Offer a Full DC Plan: Add a full DC option plan, giving current and future employees the opportunity to elect out of the PERA guaranteed benefits at retirement, disability, and death in return for exclusive participation in a DC plan. Choice between DB and DC is seen as appealing to new employees. DC plan members could be given an irrevocable choice after five years of service to opt into the DB plan, transferring their DC account balance to the DB plan, thereby gaining credit under the DB plan for past service. An important policy consideration for the General Assembly is that employees who opt for the DC plan under this alternative would have no "safety net" in retirement since they are not covered by Social Security while they are PERA members. Alternative 4 would result in a significant change in public pension policy because employees who elect the DC plan will have no guarantee of adequate retirement income and will bear all the risk for adequacy. The adoption of a defined contribution plan as an option to an existing defined benefit plan may place a burden of responsibility on individuals for their investments both during active work-life and in retirement.

Alternative 4 would introduce a level of uncertainty to the PERA funding requirements and likely increase the cost of the current benefit structure for those remaining in the DB plan due to the choice feature. The additional cost occurs when employees who are given a choice of benefits successfully choose the more valuable benefit. Younger members would tend to elect the DC plan and older members would tend to elect the DB plan. The DB plan benefit cost is higher for older members due to a shorter period between hire date and retirement date required to fund the benefit. The DC plan would be based on the same employee/employer contribution levels and include Health Care Trust Fund participation, but there is the likelihood of higher contribution requirements or a decrease in the funds available for the current DC funding by PERA. The amount of cost increase cannot be accurately predicted until experience develops under any program so offered, although we believe an increase in the DB plan cost of 0.3% of pay is a reasonable estimate. Alternative 4 adds significant administrative and communication complexities to the program. We estimate that 18-36 months would be required for implementation.

PERA RESPONSE

This report has been reviewed by the Public Employees' Retirement Association of Colorado. Their comments concerning this report is attached in Appendix K.

Rep. Paul Seaton

From: Harvey, Tom [AK] [Tom.Harvey@neaalaska.org]
Sent: Thursday, March 24, 2005 2:23 PM
To: Rep. Paul Seaton
Cc: Alcantra, John [AK]; Bjork, William (contact) [MB]
Subject: TRS/PERS Board

Rep. Seaton,

Thank you for your efforts to make the TRS/PERS issue an open exchange of information and a process that allows all interested parties to have constructive input. You and your staff, particularly Katie, have been very cooperative in exchanging information and exploring options. I must express NEA-Alaska's concern that the attempt by the Senate to keep education funding hostage for specific defined contribution plan should be avoided by the House. The issues are separate issues. If funding TRS/PERS needs to be outside the BSA then so be it. But demanding that a bill be passed in less than 42 days, when it has taken more than 60 days to get bills out for consideration, is unrealistic. Haste makes waste.

In regards to the composition of the Boards, I would suggest that the method by which trustees get on the Boards should be the same. It does make sense that the Governor gets to appoint a majority of the trustees. Thus, the largest beneficiary, the state of Alaska, has a majority of the trustees and gets to be sure the management and fiscal knowledge criteria are met. Having the criteria in the bill also makes sense. The participants in the system should also have guaranteed representation. NEA-Alaska believes they should be a majority of the Board; however the real issue is how they get on the Board and the preferred process is by election by the participants. Thus, utilizing the election process in the PERS law for TRS would seem appropriate.

Given the many differences in benefits in the two systems, it does not make sense to have the Boards combined into one Board. A major function of the Boards is the appeals process and therefore requires people who understand the particular system.

It is clear that the Boards share many things in common regarding financial and actuarial data. They have been meeting jointly more often recently. A statutory requirement for quarterly joint sessions may be a better approach than combining the Boards.

At the work session today, a suggestion was made to provide for management representation (municipal, university and school district) was made. That would bring all parties to the table. That could be done by expanding the Boards OR by making one of the Governor's appointments come from a list of nominees presented by the three entities. If you wish we could have language drafted for your consideration on all the above.

NEA-Alaska will continue its efforts to work with you to better define the real issues before us and to fashion good solutions. We are not convinced that a defined contribution system only is the sole or right solution.

Thanks.

Tom Harvey
NEA-Alaska Executive Director
1-800-996-3225, ext. 527
1-907-274-0551 (FAX)

Supporting public education that achieves excellence and equity for every Alaskan child.

Louie Flora

From: Ron Rich [csexton@xyz.net]
Sent: Monday, March 28, 2005 11:43 PM
To: Louie Flora
Subject: PERs

I want you to know that i believe the retirement system has been too good for state workers . And the future should not be so good for those workers.

I spent 17 yrs with the alaska army guard and get 100 dollars a month until age 70 or 72 . my sister in law will get 300 dollars a month after 55yr of age for working for the state for 5 years.

I think the state should cut back the big bucks they give to state workers in pensions., and i trust you will make the best decision on these matters for me.

good luck and just be honest when you make your vote.

Love; Ron & Carol on the Old Sterling Hwy, Anchor Point, Alaska

Rep. Paul Seaton

From: Patricia Parsch [audi@gci.net]
Sent: Monday, March 28, 2005 5:00 AM
To: Rep. Paul Seaton
Subject: TRS & PERS Retirement

Patricia Parsch
6551 Cimarron Circle
Anchorage, AK 99504-3944

March 28, 2005

The Honorable Paul K. Seaton
Alaska House of Representatives
House of Representatives, Room 102
Juneau, AK 99801-1182

Dear Representative Seaton:

Dear Mr. Seaton,
As an Alaskan educator for 23 years, I have grave concerns about the five current bills legislators are considering. I'm opposed to the proposed changes and urge you to stop the abuses. If we can do this and close the loopholes, an excellent system will continue to operate effectively for retirees without mortgaging the future of working Alaskans.

Sincerely,

Patricia Parsch
907-742-1182

Louie Flora

From: Willy Dunne [wdunne@xyz.net]
Sent: Saturday, April 02, 2005 11:38 AM
To: Ian Laing
Subject: report for HSA committee

David Reaume: State's salaries are falling behind

DAVID REAUME
COMMENT

Published: March 6th, 2005

Last Modified: March 6th, 2005 at 07:23 AM

State government payroll per worker has dropped 31 percent since 1984, after adjustment for inflation. Over that same time period Alaska personal income per capita, also adjusted for inflation, has dropped only 3.7 percent. Although changes in the job composition of Alaska's work force readily account for the drop in real per capita income for all Alaskans, changes in the job composition of the state of Alaska work force cannot possibly account for the drop in inflation-adjusted payroll per state government worker.

The year 1984 was the height of the early 1980s oil price boom in Alaska. State coffers were bulging. One might, therefore, question the choice of 1984 as a base year for comparison purposes. But a look at 1991 pay schedules shows that paychecks for state government employees have continued to erode at a rapid pace.

For example, a range 18E supervisory worker earned \$3,893 per month in July 1991, base pay. The pay schedule that went into effect in December 2002 (the most recent available, shows a range 18E supervisory worker earning \$4,429 per month. Had that range 18E supervisor been fully compensated for inflation since July 1991, the worker's December 2002 base pay would have been \$5,796. On an annual basis the shortfall comes to more than \$16,000.

So how do state salaries compare to those paid elsewhere for people of comparable skills and educational attainments? Comparisons that have been made in the past seem to suggest that state workers are doing reasonably well. But there are several problems with those past comparisons. One big problem that arises when comparisons are made with out-of-state workers is that only cost-of-living differentials have been accounted for. Other factors have been ignored, such as the possible need for a post differential.

A post differential is a percentage amount that must be added to salaries, over and above a cost-of-living allowance, to compensate for factors that are not included in the cost-of-living allowance. Such factors include climate, hours of daylight, quality of schools, interstate and intrastate air transportation costs, special housing maintenance costs, goods and services needed in the COLA area but not needed in the representative city, and remoteness and isolation. What little evidence is available suggests that the post differential for Anchorage may be considerably higher than one might have expected.

In a study released by the federal Office of Personnel Management in July 2000

titled "Special Research Relating to the Nonforeign Area Cost-Of-Living Allowance (COLA) Program," economist Joel Popkin estimated that the post differential needed in 1996 to fully compensate federal workers in Anchorage was about 30 percent of what they would have been paid in Washington, D.C. This 30 percent was in addition to the existing 25 percent tax-free COLA. The combination of the 30 percent required post differential and the existing 25 percent tax-free COLA was over 60 percent of the base salary paid in Washington, D.C., after converting the COLA to a taxable equivalent percentage.

I understand that many Alaskans prefer living in Alaska to living Outside and would be happy to work at today's wages. To those workers a post differential is just another bonus. But employers, state government included, cannot count on finding all or even most of the skilled new people they need if the search is restricted just to those residents who happen to love Alaska for itself. The state, like other Alaska employers, must recruit workers from Outside if it is to maintain a competent work force. To do so, it rather clearly needs to rethink its compensation policy.

David M. Reaume is a Washington state-based economist who was based for many years in Juneau. His opinion column appears every fourth Sunday.

THE REPORT "Special Research Relating to the Nonforeign Area Cost-Of-Living Allowance (COLA) Program" can be seen at www.opm.gov/oca/COLA/html/Research.pdf

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Version: 7.0.308 / Virus Database: 266.9.1 - Release Date: 4/1/2005

Louie Flora

From: Willy Dunne [wdunne@xyz.net]
Sent: Saturday, April 02, 2005 11:39 AM
To: Ian Laing
Subject: Report for HSA committee

Workers for state see little pay raise

DAVID REAUME
COMMENT

Published: February 6th, 2005

Last Modified: February 6th, 2005 at 03:05 AM

Recently I was hired by the Alaska Public Safety Employees Association to examine the pay history of the Alaska state troopers and to testify to my findings at an arbitration hearing held in Anchorage the week of Jan. 17. What I discovered deserves some publicity. Briefly put, Alaska does have a personal income tax, albeit one that is not on the books. That tax is levied only on state government workers. Here are the facts.

In 1984, average annual payroll per worker for Alaska state government workers stood at \$32,376. By 2003 it had risen to \$39,540. Although that may seem like a reasonable increase at first glance, the \$39,540 earned in 2003 was actually worth only \$22,327 in 1984 dollars, a decline of some 31 percent.

It is not possible to account for this 31 percent real (inflation-adjusted) decline by reference to changes in the composition of state government employment. It happened because state government workers have been getting pay increases for the past 20 years that simply do not keep up with inflation. Comparing what each got with what each would have received under full inflation adjustment, we find that, on average, state government workers paid an implicit state income "tax" in 2003 on the order of \$10,000 in constant 1984 dollars. Restated in 2003 dollars, the average 2003 "tax" per employee comes to more than \$17,000.

Other Alaskans seem to have done much better because per capita personal income for all Alaskans nearly kept up with inflation over this period. Restated in constant 1984 dollars Alaska per capita personal income stood at \$18,778 in 2003, down only 3.7 percent from the \$19,503 posted in 1984. Given the change in the composition of Alaska employment over this period, toward lower paying retail trade and service-sector jobs, it seems likely that the earnings of most individual workers in the private sector, in contrast to those in state government, more than kept up with inflation over the past 20 years even if they received no promotions.

We can look at this in another way. I have constructed 20-year "could-have-been" salary profiles for three hypothetical state government workers, one who earned \$15,000 in 1984, one who earned \$25,000 in 1984 and one who earned \$35,000 in 1984. I have assumed that each received promotions that increased their pay by an average of 1.7 percent per year plus an annual average cost-of-living increase equal to one-half the previous year's increase in the Anchorage consumer price index. These assumptions are not out of line with actual

experience.

Compared with what each would have received had they been fully compensated for inflation, the first state worker lost \$82,000 over the past 20 years, the second state worker lost \$137,000 and the third lost \$192,000. Given that their pensions are determined in part by their earnings, their total losses inclusive of pension loss are only a little less than double their salary loss.

In other words, many if not most state government workers have realized little or no increase in their standard of living since 1984. Between 1983 and 2003 the Anchorage consumer price index rose at an annual average rate of 3.1 percent. The numbers that I have looked at suggest that, even including promotions, the average state government worker's annual salary increased something less than 3.5 percent!

It is no secret that government workers are not the most loved people in Alaska. I suspect that if a poll were taken they might rank somewhere down near trial lawyers in public esteem. But they have a job to do, and that job will not get done competently if the state cannot hire enough good people. If Alaskans want a state government work force heavily loaded with people who are asked to do jobs for which they are not fully qualified, then stay the course. If you want competent, well-qualified people looking out for your interests, then it is time to reverse the trend of the last 20 years.

Some readers may wonder if the use of 1984 as a base year for salary comparisons biases the results in favor of the conclusion that state workers are underpaid. Others may wonder how Alaska state salaries compare to those in other states. I will address these issues in my next column, on March 6. In brief: The conclusion is unchanged when these additional questions are answered. State workers are underpaid.

David M. Reaume is a Washington-state-based economist who was based for many years in Juneau. His opinion column appears every fourth Sunday.

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Version: 7.0.308 / Virus Database: 266 9.1 - Release Date: 4/1/2005

3/30 Wed am
Senpai

Good Morning . My name is Gayle Harbo and I have been a resident of Alaska since 1957. I am a mother, a grandmother and a teacher and most recently a member of the Teacher Retirement System Board. As a parent and a grandmother I am most concerned about the quality and stability of the education employees in the state of Alaska. When I came to Alaska there were many applicants for each job, with prospective teachers often subbing for years before they were hired to a permanent position. Salaries in the late '60's and early '70's were very competitive. That is no longer true. I believe teacher job fairs are no longer held in either Anch or Fairbanks. The point is Alaska is no longer the place to come to get a good salary . A friend in Wasilla said if she had stayed in Wisconsin for her teaching career she would have a better retirement then she will have here.

I want the best and brightest to teach my grandchildren. To attract teacher's it is important we keep the DB system. Many of the changes recommended by the Tier Subcommittee of the Joint BDs could be adopted without going to a defined contribution system. One, in particular, would change the number of years over which an average salary is computed.

It is important to realize that, under the proposed system, seniors would be given a "pot" of money when they retire and then have to manage a resource that is to last them for a lifetime in terms of annual income. They would have no inflation proofing(PRPA, which even SS provides)and they would be at the mercy of investment advisors and unknown investment costs. As individuals, they would not be able to get the breaks ASPIB gets by investing large sums of money, putting their dollars at even greater risk. You have all read the horror stories of retirees who have lost everything because they did not have the expertise to invest. Most are emotional, not long term investors and their resources may not match their lifetime expectancy.

Another issue for seniors is health. I personally know many seniors who have suffered from stroke, Parkinson's, and dementia in their late 60's and early '70's. Who will look out for their well-being and security? Our retirees who invest their lives working for the state of Alaska deserve more.

The proposed legislation is particularly unfair to members of TRS who were pulled from Social Security, but not given the option PERS employees received when SBS was formed and the state matched the employee contribution of 6.13% . In addition PERS employees may participate in a

deferred comp plan. Teachers not only do not have a parallel SBS plan, they often receive little or no benefits under Social Security because of the provisions of the Government Pension Offset (spousal offset) and the Windfall Elimination Provision. These provisions eliminate or greatly reduce promised benefits from Social Security for quarters worked. Not only that, because the state mandates participation in Medicare Part B when a retiree reaches age 65, every retiree must pay almost \$80 a month out of pocket.

Last year this Legislature unanimously passed a resolution requesting our Alaska Delegation in Congress work for the repeal of GPO/WEP. They recognized the inequities for public employees not covered by SS.

I urge you to give this matter more thought before you make sweeping changes. Let's work together for a year to get the health care costs down and look at some of the suggestions made by the Joint Boards at the presentation of the Tier subcommittee's proposal in November. I am sure working together we can reach a solution that will be beneficial to future employees and also to Alaska's children. I want young people to come to Alaska and to stay in Alaska. We have much to offer. Thank you for this opportunity.

Bayle Harbo

July 3/29
Sen. Jor

Good afternoon. My name is Gayle Harbo and I have been a resident of Alaska since 1957, most of the time living in Fairbanks. I taught in Fairbanks for 25 years, most of the time at Lathrop High School and was Chair of the Math Dept and Advanced Placement Coordinator for almost 20 years. I am here as a member of the Teacher Retirement Board. The joint boards thank Senator Stedeman for his willingness to teleconference with us on Friday Mar. 25. We are sorry his plans changed but since he could not teleconference hope he and the Committee will read the verbatim transcript of the morning's discussion so they realize the depth of true concern that each Board member has regarding all the bills which seriously impact a retirement system which has worked well for 50 years. The only significant changes that have been made in recent years have been enhancements of benefits due to legislation. The Joint Boards have sent letters to the Legislature these past two years asking that you not introduce any bills which enhance benefits and the Administration has agreed to testify against these bills because all would increase the unfunded liability.

I am going to address 3 topics in my remarks and will be happy to answer any questions. If I don't know the answer I will try to find out.

My first issue is the interaction of the 3 Pension Boards. As you know the main work of the TRS and PERS Boards is listening to appeals of members, recommending employer contribution rates and adopting actuarial assumptions every 5 years based on the recommendations of the Commissioner of Administration and the actuary. ASPIB manages and invests the contributions to the system. The Joint Board members have great admiration and respect for the way ASPIB and the staff of Revenue, who work with Gary Bader, invest and care for our funds. Over the past 10 years the funds have earned almost 9% annually, at or near the assumed rate of our actuary. Earnings are not the problem causing the unfunded liability.

This leads to my second issue. The main driver of the decrease in the funding ratio has been the rapid increase in health care costs, a problem not unique to Alaska. You have seen in past presentations that without the inclusion of medical costs the funding ratio is a respectable 91% for TRS and 120% for PERS. Health care costs have accounted for 50% of the employer contribution rate increases in past few years. The Administration can make changes in the Health Care plan without legislation. First, changes can be made to the plan for current tiers if they do not diminish benefits, but are a matter of choice or convenience. (An example would be requiring members use hospitals, both in and out of Alaska, which are preferred providers so

significant savings could be negotiated - Providence in Anch. is not a PP yet over 80% of retirees go there, the hospitals in Juneau and Sitka are owned by their respective cities. They are not preferred providers and there is little savings to the state.) Secondly, significant changes can be made to the plan for employees hired after a specific date.

About 5 years ago the Joint Boards recommended an education program to encourage members to use Generic Drugs. The members responded and now 42% of the drugs used are generic. Every percent of brand name drugs replaced by generics saves the plan 1M. (see Oct. '04 Newsbreak). The Health Care Committee has for several years recommended the state pilot a disease mgt. program, particularly for diabetes, but we were told that the start up cost of \$240000 was too much. In speaking with other health plan administrators who utilize disease mgt. I have been told that the cost savings in the first four years are considerable and would more than recoup the start up costs. Mr. Mike Humphries, from the benefits division at the U of A, the NEA Health Trust and, perhaps Mr. Jarrell, our new trustee from Bering Straits School District, indicate their plans incorporate this element. For retirees this past year, 474 members had claims of over \$50000 each and accounted for 53M of the medical expenses to the state plan. Surely disease mgt could have reduced some of this cost. Other than the generic drug campaign no substantive cost savings measures have been taken. The Health Care Committee has presented a list of several cost savings measures that we, and the entire Jt Board, would like to see initiated. The Boards can only recommend, however, not implement. I feel we would not be at this juncture, with drastic changes recommended to the system, if this Administration and past Administrations had held a Forum with employers, legislators, representatives of unions and the Municipal League and medical professionals to discuss methods of resolving these skyrocketing costs. We all recognize the problem and would like to be part of the solution, not adversaries. Senator Seaton has a bill regarding generics and closed formularies. This does not have to be legislated - the Administration can make those changes now as long as they do not diminish benefits to the current tiers.

My third issue deals with the comments by some that the Boards have not been responsible in recommending the employer contribution rate and with the awarding of the ad hoc PRPA. Wrt TERS and the employer rate, it is a

recommendation, the Administration can set the rate higher. The Boards act with information provided them by the Administration and the actuary. In the early '90's the TRS Bd adopted a 12% employer rate and to ensure stability for employers for future planning, they intended this rate be used for at least 20 years. In 2000 and 2001, however, when setting the rates for FY'02 and FY'03, Mercer, our actuary, recommended rates as low as 7.09% and 8.29% for those fiscal years. The TRS Bds did, in those two years, drop the rate to 11%; had they not, the employers may have been upset. In '03 we set the rate at 16%, though the first motion was for 17%. The contribution rate has been higher - in FY' 83 and '84 the combined rate for state and school district was close to 18%. When I started teaching in the '60's, employee, employer and the state each contributed 7%. The employee population at the University that is not under TRS, but under private accounts has a match by the employer of roughly two to one.

The other issue of Ad Hoc PRPA's apparently needs to be clarified since you were given a paper dated Mar. 18 from Mercer regarding the funding status due to plan changes, mostly enhancements through legislation, and Ad Hoc PRPAs. As you know the Boards recommend Ad Hocs on the basis of information provided by the actuary and the Commissioner of Administration. The Boards have only made recommendations when the funds were healthy. No Ad Hoc has been recommended since 2003. A retiree gets either the Ad Hoc or the automatic PRPA, not both. In the past years when the Ad Hoc has been awarded it only causes a small "blip" in the increase of the employer contribution rate, probably less than .06%. The Mar. 18 letter fails to indicate that probably 99% of the ad hoc cost mentioned, resulted from the settlement of a lawsuit in the mid '90's. The state lost the lawsuit and as a result had to make all retirees whole, from the time they retired, wrt the PRPA. The dollars paid out include not only past prpas but the interest earned. Many individual retirees who had been retired 30 to 40 years received checks close to \$10000. The lawsuit, as many of you may remember resulted because past administrations had not awarded a prpa when the fund was "healthy".

The Mar. 18 letter also attributes nearly 1B of the increase to the unfunded liability to benefit enhancements by the legislature. The Boards have said many times that "tinkering" with the tiers, once they have been established has not been in the best interest of the funds and for some of

these changes the actuary has not accurately predicted the rapid rise in health care costs. In the assumptions adopted by the Boards, the last time in Dec. of 2000, Mercer had a Medical assumption rate of 5.5%. We now know was not a realistic assumption. The Boards requested an Actuarial Audit in 2001 and the resulting report indicated that we should look at Medical assumptions on an annual basis. You also know that the RIP programs advocated by the Legislature in the early '90's were to be cost neutral, but this past year Mercer indicated they have had a negative affect on the funding ratio, primarily because of escalating Medical costs. Despite this poor advice, if you examine Mercer's budget line item over the past few years, you will see there has been a 100% increase in their fees.

I thank you again for your time and hope you will carefully consider whether drastic measures need to be taken at this time. We all agree there is a problem and we hope by working together we can begin to solve it, but please do not burden future hires for the mistakes of others. Changes can be made, without legislation, to control current and future costs. Please let us work together to make Alaska continue to be the place young people will want to come to work, as you and I once did.

Gayle Harbo

HB

194

Alaska State Legislature

House of Representatives

Session address:
Alaska State Capitol
Juneau, Alaska 99801-1182
1-888-465-2647 (toll free)
1-907-465-3518 (fax)

Interim address:
716 West 4th Avenue
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Representative Les Gara

SPONSOR STATEMENT

HB 194 – Executive Branch Ethics Act Revisions

HB194 is a responsible step toward making the Executive Branch Ethics Act clearer, easier to understand, and easier to follow. The bill would fix three problems with the current Ethics Act.

First, the bill sets a clear financial line for executive branch employees' personal financial holdings. The bill declares that a financial holding is "insignificant" only if it is less than \$5000 or 1% of a company's stock, whichever is less. This definition, which is missing under current law, lets executive branch employees know exactly where they can, and cannot, be involved in state decisions that would affect their personal investments.

HB 194 also broadens the definition of "official action" to include most of the day-to-day work activities performed by executive branch employees. This is a key definition: state employees should not be able to use their state offices to benefit their pocketbooks, and then claim that their acts were not "official." If an employee's act is within the scope of the employee's work performance, then it counts as "official" under HB 194.

Finally, the bill removes a potential loophole by removing an "or" from the current law. The current law declares that there is no violation of the law if a public officer's personal or financial interest is "insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officers belongs." The wording of the current law is unfortunate. An executive branch employee could have \$1,000,000 worth of stock in a company that directly benefited from the employee's official actions. But if the same employee also had an interest possessed generally by the public, then the "or" would work to absolve the employee of wrongdoing. Such a situation might arise for employees that deal with the Permanent Fund investments, for example.

The state's ethics laws should be clear to executive branch employees, and to the public those employees serve. Please join me in supporting HB 194.

E-mail: Representative_Les_Gara@legis.state.ak.us



Alaska State Legislature

House of Representatives

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Representative Les Gara

SECTIONAL ANALYSIS

HB 194 – Executive Branch Ethics Act Revisions

Section 1 Clarifies the conditions under which an official action by a public official is not a violation of the Executive Branch Ethics Act and, thus, by exclusion, the conditions under which an action is a violation of the Act. Establishes that there is no substantial impropriety, i.e., that it is not a violation of the Executive Branch Ethics Act, for a public officer to take an official action or exercise influence on a matter in the following situations:

- ◆ The public officer has a personal or financial interest in the matter but the action taken or influence exercised would have insignificant or conjectural effect on the matter;
- ◆ The public officer has a personal interest in a matter that is insignificant or is possessed by the public or by a large class of persons to which the public officer belongs; OR
- ◆ The public officer or an immediate family member has a financial interest in the matter, including a property ownership or a professional or private relationship that is, or could be, a source of income, AND the value of that interest is less than \$5,000 or 1 percent of the total value of the business, whichever is less.

However, if a public officer or an immediate family member has a financial interest in a matter

- ◆ that equals or exceeds \$5,000 or 1 percent of the total value of the business or

E-mail: Representative_Les_Gara@legis.state.ak.us



- ◆ from which the individual has received or expects to receive a financial benefit equal to or greater than \$5,000,

taking official action regarding the matter would be a violation of the Executive Branch Ethics Act.

Section 2 Expands the definition of “official action” in the executive ethics act to include performance of any duties in the course and scope of a public officer’s employment. This includes, in addition to actions already stated in statute, “review, advice, participation, assistance, or another kind of involvement regarding a matter.”

March 17, 2005

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB194-LAW-OA&E-1-23
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act prohibiting a public officer from taking RDU CIVIL
official action regarding a matter in which the public..." Component Opinions, Appeals & Ethics
 Sponsor Representative Gara
 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						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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 amends AS 39.52.110(b) (Alaska Executive Branch Ethics Act - Ethics Code - Scope of code.) The bill establishes a "bright line" test for when a financial interest is insignificant under the ethics act. The bill also amends AS 39.52.960(14) (Alaska Executive Branch Ethics Act - General Provisions - Definitions.) to more clearly define what constitutes taking "official action". Together, these amendments make it simpler for public officials, designated ethics supervisors, and the attorney general to apply, interpret and enforce the Ethics Act.

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

Prepared by: Kathryn Daughetee, Director
 Division: Administrative Services Division
 Approved by: Kathryn Daughetee for David Márquez, Attorney General
 Agency: Department of Law

Phone 465-3673
 Date/Time 1/23/06 10:05 AM
 Date 1/23/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 194
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: All
 Title Executive Branch Ethics: Financial Interests RDU _____
 Component _____
 Sponsor Rep. Gara Component No. _____
 Requester House State Affairs Committee

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 legislation would not have a significant fiscal impact on any state agency.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
 Division: Office of Management and Budget Date/Time 1/23/06 3:00 PM
 Approved by: Cheryl Frasca, Director Date 1/23/06
 Agency: Office of Management and Budget

Alaska ethics laws fall short, need revision, lawmakers say

■ **CONCLUSION:** Renkes broke law by not asking for ethical determination.

By **MATT VOLZ**
The Associated Press

JUNEAU — An outside investigator shined a light on a murky area of Alaska ethics law when he found that the attorney general's potential to profit from a state business agreement did not rise to the standard for lawbreaking.

Alaska law does not say how much is too much when a state employee has a financial stake in a company.

That lack of a standard is what caused former U.S. attorney Robert Bundy to conclude that Attorney General Gregg Renkes' role in a trade agreement between Alaska and Taiwan could have benefited KFX Inc. — a company in which Renkes owned more than \$100,000 in stock — but wasn't an illegal conflict of interest.

Bundy's report to Gov. Frank Murkowski concluded, however, that Renkes broke the law by failing to ask for an ethical determination before playing a major role in the coal deal that involved technology by KFX Inc.

The lack of standards muddled Renkes' case and made it a close call, Bundy said.

"This controversy could have been avoided had a statute or regulation provided specific standards on when stock ownership constitutes a conflict of interest," Bundy's report said. "Accordingly, we recommend that the governor take steps to establish these standards."

Lawmakers agreed that changes need to be made.

"I think Bundy did a good job of outlining the black hole," said Rep. Beth Kerttula, D-Juneau. "It's incumbent for us to get this fixed and get this fixed quickly."

House Majority Leader John Coghill, R-North Pole, said the Legislature needs to address what he called a gray area of the law.

"The answer is yes. When, I don't know," he said. "The first thing we want to consider is that this thing runs its course before taking it up. We want to let the news die down, so we can be a little more deliberate."

Renkes owned 0.32 percent of KFX's outstanding shares, the value of which peaked at more than \$126,000.

Bundy used a 1989 attorney general's opinion to determine whether Renkes owned enough stock to be con-



DAVID J. SHEAKLEY / The Associated Press

Gregg Renkes talked about the allegations of ethics violations in Juneau on Tuesday. An investigator cleared him of some wrongdoing.

“
I think Bundy did a good job of outlining the
black hole.
”

— Rep. Beth Kerttula, D-Juneau

sidered a conflict. That opinion measured excessive personal interest at owning 1 percent or more of a company's outstanding shares.

Bundy's findings hinged on that standard.

Several states — including Connecticut, Delaware, Florida, Massachusetts, New Jersey, Ohio and Pennsylvania — use a percentage of a company's outstanding shares to draw the line for conflict of interest, Bundy's investigation found. Others — Idaho, Oregon, Washington — draw the line at a certain dollar value of the stock.

And others use a combination, such as Kentucky's law of \$10,000 or 5 percent of the shares in a company.

At a news conference on Tuesday, Bundy said he would recommend \$10,000 or 1 percent as the standard for Alaska.

Murkowski has asked Bundy to draft legislation that would create a standard for Alaska. The legislation should be in-

troduced as soon as possible, regardless of the furor over Renkes, he said.

"Politics, in my opinion, shouldn't conflict with reasonable ethical review to make sure that other folks are not caught in this kind of dilemma," Murkowski said.

House Judiciary Committee member Les Gara, D-Anchorage, said the law should set limits on the dollar value of the investment, and not be based on percentage of outstanding shares.

The places that use the latter standard are protecting the interests of business, not the state, Gara said.

"Those are the states that want to let the fox guard the chicken house," Gara said.

He said under the standard used in Bundy's report, a lawmaker hypothetically could own \$15 million in Conoco Phillips stock and still be in compliance with ethics laws when deciding who builds a gas pipeline from the North Slope.



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JUNEAU WEATHER

32° obscured
New Weather

Wind:
Hi Tide: 04:52am

Web posted January 27, 2005

Empire editorial: Dump Renkes, ethics code

Far from being the last word on Attorney General Gregg Renkes' ethics and standing as Alaska's top lawyer, Tuesday's release of a report about his actions in a state coal deal is only the start of needed change.

The end must bring both new ethics rules and a new attorney general.

Contracted by Gov. Frank Murkowski to probe Renkes' negotiations on a deal to sell Cook Inlet coal to Taiwan, former U.S. Attorney Robert Bundy found that the attorney general should have requested an ethics determination but otherwise did not break the law. That's because Alaska's law is so vague, not specifying a dollar figure that pushes a public official's investment portfolio into the realm of a conflict. Renkes' \$100,000-plus investment in and close ties to KFx, the Denver company that stood to gain from the coal agreement, apparently doesn't rise to the state's legal definition of a conflict. It should and, once state lawmakers are done, it probably will.

In the meantime, Murkowski is wrong to insist that this, along with his reprimand, closes the matter and that a state personnel board inquiry should end. Where many ethics considerations hinge on an elusive perception of cozy relations, the attorney general's sizable stake in KFx cannot be viewed as anything but a conflict. Bundy finds the conflict insignificant because Renkes' shares represented no more than .02 percent of the company's total. But the issue isn't how Renkes' shares affected the company; it's how they stood to affect him. Bundy's recommendation that the state adopt a \$10,000 investment limit for any government official potentially influencing a company's standing with the state says it all: \$100,000 is a lot of money. That much is apparent to most Alaskans, whose median income in a family of four is some \$30,000 less.

Regardless of where Renkes' investment and active promotion of KFx and the coal deal stood with the law, it is unfathomable that he would not have understood that his involvement could affect him financially. Knowing this, it was reckless to get involved officially in the first place, and it was unpardonable not to at least ask for an official opinion about that involvement. If this behavior brings only a slap on the wrist, Alaskans will be right to doubt the integrity of their government. The governor should demand the attorney general's resignation since Renkes hasn't had the integrity to offer it himself.

Further, it is imperative that this Alaska Legislature remedy the lax ethics code. The state's reliance on and support of natural resource industries and the companies

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that fuel them makes it doubly important that the law spell out right and wrong and assure citizens that their officials are acting on Alaskans' behalf, and not for their own bank accounts.

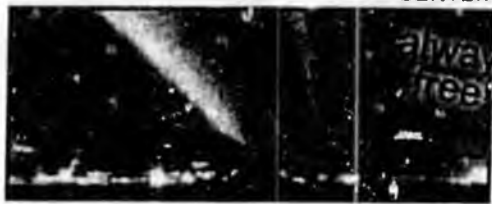
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AND OTHER PERSISTENT MYSTERIES

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Opinion

Anchorage Daily News (AK)

February 8, 2005

Author: Staff

Estimated printed pages: 4

Renkes' right move

Resignation relieves governor of unreasonable burden

Gregg Renkes did the right thing Saturday by resigning his office as attorney general. Living under an ethical raincloud for his deep involvement in both a state coal deal and a company that would have benefited from it, his credibility and effectiveness had simply washed away. Gov. Frank Murkowski lost a loyal aide and confidant, but he will not have to carry any further the burden of Mr. Renkes' continued tenure in office.

Stability and principled leadership for the Department of Law now become the governor's first priority. This is a time when old-fashioned conservative restraint will serve best. Whoever the governor appoints as attorney general must be respected across the board (in order to dampen undue partisanship), principled beyond reproach (to rehabilitate public confidence in the administration), experienced in Alaska's key policy matters (to maintain momentum on natural gas and other issues) and prudent in his or her personal conduct (to make the attorney general once again a standard-setter in the rule of law).

The next priority must be to clear up the murky waters of Alaska's executive branch ethics law. Robert Bundy, the special investigator who found that Mr. Renkes violated the **Ethics Act** but not the Code of **Ethics**, also found too many "close calls" for comfort. The governor has asked Mr. Bundy to develop clear new language to guide public employees. That language should protect the public trust first of all and public officials' financial liberties secondarily.

(In the end, Mr. Bundy's report substantially damaged Mr. Renkes in two unforeseen ways: First, it crafted a too-clever legal analysis to reach the conclusion that \$126,000 in company stock was legally "insignificant" -- a view the average person on the street just wouldn't buy. And second, it revealed that the attorney general deleted thousands of e-mails from his work computer on the very day that damaging news reports first appeared while denying he even knew of the reports -- a story that went beyond all credibility.)

Mr. Renkes was undone by his own conduct and poor judgment. The Alaska attorney general, being in an appointed position beholden to the governor, has always been a hybrid creature: part governor's attorney, part Cabinet officer, part department manager, part policy analyst and adviser, part people's lawyer. Alaska attorneys general succeed when they leave partisan politics to others (even while remaining cognizant of the Capitol's hazardous political currents) and give sound legal advice to both the governor and the people of Alaska. The job requires diligence and sure footing. Ordinarily it goes without saying that the attorney general's personal example and judgment must uphold impeccable standards of trust. With his personal lack of restraint, Mr. Renkes crossed a line that is deliberately very restrictive.

Alaska's attorney general must, in the end, personify the ethic of public service. The position is a privilege, a burden and a duty -- and, for Gov. Murkowski at this moment, an exercise in governing wisely. Finding a new attorney general who radiates public trust and good judgment -- and who can do so without breaking a sweat -- is job one.

BOTTOM LINE: Gregg Renkes did the right thing by resigning Saturday; now the focus is on the governor to find
http://zephyr.ci.anchorage.ak.us:2069/iw-search/we/InfoWeb/?p_action=print&p_docid=10825A64A... 3/21/2005

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Anchorage Daily News

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Legislature considers changes to ethics laws**STOCK OWNERSHIP: Bills being debated in committee.**By MATT VOLZ
The Associated Press*(Published: April 27, 2005)*

JUNEAU -- Proposed changes to Alaska's ethics laws were heard Tuesday in House and Senate committees, as lawmakers work to close holes in the statutes revealed by an investigation into former attorney general Gregg Renkes.

Companion bills by Sen. Hollis French, D-Anchorage, and Rep. Les Gara, D-Anchorage, would establish a "bright line" limit of \$5,000 or 1 percent stock ownership in a company that a public employee can own and still work on a state matter involving that company. Gara's bill was bumped up to a \$10,000 limit in committee.

Two other bills by Sen. Ralph Seekins, R-Fairbanks, draw the line at \$10,000 or 1 percent, but make several other changes to both the executive and legislative ethics laws. Among those changes, Seekins proposes charging anybody who talks about an ethics complaint that has been filed or will be filed with a misdemeanor.

Renkes owned between \$71,880 and \$124,680 in KFx Inc. stock when he was working on a coal deal between Taiwan and Alaska that included using a coal-drying process patented by KFx.

Former U.S. Attorney Robert Bundy, hired by Gov. Frank Murkowski's office to investigate the conflict of interest allegations against Renkes, found that Alaska law did not say how much was too much stock ownership to be considered a conflict. Bundy, using an old attorney general's opinion, concluded Renkes' holdings did not cross the line.

Renkes resigned in February amid continuing allegations of wrongdoing.

All the bills heard Tuesday are meant to define what Bundy found lacking in the law. Seekins' and French's bills were heard together in the Senate State Affairs Committee, Gara's in the House State Affairs Committee.

In the House committee, finding that line proved to be problematic. After the original proposal of a \$5,000 limit, subsequent proposals of \$50,000, \$40,000 and \$35,000 were rejected before the committee settled on raising it to \$10,000.

In the Senate, questions were directed toward Seekins' confidentiality restrictions. Seekins and State Affairs Chairman Gene Therriault, R-North Pole, compared the changes to a grand jury hearing.

If probable cause is found, the matter is released to the public. If not, it remains confidential, they said.

None of the bills moved from committee.

INSIDE: The Senate passed a bill removing a \$50,000 cap on grants distributed by the Alaska Children's Trust.

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Therefore, I have concluded that there is probable cause to believe that the former Attorney General's ownership of stock in KFx, ranging in value from \$71,880 to \$124,680, was a significant financial interest in the Alaska/Taiwan coal negotiations between Alaska and the Republic of China within the meaning of Section 39.52.110(b)(1) of the Ethics Act.

This has not been an easy decision because of the absence of clear guidance in the Alaska Ethics Act and the regulations interpreting it. The fact that another well-respected lawyer has reached a different conclusion demonstrates that reasonable minds can differ about the application of the Act to the facts here. Therefore, I join Mr. Bundy in recommending that the Legislature seriously consider amending the Ethics Act by setting specific dollar amounts of stock in publicly held companies that will be treated as significant for purposes of the conflict of interest provisions in the Act.

I also want to stress that this conclusion is not tantamount to a finding that Renkes violated the Ethics Act, because (1) the conclusion that Renkes' KFx, Inc. stock ownership was significant would not by itself enable a finding or conclusion that he violated the Ethics Act, and (2) Renkes has other defenses to the charges in the complaint which the Board has not determined on their merits. Before a finding of a violation could have been made, I would have had to (1) complete an independent investigation (AS 39.52.310(g)), (2) conclude that there was probable cause to believe that a violation had been committed and issue a formal complaint (AS 39.52.350), (3) present the evidence in a hearing before an independent hearing officer, during which Renkes would have the opportunity to defend himself (AS 39.52.360), (4) the hearing

From report of independent counsel

Thomas M. Daniel, Esq.
Perkins Coie LLP
1029 West Third Avenue, Suite 300
Anchorage, Alaska 99501

AMENDMENT # 1
To HB 194 Version G

8:33:06 AM

REPRESENTATIVE LYNN moved Conceptual Amendment 1, which read as follows [original punctuation provided]:

public officer
Any ~~state employee~~ convicted of violating a conflict of interest law, may be liable for reimbursement to the state for the cost of the investigation of the complaint, in addition to any other fines imposed by an administrative or judicial process.

8:33:59 AM

REPRESENTATIVE GARDNER objected to point out that Conceptual Amendment 1 uses the phrase "state employee" while the language in the bill is "public officer".

8:34:09 AM

REPRESENTATIVE GARDNER moved an amendment to Conceptual Amendment 1, as follows:

Delete "state employee"
Insert "public officer"

VICE CHAIR GATTO asked if there was any objection to the amendment to Conceptual Amendment 1. There being none, the amendment to Conceptual Amendment 1 was adopted.

8:34:31 AM

REPRESENTATIVE GRUENBERG stated his support of Conceptual Amendment 1 [as amended]. He asked Representative Gara if the word "convicted" is the appropriate word to use.

8:34:59 AM

REPRESENTATIVE GARA said he thinks it's a fair not to impose a penalty on the person unless it's clear he/she "did something wrong."

8:35:44 AM

REPRESENTATIVE GRUENBERG asked if the term "investigation" would also include prosecution.

8:35:55 AM

REPRESENTATIVE GARA responded, "If I were a judge I would say it did."

8:36:13 AM

REPRESENTATIVE GRUENBERG asked if "any other fines" would be broad enough. He mentioned civil penalties.

8:36:31 AM

REPRESENTATIVE GARA stated that a penalty is a fine.

8:36:39 AM

REPRESENTATIVE GARDNER withdrew her objection [to Conceptual Amendment 1, as amended].

8:36:49 AM

VICE CHAIR GATTO asked if there was any further objection [to Conceptual Amendment 1, as amended]. There being none, it was so ordered.

Second Adopted Amendment
Amendment # 4

8:58:26 AM

REPRESENTATIVE GRUENBERG moved Amendment 4, as follows:

→ [Page 2, line 9:
Delete "\$5,000"
Insert "\$10,000"

The committee took an at-ease from 8:59:37 AM to 9:00:59 AM.

9:01:42 AM

REPRESENTATIVE GRUENBERG restated Amendment 4.

9:02:03 AM

REPRESENTATIVE RAMRAS objected to Amendment 4.

REPRESENTATIVE RAMRAS moved an amendment to Amendment 4, to change "\$10,000" to "\$35,000".

VICE CHAIR GATTO objected to the amendment to Amendment 4.

A roll call vote was taken. Representatives Elkins and Ramras voted in favor of the amendment to Amendment 4. Representatives Lynn, Gardner, Gruenberg, and Gatto voted against it. Therefore, the amendment to Amendment 4 failed by a vote of 2-4.

9:03:37 AM

REPRESENTATIVE RAMRAS maintained his objection to Amendment 4. He said that if \$10,000 is too low now, ten years from now, with inflation, it really will be too low. He reiterated his previous comments regarding attracting high quality talent.

9:05:36 AM

REPRESENTATIVE LYNN reiterated that he agrees there is a need to attract and retain talented [public officers], but said, "Talent needs to include ... ethics."

9:05:52 AM

REPRESENTATIVE GARDNER concurred [with Representative Lynn]. She emphasized the importance of discouraging participation out of self-interest, and encouraging participation for the public

good.

9:06:12 AM

VICE CHAIR GATTO stressed the importance of counting public perception, which currently may be that "we might be ... straying a little bit beyond the bar."

9:06:31 AM

REPRESENTATIVE LYNN stated his support of [Amendment 4].

9:06:56 AM

A roll call vote was taken. Representatives Lynn, Gardner, Gruenberg, and Gatto voted in favor of Amendment 4. Representatives Ramras and Elkins voted against it. Therefore, Amendment 4 passed by a vote of 4-2.

3rd Adopted Amendment
Amendment #5

9:09:24 AM

VICE CHAIR GATTO moved Amendment 5, as follows:

Page 2, line 9.

Between "\$5,000" and "."

Delete "or one percent of the total value of the
business, whichever is less"

9:11:31 AM

REPRESENTATIVE RAMRAS withdrew his objection to Amendment 5.

VICE CHAIR GATTO asked if there was any further objection to Amendment 5. There being none, Amendment 5 was adopted.



ROBERT C. BUNDY
(907) 257-7853
FAX (907) 276-4152
bundy.robert@dorsey.com

February 17, 2005

The Honorable Frank Murkowski
Governor
State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Re: Proposed Revisions to the Code of Ethics

Dear Governor Murkowski:

Thank you for asking us to propose improvements to the Code of Ethics to better provide guidance on those issues raised by our investigation. Building upon our research and investigation in the Renkes matter, we have reviewed the statutory schemes from a variety of states. Although no language from any one state's statutory scheme addresses completely the issues we see, we started with language and ideas from several different statutes as the basis for our proposed revisions.

First, we would add language to AS 39.52.110 to clarify when a public officer's interest in a specific matter is insignificant. As was the case in the Renkes matter, a public officer's interest in a specific matter may derive from that officer's interest in a corporation or other organization. We believe the following language would provide additional guidance and direction for evaluating the significance of such interests.

(c) For purposes of section (b)(1), a public officer's personal or financial interest in a matter is not insignificant if a business entity may realize a reasonably foreseeable material benefit or detriment as a result of the action of the official, and the public officer--

- (1) has a controlling interest in the business entity;
- (2) owns more than one percent (1%) of the voting and/or equity interest in the business entity;
- (3) owns more than \$10,000 of the fair market value of the business entity;
- (4) is a member of the board of directors or other governing board of the business entity;

()) DORSEY

The Honorable Frank Murkowski
February 17, 2005
Page 2

- (5) serves as an elected officer of the business entity; or
- (6) is an employee of the business entity.

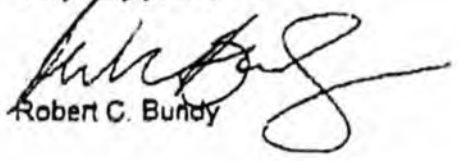
Thus, if an officer has an interest in, or relationship with, a business entity, he or she must determine whether that business entity has a material interest in the matter. We do not recommend attempting to define "material." Materiality is a well-recognized legal concept that allows for the myriad of situations encountered in the real world.

This language would best fit in subsection (c) to AS 39.52.110. The current subsection (c) would then become subsection (d). We have attached a red-lined version of this statute showing our suggested changes.

Second, we recommend further clarifying the exception for "large class of persons to which the public officer belongs" in subsection (b)(1). Mirroring the language used in the Legislative Ethics Act, AS 24.60.990(b)(1), we would add "as a member of a profession, occupation, industry, or region" to the end of this subsection such that it would read:

- (b) Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a public officer's
 - (1) personal or financial interest in the matter is insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officer belongs as a member of a profession, occupation, industry, or region;

Thank you for the opportunity to provide our proposed revisions to you. Please do not hesitate to call if you have any questions or concerns. Of course, at your direction, we will make our research on these issues available to any state agency working on this matter.

Very truly yours,

Robert C. Bundy

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

MEMORANDUM

January 24, 2006

SUBJECT: Adding costs as a penalty, raising the allowable interest in a business to \$10,000, in HSTA CS for HB194 (Work Order No. 24-LS0702\G)

TO: Representative Paul Seaton
Attn: Louie Flora

FROM: Dan Wayne 
Legislative Counsel

I am preparing a new CS as you requested by fax today. Because "Amendment #1" is a conceptual amendment, I took some license with the wording. Placement of the amendment was left open and I put it where it made the most sense to me, in the penalty section of the Executive Branch Ethics Act. Since the bill involves only the Executive Branch Ethics Act I kept it that way by tightening up the language to clarify the terms "law" and "ethics law" in particular.

Please advise.

DCW:ljw
06-024.ljw

Enclosure

Alaska Aerospace

Jaska Natural Gas
2, § 1; am §§ 18, 19
um § 18 ch 263 SLA
18 SLA 1978; am § 9
; am § 37 ch 3 SLA
- 43 ch 94 SLA 1980;
SLA 1981; am § 2 ch
am § 86 ch 59 SLA
4; am § 1 ch 52 SLA
1 SLA 1986; am § 69
189; am §§ 12, 17 ch
§ 3 ch 77 SLA 1991;
LA 1992; am § 41 ch
SLA 1992; am §§ 27,
LA 1995; am § 16 ch
); am § 10 ch 29 SLA
; 56 ch 68 SLA 2000;
, 44 ch 86 SLA 2002;
39 — 41 ch 108 SLA

1, 2000, made a section
tragraph (b)(55).
it, effective April 28, 2000,
ment, effective August 20,
(9)(E) [formerly (a)(8)(E)]
sing "other than physician
- subparagraph.
ent, effective July 1, 2000,
paragraph (1) and added
ffective May 10, 2001, re-
ent, effective July 1, 2002,
orce Investment Board" for
nvestment Council" in sub-
ly (a)(8)(D) and paragraph
nent, effective February 25,
(57).
nt, effective May 22, 2003,
).
lment, effective September
1) added paragraph (4), in-
ed "domestic partner" for
ted "dependent," and made
aled former paragraph (10).
ent, effective April 15, 2003,
se in paragraph (b)(38).

Purpose of the Conflict of Interest law is to bring to light all conflicts — actual and potential. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Patient of a physician is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

And source of income. — The Conflict of Interest

law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Elected official. — AS 39.50 does not define "elected official" in its definitions section, AS 39.50.200, but a successful legislative candidate is an elected official as that term is used in AS 39.50.060(b). *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

NOTES TO DECISIONS

Chapter 51. Incentive Award Program and Miscellaneous Provisions.

Sec. 39.51.010. Misuse of confidential information. [Repealed, § 21 ch 166 SLA 1978. For current law see AS 12.56.860.]

Secs. 39.51.020, 39.51.030. [Renumbered as AS 39.90.010 and 39.90.020.]

Secs. 39.51.110 — 39.51.200. Incentive awards program. [Repealed, § 3 ch 60 SLA 1989.]

Chapter 52. Alaska Executive Branch Ethics Act.

Article

1. Declarations (§ 39.52.010)
2. Code of Ethics (§§ 39.52.110 — 39.52.190)
3. Disclosure and Action to Prevent Violations (§§ 39.52.210 — 39.52.270)
4. Complaints; Hearing Procedures (§§ 39.52.310 — 39.52.390)
5. Enforcement; Remedies (§§ 39.52.410 — 39.52.460)
6. General Provisions (§§ 39.52.910 — 39.52.960)

Cross references. — For additional laws on conflict of interest, see AS 39.50.

Administrative Code. — For executive branch code of ethics, see 9 AAC 52.

NOTES TO DECISIONS

Scope. — This chapter concerns ethical violations by employees of the state executive branch, including state agencies, boards and commissions. *Gates v. City of Tenakee Springs*, 822 P.2d 455 (Alaska 1991).

No cause of action. — Property owner, who alleged that city officials misused city and state funds in

connection with the removal of an encroachment from her property, had no cause of action, where there was no allegation that the officials were acting in any state executive capacity. *Gates v. City of Tenakee Springs*, 822 P.2d 455 (Alaska 1991).

Article 1. Declarations.

Section

10. Declaration of policy

Sec. 39.52.010. Declaration of policy. (a) It is declared that

- (1) high moral and ethical standards among public officers in the executive branch are essential to assure the trust, respect, and confidence of the people of this state;
- (2) a code of ethics for the guidance of public officers will
 - (A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;
 - (B) improve standards of public service; and

(C) promote and strengthen the faith and confidence of the people of this state in their public officers;

(3) holding public office or employment is a public trust and that as one safeguard of that trust, the people require public officers to adhere to a code of ethics;

(4) a fair and open government requires that executive branch public officers conduct the public's business in a manner that preserves the integrity of the governmental process and avoids conflicts of interest;

(5) in order for the rules governing conduct to be respected both during and after leaving public service, the code of ethics must be administered fairly without bias or favoritism;

(6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment; and

(7) compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.

(b) The legislature declares that it is the policy of the state, when a public employee is appointed to serve on a state board or commission, that the holding of such offices does not constitute the holding of incompatible offices unless expressly prohibited by the Alaska Constitution, this chapter and any opinions or decisions rendered under it, or another statute. (§ 1 ch 87 SLA 1986; am § 80 ch 74 SLA 1998)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, in subsection (a) rewrote paragraphs (1)-(3) and added paragraphs (4)-(7).

Article 2. Code of Ethics.

Section

- 110. Scope of code
- 120. Misuse of official position
- 130. Improper gifts
- 140. Improper use or disclosure of information
- 150. Improper influence in state grants, contracts, leases, or loans

Section

- 160. Improper representation
- 170. Outside employment restricted
- 180. Restrictions on employment after leaving state service
- 190. Aiding a violation prohibited

Administrative Code. — For executive branch code of ethics, see 9 AAC 52.

Sec. 39.52.110. Scope of code. (a) The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust. In addition, the legislature finds that, so long as it does not interfere with the full and faithful discharge of an officer's public duties and responsibilities, this chapter does not prevent an officer from following other independent pursuits. The legislature further recognizes that

(1) in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without personal and financial interests in the decisions and policies of government;

(2) people who serve as public officers retain their rights to interests of a personal or financial nature; and

(3) standards of ethical conduct for members of the executive branch need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material.

(b) Unethical conduct in a specific matter, a public officer shall not

(1) personal or financial interest possessed generally by the public officer belongs; or

(2) action or influence

(c) The attorney general board must be guided by ch 87 SLA 1986)

Significance of persons — Substantial evidence supports the Department's findings that the Department had neither a personal nor financial interest in the awarding of a contract

Sec. 39.52.120. Misuse of office. — A public officer shall not attempt to use, an office to grant unwarranted benefits

(b) A public officer shall not

(1) seek other employment; or

(2) accept, receive, or use state time, financial interests;

(3) use or withhold government asset or resource

(4) attempt to benefit or require another public officer at any time; or

(5) use or authorize government asset or resource to prohibit use of the government asset or resource there is no special character purposes"

(A) means having the following

(i) candidate or potential

(ii) political party or organization

(B) but does not include through the normal process of the Board of Fisheries or the public officer has not a financial interests in a

(d) In this section, "performing a task on behalf of the public" means performing a task on behalf of the supervisor, if any. A public officer during the work day is performing an inconsequential, and unconnected period of campaigning.

of this state in their

as one safeguard of
this;
public officers conduct
of the governmental

which during and after
officially without bias or

situations in which
appropriate to every
possibilities cannot
and
; thus all who serve
and prevent improper

a public employee is
; of such offices does
y prohibited by the
rendered under it, or

on
restricted
movement after leaving state

hibited

at each public officer
or financial interest
legislature finds that,
of an officer's public
from following other

own from society and,
cial interests in the

rests of a personal or

branch need to distin-
unavoidable in a free
material.

(b) Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a public officer's

(1) personal or financial interest in the matter is insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officer belongs; or

(2) action or influence would have insignificant or conjectural effect on the matter.

(c) The attorney general, designated supervisors, hearing officers, and the personnel board must be guided by this section when issuing opinions and reaching decisions. (§ 1 ch 87 SLA 1986)

NOTES TO DECISIONS

Significance of personal or financial interest.
— Substantial evidence supported the hearing officer's findings that Department of Corrections' official had neither a personal nor a financial interest in the awarding of a contract concerning the housing of minimum security prisoners to a bidder for whom she had served as vice-president of operations. *KILA, Inc. v. State, Dep't of Admin.*, 876 P.2d 1102 (Alaska 1994). Cited in *Gates v. City of Tenakee Springs*, 822 P.2d 455 (Alaska 1991).

Sec. 39.52.120. Misuse of official position. (a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.

(b) A public officer may not

(1) seek other employment or contracts through the use or attempted use of official position;

(2) accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the state;

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time; or

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of the communications equipment in the governor's residence so long as there is no special charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

(c) In addition to other provisions of this section, a public officer who is a member of the Board of Fisheries or the Board of Game may not act on a matter before the board if the public officer has not disclosed in the manner set out in AS 39.52.220 all personal or financial interests in a business or organization relating to fish or game resources.

(d) In this section, when determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days, engages in political campaign activities other than minor, inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning.

HB

201

24-LS0674G

Cook

5/05

CS FOR HOUSE BILL NO. 201(STA) *as amended*

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES CHENAULT, Ramras, Elkins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an application for a permanent fund dividend for a member of the
2 armed forces of the United States serving on active duty outside of the state who is
eligible for hostile fire or imminent danger pay; and providing for an effective date."

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

5 * Section 1. AS 43.23.011 is amended by adding a new subsection to read:

6 (d) An individual may, under (a) - (c) of this section, complete, sign, and file
7 an application on behalf of a member of the armed forces of the United States who is
8 serving on active duty outside of the United States if the

9 (1) individual has a power of attorney from the member of the armed
10 forces that authorizes, in specific or general terms, the individual to file that
11 application; and

12 (2) member of the armed forces is eligible *at any time* during the application
13 period under (a) of this section for hostile fire or imminent danger pay.

14 * Sec. 2. This Act takes effect January 1, 2006.

March 29, 2005

The Honorable Paul Seaton, Chair
House State Affairs Committee
State Capitol
Juneau, AK 99801

Dear Representative Seaton:

During today's House State Affairs meeting on HB 201, I offered to provide language that would limit the scope of the bill to military receiving hostile fire or imminent danger pay. That change, patterned on the language in AS 43.23.011, would be as follows:

Section 1. AS 43.23.015. line 10; insert the words... "during the dividend application period for hostile fire or imminent danger pay while"...

The new provision would then read: An individual may complete, sign, and file an application on behalf of a member of the armed forces of the United States who is eligible during the dividend application period for hostile fire or imminent danger pay while serving on active duty outside of the United States if the individual has a power of attorney from the member of the armed forces that authorizes in specific or general terms, the individual to file that application.

I am gathering the information you requested about individuals who we have heard were adversely affected in applying for the 2005 dividend because of their military assignment. I hope to have that over to the committee tomorrow.

In that same hearing today there was testimony by legislative staff that a fraud tip had been given to the PFD and that the PFD had done nothing to investigate the case. I have researched that case and while the details are confidential, I would like the committee to know the following: PFD received an anonymous fraud tip on October 22, 2004 stating that the individual had moved out of state in September 2004. The individual's file was flagged for further investigation if a 2005 application should be received. In February 2005, we received another fraud tip including the same information. The second fraud tip was noted in the individual's file. To date, no 2005 application has been received. To

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

24-LS0674/G
Cork
#5/05

CS FOR HOUSE BILL NO. 201(STA) *as amended*

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
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A BILL

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*Not
anytime*

Div of Law Christy
P.O.A.

~~_____~~

Gives up "intent
to return" fraud

Match fire pay

March 29, 2005

The Honorable Paul Seaton, Chair
House State Affairs Committee
State Capitol
Juneau, AK 99801

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Representative Paul Seaton
March 29, 2005
Page 2

date, the individual has committed no known fraud. However, if an application is received, the case will be fully investigated and prosecuted if appropriate.

If you have any questions, please let me know.

Sincerely,

Sharon Barton
Director

cc: Representative Mike Chenault
Jerry Burnett, DOR Legislative Liaison
Tom Boutin, DOR Deputy Commissioner

STATE OF ALASKA

**REPRESENTATIVE
MIKE CHENAULT**

Official Business

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99511
(907) 283-7223
Fax: (907) 283-3075

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

HOUSE OF REPRESENTATIVES

Sponsor Statement

HB 201 "An act relating to an application for a permanent fund dividend for a member of the armed services of the United States serving on active duty outside the state of Alaska"

The purpose of this bill is to permit the person who has power of attorney for an individual who is serving on active duty with the United States armed services outside the state of Alaska to sign and file a permanent fund application for said individual.

LEGAL SERVICES

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

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

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

MEMORANDUM

March 9, 2005

SUBJECT: Permanent fund dividends for members of the armed forces;
sectional summary (HB 201)

TO: Representative Mike Chenault,
Co-chair, House Finance Committee
Attn: Erich DeLand

FROM: Tamara Brandt Cook
Director

TBC

Sec. 1. Permits another person to complete and file a permanent fund dividend application for a member of the United States armed forces who is serving outside of the country. The person must have a power of attorney from the member of the armed forces that authorizes the person to file the application.

Sec. 2. The effective date is January 1, 2006, the day before the beginning of the filing period for 2006 permanent fund dividend applications.

TBC:med
05-166.med

Sectional

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 201
 () Publish Date: _____

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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
 Check 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)

HB 201 would allow a power of attorney to complete, sign and file an application for a military member stationed outside of the US. A total of 6,205 applicants claimed a military absence from the state in 2004. The PFD does not track how many of these individuals were stationed outside the US. The bill would not result in any significant increased cost for processing PFD applications.

Prepared by: Sharon Barton Phone 907-465-4785
 Division Permanent Fund Dividend Date/Time 3/16/05 1:21 PM
 Approved by: _____ Date 3/16/2005
 Agency _____

Erich Deland

From: Linda Zimmerman [lzimmerman@kpbsd.k12.ak.us]
Sent: Tuesday, March 15, 2005 10:24 PM
To: Erich Deland
Cc: troy.zimmerman@us.army.mil
Subject: HB 201 testimonial

Erich,

Unfortunately, I will be unable to attend the teleconference regarding HB 201 on Thursday, March 17. :(I have prepared a statement to be read & know that it would have a bigger impact if I was to speak. Being a teacher makes it difficult for me to be present at the time. Thank you for all you have done & all that Rep. Chenault has done with this situation. I pray that HB 201 gets passed quickly!

Linda

My name is Linda Zimmerman. I am a teacher on the Kenai Peninsula. My husband, Troy, is a History & Spanish teacher at the local high school in the town of Nikiski. We have 3 young children. My husband is also an Alaska Natl. Guardsman. My husband has been in the Natl. Guards for 21 years! Although he could have retired in February 2004 after receiving his 20 year letter, he decided to sign on for more years to serve his country.

On October 2004, our world was totally turned upside down. My husband was being deployed & would be overseas for 12 to 18 months serving his country with the Army. Never in a million years did I ever think this would happen to my family. There were a lot of emotions that we went through initially & still are going through. It has been a rollercoaster of emotions, disappointments & frustrations.

One of those frustrations was in January 2005 when I got a call from my husband & he informed me he would be heading "out" soon. I picked up my Permanent Dividen Fund application packet & asked him to help me fill out his so I could submit it with the General Power of Attorney I had. I was told that if I did it online it would be easy. The process was anything BUT easy! I was told via email that,

"Despite the fact that you may have a Power of Attorney for your husband, he is still physically able to sign his own application. He will have to sign before he will receive his 2005 dividend. When the application is processed, it will go through the intial review stage, and your husband will be mailed a letter requesting his signature. If you are in contact with your husband and he can sign the application and get it USPS postmarked back to us by March 31, 2005, you may want to do that. Or, you can mail in the application and we will process it and send your husband a signature page. Please ensure you provide us with a copy of the Power of Attorney so we have it for our records and can discuss his application with you." (taken from the actual rejection email I received)

Now, I am a person who follows protocol & rules as a teacher, but I was so frustrated & confused by this rejection letter. My husband was going into a Combat Zone & the PFD office was more concerned over follow the proper protocol! I knew that I was not the only military spouse going through this, so that is when I decided to contact Representative Mike Chenault's office. I was told at a meeting the month before my husband left that having General Power of Attorney meant I could conduct official business on behalf of my husband's part. I even sent the PFD office a copy of the General Power of Attorney paperwork along with the 2 sets of orders for my husband. I sent 13 pages of documentation that proved that I in fact had General Power of Attorney for my husband. In the next 3 to 4 weeks, NEVER did the PFD office leave a message at my work phone number, home phone number or my cellular number All of which they had. I found this very impersonal. All of my contact with them was via email. I tried calling the PFD office & I even left messages, but I never spoke to a human being.

Although my husband has email/computer access, I can count on 1 hand the number of times my husband has emailed me from Iraq. The soldiers have to sign up for their time on the

computers, & that time is only 20 or 30 minutes long. Internet connection can sometimes be tricky since they use jammers for security reasons, thus breaking phone connections. The power was out for 3 days recently in my husband's area, something unexpected for the soldiers, as is the situation in any war. The soldiers in Iraq & other places in the Middle East have an important job to do. Filing their PFD online is the LAST thing that they want to think about doing after a 12 hour shift of military duty. Also, you can imagine, the mailing system can be rather slow & unreliable when you are half way around the world.

I am very proud to say that my husband is serving his country, as are my children. I know that he has a long & difficult task before him, just as we do on the homefront. The PFD office has NO clue what they are talking about when they ask for my husband's signature, using the internet & sending things via email. My husband is a very busy soldier, doing what soldiers do in a combat situation. THIS takes priority over physically filling out a PFD form. THAT is what General Power of Attorney is for.

It is time that the PFD Dept. take a long hard look at their policies & seriously think about modifying some of the rules & policies, particularly when it comes to military spouses & their soldiers. As time goes by, more & more soldiers from Alaska are being deployed. Other spouses & soldiers will have to deal with the stress & headaches I have had to endure. The situation we military wives are in, is stressful enough! I beg you to please consider passing HB 201, not just for me, but for ALL Alaskan soldiers & their families. My husband is serving his country for goodness sake, doesn't that mean anything to anyone anymore?

Thank you for your time!

Linda L. Zimmerman
4/5th Multiage Educator
Student Council Coordinator
Nikiski North Star Elementary

"The 6 Pillars of CHARACTER COUNTS! Trustworthiness, Respect, Responsibility, Fairness, Caring, & Citizenship. Have you hugged your PILLARS today?"

STATE OF ALASKA

DEPARTMENT OF REVENUE

PERMANENT FUND DIVIDEND DIVISION

FRANK MURKOWSKI, GOVERNOR

State Office Building
PO Box 110460
Juneau, AK 99811-0460
Telephone : 907-465-2323
Fax : 907-465-2096

March 29, 2005

The Honorable Paul Seaton, Chair
House State Affairs Committee
State Capitol
Juneau, AK 99801

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Representative Paul Seaton

March 29, 2005

Page 2

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If you have any questions, please let me know.

Sincerely,

Sharon Barton

Director

cc: Representative Mike Chenault
Jerry Burnett, DOR Legislative Liaison
Tom Boutin, DOR Deputy Commissioner

Alaska Statutory General Power Of Attorney

THE POWERS GRANTED FROM THE PRINCIPAL TO THE AGENT OR AGENTS IN THE FOLLOWING DOCUMENT ARE VERY BROAD. THEY MAY INCLUDE THE POWER TO DISPOSE, SELL, CONVEY, AND ENCUMBER YOUR REAL AND PERSONAL PROPERTY, AND THE POWER TO MAKE YOUR HEALTH CARE DECISIONS. ACCORDINGLY, THE FOLLOWING DOCUMENT SHOULD ONLY BE USED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS DOCUMENT, YOU SHOULD SEEK COMPETENT ADVICE.

YOU MAY REVOKE THIS POWER OF ATTORNEY AT ANY TIME.

Pursuant to AS 13.26.338 - 13.26.353, I, _____ (Name of principal), of _____ (Address of principal), do hereby appoint _____ (Name and address of agent or agents), my attorney(s)-in-fact to act as I have checked below in my name, place, and stead in any way which I myself could do, if I were personally present, with respect to the following matters, as each of them is defined in AS 13.26.344, to the full extent that I am permitted by law to act through an agent:

THE AGENT OR AGENTS YOU HAVE APPOINTED WILL HAVE ALL THE POWERS LISTED BELOW UNLESS YOU DRAW A LINE THROUGH A CATEGORY; AND INITIAL THE BOX OPPOSITE THAT CATEGORY

- (A) real estate transactions ()
- (B) transactions involving tangible personal property, chattels, and goods ()
- (C) bonds, shares, and commodities transactions ()
- (D) banking transactions ()
- (E) business operating transactions ()
- (F) insurance transactions ()
- (G) estate transactions ()
- (H) gift transactions ()
- (I) claims and litigation ()

(J) personal relationships and affairs ()

(K) benefits from government programs and military service ()

(L) health care services ()

(M) records, reports, and statements ()

(N) delegation ()

(O) all other matters, including those specified as follows: ()

Sign PFD application

IF YOU HAVE APPOINTED MORE THAN ONE AGENT, CHECK ONE OF THE FOLLOWING:

Each agent may exercise the powers conferred separately, without the consent of any other agent.

All agents shall exercise the powers conferred jointly, with the consent of all other agents.

TO INDICATE WHEN THIS DOCUMENT SHALL BECOME EFFECTIVE, CHECK ONE OF THE FOLLOWING:

This document shall become effective upon the date of my signature.

This document shall become effective upon the date of my disability and shall not otherwise be affected by my disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE ON THE DATE OF YOUR SIGNATURE, CHECK ONE OF THE FOLLOWING:

This document shall not be affected by my subsequent disability.

This document shall be revoked by my subsequent disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR SIGNATURE AND WANT TO LIMIT THE TERM OF THIS DOCUMENT, COMPLETE THE FOLLOWING:

This document shall only continue in effect for _____ () years from the date of my signature.

NOTICE OF REVOCATION OF THE POWERS GRANTED IN THIS DOCUMENT

You may revoke one or more of the powers granted in this document. Unless otherwise provided in this document, you may revoke a specific power granted in this power of attorney by completing a special power of attorney that includes the specific power in this document that you want to revoke. Unless otherwise provided in this document, you may revoke all the powers granted in this power of attorney by completing a subsequent power of attorney.

NOTICE TO THIRD PARTIES

A third party who relies on the reasonable representations of an attorney-in-fact as to a matter relating to a power granted by a properly executed statutory power of attorney does not incur any liability to the principal or to the principal's heirs, assigns, or estate as a result of permitting the attorney-in-fact to exercise the authority granted by the power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable to the principal, the attorney-in-fact, the principal's heirs, assigns, or estate for a civil penalty, plus damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. If the power of attorney is one which becomes effective upon the disability of the principal, the disability of the principal is established by an affidavit, as required by law.

IN WITNESS WHEREOF, I have hereunto signed my name this ____ day of __,

Signature of Principal

Acknowledged before me at _____

_____ on _____

Signature of Officer or Notary

ADDITIONAL OPTIONAL PROVISIONS TO STATUTORY FORM POWER OF ATTORNEY

Each of the following provisions may be included in an Alaska statutory form power of attorney:

(1) IF YOU HAVE GIVEN THE AGENT AUTHORITY REGARDING HEALTH CARE SERVICES UNDER SUBDIVISION (L), COMPLETE THE FOLLOWING:

I have executed a separate declaration under AS 18.12, known as a "Living Will."

I have not executed a "Living Will."

I have executed a separate declaration under AS 47.30.950 - 47.30.980 regarding mental health treatment. If I have appointed an attorney-in-fact under AS 47.30.950 - 47.30.980, I authorize that attorney-in-fact and the attorney-in-fact whom I have appointed in this document to serve jointly with consent of each other as to my mental health treatment

separately without each other's consent as to my mental health treatment.

I have not executed a separate declaration under AS 47.30.950 - 47.30.980.

(2) YOU MAY DESIGNATE AN ALTERNATE ATTORNEY-IN-FACT. ANY ALTERNATE YOU DESIGNATE WILL BE ABLE TO EXERCISE THE SAME POWERS AS THE AGENT(S) YOU NAMED AT THE BEGINNING OF THIS DOCUMENT. IF YOU WISH TO DESIGNATE AN ALTERNATE OR ALTERNATES, COMPLETE THE FOLLOWING:

If the agent(s) named at the beginning of this document is unable or unwilling to serve or continue to serve, then I appoint the following agent to serve with the same powers:

First alternate or successor attorney-in-fact

_____ (Name and address of alternate)

Second alternate or successor attorney-in-fact

_____ (Name and address of alternate)

(3) YOU MAY NOMINATE A GUARDIAN OR CONSERVATOR. IF YOU WISH TO NOMINATE A GUARDIAN OR CONSERVATOR, COMPLETE THE FOLLOWING:

In the event that a court decides that it is necessary to appoint a guardian or conservator for me, I hereby nominate (Name and address of person nominated) to be considered by the court for appointment to serve as my guardian or conservator, or in any similar representative capacity.