



**SB**

**172**

# ALASKA STATE LEGISLATURE

SENATOR

**Gene Therriault**

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



While in Juneau

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

**Senate**

Senate District F

Senate Bill 172

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

SPONSOR: Senator Gene Therriault

## SPONSOR STATEMENT:

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

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

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

AMENDMENT #1

Ad Hoc

OFFERED IN HOUSE STATE AFFAIRS  
TO SB 172

After line 8 insert a new subsection to read:

AS 15.45.180 (c)

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

AMENDMENT

#2 Adm

OFFERED IN HOUSE STATE AFFAIRS  
TO SB 172

After line 14 insert a new subsection to read:

AS 15.45.410 (c)

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

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

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

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

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claim						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This legislation has no fiscal impact on the Division of Elections.

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



# Alaska State Legislature

Senate Majority Web: [www.akrepublicans.org](http://www.akrepublicans.org)

Sponsor: Senator Gene Therriault

Current Version: SB 172

Contact: Joseph Balash, 465-4797

## Fact Sheet for: Senate Bill 172

**Short Title:** INITIATIVE/REFERENDUM BALLOT SUMMARY

**Summary:**

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

**Benefits:**

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

**Background:**

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

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

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

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**"An Act repealing the economic limit factor as it applies to oil."**

**05RELF**

**AG's File Number: 663-05-0151**

**Primary Sponsors: Ray Metcalfe, Robert L. Buch, James Price**

**Contact Information -**

**Application was received in the Lieutenant Governor's Office on January 18, 2005. A copy of the application and signatures were sent to the Department of Law and Division of Elections on January 21, 2005. The Division of Elections determined that there were a sufficient number of sponsor signatures on February 7, 2005. The application was certified on March 21, 2005. Petition booklets will be distributed to the sponsors for circulation.**

**[Click here for the 05RELF proposed bill language as provided by the sponsors.](#)**

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**"An Initiative requiring the State of Alaska to vote on an Act providing children and their family specific rights when children are in the custody of State children services."**

**04FCRB**

**AG's File Number:**

**Primary Sponsors: Elizabeth H. Rollins, Charles H. Rollins Jr., Susan Roatch**

**Contact Information -**

**Application was received in the Lieutenant Governor's Office on March 23, 2004. A copy of the application and signatures were sent to the Department of Law and Division of Elections on April 2, 2004.**

**[Click here for the 04FCRB proposed bill language as provided by the sponsors.](#)**

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**"An Act relating to contribution limits, lobbyists, and disclosure."**

**03DISC**

**AG's File Number: 663-04-0025**

**Primary Sponsors: Harry Crawford, Eric Croft, David Guttenberg**

**Contact Information - Karen Compton, 227-2527, [www.trust-the-people.org](http://www.trust-the-people.org)**

**Application was received in the Lieutenant Governor's Office on September 4, 2003. A copy of the application and signatures were sent to the Department of Law and Division of Elections on September 5, 2003. The Division of Elections determined that there were a sufficient number of sponsor signatures on September 11, 2003.**

**[Click here for the 03DISC proposed bill language as provided by the sponsors.](#)**

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**"An Act relating to filling a vacancy in the Office of United States Senator."**

**03SENV**

**AG's File Number: 663-04-024**

**Primary Sponsors: Harry Crawford, Eric Croft, David Guttenberg**

**Contact Information - Karen Compton, 227-2527, [www.trust-the-people.org](http://www.trust-the-people.org)**

**Application was received in the Lieutenant Governor's Office on September 4, 2003. A copy of the application and signatures were sent to the Department of Law and Division of Elections on September 5, 2003. The Division of Elections determined that there were a sufficient number of sponsor signatures on September 11, 2003. Legal review was received from the Department of Law and was determined that the Seventeenth Amendment of the United States Constitution gives state legislatures sole authority to decide how to fill U.S. Senate vacancies.; therefore, the application was denied on October 22, 2003. Lawsuit has been filed. Court ruled that petition booklets were to be issued to the initiative committee not later than November 3, 2003. Petition booklets were distributed to initiative committee at 3pm, November 3, 2003. Lieutenant Governor Leman certified the petition for this initiative as properly filed on March 4, 2004. Lieutenant Governor Leman determined that House Bill 414 was "substantially similar" to the petition and that the petition would not appear on the 2004 general election ballot. A lawsuit has been filed to determine whether HB 414 is "substantially similar" to the petition.**

**[Click here for the 03SENV proposed bill language as provided by the sponsors.](#)**

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**SB**

**186**

Chair of House Judiciary Committee

**Re: SB186**

Dear Rep. McGuire,

We amended SB 186 in several ways in House State Affairs and I wanted to relay some of the committee's reasoning to you to provide some context for those changes.

First, we deleted the section involving disclosure and penalty to the complainant (which is often a member of the public.) The reasoning expressed for the need for this provision was that it protects 15,000 state workers who have ethics charges filed and made public to impede their application for job advancement. This would not apply to elected officials or commissioners, as they are not in "competition" for job advancement. The committee requested in writing three examples of such to be sure we were not trying to solve only a theoretical problem with a rather sweeping and controversial solution. [A copy of the request is attached.] We did not receive any examples in response to our request. We did receive testimony from the sponsor that it happens but that the person in the administration who had worked on the bill and had such knowledge was now in a new position and did not want to offer the information. The committee felt that if preventing public disclosure was the target of the provision, we should have examples of public disclosure before we enact legislation.

Second, we deleted both the provision for an independently managed account and a blind trust as being adequate to give immunity from a conflict of interest for action on a specific item that could materially affect the value of the assets managed or in the blind trust. As relates to the independently managed account, many of us have such and receive quarterly statements and have constant internet access to the asset holdings. The fact that a person does not do the actual trading did not make us at all comfortable that a person would not be taking action that changed the value of the specific assets. The blind trust was similarly problematic as most of the time the assets are retained and therefore known. Also, many assets are not at all liquid and therefore are not even appropriate for placing in a blind trust because the anticipation is that the assets will remain in the trust.

We have sent along a document for your consideration that shows the holes and troubles blind trusts can cause officials. The New Jersey statute which is also included indicates the complexity that is necessary for a functional blind trust - including blind income tax filing - which our statute nor SB 186 contain.

I hope this will provide you with information about the basis for State Affairs reasoning for our actions, which may be useful in your deliberations.

Sincerely,

Rep. Paul Seaton  
Chair, House State Affairs Committee

24-LS0874X  
Wayne  
1/30/06

HOUSE CS FOR CS FOR SENATE BILL NO. 186( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Executive Branch Ethics Act; and providing for an  
2 effective date."

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

4 \* Section 1. AS 39.52.110(b) is amended to read:

5 (b) Unethical conduct is prohibited, but there is no [SUBSTANTIAL]  
6 impropriety if, as to a specific matter, a public officer's

7 (1) personal or financial interest in the matter is [INSIGNIFICANT,  
8 OR] of a type that is possessed generally by the public or a large class of persons to  
9 which the public officer belongs; [OR]

10 (2) action or influence would have insignificant or conjectural effect  
11 on the matter: *Amendment #1*

12 (3) financial interest in a matter is held in a blind trust of the  
13 public officer does not have management control over the financial interest for

14 (4) personal or financial interest in a matter is in regard to a

*Conceptual  
Among del. to bill 136*

business and the public officer

(A) does not own a controlling interest in the business;

(B) does not own more than one percent of the stock in the

business and the stock owned has a value of less than \$10,000;

(C) owns an equity interest in the business worth less than \$10,000;

(D) is not a member of the board of directors or another governing body of the business;

(E) is not an elected officer of the business;

(F) does not provide personal or professional services to the

business;

(G) does not have a contract with the business; and

(H) is not an employee of the business.

\* Sec. 2. AS 39.52.130(f) is amended to read: *does not have any stock, purchase or other options that pertain to the business*

(f) A public officer who knows or reasonably ought to know that an immediate [A] family member or a business associate has received a gift because of the family member's or business associate's connection with the public office held by the public officer shall report the receipt of the gift by the family member or business associate to the public officer's designated supervisor if the gift would have to be reported under this section if it had been received by the public officer or if receipt of the gift by a public officer would be prohibited under this section.

\* Sec. 3. AS 39.52.140 is amended to read:

**Sec. 39.52.140. Improper use or disclosure of information.** (a) A current or former public officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties or position that could in any way result in the receipt of any benefit for the officer, [OR] an immediate family member, or a business associate if the information has not also been disseminated to the public.

(b) A current or former public officer may not disclose or use, without appropriate authorization, information acquired in the course of official duties or by reason of the officer's position that is confidential by law.

\* Sec. 4. AS 39.52.150(a) is amended to read:

*Amend. Stock or stock options*

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(a) A public officer, [OR] an immediate family member, or a business associate may not attempt to acquire, receive, apply for, be a party to, or have a personal or financial interest in a state grant, contract, lease, or loan if the public officer may take or withhold official action that affects the award, execution, or administration of the state grant, contract, lease, or loan.

\* Sec. 5. AS 39.52.150(c) is amended to read:

(c) The prohibition in (a) of this section does not apply to a state loan if

(1) the public officer does not take or withhold official action that affects the award, execution, or administration of the loan held by the officer, [OR] an immediate family member, or a business associate;

(2) the loan is generally available to members of the public; and

(3) the loan is subject to fixed eligibility standards.

\* Sec. 6. AS 39.52.150(d) is amended to read:

(d) A public officer shall report in writing to the designated supervisor a personal or financial interest held by the officer, [OR] an immediate family member, or a business associate [,] in a state grant, contract, lease, or loan that is awarded, executed, or administered by the agency the officer serves.

\* Sec. 7. AS 39.52.210(b) is amended to read:

(b) A public employee's designated supervisor shall make a written determination whether an employee's involvement violates AS 39.52.110 - 39.52.190 and shall provide a copy of the written determination to the public employee and to the attorney general. If the supervisor determines that a violation could exist or will occur, the supervisor shall [,]

(1) reassign duties to cure the employee's potential violation, if feasible; or

(2) direct

(A) the divestiture or removal by the employee of the personal or financial interests that give rise to the potential violation; or

(B) the placement by the employee of the financial interest that gives rise to the potential violation into a blind trust [or other investment where the employee does not have management control over

*Amend to delete  
line 30-4  
line 1-79  
4/29/10*

1 the financial interest.

2 \* Sec. 8. AS 39.52.230 is amended to read:

3       **Sec. 39.52.230. Reporting of potential violations.** A person may report to a  
4 public officer's designated supervisor, under oath and in writing, a potential violation  
5 of AS 39.52.110 - 39.52.190 by the public officer. The supervisor shall provide a copy  
6 of the report to the officer who is the subject of the report and to the attorney general,  
7 and shall review the report to determine whether a violation may exist. Except where  
8 the report concerns the governor, lieutenant governor, or the attorney general,  
9 the [THE] supervisor shall act in accordance with AS 39.52.210 or 39.52.220 if the  
10 supervisor determines that the matter may result in a violation of AS 39.52.110 -  
11 39.52.190. If the report concerns the governor, lieutenant governor, or the  
12 attorney general, the supervisor shall refer the report as provided in (b) of this  
13 section.

14 \* Sec. 9. AS 39.52.230 is amended by adding a new subsection to read:

15       (b) If a report or allegation of a violation of AS 39.52.110 - 39.52.190 by the  
16 governor, lieutenant governor, or attorney general comes to the attention of the  
17 designated supervisor for the governor, lieutenant governor, or attorney general, other  
18 than by the declaration of a potential violation by the governor, lieutenant governor, or  
19 attorney general under AS 39.52.210(a)(2) or by the filing of an ethics complaint  
20 under AS 39.52.310(b), then,

21           (1) in the case of a report or allegation against the governor or the  
22 lieutenant governor, the attorney general shall refer the matter to the personnel board,  
23 which shall appoint an independent counsel to investigate; the independent counsel  
24 shall have power to issue and enforce subpoenas under AS 39.52.380 and 39.52.390;  
25 the independent counsel shall prepare a written report of the investigation; the written  
26 report must include findings of fact and a conclusion as to whether, in the opinion of  
27 the independent counsel, the facts constitute conduct in violation of AS 39.52.110 -  
28 39.52.190; the report of the independent counsel shall be submitted to the attorney  
29 general, the attorney general shall review the report and make an independent  
30 determination as to whether the independent counsel's findings of fact, if true, would  
31 constitute conduct in violation of AS 39.52.110 - 39.52.190; if the attorney general

1 concludes that the facts as found by the independent counsel would constitute a  
2 violation of AS 39.52.110 - 39.52.190, then the attorney general shall treat the  
3 independent counsel's report as a complaint and shall refer the report to the personnel  
4 board under AS 39.52.310(c); if the attorney general concludes that the facts as found  
5 by the independent counsel would not constitute a violation of AS 39.52.110 -  
6 39.52.190, the investigation shall be closed and no further enforcement action shall be  
7 taken; nothing in this paragraph precludes a person from filing a complaint concerning  
8 the same matter under AS 39.52.310(b);

9 (2) in the case of a report or allegation against the attorney general, the  
10 governor shall refer the matter to the personnel board, which shall appoint an  
11 independent counsel to investigate; the independent counsel shall have power to issue  
12 and enforce subpoenas under AS 39.52.380 and 39.52.390; the independent counsel  
13 shall prepare a written report of the investigation; the written report must include  
14 findings of fact and a conclusion as to whether, in the opinion of the independent  
15 counsel, the facts constitute conduct in violation of AS 39.52.110 - 39.52.190; the  
16 report of the independent counsel shall be submitted to the governor; the governor  
17 shall review the report and make an independent determination as to whether the  
18 independent counsel's findings of fact, if true, would constitute conduct in violation of  
19 AS 39.52.110 - 39.52.190; if the governor desires legal advice in making this  
20 determination, the personnel board, at the governor's request, shall appoint an  
21 additional independent counsel to advise the governor on legal issues; if the governor  
22 concludes that the facts as found by the independent counsel would constitute a  
23 violation of AS 39.52.110 - 39.52.190, then the governor shall refer the report to the  
24 personnel board for appropriate action in accordance with the procedures set out in  
25 AS 39.52.310(c); if the governor concludes that the facts as found by the independent  
26 counsel would not constitute a violation of AS 39.52.110 - 39.52.190, the  
27 investigation shall be closed and no further enforcement action shall be taken; nothing  
28 in this paragraph precludes a person from filing a complaint concerning the same  
29 matter under AS 39.52.310(b).

30 \* Sec. 10. AS 39.52.240(a) is amended to read:

31 (a) Upon the written request of a designated supervisor or a board or

1 commission, the attorney general shall issue opinions interpreting this chapter. The  
 2 requester must supply any additional information requested by the attorney general in  
 3 order to issue the opinion. Within 60 days after receiving a complete request, the  
 4 attorney general shall issue an advisory opinion on the question. This section does not  
 5 apply to a report or an allegation investigated under AS 39.52.230(b).

6 \* Sec. 11. AS 39.52.310(a) is amended to read:

7 (a) The attorney general may initiate a complaint, or elect to treat as a  
 8 complaint, any matter disclosed under AS 39.52.210, 39.52.220, 39.52.230(a),  
 9 39.52.250, or 39.52.260. The attorney general may not, during a campaign period,  
 10 initiate a complaint concerning the conduct of the governor or lieutenant governor  
 11 who is a candidate for election to state office.

12 \* Sec. 12. AS 39.52.335(c) is amended to read:

13 (c) If a complaint is dismissed under AS 39.52.320 or resolved under  
 14 AS 39.52.330, the attorney general shall promptly prepare a summary of the matter  
 15 and provide a copy of the summary to the personnel board, the subject of the  
 16 complaint, and the complainant. The summary is confidential unless the

17 [(1)] dismissal or resolution agreed to under AS 39.52.320 or  
 18 39.52.330 is public [; OR

19 (2) SUPERIOR COURT MAKES THE MATTER PUBLIC UNDER  
 20 (h) OF THIS SECTION].

21 \* Sec. 13. AS 39.52.335(f) is amended to read:

22 (f) After review of the summary, the personnel board may issue a report on the  
 23 disposition of the complaint to the attorney general, the subject of the complaint,  
 24 and the complainant. The report is confidential [. IF THE MATTER IS  
 25 CONFIDENTIAL AND THE BOARD DETERMINES THAT PUBLICATION OF  
 26 THE NAME OF THE SUBJECT IS IN THE PUBLIC INTEREST, THE REPORT  
 27 MAY INCLUDE A RECOMMENDATION THAT THE MATTER BE MADE  
 28 PUBLIC].

29 \* Sec. 14. AS 39.52.340(a) is amended to read:

30 (a) Except as provided in AS 39.52.335, before the initiation of formal  
 31 proceedings under AS 39.52.350, the complaint and all other documents and

*Why is  
Dismissed  
not public*

1 information regarding an investigation conducted under this chapter or obtained by the  
2 attorney general or independent counsel during the investigation are confidential and  
3 not subject to inspection by the public. In the case of a complaint concerning the  
4 governor, lieutenant governor, or attorney general, all meetings of the personnel board  
5 concerning the complaint and investigation before the determination of probable cause  
6 are closed to the public. If, in the course of an investigation or probable cause  
7 determination, the attorney general finds evidence of probable criminal activity, the  
8 attorney general shall transmit a statement and factual findings limited to that activity  
9 to the appropriate law enforcement agency. If the attorney general finds evidence of a  
10 probable violation of AS 15.13, the attorney general shall transmit a statement to that  
11 effect and factual findings limited to the ~~probable violation~~ to the Alaska Public  
12 Offices Commission. The attorney general, complainant, subject of the complaint,  
13 and all persons contacted during the course of an investigation shall maintain  
14 confidentiality regarding the existence of the investigation or proceeding. In a  
15 proceeding conducted or an action taken under this chapter,

16 (1) a person may not disclose the filing of a complaint, its contents,  
17 or related matters until after the personnel board makes a finding of probable  
18 cause or unless the disclosure is made while the person is

19 (A) communicating with personnel board members or staff;

20 (B) seeking advice from an attorney; or

21 (C) lawfully representing the person or the person's client  
22 in defense of a complaint that has been filed and the disclosure is  
23 necessary;

24 (2) personnel board proceedings related to a complaint that has  
25 been filed are closed to all persons except board members and staff until after the  
26 board makes a finding of probable cause unless

27 (A) the board permits otherwise after finding that fairness  
28 to the subject of the complaint may be advanced by the permission; or

29 (B) the subject of the complaint waives confidentiality;

30 (3) the complaint document and each related record are  
31 confidential and are not available for public inspection unless

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(A) the personnel board makes a finding of probable cause;

or

(B) the subject of the complaint waives confidentiality;

(4) under this section, if the subject of a complaint waives confidentiality of a proceeding or a document, the entire proceeding is open to the public, and the entire document is available for public inspection;

(5) the personnel board shall make appropriate efforts to provide notice of the confidentiality requirements of this section;

(6) this section governs confidentiality only for complaints filed under this chapter and does not alter confidentiality or the rights of any person for matters not connected with this chapter;

(7) this subsection does not prevent a person from obtaining directly from a state agency a public record of that agency that has also been made available in connection with an investigation or a formal proceeding under AS 39.52.310 - 39.52.390.

*delete  
Sec  
15*  
↓

\* Sec. 15. AS 39.52.340 is amended by adding new subsections to read:

(d) A current or former public officer may not disclose information that is confidential under AS 39.52.140 or 39.52.340. A current or former public officer who violates this subsection is subject to the sanctions in AS 39.52.410 - 39.52.440.

(e) Except for a current or former public officer covered by (d) of this section, a person who discloses information that is confidential under AS 39.52.140 or 39.52.340 is subject to a civil fine of \$5,000 or less.

(f) The attorney general may enforce (e) of this section by filing an appropriate civil action on the request of the board.

\* Sec. 16. AS 39.52 is amended by adding a new section to read:

**Sec. 39.52.352. Wrongful use of complaint.** (a) The board shall <sup>may</sup> find there has been wrongful use of an executive branch ethics complaint if it determines, after compliance with due process requirements, including a hearing, <sup>public requests,</sup> and a majority vote, that the complainant

(1) made a factual allegation in the complaint knowing the allegation to be false or with reckless disregard of the truth or falsity of the allegation;

*#8 - adopted*

1 (2) did not reasonably believe that the facts alleged in the complaint, if  
2 proven, would constitute a violation of this chapter; or

?  
deleted by deletion

(3) knowingly and intentionally made a disclosure prohibited by  
AS 39.52.340.

X

5 (b) The board may not find wrongful use of an executive branch ethics  
6 complaint under (a)(2) of this section if the complainant filed the complaint in reliance  
7 on advice from the complainant's attorney, a member or staff of the board, or an  
8 employee of the state acting in an official capacity.

9 (c) If, under (a) of this section, the board makes a finding of wrongful use of  
10 an executive branch ethics complaint, the board shall notify both the complainant and  
11 the subject of the complaint of its final determination under (a) of this section. The  
12 board

13 (1) shall provide to the subject of the complaint the name and last  
14 known mailing address of the complainant;

15 (2) may recommend sanctions under AS 39.52.410 - 39.52.440; and

Delete

16 (3) may impose a civil fine of \$5,000 or less for complainants who are  
17 not state employees, current public officers or former public officers.

18 (d) The attorney general may enforce (c)(3) of this section by filing an  
19 appropriate civil action on the request of the board.

20 \* Sec. 17. AS 39.52.380(a) is amended to read:

21 (a) As provided in AS 39.52.230(b), 39.52.310(g) [AS 39.52.310(g)],  
22 39.52.360(b), and 39.52.370(b), the attorney general, independent counsel retained  
23 under AS 39.52.230(b) or 39.52.310(c) [AS 39.52.310(c)], a hearing officer, the  
24 subject of an accusation, and the personnel board may summon witnesses and require  
25 the production of records, books, and papers by the issuance of subpoenas.

26 \* Sec. 18. AS 39.52.410(a) is amended to read:

27 (a) If the personnel board determines that a public employee has violated this  
28 chapter, it

29 (1) shall order the employee to stop engaging in any official action  
30 related to the violation;

31 (2) may order divestiture, establishment of a blind trust for a period of

*delete*

1 time or under conditions determined appropriate, placement of the financial  
 2 interest into an investment where the employee does not have management  
 3 control over the financial interest, restitution, or forfeiture; and

4 (3) may recommend that the employee's agency take disciplinary  
 5 action, including dismissal.

6 \* Sec. 19. AS 39.52.960(9) is amended to read:

7 (9) "financial interest" means

8 (A) an interest held by a public officer, or an immediate family  
 9 member, which includes an involvement or ownership of an interest in a  
 10 business, including a property ownership, or a professional or private  
 11 relationship, that is a source of income, or from which, or as a result of which,  
 12 a person has received or expects to receive a financial benefit;

13 (B) holding a position in a business, such as an officer, director,  
 14 trustee, partner, employee, or the like, or holding a position of management; or

15 (C) an interest held by a public officer with a business  
 16 associate;

17 \* Sec. 20. AS 39.52.960(11) is amended to read:

18 (11) "immediate family member" means

19 (A) the spouse of the person;

20 (B) another person living in the same household  
 21 [COHABITING] with the person in a sexual [CONJUGAL] relationship that is  
 22 not a legal marriage;

23 (C) a child, including a stepchild and an adoptive child, of the  
 24 person;

25 (D) a parent or [,] sibling [, GRANDPARENT, AUNT, OR  
 26 UNCLE] of the person; [AND]

27 (E) a child, parent, or sibling of the person's spouse; and

28 (F) a child, parent, or sibling of another person living in the  
 29 same household with the person in a sexual relationship that is not a legal  
 30 marriage;

31 \* Sec. 21. AS 39.52.960 is amended by adding new paragraphs to read:

1                   (23) "business associate" means any person with whom a public officer  
2 jointly shares the management, control, or majority ownership of a business for the  
3 conduct of trade, commerce, the practice of a profession, or any other occupation  
4 engaged in for the purpose of providing income or potential income to the public  
5 officer, regardless of how the business is organized,

6                   (24) "household" means a social unit of those persons living together  
7 in the same dwelling.

8 \* Sec. 22. AS 39.52.335(h) is repealed.

9 \* Sec. 23. This Act takes effect January 1, 2006.

Amendment # 2 to SB 186 Version X

Page 3, line 30

Delete all material starting with the word "or" through page 4 end of line 1

Delete page 10, line 1 after "appropriate" through line 3 ending with "interest"

And anywhere else similar language occurs

Page 1, lines 12-13 Delete "or the public officer does not have management control over the financial interest"

*Superseded by amendment # 9*

Conceptual Amendment # 4 to SB 186 Version X  
By: Seaton

~~Page 3, line 29-~~

Delete page 8, line 16 through line 24 (section 15) and renumber accordingly

AS 11.56.200-240

Y	N
1111	11

Conceptual Amendment # 5 to SB 186 Version X  
By: Seaton

*Adopte*

Page 8 line 26 deiete "shall" insert "may"

Conceptual Amendment # 6 to SB 186 Version X  
By: Seaton

Page 9, line 3 and 4 delete all material

Page 9, line 16 and 17 delete all material

*Adopte*

*Y | N*  
*|||| |*

AMENDMENT #8 *adpt*

OFFERED IN THE HOUSE

BY REPRESENTATIVE GARDNER

TO: HCS CSSB 186( ), Draft Version "X"

1 Page 1, line 11, following "':":

2 Insert "or"

3

4 Page 1, lines 12 - 14:

5 Delete "financial interest in a matter is held in a blind trust or the public officer  
6 does not have management control over the financial interest; or

7 (4)"

8

9 Page 3, line 18, through page 4, line 1:

10 Delete all material.

11

12 Renumber the following bill sections accordingly.

13

14 Page 9, line 31, through page 10, line 3:

15 Delete "establishment of a blind trust for a period of time or under conditions  
16 determined appropriate, placement of the financial interest into an investment where  
17 the employee does not have management control over the financial interest."

18 Insert " [ESTABLISHMENT OF A BLIND TRUST,]"

AMENDMENT # 7 SB 186 X Version

Page 9

Lines 18-19

DELETE ALL MATERIAL  
(subsection (d))

# AMENDMENT # 8

Page 8

Line 28

After "a" insert "public"

After "hearing" insert ", if requested"

*Adopted*

*#11*

**AMENDMENT**

OFFERED IN THE HOUSE

BY: REPRESENTATIVES GRUENBERG  
and SEATON

TO: HCS CSSB 186( ), Draft Version "X"

1 Page 2, lines 3 – 4:

2 Delete all material and insert:

3 **"(B) does not own stock or options to <sup>buy</sup> buy stock that,**  
4 **when combined.**

5 **(i) equal more than one percent of the stock in the**  
6 **business; or**

7 **(ii) have a total value of more than \$10,000."**

AMENDMENT

OFFERED IN THE HOUSE

BY: REPRESENTATIVES GRUENBERG  
and SEATON

TO: HCS CSSB 186( ), Draft Version "X"

1 Page 2, lines 5 - 6:

2 Delete all material and insert:

\* → 3

"(C) owns *or has an option to buy.* #

4

(i) less than one percent of the equity interest in the

5

business; or *and.*

6

(ii) an equity interest in the business worth less than

7

\$10,000:"

line 3  
# after "owns" insert "or has an option to buy"

line 5

delete "or"  
insert "and"

**AMENDMENT**

OFFERED IN THE HOUSE      BY: REPRESENTATIVES GRUENBERG  
and SEATON

TO: HCS CSSB 186( ), Draft Version "X"

1 Page 2, line 10:

2            Insert:

3                            after "provide" insert "or have an option to provide"

**AMENDMENT**

OFFERED IN THE HOUSE

BY: REPRESENTATIVES GRUENBERG  
and SEATON

TO: HCS CSSB 186( ), Draft Version "X"

1 Page 2, line 12:

2 Insert:

3 after "contract" insert "or have an option for a contract"

# ALASKA STATE SENATE

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



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

**Senator Ralph Seekins**  
District D

## Senate Bill 186 & 187 Sponsor Statement

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

---

Senate Bill 187 revises the Legislative Standards of Conduct. To start with, this bill adds succinct language which simply restates a truism — where matters of legislative procedure are concerned, the Alaska State Constitution<sup>1</sup> and the Uniform Rules of Procedure<sup>2</sup> take precedence over statute. The bill also clarifies application of the Uniform Rules of Procedure with respect to open meetings guidelines. This, too, is an explicit restatement of Constitutional authority.

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

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

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

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

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

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

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

<sup>1</sup> Article II, Section 12

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

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: CSSB 186(STA)  
(S) Publish Date: 4/28/05

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

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

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

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

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill makes numerous amendments to the Executive Branch Ethics Act. It amends AS 39.52.110(b) (Scope of Code) to establish a "bright line" test for when a personal or financial interest is insignificant under the ethics act. The bill amends AS 39.52.960 (Definitions) to add a definition for "closely associated person," amend the definition of "financial interest" to include the financial interests of a "closely associated person," amend the definition of "immediate family member," and repeal the definition of "parent." It amends AS 39.52.130(b) (Gifts) and AS 39.52.150(a), (c), and (d) (Contracts, Leases, Loans) to add "closely associated person" to the list of people whose interests that must be considered. It amends AS 39.52.335 (Summary of Disposition of Complaints and Review by Personnel Board) to provide that the complaint process is confidential and repeals the provisions by which an interested party could go to court to try to get the summary made public. It also amends AS 39.52.340

Prepared by: Kathryn Daughhete, Director Phone: 465-3673  
Division: Administrative Services Division Date/Time: 4/26/05 8:09 AM  
Approved by: Kathryn Daughhete for David Márquez, Attorney General Date: 4/26/2005  
Agency: Department of Law

**FISCAL NOTE # 1**

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

**BILL NO. CSSB 186(STA)**

**ANALYSIS CONTINUATION**

(Confidentiality) to expand the information that is confidential under the ethics act. The bill also amends AS 11.56, the criminal code, to make disclosure of confidential ethics information a class A misdemeanor. Passage of this legislation will have no fiscal impact on the Department of Law.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSSB 186(STA)  
 (S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act relating to the Alaska RDU Central Administrative Services  
Executive Branch Ethics Act" Component Personnel  
 Sponsor Senator Seekins  
 Requester (S) STA Component No. 56

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

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

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

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Mila Cosgrove, Director Phone 465-4429  
 Division Personnel Date/Time 4/25/05 8:39 AM  
 Approved by: Mike Tibbles, Deputy Commissioner Date 4/25/2005  
 Agency Administration

**LPS** department of law & public safety

## **Executive Commission on Ethical Standards**

### **Blind Trusts**

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

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

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

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## Frist Was Updated On Blind Trust

WASHINGTON, Sept. 26, 2005

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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substituted "domestic partner" for "spousal equivalent" in subsection (g).

**Opinions of attorney general.** — Requiring an attorney who is a public official to disclose the names

of clients, including the clients of the firm, is valid and legally supportable; and disclosure of such names does not violate any constitutional or professional privileges. February 15, 1985 Op. Att'y Gen.

#### NOTES TO DECISIONS

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *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).

**Reporting individual names of physician's patients.** — Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual

patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

**Substantial compliance.** — In an election contest, where the record showed that appellee candidate failed to disclose all of his assets under AS 39.50.030(b), judgment for the candidate was affirmed because substantial compliance was the appropriate standard for imposing the forfeiture remedy of AS 39.50.060(b) and the superior court did not clearly err in finding that the candidate substantially complied with the disclosure requirements of AS 39.50.030(b). *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

Alaska Supreme Court reads "accurate representation" in AS 39.50.060(a) as not precluding a substantial compliance standard for enforcement of AS 39.50.060(b); thus, a candidate can comply with AS 39.50.030(a) for the purposes of AS 39.50.060(b) without strictly complying with the substantive disclosure requirements. *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

Applied in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977).

**Sec. 39.50.035. Exemptions.** A person subject to this chapter is not exempt from any of its provisions except to the extent state courts determine that legally privileged professional relationships preclude complete compliance. (§ 5 ch 25 SLA 1975)

#### NOTES TO DECISIONS

This section applies only to legal privileges, not ethical mandates. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Fact that a physician is subject to professional

discipline for revealing the names of patients does not create a "legal privilege." *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

**Sec. 39.50.040. Blind trusts.** (a) A public official may transfer all or a portion of the official's assets to a blind trust for the duration of service in public office. The original assets placed in the blind trust shall be listed by the official in the statement required to be filed under this chapter. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this section,

- (1) assets transferred to the trust shall be marketable;
- (2) the trustee shall be a bank or other institutional fiduciary;
- (3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;
- (4) information regarding the identity and the nature of its assets shall be confidential from the trustor for the duration of the trust;
- (5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter; and

(6) [Repealed, § 26 ch 25 SLA 1975.] (1974 Initiative Proposal No. 2, § 1; am §§ 6, 26 ch 25 SLA 1975)

## NOTES TO DECISIONS

Cited in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977).

**Sec. 39.50.050. Administration and inspection.** (a) The Alaska Public Offices Commission created under AS 15.13.020(a) shall administer the provisions of this chapter. The commission shall prepare and keep available for distribution standardized forms on which the reports required by this chapter shall be filed. The commission shall print the forms provided under this section so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page. The commission may request that the information required under this chapter be submitted electronically but shall accept any information required under this chapter that is typed in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission and that is filed with the commission.

(b) The commission shall adopt regulations to implement and interpret the provisions of this chapter. Regulations or interpretation shall be within the intent and purpose of this chapter and are subject to judicial review under the Administrative Procedure Act (AS 44.62).

(c) Reports filed under this chapter shall be kept on file for at least six years and are public records.

(d) [Repealed, § 35 ch 126 SLA 1994.] (1974 Initiative Proposal No. 2, § 1; am §§ 7, 8 ch 25 SLA 1975; am § 7 ch 167 SLA 1976; am § 35 ch 126 SLA 1994; am § 36 ch 108 SLA 2003; am § 4 ch 155 SLA 2004)

**Effect of amendments.** — The 1994 amendment, effective July 1, 1994, repealed subsection (d), relating to the procedures required to facilitate the filing of reports under AS 24.45.

The 2003 amendment, effective September 14, 2003, in subsection (a) added the last sentence and made a stylistic change.

The 2004 amendment, effective October 1, 2004, rewrote subsection (a).

**Opinions of attorney general.** — The commis-

sion's power to investigate violations of AS 39.50.090 derives from AS 39.50.050, which authorizes the commission to administer AS 39.50 and promulgate regulations to implement the chapter. In carrying out this responsibility, the commission staff should immediately notify the chief prosecutor whenever commission records, files, and inquiries reveal a possible criminal violation of AS 39.50.090. November 26, 1984 Op. Att'y Gen.

## NOTES TO DECISIONS

**This section requires the commission to promulgate regulations** to implement and interpret the provisions of the Conflict of Interest law. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

**Scope of regulations.** — The commission may

well wish to promulgate regulations which apply to relationships other than that of physician-patient. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Quoted in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

**Sec. 39.50.060. Penalty for wilful violation of disclosure requirements.** (a) A person required to file a report of financial or business interests under this chapter who refuses or knowingly fails to disclose required information within the time required in this chapter, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for a period of not more than six months, or by both.

(b) Any person failing or refusing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit nomination to office and may not be seated or installed in office if the person has not complied. Nominated, hired, or appointed officials, commissioners, chairs, or members of commissions or boards specified in AS 39.50.200(b) may not be confirmed by the legislature if compliance has not been made. In

**TESTIMONY FOR SB186 AND SB187 TO THE HOUSE STATE  
AFFAIRS COMMITTEE**

**Mr. Chairman, Ladies and Gentlemen of the Committee,**

**My name is Richard Hahn; I reside in Soldotna, Alaska.**

**I am pleased to be able to testify before you today on SB186 and  
SB187, but you may not like what I have to say?**

**First, I consider these bills, if enacted, to be an infringement on my  
Constitutional right to free speech! No law should inhibit or  
prevent the average Alaskan or the Press from publicly expressing  
opinions about the ethics, or lack thereof, of any public official.  
Almost all public officials KNOW they should not present any  
perception of impropriety!**

**Second, it is not overtly apparent this Committee (and its  
predecessors) has done a very good job in dealing with legislative  
ethical issues, now or in the past. I consider closed caucuses,  
where legislators are told how to vote, to be unethical. I consider  
legislators, who are paid by special interests to sponsor or block  
legislation, to be unethical. What has happened to government "of,  
by and for (ALL) the people?**

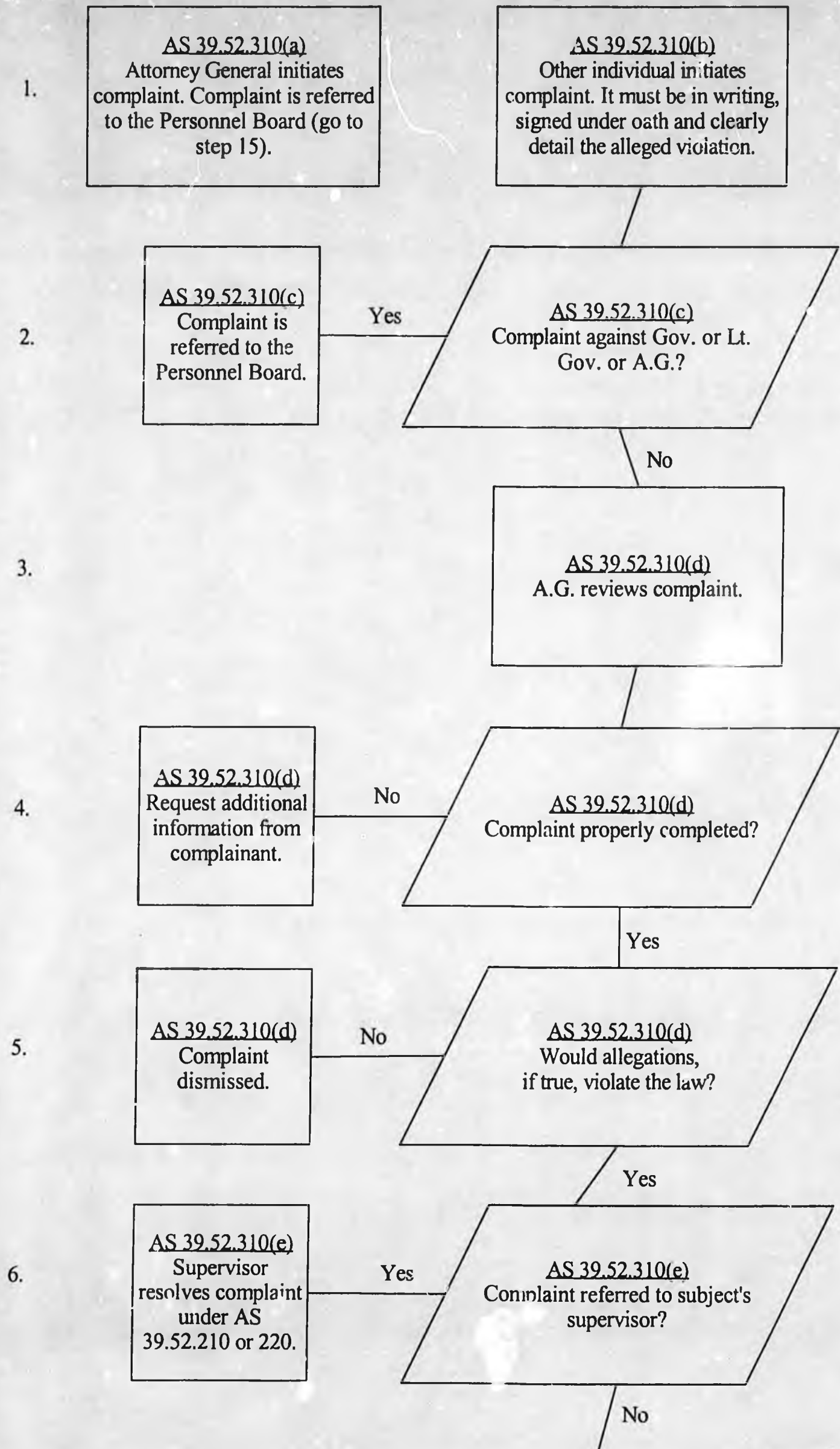
**And, finally, it seems, more and more, that our public officials  
want to operate in secret, and these bills seem to be gag orders?  
When someone has something to hide, the unethical find a way to  
(1) keep others from knowing, and/or (2) keep others from talking  
about what they know. We are the people and we have a right to  
know our government's business, and the right to criticize, if our  
public officials are unethical.**

**Thank you all for your attention,**

**Respectfully Submitted,**

*Richard D Hahn* February 7, 2006

# Alaska Executive Branch Ethics Complaint Process



7.

AS 39.52.310(f)  
A.G. provides subject a copy of the complaint for a response to be made within 20 days.

8.

AS 39.52.310(f)  
May be considered an admission of violation.

No

AS 39.52.310(f)  
Subject responds to complaint within time allotted?

Yes

9.

AS 39.52.310(g)  
A.G. investigates the complaint.

10.

AS 39.52.310(i)  
Investigation or proceeding may be terminated.

Yes

AS 39.52.310(i)  
Complainant unwilling to assist?  
Complaint withdrawn? Subject makes restitution?

No

11.

AS 39.52.320  
Complaint dismissed.

No

AS 39.52.320  
Does investigation result in a finding of probable cause?

Yes

12.

AS 39.52.350(a)  
A.G. serves a copy of accusation on the subject setting out the alleged violation. All proceedings are now open to the public.

13.

AS 39.52.350(b)  
Subject of the complaint files an answer with the A.G. within 20 days.

14.

AS 39.52.350(b)  
May be considered an admission of violation.

No

AS 39.52.350(b)  
Subject responds to complaint within time allotted?

Yes

15.

AS 39.52.350(c & d)  
A.G. refers the matter to the Personnel Board.

16.

AS 39.52.350(d)  
Personnel Board imposes penalties.

No

AS 39.52.350(c)  
Does the subject deny occurrence of violation?

Yes

17.

AS 39.52.350(c)  
Personnel Board appoints a hearing officer to conduct a hearing.

18.

AS 39.52.360(a - g)  
Hearing officer hears complaint.

19.

AS 39.52.360(h)  
Hearing officer provides the Personnel Board a written report within 30 days after conclusion of hearing.

20.

AS 39.52.370(a)  
Within 10 days after receipt of report either party may protest hearing officer's findings and recommendation. Personnel Board hears any protest.

21.

AS 39.52.370(b - e)  
The Board can adopt or amend the hearing officer's report. The Personnel Board may hold its own hearing. Deliberations are closed to the public.

22.

AS 39.52.370(d)  
The Personnel Board issues a written order of dismissal.

No

AS 39.52.370(d)  
Did the Personnel Board determine the occurrence of a violation?

Yes

23.

AS 39.52.370(d)  
The Personnel Board may impose penalties under AS 39.52.410, 39.52.440 and 39.52.450 as appropriate.

24.

AS 39.52.370(f)  
The subject of the accusation may appeal the Personnel Board's decision to the Superior Court.

# ALASKA STATE SENATE



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

Interim:  
119 N. Cushman, Suite 201  
Fairbanks, Alaska 99701  
(907) 456-8181  
Senator\_Ralph\_Seekins@legis.state.ak.us

**Senator Ralph Seekins**  
District D

## MEMORANDUM

Date: May 10, 2005

To: Office of Representative Seaton

From: Senator Ralph Seekins

Re: Request for Hearing of Senate Bill 186 & 187

A handwritten signature in cursive, appearing to read "A. for R.S.", written in dark ink.

---

Attached please find Senate Bill 186 & 187 along with a concomitant sponsor statement.

Senate Bill 186 makes revisions to the Alaska Executive Branch Ethics Act while Senate Bill 187 does the same for the Legislative Branch.

Once we begin the new legislative session in January 2006, I respectfully request this bill be scheduled in your committee at your earliest convenience. Thank you.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 187(STA)  
 (S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
 Title: "An Act relating to legislative ethics open meeting guidelines, to the public members of the Select.." BRU: Legislative Council  
 Sponsor: Senator Seelins Component: Select Committee on Legislative Ethics  
 Requestor: Senate State Affairs Component No.: 2321

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

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626  
 Division: Administrative Services Date/Time 4/25/05 2:55 PM  
 Approved by: Pamela Varni, Executive Director Date 4/25/2005  
 Agency: Legislative Affairs Agency

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSSB 187(STA)  
 (S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to legislative ethics open RDU CIVIL.  
meetings guidelines, to the public members..." Component Opinions, Appeals & Ethics  
 Sponsor Senator Seekins  
 Requester Senate State Affairs Component No. \_\_\_\_\_

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

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

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

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other - Regulatory Cost Charge						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 Section 1 of this bill makes it a class A misdemeanor to knowingly disclose confidential ethics information. It is unknown whether there will be many prosecutions under this statute, this fiscal note assumes there will not be. The remainder of the bill deals with legislative standards of conduct and ethics and will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 4/25/05 9:23 AM  
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 4/25/2005  
 Agency Department of Law

**Louie Flora**

---

**From:** POMS@legis.state.ak.us  
**Sent:** Thursday, March 02, 2006 11:00 AM  
**To:** Louie Flora  
**Subject:** New Pom:SB 187 Legislative Ethics/meetings

Eric Tasker  
7724 Arlene St

Anchorage 99502-4523,  
ewt@gci.net  
243-7245

SB 187 and SB 186. I will definitely vote against Sen Ralph Seekins if I have the opportunity, because of these ethics bills. These bills are potentially an abuse of the voting public.

**SB**

**189**

Duane Zarnock  
269 5008

Regulation

24-LS0920\S

CS FOR SENATE BILL NO. 189(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 2/8/06

Referred: Judiciary, Finance

Sponsor(s): SENATORS HUGGINS, Therriault

*(V) non immigrant visitor status*  
*(e) Treaty alien renewable indefinitely 2 years*  
*(h) specialty occupations 6 yrs. of requests*  
*(L) intercompany transferees (1)*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to issuance of identification cards and to issuance of driver's licenses;  
2 and providing for an effective date."

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

4 \* Section 1. AS 18.65.310 is amended by adding new subsections to read:

5 (h) The department may not issue an identification card under (a) of this  
6 section to a person who has not presented to the department valid documentary  
7 evidence that the person is a citizen of the United States, a national of the United  
8 States, a legal permanent resident of the United States, or a conditional resident alien  
9 of the United States. *Asylees + refugees*

10 (i) Notwithstanding (h) of this section, the department may issue an  
11 identification card to a person who presents in person valid, documentary evidence of  
12 the person's legal status and presence in the United States. The identification card  
13 authorized under this subsection is valid only during the period of the time of the  
14 person's authorized stay in the United States and must clearly indicate that expiration

1 date. If the period of authorized stay is indefinite, the expiration date for the  
 2 identification card is one year from the date of issue. The identification card  
 3 authorized under this subsection may be renewed only upon presentation of valid,  
 4 documentary evidence that the status by which the person qualified for the temporary  
 5 identification card has been extended by the proper United States government  
 6 authority. The department may by regulation specify what is valid, documentary  
 7 evidence under this subsection except that the department may not specify that a  
 8 matricula consular card is valid, documentary evidence.

9 \* Sec. 2. AS 28.15.031(b) is amended to read:

10 (b) The department may not issue an original or duplicate driver's license to,  
 11 nor renew or reinstate the driver's license of, a person

12 (1) whose license is suspended, [OR] revoked, or cancelled, or who is  
 13 disqualified from obtaining a license, except as otherwise provided in this chapter;

14 (2) who fails to appear in court for the adjudication of a certain  
 15 vehicle, driver, or traffic offense when the person's appearance is required by statute,  
 16 regulation, or court rule;

17 (3) who is an habitual user of alcohol or another drug to such a degree  
 18 that the person is incapable of safely driving a motor vehicle;

19 (4) [REPEALED]

20 (5) when the department, based upon medical evidence, has  
 21 determined that, because of the person's physical or mental disability, the person is not  
 22 able to drive a motor vehicle safely;

23 (5) [(6)] who is unable to understand official traffic control devices as  
 24 displayed in this state or who does not have a fair knowledge of traffic laws and  
 25 regulations, as demonstrated by an examination;

26 (6) [(7)] who has knowingly made a false statement in the person's  
 27 application for a license or has committed fraud in connection with the person's  
 28 application for, or in obtaining or attempting to obtain, a license, or who has not  
 29 applied under oath on the form provided for the purpose of obtaining or attempting to  
 30 obtain a license or permit;

31 (7) [OR (8)] who is required under AS 28.20 to furnish proof of

1 financial responsibility and who has not done so; or

2 (8) who has not presented to the department

3 (A) valid documentary evidence that the person is a citizen  
4 of the United States, a national of the United States, a legal permanent  
5 resident of the United States, or a conditional resident alien of the United  
6 States; a person who is seeking a renewal of, duplicate of, or change of  
7 legal name on a license is presumed to meet the requirements of this  
8 subparagraph if the license has not expired or been cancelled, suspended,  
9 or revoked and the person has not been disqualified from obtaining a  
10 license; if the department has been notified by a local, state, or federal  
11 government agency that the person seeking a renewal of, duplicate of, or  
12 change of legal name on a license is not a citizen of the United States or is  
13 not legally in the United States, then the presumption available in this  
14 paragraph does not apply; the department may by regulation specify what  
15 is valid, documentary evidence under this subparagraph except that the  
16 department may not specify that a matricula consular card is valid,  
17 documentary evidence; or

18 (B) in person valid, documentary evidence of the person's  
19 legal status and presence in the United States; a license issued under this  
20 subparagraph may be renewed only upon presentation of valid,  
21 documentary evidence that the status by which the person qualified for  
22 the license has been extended by the proper United States government  
23 authority; a change of name for a license issued under this subparagraph  
24 may be made only upon presentation of valid, documentary evidence that  
25 the person's name has been changed with regard to the status by which  
26 the person qualified for the license; a duplicate license for a license issued  
27 under this subparagraph may be issued only upon presentation of valid,  
28 documentary evidence that the person's status by which the person  
29 qualified for the license remains valid and in effect; the department may  
30 by regulation specify what is valid, documentary evidence under this  
31 subsection except that the department may not specify that a matricula

1                   consular card is valid, documentary evidence.

2       \* Sec. 3. AS 28.15.101(a) is amended to read:

3                   (a) Except as otherwise provided in this chapter and in (d) of this section, a  
4                   driver's license expires on the licensee's birthday in the fifth year following issuance of  
5                   the license. A license may be renewed within one year of its expiration upon proper  
6                   application, payment of the required fee, and except when a license is renewed under  
7                   (c) of this section, successful completion of a test of the licensee's eyesight.

8       \* Sec. 4. AS 28.15.101 is amended by adding a new subsection to read:

9                   (d) A driver's license issued under AS 28.15.031(b)(8)(B) is valid only during  
10                  the period of the time the person is authorized to stay in the United States and must  
11                  clearly indicate the expiration date. If the period of authorized stay is indefinite, the  
12                  expiration date of the license is one year from the date of issue.

13       \* Sec. 5. This Act takes effect January 1, 2007.

State of Alaska Division of Motor Vehicles Standard Operating Procedures	SOP No.: D-20	Page No.: 1
Effective: October 13, 2005		
Subject:	Supersedes: D-20	Dated: 6/1/00
<b>IDENTIFICATION AND PROOF OF DATE OF BIRTH</b>	Form No.:	
Statute: AS 28.15.061	Regulation: 13 AAC 08.330(b)	

[Alterations](#) | [Foreign](#) | [Lost AK](#) | [Lost OOS](#) | [Primary ID](#) | [Secondary ID](#)

**ORIGINAL ALASKA DRIVER'S LICENSE or IDENTIFICATION CARD**

Every person who makes an original application for a driver's license or permit must furnish documentary proof of his/her date of birth (See Primary Identification Documents) and at least one form of identification to verify his/her name (See Secondary Identification Documents). IF A PERSON HAS A VALID PHOTO DRIVER'S LICENSE ISSUED BY A STATE DMV, NO OTHER IDENTIFICATION IS REQUIRED.

**CERTIFICATION BY CORRECTIONS, PROBATION OR ALASKA CHILDREN'S SERVICES IS NOT ACCEPTABLE.**

**PRIMARY IDENTIFICATION DOCUMENTS**

1. An original or certified copy of a United States or Canadian birth certificate. The certificate must have a raised seal and be issued by an authorized government agency such as the Bureau of Vital Statistics or State Board of Health. Hospital issued certificates and baptismal certificates are not acceptable.
2. Canadian Department of Indian Affairs issued identification card. (Tribal issued card is not acceptable. A U.S. issued Department of Indian Affairs card is not acceptable.)
3. Court order which must contain the individual's full name, date of birth and court seal. Some examples include an adoption document, a name change document, gender change document, etc. It does not include an abstract of criminal or civil conviction.
4. Drivers license/permit issued by a State/Canadian DMV. Cannot be expired over one year.
5. Identification card issued by a State or Canadian DMV. Cannot be expired over one year.
6. Microfilm/copy of a drivers license issued by a State or Canadian DMV, provided it has been certified by DMV.
7. Microfilm/copy of an identification card that has been certified by the issuing DMV.
8. Military identification card for active duty, retiree or reservist. (Service member only. Dependent military ID's are not acceptable as a primary document.)
9. Passport - U.S. or Canadian.
10. Report of Birth Abroad by a Citizen of the United States, issued by a U.S. consular officer.
11. The following Immigration and Naturalization Service (INS) documents are acceptable. The document must be an original and expired documents are unacceptable:
  - Certificate of Naturalization (N-550, N-570, or N-578)
  - Certificate of Citizenship (N-560, N-561, or N-645)

- Northern Marianas Card
- American Indian Card
- United States Citizen Identification Card (I-179 or I-197)
- Resident Alien Card or Permanent Resident Card (I-551)
- Temporary Resident Card (I-688)
- Arrival-Departure Record (In a valid foreign passport) (I-94)
- Valid foreign passport containing an I-551 stamp
- Re-entry Permit (I-327)
- Refugee Travel Document (I-571)
- Employment Authorization Card or Employment Authorization Document (I-688A, I-688B, or I-766)
- Arrival-departure Record stamped "Refugee" (I-94) (Refugee's I94 will not likely be in a foreign passport)
- Canadian Immigration Record and Visa or Record of Landing (IMM 100).

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## SECONDARY IDENTIFICATION DOCUMENTS

1. All primary documents
2. Bureau of Indian Affairs card or an Indian Treaty Card. (Some tribal cards are more reliable than the BIA card. DMV's can make their own determination.)
3. Driver license or ID card that has been expired over a year.
4. Court order that does not contain the applicant's date of birth.
5. Photographic employer identification card.
6. Foreign birth certificate.\*
7. Foreign passport.\*
8. Health insurance card [Blue Cross/Shield, Kaiser, Aetna, or a Health Maintenance Organization (HMO)].
9. Internal Revenue Service (IRS) or state tax form. A W-2 form is not acceptable.
10. Marriage license or certificate.
11. Individual's medical records from a doctor or a hospital.
12. Military dependent identification.
13. Military discharge or separation papers. (DD214)
14. Parent or guardian affidavit for minors, only. The parent or guardian must appear in person and prove their identity and submit a certified or notarized affidavit regarding the child's identity.
15. Gun permit.
16. Pilot's license.
17. Certified school record or transcript.
18. Social Security card (D-17). A metal card is not acceptable.
19. Photographic school identification card.
20. Vehicle title. A vehicle registration is not acceptable.
21. Welfare card.
22. Prison release document.

\*See the following page for further information on foreign documents.

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### **LOST ALASKA DRIVER LICENSE/PERMIT/I.D. CARD REQUIREMENTS:**

- Two items from either the primary or secondary identification document list. In offices with ALVIN terminals the information on the computer may be used in place of one of the items provided the person can verify address, date of birth, place of birth, Social Security number and the physical description matches.
- Offices without computer terminals must contact a terminal office to verify that the status of the license is clear, in addition to the requirement of two items.
- In extreme cases, you may request a photo of the applicant from the Department of Public Safety, OL Photos. Examples of extreme cases are when an applicant is the victim of a house fire or when all identification documents have been lost or stolen. In these cases, request the photo by e-mail or by calling OLPHOTOS. Appendix D) Please include the full name of the applicant and their license or identification number, as well as the SSN and DOB, if available.

NOTE: Rent receipts, credit cards, and similar type documents are not to be used as proof of identity for issuance of an *original* driver license or ID card. They may be used for issuance of a duplicate OL or ID as a **last resort** and in conjunction with the ALVIN record.

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### **LOST OUT-OF-STATE LICENSE/PERMIT REQUIREMENTS:**

- Furnish documentary proof of his/her identity and date of birth, the same as for an original license. Obtain verification of their license status from the state the applicant is currently licensed in.
- A PDPS check is required to verify eligibility.

### **ALTERATIONS**

Any document that contains an alteration that changes the name, date of birth, or other pertinent information will not be accepted.

### **FOREIGN DOCUMENTS**

Any primary or secondary document that is in a language other than English must be translated into English and must be accompanied by a Certificate of Accuracy of Translation by the person translating the document(s). DMV will accept the self-certification of anyone who certifies they have the competency to translate.

Cross Reference:

Appendix I    DMV Addresses  
D-073        Class D - Basic Driver License

NEXT SOP

**13 AAC 08.330. Requirements of applicant**

(a) All applications for driver's licenses must be made on the form provided by the department. The application will include questions concerning a person's eligibility for a license, including the existence of physical or mental conditions which may impair the ability of the person to operate a motor vehicle safely. If the answers to these questions indicate the existence of a physical or mental disability which may affect the safe operation of a motor vehicle by an applicant, the department will, in its discretion, require an examination of the person by a licensed physician, psychiatrist, optometrist, or other competent medical authority before issuance of a driver's license. The expense of the examination must be paid by the applicant. The results of an examination within the previous six months will suffice unless the condition has commenced or changed since that examination.

(b) A person who makes an original application for a driver's license must furnish documentary proof of the person's date of birth, and one form of identification to verify the person's name. The proof of date of birth may consist of one of the following:

- (1) an original or certified copy of the person's birth certificate;
- (2) an out-of-state driver's license;
- (3) a passport; or
- (4) other evidence of comparable validity. The form of identification may consist of items such as identification card; social security card; credit card; life insurance policy; or any other evidence of comparable validity.

(c) The department will, in its discretion, require that a previously issued driver's license be surrendered to the department at the time of issuance or renewal of an Alaska driver license.

(d) If an applicant's driving privileges are under suspension or revocation in another jurisdiction, the applicant must obtain written proof from that jurisdiction showing that the suspension or revocation has terminated before issuance of an Alaska license.

(e) Any applicant for an original license or renewal of a license expired more than one year must take vision, knowledge, and road tests. The road test will, in the department's discretion, be waived if applicant possesses a valid license issued by another jurisdiction. Tests will be conducted as follows:

- (1) the vision test will be conducted at the time the applicant applies for a driver's license;
- (2) the knowledge test will be conducted when the applicant applies for a driver's license. If not passed the first time, it may be retaken the following day; if not passed the second time, third and subsequent tests will be, in the department's discretion, administered at weekly intervals;
- (3) the first road test will be, in the department's discretion, conducted the day the applicant satisfactorily meets all other requirements; a second road test will be conducted one week after the first test if the department finds it necessary.

(f) An applicant for renewal of an Alaska driver's license must take the vision test, and must meet requirements set out in 13 AAC 08.340(d).

**History:** Eff. 5/2/81, Register 78; am 8/9/81, Register 91; am 10/2/92, Register 123; am 4/2/94, Register 129

**Authority:** AS 28.05.011

AS 28.05.031

AS 28.05.081

**13 AAC 08.335. Driver license renewal extension for active duty military personnel**

Except as otherwise provided in this chapter, a non-commercial driver's license issued under this chapter to a person who is an active duty member of the United States armed forces and stationed outside the state expires upon the earlier of the following dates:

- (1) 90 days after discharge from active duty of the United States armed forces; or
- (2) 90 days after the person's return to the state.

**History:** Eff. 6/15/97, Register 142

**Authority:** AS 28.05.011

AS 28.15.101 (b)

**13 AAC 08.340. Medical standards**

(a) A person who has an uncontrolled seizure disorder or other uncontrolled episodes of loss of conscious control will not be licensed. The department will, in its discretion, grant a license to a person who has a seizure disorder or history of other episodes of loss of conscious control after receiving a statement from the applicant's physician that the applicant has been seizure- and episode-free for six months, has the condition under control, and can safely operate a motor vehicle. If a seizure or episode of loss of conscious control occurs after issuance of a license, the license must be surrendered to the department.

(b) Persons with any other condition which is characterized by or may result in loss of control or lapse of consciousness, including but not limited to cerebral strokes and cardiovascular and hypertension disorders, will not be licensed unless a physician's statement is received stating that the applicant or licensee has the condition under control and can safely operate a motor vehicle.

(c) The department will, in its discretion, require an annual physical examination to insure that a licensee's physical condition remains under control.

(d) An applicant must meet the following visual standards:

(1) a person with vision of 20/40 or greater in each eye or both eyes together will receive a license without restrictions in regard to corrective lenses, unless medical or other problems affecting vision

exist;

(2) a person with vision of 20/40 or greater in each eye or both eyes together only with use of corrective lenses will be restricted to driving with corrective lenses;

(3) a person with the best possible corrections in both eyes together of less than 20/40 but greater than 20/100 will be required to be examined by an optometrist or other eye specialist; if the report states that the person's vision cannot be improved, all data will be reviewed by the department; after review, the department will, in its discretion, issue a license with restrictions which may include driving limitations as to time of day, type of vehicle, specific area, speed, and other limitations considered necessary by the department;

(4) a person whose best possible corrections in both eyes together of less than 20/100 will not be licensed;

(5) a person with vision in only one eye will be licensed if vision in the good eye meets the standards of the department; the department, will, in its discretion, impose restrictions requiring outside rearview mirrors, one mounted on each side of the vehicle, on persons with vision in only one eye;

(6) a person with color blindness will not be denied a license for that reason;

(7) a person wearing telescopic or compound lenses whose field of vision is less than 60 percent will not be licensed unless he or she is able to meet the requirements for visual acuity without the aid of the lenses; if field of vision is between 60 percent, and 90 percent, outside rearview mirrors will, in the department's discretion, be required;

(8) a person with a progressive eye disease or condition such as cataract, glaucoma, iritis, nystagmus, or other disease affecting vision or visual fields will not be licensed unless his or her physician states that the condition will not affect his or her ability to drive safely; if licensed, future periodic vision reports must be submitted to the department by his or her physician until the condition is cured or stabilized.

(e) Persons who are deaf, hard of hearing, or wear hearing aids will not be denied a driver's license for that reason. However, the driver's license issued to such individuals will, in the department's discretion, contain a restriction requiring outside rearview mirrors, one mounted on each side of vehicle.

(f) A habitual user of alcohol will not be licensed. A "habitual user of alcohol" is anyone with three or more convictions for driving while intoxicated or other alcohol-related driving offenses within the immediately preceding five-year period. The person must keep the drinking problem under control for one year before being eligible for re-evaluation to determine if driving privileges can be reinstated. Verification of control of the drinking problem can be provided by a physician, an Alcoholics Anonymous sponsor, or three notarized affidavits by persons who know the person well regarding his drinking habits.

(g) A person who is a habitual user of drugs to a degree which renders him incapable of safely driving a motor vehicle will not be licensed. When evidence is received which shows that a person's driving may be impaired by habitual use of drugs, a license will not be issued or renewed unless a physician licensed to practice medicine in Alaska submits a statement that the licensee's use of drugs will not impair the person's safe operation of a motor vehicle.

**History: Eff. 5/2/81, Register 78; am 8/9/84, Register 91**

**Authority:** AS 28.05.011

AS 28.15.031

AS 28.15.081

**13 AAC 08.350. Re-examination requirements**

(a) If the department has good cause to believe that a licensee is physically or mentally incompetent to operate a motor vehicle safely, or is otherwise not qualified to be licensed, the department will, in its discretion, require the licensee to submit to a physical, mental or driver's examination to determine the licensee's fitness to operate a motor vehicle safely. If the department determines from the results of any examinations that the licensee is unfit to operate a motor vehicle safely, the department will either cancel the licensee's privileges to operate a motor vehicle in this state or issue a restricted license.

(b) A licensee who suffers permanent loss of a hand, arm, foot, leg, or eye must report to the department before operating a motor vehicle. The department will, in its discretion, require a re-examination of driving ability and restrict the license to operation of vehicles with special equipment.

(c) The department will, in its discretion, require re-examination of a licensee based on a request from a criminal justice agency, physician, or member of the general public. The request must state the need for a re-evaluation by providing specific information pertaining to the person's operation of a motor vehicle or physical condition. Requests must be in writing, and may not be anonymous. Requests will be treated with confidentiality if requested by the person submitting the report.

(d) When the department is notified by means of a request under (c) of this section that a licensee might not be qualified to operate a motor vehicle safely, the department will, in its discretion, require the licensee to be re-examined. The department will notify the licensee what examinations are necessary. The licensee may retain his or her driver's license if examinations are satisfactorily completed.

(e) The department will, in its discretion, cancel or suspend the license of a person who refuses to submit to re-examination.

**History:** Eff. 5/2/81, Register 78

**Authority:** AS 28.05.011

AS 28.15.091

**13 AAC 08.355. Special driver's license (hardship license)**

(a) Because of death, incapacitating illness or injury or other unique conditions in the immediate family, a special driver's license will, in the department's discretion, be issued to a person between 14 and 16 years of age who must drive a motor vehicle to

- (1) prevent financial hardship for the person's family; or
- (2) transport an ill or disabled family member.

(b) A special license issued under this provision will expire on the licensee's date of birth as provided in

AS 28.15.101 (a), or sooner if the reasons for issuing the special license are not longer sufficient.

(c) A letter requesting a special license must be signed by the applicant's parent or guardian, specify the conditions of hardship, and indicate for what period of time the special license is necessary.

(d) An applicant for a special license must meet all requirements for a regular driver's license, with the exception of age.

**History: Eff. 8/9/84, Register 91**

**Authority: AS 28.05.011 (5)**

AS 28.15.041 (a)

AS 28.15.051 (e)

AS 28.15.081

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# Alaska State Legislature

**Senate Majority** Web: [www.akrepublicans.org](http://www.akrepublicans.org)

**Sponsor:** Senator Charlie Huggins  
**Current Version:** Proposed Substitute  
**Contact:** Deb Grundmann, 465-3878

## Fact Sheet for: Senate Bill 189

**Short Title:** REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

### Summary:

- Requires anyone applying for a state of Alaska driver's license or ID card to be a U.S. citizen or be legally authorized to be in the U.S. under federal law.
- Prevents individuals with time limited legal status from obtaining a driver's license or ID card with an expiration date later than the allowable length of stay, and if the authorized stay is indefinite, the ID expires one year from date of issue.

### Benefits:

- Ensures that state issued driver's licenses or ID cards are only provided to individuals allowed to be in the United States.
- Encourages non-U.S. citizens to keep their legal permission to be in the United States current.
- Brings Alaska laws into compliance with the new federal Real ID Act that requires states to see proper documentation before any state can issue driver's licenses and ID cards.

### Background:

- On May 11, 2005, President George W. Bush signed the Real ID Act. It requires every state to see proof of U.S. citizenship or documents granting legal permission to be in the country before issuing driver's licenses and ID cards. SB 189 brings state statutes into compliance with the federal law. It increases homeland security by making it more difficult for potential terrorists to obtain state issued driver's licenses and identification cards.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 189(STA)  
 (S) Publish Date: 2/8/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to issuance of Identification Cards and RDU Division of Motor Vehicles  
and the issuance of Driver's Licenses' ..." Component: Motor Vehicles  
 Sponsor: Sen. Huggins  
 Requester: (S) State Affairs Component No.: 2348

**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	20.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>20.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Rcpt Svcs	20.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>20.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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 is designed to bring Alaska into compliance with the new federal Real ID Act. While all of the details of the Act are currently being created through the rulemaking committee, this bill includes the 2 major components of the Act: all DL/ID applicants must be either US citizens or be able to establish their legal presence; and those persons with 'time-limited' legal status may not receive a DL/ID with an expiration date later than the allowable length of stay.

The cost associated in FY 07 is to make major changes in our database (ALVIN) to accept these new expiration dates and other verification fields. Other costs may be associated with the Real ID Act that will not be noted until later.

Prepared by: Duane Bannock, Director Phone: 269 5008  
 Division: Motor Vehicles Date/Time: 1/31/06 8:00 AM  
 Approved by: Mike Tibbles, Deputy Commissioner Date: 1/31/2006  
 Agency: Department of Administration

May 6, 2006

## Mandate for ID Meets Resistance From States

By **PAM BELLUCK**

Reacting to the Sept. 11 attacks, Congress passed the Real ID law last year, intending to make it tougher for terrorists to obtain driver's licenses and for people without proper identification to board planes or enter federal buildings.

But with the deadline for setting up the law two years away, states are frustrated.

They say the law — which requires states to use sources like birth certificates and national immigration databases to verify that people applying for or renewing driver's licenses are American citizens or legal residents — will be too expensive and difficult to put in place by the May 2008 deadline. Another issue is the privacy impact of the requirement that states share, through databases, the personal information needed for a driver's license.

Concerns are so great that last week, the National Governors Association, the National Conference of State Legislatures and the American Association of Motor Vehicle Administrators issued a report saying that the states have not been given the time or money to comply with the law and that they need at least another eight years.

Two states have considered resolutions calling for the law to be repealed, the New York City Council passed a resolution opposing it and New Hampshire is considering opting out entirely.

"It's absolutely absurd," said Gov. **Mike Huckabee** of Arkansas, chairman of the National Governors Association, which takes a stand on issues only when it has a broad consensus. "The time frame is unrealistic; the lack of funding is inexcusable."

Another concern, Mr. Huckabee, a Republican, said, is "whether this is a role that you really want to turn over to an entry-level, front-line, desk person at the D.M.V."

"If we're at a point that we need a national ID card, then let's do that," Mr. Huckabee said. "But let's not act like we're addressing this at a federal level and then blame the states if they mess it up. There's not a governor in America that wants that responsibility."

Some of the law's defenders, noting that some of the Sept. 11 hijackers had driver's licenses, say the states' complaints are unfounded.

"We passed a very workable, reasonable, common-sense piece of legislation," said Jeff Lungren, a spokesman for the law's main sponsor, Representative F. James Sensenbrenner Jr., the Wisconsin Republican who heads the House Judiciary Committee. "The American people will not stand for and should not have to allow for some state bureaucracies that do not want to try and address this gaping security hole we have."

But critics among state lawmakers say problems with the law outweigh its value against terrorists and illegal immigrants. Grumbling has been loud in New Hampshire, where the House overwhelmingly passed a bill to opt out of Real ID, and the Senate voted Thursday to form a commission to study it. The chambers will reconcile their bills in coming weeks. Gov. John Lynch, a Democrat, supports rejecting Real ID.

"There are unanswered concerns about privacy," said Pamela Walsh, a spokeswoman for Mr. Lynch. "There are a lot of questions about cost to states for implementing this, and there are the potential unintended consequences of turning our Department of Motor Vehicle workers into agents for the Department of Homeland Security."

Many states raised objections before the law was enacted, and some say there was too little debate about the law, which was attached to a large Iraq spending bill.

The National Conference of State Legislatures says that no state is currently in complete compliance with the law because the Department of Homeland Security will not issue rules for putting it in place until later this year. A few states have introduced preliminary legislation to achieve compliance, but most are waiting for the rules to be issued.

Governor Lynch and others hope New Hampshire's action, along with complaints from other states, will encourage Congress to "look at how to revise" the law, Ms. Walsh said.

Resolutions were introduced in Kentucky and Washington State urging repeal of the law. Neither made it to a full vote, but the sponsors want to try again.

"We'll be back," said Representative Toby Nixon, a Republican who sponsored the Washington resolution.

Mr. Nixon said that the law would cost his state \$50 million a year and that linking data from each state would create "effectively a national citizenship database."

"I can just hear the black helicopters arriving now," he said.

The sponsor of Kentucky's resolution, Representative Kathy W. Stein, a Democrat, said: "New Hampshire — is their state slogan 'Live Free or Die'? We're more of a guns, God, gays and gynecology state. But this is one of those issues where the extreme left, which I'm always characterized as, and the extreme right meet."

Indeed, in New Hampshire, those testifying in favor of rejecting Real ID included the Cato Institute and the

American Civil Liberties Union.

In Virginia, a governor's commission said that "Congress must further act" to strengthen Real ID's privacy protections, limit paperwork and increase financing. It said Virginia's start-up costs could be up to \$169 million, with annual costs of up to \$63 million. That compares with \$40 million in federal money allocated for all states combined, said Jarrod Agen, a spokesman for the Department of Homeland Security.

Mr. Agen said his department was considering states' concerns in writing the rules. But financing, timing and other major issues could be changed only by Congress. The law's Congressional supporters say that is unlikely.

"The bill will not be opened up," said Representative Dana Rohrabacher, Republican of California, adding that if a state rejects Real ID, its residents will need passports to take domestic flights. "Any state that's opting out is opting out in doing their part in solving these national challenges, and I don't have any sympathy for them."

Mr. Lungren, the aide to Mr. Sensenbrenner, said complaints that Real ID could imperil privacy or lead to a national identification card were "not even worth responding to," because states would share information through electronic queries to one another, not a central database.

Mr. Lungren, citing a Congressional Budget Office estimate of a \$100 million total cost, said states' estimates were "baseless" and "pie in the sky." And he called states' concerns about the 2008 deadline "completely ridiculous."

Real ID has defenders at the state level, even in New Hampshire.

The Senate president, Theodore L. Gatsas, a Republican, supports Real ID, saying the state already adheres to many of its requirements, is slated for a \$3 million federal grant to set it up, and "I'd hate to see the people from New Hampshire heading to Florida in the week of vacation and not be able to get on the plane."

The state's two congressmen, both Republicans, support Real ID, as does Senator Judd Gregg, a Republican. Senator John E. Sununu, also a Republican, opposes it.

It has clearly touched a nerve in a state where independence is so valued that New Hampshire's Constitution includes a "right of revolution."

Supporters of New Hampshire's bill include Senator Margaret Wood Hassan, a Democrat, who said that she worried that Real ID could lead to a national ID card and that "the more you centralize data, the easier it is for someone to break into it."

Representative Neal M. Kurk, a Republican who quoted Patrick Henry in a speech that helped sway the House, and who is so privacy-conscious he refused to disclose his occupation or age in an interview, said that Real ID would not demonstrably improve security because terrorists would find ways to get the cards, and that the law

would mean too many compromises.

"If you say you can't board a plane without a Real ID driver's license, it's not that far of a stretch to say you can't do other things unless you have this type of identification," like get a job, he said. "It reminds us all of '1984' and more importantly, 'Papers, please,' in the Nazi era."

Supporters of New Hampshire's bill staged a rally with Nazi regalia and fake checkpoints.

The cause has also been embraced by some evangelical Christians, who say Real ID sets the stage for a number for each citizen, which, according to the Book of Revelation, presages the Apocalypse.

Some New Hampshire residents showed sympathy for the uprising.

"I'm really against the federal government getting any more information from me," said Jeffrey Rabinowitz, 41, of Franklin.

But Rachel Waterman, 25, called Real ID "a good idea," adding, "I don't see the big deal."

Most people sounded like Betsey Andrews Parker, 33, of Dover.

"So I'll use a passport," Ms. Parker said. "Real ID is a back door to national ID."

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**AP Associated Press Gov. Lynch says he will sign bill opposing Real ID**

April 26, 2006

CONCORD, N.H. -- Democratic Gov. John Lynch said Wednesday that if the Legislature passes it, he will sign a bill that would bar the state from adopting strict new federal standards for drivers' licenses.

The bill passed the House last month and a Senate committee recommended it unanimously Wednesday, with no discussion. The bill is expected to go to the full Senate in two weeks.

"The governor has serious concerns about the unanswered questions about privacy, cost and the consequences of turning motor vehicle workers into de facto agents of Homeland Security," his spokeswoman Pamela Walsh said.

The bill has put New Hampshire at the forefront of opposition to the Real ID Act of 2005, an anti-terrorism bill which critics say would effectively create a national identification card.

Real ID grew out of recommendations by the Sept. 11 Commission, which studied the terrorist attacks and how to prevent a recurrence.

Congress passed Real ID last year to deter terrorists from getting fake IDs. It requires states by 2008 to verify birth certificates, Social Security numbers, passports and immigration status when people get driver's licenses.

The licenses must be machine-readable and state databases with driver information and photos will also be linked in what opponents have called a national database.

State Rep. Neal Kurk, R-Weare, has drawn national attention for his opposition to Real ID.

"It's a feel-good device: It's intended to make us think that we're going to be safe and ... our borders are secure, but they're not," Kurk said in an interview earlier this week. ■

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[http://www.boston.com/news/local/new\\_hampshire/articles/2006/04/26/committee\\_endorses\\_anti\\_real\\_id\\_bill/](http://www.boston.com/news/local/new_hampshire/articles/2006/04/26/committee_endorses_anti_real_id_bill/)

Good Morning,

My name is Noel D'Souza and I am a permanent US resident living here in Juneau. I oppose this bill because I have experienced living under these regulations.

I first came to the United States as a technology worker in 1999. I originally lived on the East Coast and I earned my first driver's license there. I learned how to drive from scratch. I also had to renew my license each time my immigration status was extended or changed.

During my time in the United States, my immigration status has changed many, many times. I had to return to the DMV at least once a year, sometimes twice, and it took 3 to 4 hours each time.

One time, these rules created a very bad situation for me. I submitted a form to INS and they took over ~~one~~<sup>two</sup> months to process it. I was still allowed to be here, but the DMV refused to renew my license until I received the papers from INS. My license was expired and I was not able to drive for a half of a year. This made it extremely difficult for me to get to work and to support my family. I had to ask my friends for rides to go anywhere. The whole situation was really not necessary.

INS requires more paperwork than you would believe. I can't count how many forms I have filed with them. Sometimes they are quick, but they are usually very, very slow.

I am asking you to vote against this bill to prevent the kind of situation I had.

Thank you.

# ALASKA STATE LEGISLATURE

Senate District H  
600 E. Railroad Avenue  
Wasilla AK 99654  
907-376-4866  
907-373-4724 – Fax  
Senator\_Charlie\_Huggins@legis.state.ak.us



State Capitol, Room 417  
Juneau AK 99801-1182  
907-465-3878  
Fax: 907-465-3265  
800-862-3878  
[www.akrepublicans.org/huggins/](http://www.akrepublicans.org/huggins/)

## Charlie Huggins Senator

March 17, 2006

### Sponsor Statement

**CSSB 189 – “An Act relating to issuance of identification cards and to issuance of driver’s licenses.”**

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On May 11, 2005 President Bush signed into law the REAL ID Act. Provisions of this legislation improved security for drivers’ licenses and personal identification cards as well as set uniform standards for state driver’s licenses and identification cards. CSSB 189 is designed to bring Alaska into compliance with the new federal Real ID Act.

Proper documentation shall be provided to the Division of Motor Vehicles that establishes that an applicant is either a U.S. citizen or legally present in the United States for the purposes of issuing an identification card or drivers license.

As required by the REAL ID Act, CSSB 189 establishes that in order to issue temporary licenses or temporary ID cards, that will be acceptable to the federal government for identification purposes, there must be an expiration date of the identification card or driver license to coincide with the length of stay in the United States. If the period of authorized stay is indefinite, the expiration date of the license is one year from the date of issue.

A federal agency may not accept a driver’s license or personal identification card after May 11, 2008, unless the state has been certified by the U.S. Department of Homeland Security in consultation with the U.S. Department of Transportation to meet the requirements of the law.

CSSB 189 is needed to enhance the security of the driver’s license and identification card due to increasing problems of identity theft and fraud. Driver’s licenses and state issued identification cards have been used as proof of identity more often than proof of one’s ability to drive safely. Holding one of these credentials provides access to an ever-increasing number of privileges and services, from obtaining credit to cashing checks, buying or leasing cars and boarding airplanes.

Alaskans deserve the right to be assured motorists driving with Alaska driver’s licenses are legally in the United States and we know their identities.

**Contact Information – Deborah Grundmann 465-4711**

## Questions from (H) State Affairs committee 4/4/2006

### **Where does DMV receive authority to refuse to issue a Driver's License to an illegal alien?**

Beginning in AS 28.15.011, for a person to drive they must have "...a valid Alaska driver's license issued under the provisions of this chapter..."

Next, application must be made as required in AS 28.15.061 (a) and that application must include: name, date and place of birth, sex, address (mailing and residence), social security number as well as "...other information that the department may reasonably require to determine the applicants identity..."

The authority for this "other information" is found in 13 AAC 08.310 Application of regulations. "Under the authority granted the department by AS 28, 13 AAC 08310 - 13 AAC 08.400 provide standards for issuance of original driver's license..."

To reasonably determine that identity, the DMV refers to 13 AAC 08.330; Requirements of applicant. The applicant "...must furnish documentary proof of the person's date of birth, and one form of identification to verify the person's name." Section (b)(1 - 4) call for a birth certificate, an out-of-state-DL and passport. Section (b) (4) allows "other evidence of comparable validity" These items are developed by the DMV and will be found in our Standard Operating Procedures. (see below written policy)

AS 28.15.11 states "Upon successful completion of the application and all required examinations and upon payment of the required fee, the department shall issue to every qualified applicant a driver's license..."

It is presumed that an applicant who does not meet the identity standard by failing to provide two of these acceptable documents has not successfully completed the application process.

In summary: The Alaska Statutes and the Alaska Administrative Code give the DMV the authority to determine exactly what documents may be used to verify the applicants identity. In the past recent history, the DMV has relied on and has accepted only documents held by a person who is either a US Citizen or has established presence in America legally. This history includes not only this current administration, but others as well.

After carefully reviewing the comments and questions from the (H) State Affairs meeting of April 4<sup>th</sup>, 2005 I would surmise that if the Committee concurs with Rep. Gruenberg's opinion that DMV today does not have the authority to deny an application for a driver's license to an illegal alien, then I believe that underscores the point and purpose of HB 290 and it's importance to Alaska.