the legislature. It was obviously intended by the framers that the initiative process should not be permitted to disrupt vital governmental functions or to impose intolerable burdens upon established administrative systems. To this end the legislature was given the ability to substitute its judgment for that of the proponents of an initiative.[FN16]

FN16. The discussions on the floor of the constitutional convention reveal a belief by a number of framers that a cour. ervailing consideration would act as a balance against legislative arbitrariness in this respect. It was believed that the natural desire of many legislators to be re-elected, or at least to demonstrate creditable performance as public officials, would cause them to think carefully before amending an initiative out of existence, because of the effect which such action might have on the electorate in the future.

What is significant to us here is the effect which the amendatory power of the legislature has open our interpretation of the words "substantially the same measure." For if the legislature has broad power of amendment, it follows that it has broad power to change an initiative by an enactment covering the same subject as the initiated measure. In short, we must interpret Art. XI, Sec. 4, broadly and not narrowly as to the scope of legislative power. We, of course, are not passing here on the question of whether an amendment so vitiates an act passed by initiative as to constitute its repeal.

Turning now to the initiative and legislative act before us, it is clear that they both cover the same general subject matter. Both are aimed at the control of election campaign contributions and expenditures. The main points of similarity in the two measures are these: The amount a candidate may spend on his campaign is limited; contributions and expenditures must be reported; contributions of $100 or more under the act, and all contributions under the initiative, must be reported; the persons covered include candidates for governor, lieutenant governor, and state legislature;[FN17] criminal misdemeanor penalties are imposed for the violation of the respective provisions of both measures;[FN18] acceptance of anonymous contributions is prohibited; a responsible campaign treasurer must be appointed by each candidate; certain violations under each measure work a forfeiture of nomination or election; required reports must be made available for inspection by the public; and provision is made for citizen enforcement of the law, by court action under the initiative, and under the act by a complaint to the election*738 compaign commission and appeal to the supreme court.

FN17. The initiative covers all municipal elections. The act permits a municipality to exempt itself from the coverage of the law. The initiative covers candidates for Congress, while the act does not. It should be noted that candidates for federal office are regulated extensively by the federal election campaign disclosure act passed in 1972. See 2 U.S.C. ss 431-451.

FN18. AS 15.13.120(a) imposes penalties of up to one year of imprisonment or a fine up to $5,000 for violation of the act. We do not view the act, as does the dissent, as eliminating almost all individual penalties for enforcement.

Under the initiative a watchdog committee is created, composed of three members of each major political party and three independent persons, plus one member from any other recognized political party. The ultimate appointive authority as to the committee is in the governor. Under the act there is created an election campaign commission. The governor appoints to the commission two members from each major political party, and they select by majority vote a fifth member.

There are certain points of contrast between the two measures. The initiative places most of the supervisory and administrative responsibilities on the lieutenant governor. The act places these functions in the election campaign commission. The initiative requires commercial advertisers to file reports of political advertising: the act does not require this. The initiative attempts to place out-of-state contributors under the jurisdiction of the Alaska courts; the act is silent on this subject.[FN19] The act defines and regulates political groups formed to support or oppose a political candidacy; the initiative does not reach such groups. Under the act a $1,000 limit is placed upon individual contributions; the initiative imposes no limit. Under the initiative candidates for governor and lieutenant governor cannot use more than 40% of their expenditures for "communications media." The act contains no such limitation.

FN19. This does not mean that out-of-state contributions go unregulated. Under the act these contributions must be reported; they may not exceed $1,000 in the aggregate per annum for any one candidate; and it is a criminal offense to accept a contribution in violation of the act. See AS 15.13.040, .070, and .120(a)(6).

The dissent views the act as eliminating all subpoena or investigatory power of the watchdog committee. However, the act, AS 15.13.030, requires that the commission must receive and hold open for public inspection the reports filed under the act. The commission is empowered to adopt regulations necessary to effectuate and clarify the act, and to conduct investigations of claimed violations of the act. AS 15.13.030(10) and .120(d). If the commission finds that violations have occurred it must report them to the attorney general for action. The attorney general may, of course, obtain subpoenas by resort to grand jury proceedings. We do not view the act as hampering investigation and prosecution of prohibited activities. Therefore, the elimination of the watchdog committee's subpoena power does not, in our opinion, create a significant difference between the two measures.

We are unable to accept the view, expressed in the dissent, that enforcement of the act will be less effective because violations must be referred to the attorney general. The practical or political problems posed by that method of enforcement, as contrasted with the watchdog committee envisaged by the initiative, may not in actuality operate as a serious barrier to enforcement. To some extent such problems inhere in the process of criminal prosecution generally. The countervailing forces are an aroused public opinion and the constitutional obligation resting on the executive to see that the laws are faithfully executed. These forces are operative in the porcessing of criminal matters of all types. We will not assume that practical or political considerations will frustrate effective enforcement.

The act does not place limitations on media spending, does not impose reporting requirements on media, does not require permits for media advertising, and does not provide for the reporting of surplus funds collected, in the same manner as does the initiative. But that is not to say that these subjects are unregulated. Under AS 15.13.110(d) all persons supplying services to any candidate must maintain a record of each transaction and must file appropriate reports with the commission. While the act does not limit the amount of media *739 spending, it does limit total spending by any candidate. Surplus funds will be reported under AS 15.13.110 which requires that a report shall be filed on December 31 of each year for expenditures and contributions not reported earlier in that year.

That the act contains no requirement for equal charges by media and equal time to candidates is moderated in part by applicable federal law. Under 47 U.S.C. Sec. 315(a)(2) a broadcasting licensee must afford equal opportunity to all other candidates for a given office.[FN20]

> FN20. See Red Lion Broadcasting Co. v. Federal Communications Commission, 395 U.S. 367, 89 S.Ct. 1794, 23 L.Ed.2d 371 (1969), for an exposition of the fairness doctrine, which is distinct from the statutory equal time requirement.

The power of the watchdog committee to delay certification of candidates or to bring charges requiring a delay of certification has been eliminated in the act. But the act declares void the nomination or election of a condidate who violates the act, and provides for an expeditious judicial procedure to determine such cases.

Both measures control the total amount of expenditures by candidates as to primary and general elections. The specific amounts limited in each measure vary. As to the candidates for governor and lieutenant governor the amounts work out nearly the same.[FN21] As to candidates for the House the initiative limits expenditures to $6,000, while the act limits them to about $7,000. The initiative limits Senate campaign expenditures to $8,000, while the formula used under the act results in a limit of about $14,000.

> FN21. The proposed initiative, Sec. 2(a)(1) limits expenditures by or on behalf of a candidate for governor or lieutenant governor to exactly $125,000. The legislative enactment, AS 15.13.070(f)(1) utilizes a formula which limits expenditures by or an behalf of a candidate for governor or lieutenant governor to ◆40 cents times the total population of the state according to the latest United States census figures . . .◆ The official United States Decennial Census, last taken in 1970, sets the population of the State of Alaska at 302,173. Thus candidates for governor and lieutenant governor would be restricted to expenditures of $120,869.20 under the legislative act, as compared with $125,000 under the proposed initiative.

In short, the statute is not a hollow gesture toward the regulation of election campaigns. It sets up workable machinery to ensure compliance. Quite possibly the legislature felt that an election campaign commission could better handle the prescribed administrative and supervisory duties than could the lieutenant governor, and that such a commission would

be more effective than the watchdog committee contemplated by the initiative. In making such a choice the legislature would not be vitiating the aims of the initiative but making those aims more feasible of achievement.

Various other differences can be found in the two measures, but they are not significant enough to make a material difference in our decision.

Viewing the two measures as a whole we find that they accomplish the same general goals. They adopt similar, although not identical, functional techniques to accomplich those goals. The variances in detail between the measures are no more than the legislature might have accomplished through reasonable amendment had the initiative become law. Nothing is present here to suggest that the act was a subterfuge to frustrate the ability of the public to obtain consideration and enactment of a comprehensive system to regulate election campaign contributions and expenditures.[FN22] No doubt other changes will be made in the law, in response to newly perceived needs and in the light of experience gained in the administration of the act. The same would be true had the initiative been placed upon the ballot and become law.

FN22. On the contrary, a number of differences between the initiative and the act can be explained by the possibility that the legislature might have regarded certain features of the initiative to be subject to constitutional attack or to be practically unworkable. We do not, however, express an opinion on the constitutionality of any of the particular provisions of either measure.

*740 [6] It is our opinion that substantial similarity exists between the two measures. The act effectively displaced the initiative. The lieutenant governor was correct in withholding the initiative from the ballot. We affirm the judgment of the superior court.

Affirmed.

ERWIN and BURKE, JJ., dissent.
ERWIN, Justice, with whom BURKE, Justice joins, dissenting.
I dissent.

The power of initiative and referendum is the basic recognition that under our republican form of government the ultimate political power exists with the people and not in some legislative body.[FN1] These provisions permit the people to enact laws when the legislature refuses to act, or repeal acts of the legislature which are unpopular or unfair. Moreover, it is an additional check and balance on the governmental process because it acts upon the legislative awareness that such power exists with the people[FN2]

FN1. 2 Alaska Constitutional Convention Proceedings, 931-975. See particularly the statements of Delegates Marston and Taylor, 959-961, before defeat of the motion to delete all reference to referendum in the article on 973.

FN2. Fischer, Alaska Constitutional Convention, 79-81 (University of Alaska Press, 1975).

One set of critics at the constitutional convention claimed, however, that its limitations make it less than effective as a popular tool of government. They argued that the requirement of obtaining a large number of signatures from residents in order to put the issue before the voters significantly limited the use of the initiative process in all but a few cases.[FN3]

FN3. Id. at 79.

Now the majority opinion further restricts this process by countenancing substantial legislative limitation of the initiative procedure. When this court determines that the legislature may decide how much of the legislation supported by the people they want, the basic political right of initiative disappears, for it is not the will of the people that is paramount, it is the will of the legislature.

I find that the minutes of the Alaska constitutional convention and the commentary thereon are not as limited as the

majority opinion indicates.

The initial proposal filed by the Committee on Direct Legislation contained the following language:

. . . Laws proposed by the initiative shall be submitted to the voters by ballot title at an election not later than 180 days after the adjournment of the legislative session following the filing of the petition, unless the legislature enacts the measure initiated during the session. . . .[FN4]

FN4. 6 Alaska Constitutional Convention Proceedings, 19.

In the accompanying commentary the committee explained the content of the legislative enactment in the following terms:

If the legislature adopts a measure that is the subject of the initiative, the measure does not have to be submitted to the people. (emphasis added) [FN5]

FN5. Id. at 23; 2 Alaska Constitutional Convention Proceedings, 929.

The discussion and amendment of this initiative proposal was perhaps the most extensive and hotly contested[FN6] of the entire constitution, covering 7 1/2 days of proposals and conter proposals.[FN7] This discussion included an extensive debate on the power to amend as being the power to amend and not the power to destroy.[FN8]

FN6. Fischer, supra note 2, at 79-81.

FN7. 2 Alaska Constitutional Convention Proceedings, 928-1200; 3 Alaska Constitutional Convention Proceedings, 2960-2993.

FN8. 2 Alaska Constitutional Convention Proceedings, 1173-1177.

*741 Subsequently the convention changed the proposal to provide as follows:

A referendum petition may be filed at any time. The secretary of state shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.[FN9] (emphasis added)

FN9. Section 4, Article XI, Alaska Constitution.

The majority opinion finds this constitutional history inclusive and suggests that it may be supportive of the conclusion that the convention intended to give wide latitude to the legislature to change the initiative. I find it supports the exact opposite conclusion because of the extensive debate on the convention floor concerning the need for the initiative process, which was the subject of public hearings during the Christmas recess of the constitutional convention.

Further, the political climate of Alaska preceding, during and after the constitutional convention does not support a theory of distrust of the popular electorate of the legislation it would sponsor. Alaska's history is replete with instances of frustration to get an absentee government in Washington to deal with pressing problems.[FN10] In fact, such inaction was the greatest single boost to statehood. The members of the Alaska constitutional convention understood, more than most, the necessity of the initiative process for unpopular acts-for without it, the long years of struggle to achieve local control over our political destiny would have been cheapened.

FN10. Gruening, Many Battles, pp. 281-396 (Liveright 1973); Gruening, The State of Alaska, Chapter 28: ◆Self Government: The Quest for Statehood,◆ p. 460 (Random House 1954).

In this case the legislature took the initiative title and enacted a measure which clearly was more politically palatable to them, but which is definitely not "substantially the same" as the initiative sponsored by the people.

In reviewing the referendum and the statute, I find that of the 19 separate sections of the initiative, only six are the same as the statute, and as part of the six I am including the section dealing with the powers and duties of the watchdog committee and the reporting system, which is only 50% of that stated in the initiative.

Seven sections have been eliminated entirely by the statute. This includes:
1. All references to United States senators and congressmen.[FN11]

FN11. Section 2 of Initiative.

2. Coverage of local elections is changed to local option.[FN12]

FN12. Section 18 of Initiative.

3. The requirement that out-of-state contributors submit themselves to Alaska jurisdiction.[FN13]

FN13. Section 13 of Initiative.

4. Almost all individual penalties for enforcement of the provisions of the act.[FN14]

FN14. Sections 7 and 19 of Initiative.

5. All subpoena or investigatory power of the watchdog committee.[FN15]

FN15. Section 4 of Initiative.

6. All limitations on media spending.[FN16]

FN16. Section 2 of Initiative.

7. All requirements for equal charges by media and for equal time to candidates.[FN17]

FN17. Section 16 of Initiative.

8. Almost all reporting requirements by media, as well as all requirements that permits be obtained before media advertising is undertaken by a candidate.[FN18]

FN18. Section 5, 6 and 15 of Initiative.

9. All requirements for the reporting and disposition of surplus funds collected.[FN19]

FN19. Section 10 of Initiative.

*742 10. Most definitions and the statement of purpose.[FN20]

FN20. Sections 1 and 20 of Initiative.

In addition, the dollar amount of expenditures has been changed in every instance to a higher figure.

Governor/Lt.			
Governor	$125,000	to	$130,000
House	6,000	to	7,500
Senate	8,000	to	15,000[21]

FN21. Section 2 of Initiative. The majority refers to the last decennial census of 1970 to suggest $120,000 as the figure for Governor. However, constantly new census figures are validated to show changes for federal-state revenue-sharing purposes. The latest figures for 1975 make the $130,000 figure conservative.

Whereas the initiative required the disclosure of persons who contributed in excess of $50 to a candidate, the measure passed by the legislature requires only contributors of $100 or more need to be identified and reported.[FN22] Moreover, every section dealing with failure to report, false reports, or perjury in reporting has been deleted, together with those provisions which provide for substantial fines for all people who refuse access to the records of a candidate.[FN23] In addition, all sections permitting citizens to sue to enforce the provisions of the initiative have been eliminated.[FN24]

FN22. Section 9 of Initiative.

FN23. Section 7 of Initiative.

FN24. Section 19 of Initiative.

All power of the watchdog committee to delay certification fo candidates or to being charges requiring a delay of certification has been eliminated,[FN25] as has the power of the court to declare the second highest vote-getter elected where expenditure violations were found.[FN26]

FN25. Section 3 of Initiative.

FN26. Section 19 of Initiative.

Additionally, the legislature removed most enforcement teeth by requiring that any violation found by the commission must be referred to the Attorney General for a decision of whether or not the violator would be prosecuted.[FN27] The discretion to prosecute is an area of intense controversy, but such clearly depends upon factors outside the issue of whether or not a violation has occurred.[FN28] Such things as the manpower of the office, the priority of work, and the seriousness of other problems[FN29] can combine to make enforcement of this area somewhat improbable. To these practical problems is added a political reality which casts shadows over the decision to prosecute or not to prosecute. The Attorney General is appointed by the Governor; thus there is an unknown political factor which can effect the decision where the candidate or issue is one approved by the political party in power.

FN27. AS 15.13.120(d).

FN28. See Public Defender Agency v. Superior Court of Third Judicial District, 534 P.2d 947, 949-951 (Alaska 1974), for a discussion of the Attorney General's discretion to decline prosecution in child support cases.

FN29. Fischer, supra note 3, at 949.

While the act does not explain how the watchdog committee will obtain evidence of violations without investigative or subpoena power, the statute is clear that there is no method of delaying certification or removing a candidate who is in violation without a court proceeding.[FN30] Further, any case for voiding the election filed by the Attorney General must then be heard by the Supreme Court of Alaska as an original proceeding,[FN31] rather than in the normal way of all other

cases in the District or Superior Court. Since the Supreme Court must sit as five judges, it is a cumbersome body to hear fact disputes, particularly in view of its divided geographic situs and other work load. This process becomes even more cumbersome and somewhat questionable if constitutional rights of jury trial in certain cases[FN32] and §743 statutory rights [FN33] to appeal all cases to the Supreme Court are considered.

FN30. AS 15.13.120(b).

FN31. AS 15.13.120(b).

FN32. See Baker v. City of Fairbanks, 471 P.2d 386, 401-402 (Alaska 1973), for a discussion of cases where jury trial is required.

FN33. AS 22.05.010.

The initiative recognized these problems by permitting the commission and private parties to bring suit to enforce its provisions and gave to the committee investigative and subpoena power to insure compliance. The elimination of these provisions goes to the heart of the enforcement provision and leaves, to a large extent, an illusory remedy. The intiative and the measure passed by the legislature have the same title and some similar reporting requirements, but by no stretch of the imagination are they substantially the same.[FN34]

FN34. The only similar section found in AS 15.13.010-110 provide for
(1) a monitoring committee (.020 to .030);
(2) the reporting of contributions over $100.00 (.040);
(3) the registration of groups and the appointment of a treasurer (.050 and .060);
(4) limitations of spending by candidates in various races (.070);
(5) certain reporting requirements of contributors and a schedule for candidates (.080 to .110).
Additionally, the legislature added a tax credit of $50.00 from state income tax for political contributions. Also, publication of an election pamphlet containing background information on the candidates, costing each House candidate $25.00 and each Senate candidate $50.00.

The majority attempts to excuse the need for a number of the deleted sections by noting that certain federal reporting requirements or court decisions make them unnecessary. While disregarding the proposition that federal laws can provide effective regulation for Alaska elections when all complaints must be filed in Washington, D.C., I submit that this argument misses the point. The question is not whether the provisions are wise, but whether the legislative act is substantially the same as the initiative. It is for the people to provide the decision in situations such as this because the legislature failed to act until prodded by the electorate. By their inaction the legislators simply lost their ability to challenge the utility of the provisions. Their only power was to nearly duplicate the initiative, for that is just what the words "substantially the same" mean.

The majority's final suggestion that the powers and duties referred to in several of the eliminated sections can be implied from other provisions of AS 15.13 flies in the face of two canons of construction which have been adopted in almost every jurisdiction: (1) criminal statutes are to be strictly construed, and (2) where there has been a material change in language of an act, it is presumed that the legislature intended to indicate a change in legal rights and obligations thereunder.[FN35]

FN35. See Horack, Sutherland Statutory Construction, Vol. 1, s 1930, p. 412-414 (3rd Ed.1943).

I agree with the implication of the majority opinion that the sections eliminated affect the workings of the commission and various other provisions throughout the statute. However, I an unable as a matter of logic to find the flexibility in the act passed by the legislature to cover the gaps left by those sections deleted from the original initiative.

I would reverse the decision of the trial court and remand this case with instructions to place the initiative on the ballot of the next general election.

Alaska 1975.

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C
Warren v. Thomas,Alaska 1977.

Supreme Court of Alaska.
Clifford E. WARREN, Appellant,
Frank Harris, Intervenor,
v.
Lowell THOMAS, Jr., Lieutenant Governor and the State of Alaska, Appellees.
No. 2919.

Sept. 2, 1977.

Action was brought in which plaintiff sought to prevent legislature's amendments to conflict of interest law, which was enacted by initiative, from becoming effective. The Superior Court, Third Judicial District, Anchorage, Eben H. Lewis, J., granted state summary judgment, and plaintiffs appealed. The Supreme Court, Connor, J., held that: (1) legislature has broad powers to amend law enacted by initiative, and (2) amendments did not effect a repeal of the initiated law in violation of state constitutional provision.

Affirmed.
West Headnotes
[1] **Constitutional Law 92 ⇐12**

92 Constitutional Law
92II Construction, Operation, and Enforcement of Constitutional Provisions
92k11 General Rules of Construction
92k12 k. In General. Most Cited Cases
Constitutional provision should receive a reasonable and practical interpretation in accordance with common sense.

[2] **Statutes 361 ⇐133**

361 Statutes
361IV Amendment, Revision, and Codification
361k132 Acts Which May Be Amended
361k133 k. In General. Most Cited Cases
Legislature has broad powers to amend a law enacted by initiative. Const. art. 11, §§ 6, 7.

[3] Statutes 361 ⇦158

361 Statutes
361V Repeal, Suspension, Expiration, and Revival
361k158 k. Implied Repeal in General. Most Cited Cases
Implied repeal of an act is disfavored and will be limited to that which is necessary to carry out intent of legislature.

[4] Statutes 361 ⇦170

361 Statutes
361V Repeal, Suspension, Expiration, and Revival
361k170 k. Re-Enactment or Revival of Act Repealed. Most Cited Cases
If it is reasonable to do so, provisions of a law enacted by **initiative** or portions thereof which are repealed and reenacted in a modified form are to be considered as a continuation of the original law which is to be construed with the amendments.

[5] Statutes 361 ⇦164

361 Statutes
361V Repeal, Suspension, Expiration, and Revival
361k160 Implied Repeal by Act Relating to Same Subject
361k164 k. Repeal by Amendatory Act in General. Most Cited Cases
Legislature's amendments, which pertained to conflict of interest law enacted by **initiative**, which had effect of repealing certain portions of such law, which involved several language changes clarifying and rendering the initiated law more precise but which permitted such law to continue to impose substantial disclosure requirements on public officials and to effectuate electorate's intent that those in position of public trust be held to high standard of financial disclosure, did not effect a ♦repeal♦ of the initiated law in violation of state constitutional provision. AS 39.50.010 et seq., 39.50.020(b), 39.50.060(a), 39.50.070, 39.50.150; Const. art. 11, § 6.

*400 Clifford E. Warren, pro se.
Rodger W. Pegues, Asst. Atty. Gen., and Avrum M. Gross, Atty. Gen., Juneau, for appellees.

Before BOOCHEVER, Chief Justice, and RABINOWITZ, CONNOR and BURKE, Justices.

OPINION

CONNOR, Justice.
This appeal concerns the 1975 amendments by the legislature to AS 39.50, Alaska's conflict of interest law which was enacted by **initiative**.

On August 27, 1974, an **initiative** entitled ♦An Act relating to conflict of interest of public officials♦ was passed by the people of Alaska. Under article XI, s 6 of the Alaska Constitution the **initiative** became effective ninety days after the election results were certified, that is, on December 11, 1974. On February 8, 1975, the legislature amended the law to provide that the disclosure statements of certain public officials were to be filed on April 1, 1975, rather than February 9, 1975. The amendment also provided that officials who left office on or after December 11, 1974, and before April 1, 1975, were *401 not required to file a statement. See Ch. 2, SLA 1975 (effective February 8, 1975). The law was amended and revised again in the spring of 1975, effective April 1. See Sec. 28, ch. 25, SLA 1975. It is entitled ♦An Act relating to conflict of interest; and providing for an effective date.♦ The amendment changed the date for filing the financial statements from April 1, 1975, to April 15, 1975. See AS 39.50.150.

Clifford E. Warren originally filed this action to challenge certain regulations passed in connection with, and revisions made to, the conflict of interest law. He subsequently filed an amended complaint seeking to prevent the 1975 amendments to the law from becoming effective. Warren then filed a motion for summary judgment seeking to have the amendments declared void. A hearing was held on April 21, 1976, and summary judgment was granted in favor of the state.[FN1] This appeal follows:

FN1. Mr. Frank Harris, a proponent of another initiative, intervened to challenge the legislature's power to amend an initiated statute, but has not filed an appearance on appeal.

Warren raises two important issues concerning the constitutionality of the legislature's action:

1. Whether the legislature has the power to amend a law enacted by the initiative procedure;

2. Whether the amendments to the initiative constitute a repeal of the initiated law in violation of article XI, s 6 of the Alaska Constitution.

Several additional arguments are raised but do not warrant extensive discussion.[FN2]

FN2. Warren argues that by changing the date of compliance from 60 days after the effective date of the law (February 6, 1975) to April 1, 1975, the legislature changed the effective date of the law itself. This argument lacks merit since the extension of time in which public officials must file their disclosure statements has nothing to do with the date that the initiative itself became law. That occurred on December 11, 1974, and was not affected by the February amendment. See Alaska Const. art. XI, s 6.

Warren also argues that a considerable number of legislators have not complied with the disclosure requirements. He was under the impression that the disclosure statements were due on the day the initiative became law and, therefore, when the new legislators took office on January 20, 1975, they were in noncompliance with AS 39.50. However, the disclosure statements were not due until February 9 (April 15 as amended).

Article XI, s 1, of the Alaska Constitution provides that the people of Alaska may "propose and enact laws by the initiative. . . ." Article XI, s 6 provides:

"If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law."

[1] According to this plain language the legislature may not repeal a law passed by initiative for two years, but may pass an amendment at any time. We interpret this provision in accordance with the general principle of statutory construction that a constitutional provision should receive a reasonable and practical interpretation in accordance with common sense.[FN3] Cottingham v. State Board of Examiners, 134 Mont. 1, 328 P.2d 907, 915 (1968); 2A Sutherland, Statutory Construction, s 49.03 (4th *402 ed. Sands 1973).[FN4] Moreover, it has been held that in the absence of a specific restriction the legislature may amend or repeal a law passed by initiative.[FN5]

FN3. Warren correctly points out that the statements of delegates at the constitutional convention concerning the provisions for the initiative and referendum process have limited usefulness as interpretative aids. In Warren v. Boucher, 543 P.2d 731, 735 (Alaska 1975), we recognized that the many views expressed by individual delegates coupled with the numerous revisions of the initiative and referendum articles militate against using convention minutes as interpretative guides. Moreover, there was less than a general consensus concerning the virtues of direct legislation. See V. Fischer, Alaska's Constitutional Convention 79-81 (1975).

FN4. Accord, Calif. Employment Comm'n v. Municipal Court, 62 Cal.App.2d 781, 145 P.2d 361, 363 (1944); Opinion of the Justices, 308 Mass. 619, 33 N.E.2d 275, 279 (1941); State v. Babcock, 175 Minn. 103, 220 N.W. 408, 410 (1928); see Application of Pioneer Mill Company, 53 Haw. 496, 497 P.2d 549, 552-53 (1972).

FN5. Cottingham v. State Board of Examiners, 134 Mont. 1, 328 P.2d 907, 913 (1968); Zilesch v. Polk County, 107 Or. 659, 215 P. 578, 582 (1923); cf., e. g., Staples v. Bishop, 225 Ark. 936, 286 S.W.2d 505 (1956). See also Adams v. Bolin, 74 Ariz. 269, 247 P.2d 617 (1952). See generally 6 McQuillin, The Law of Municipal Corporations s 21.03 (3d ed. 1969); Annot., 33 A.L.R.2d 1118, 1121 (1954), and cases collected

therein.

In Cottingham, supra, the Montana Supreme Court recognized that the legislature's plenary power to amend or repeal legislation passed by initiative must not contravene "an express limitation or prohibition of the Constitution of either Montana or the United States." Id. 328 P.2d at 913. In Alaska such a limitation is contained in art. XI, s 6, with respect to the power to repeal.

[2] In Warren v. Boucher, 543 P.2d 731, 737 (Alaska 1975), we recognized that the legislature is vested with broad authority to amend laws enacted by the people through the initiative process. Warren, however, argues that Warren, supra, reaffirms the intent of the framers of the Alaska Constitution that the legislature may interfere with the initiative process by amending an initiated law only where it creates a potential danger to the operation of governmental functions [FN6] The issue presented in that case is different than that presented here. There we were concerned with whether the legislature had short-circuited the initiative process by passing a law that was substantially the same as the proposed initiative. But, as we recognized, the legislature has broad powers to amend an initiative.[FN7]

FN6. There was considerable concern over whether the Alaska Constitution should contain any provisions for initiative and referendum. See V. Fischer, supra. In order to protect the machinery of government, certain limitations were placed upon the use of the initiative and referendum, see art. XI, s 7, though otherwise the citizens of Alaska and the legislature are coequal. Zilesch, supra, at 582.

FN7. We stated:

"The final constitutional provision states in pertinent part:

"An initiated law . . . is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time. . . ."

The constitution thus vests broad authority in the legislature to vary the terms of an initiated law, after its adoption, by the process of amendment. This power amounts to a check or balance against the initiative process. No doubt the legislature was given this power to assure that initiatives which were ill-advised, which might seriously cripple or frustrate the sound workings of government, or which might be impracticable, could be altered or corrected rapidly by the legislature. It was obviously intended by the framers that the initiative process should not be permitted to disrupt vital government functions or to impose intolerable burdens upon established administrative systems. To this end the legislature was given the ability to substitute its judgment for that of the proponents of an initiative.

What is significant to us here is the effect which the amendatory power of the legislature has upon our interpretation of the words "substantially the same measure." For if the legislature has broad power of amendment, it follows that it has broad power to change an initiative by an enactment covering the same subject as the initiated measure. In short, we must interpret Art. XI, Sec. 4, broadly and not narrowly as to the scope of legislative power. We, of course, are not passing here on the question of whether an amendment so vitiates an act passed by initiative as to constitute its repeal."

543 P.2d at 737.

[3] The central issue in the case at bar is whether the legislature has exceeded that broad power by passing an amendment which so vitiates the initiative as to "constitute its repeal." Id. at 737. Warren argues that the changes are so drastic that they make a mockery of the law, that the trial court erred in concluding the legislation was merely "housekeeping," and that the amendments to AS 39.50 amount to a repeal of the law. We disagree. "(A)n amendment of an act operates as a repeal of its provisions to the extent that they are materially changed by, and rendered repugnant to, the amendatory act." *403Meyers v. Board of Sup'rs of Los Angeles County, 110 Cal.App 2d 623, 243 P 2d 38, 42 (1952); see also W. R. Grasle Company v. Alaska Workmen's Comp. Board, 517 P 2d 999 (Alaska 1974). The implied repeal of an act is disfavored and will be limited to that which is necessary to carry out the intent of the legislature. John Hancock Mut. Life Ins. Co. v. Haworth, 68 Idaho 185, 191 P.2d 359, 363 (1948); 1A Sutherland, Statutory Construction, s 23.09 (4th ed. Sands 1972). See also 6 McQuillin, Law of Municipal Corporations s 21.09 (3d ed. 1969) (repeal of ordinances by implication disfavored). In the case at bar, one section [FN8] and two subsections [FN9] were expressly repealed in 1975 when the legislature amended the initiated law. Sec. 26, ch. 25, SLA 1975.

FN8. AS 39.50.140 (penalties for accepting bribes).

FN9. AS 39.50.040(b)(6) (duty of trustee of blind trusts to file for trustor); AS 39.50.030(c) (exemption from

compliance by Alaska Supreme Court because of profession).

[4] Other sections were impliedly repealed by virtue of inconsistent amendatory provisions.[FN10] However, this does not necessarily mean that the act as a whole was repealed. When AS 39.50 was amended certain of its provisions or portions thereof were repealed and reenacted in a modified form. [FN11] Where it it reasonable to do so, these provisions are considered to be a continuation of the original law which is to be construed with the amendments. Green v. State, 462 P.2d 994, 1000 (Alaska 1969); 1A Sutherland, supra, s 22.33 at 191; accord, e. g., Security Life and Accident Company v. Heckers, 177 Colo. 455, 495 P.2d 225, 227 (1972); John Hancock Mut. Life Ins. Co., supra, 191 P.2d at 362.

FN10. For example, under AS 39.50.060 the penalties for violations were changed from $500-$5,000 to $100-$1,000 and from a period of up to one year's imprisonment to a period of up to six months.

FN11. E. g., AS 39.50.020(b).

[5] Of course there remains the question whether the amendments so emasculate the law that it is effectively repealed. We conclude that they do not. There are considerable language changes, but these clarify and render the law more precise. The fines for violations of the law have been reduced but the penalties are still significant. See AS 39.50.060(a) and AS 39.50.070. Finally, the amended law still imposes substantial disclosure requirements on public officials and effectuates the intent of the electorate that those in a position of public trust be held to a high standard of financial disclosure.

Warren challenges the state's reliance on State v. Meyers, 51 Wash.2d 454, 319 P.2d 828 (1957), in support of its argument that the amendments to AS 39.50 do not effectively repeal this law. In Meyers, supra, the people of Washington passed an **initiative** providing for the redistricting of the state, using the census tract rather than the election precinct as the unit of population for the purpose of informing senatorial and legislative districts. This was in an effort to cure legislative noncompliance with the constitutional provision on apportionment and to better reflect the population configuration of the state. The legislature amended the **initiative** by reinstating the use of the election precinct. This action was challenged as violating the state constitutional prohibition against the repeal, but not the amendment, of initiated laws. On appeal the Washington Supreme Court found the amendment to be valid. Defining the words "to amend" broadly, the court said that an "amendment may effectually supplant or destroy the original charter, and institute a new policy altogether." Id., 319 P.2d at 831. The dissent argued that the legislature's action emasculated the theory of the **initiative** and thwarted the constitutional process. Id., 319 P.2d at 840. Nevertheless, the majority opinion concluded that the legislature properly exercised its discretion in determining that the precinct method was more suitable. Id., 319 P.2d at 834.

As Warren argues, there is much merit in the dissent in Meyers as to the scope of the legislature's power to amend laws enacted by **initiative**, but we are not presented with *404 a similar case. The amendments to AS 39.50, which preserve its basic structure and purpose, fall far short of the drastic changes made to the apportionment scheme by the Washington legislature.

For the purposes of this appeal it is unnecessary for us to decide at what point an amendment might be so drastic as to constitute a repeal of an initiated law in violation of the Alaska Constitution. In this case the amendments only reduced the penalties for violation of the law and clarified some of the language. We are of the opinion that such an amendment did not constitute a repeal of the initiated law.

AFFIRMED.

Alaska 1977.
Warren v. Thomas
568 P.2d 400

END OF DOCUMENT

CBJ Law Department MEMORANDUM

To: Assembly Finance Committee

From: John R. Corso, City & Borough Attorney

Subject: Port Fees; federal law

Date: April 21, 2003

I. Discussion

Last week, KTOO broadcast a story about the Murkowski administration reaction to recent changes in federal maritime law. The law in question is the Maritime Security Act of 2002, which, among other changes, amended 33 USC §5 to provide:

> (b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for--
>
> (1) fees charged under section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236); or
>
> (2) reasonable fees charged on a fair and equitable basis that--
>
> (A) are used solely to pay the cost of a service to the vessel or water craft;
>
> (B) enhance the safety and efficiency of interstate and foreign commerce; and
>
> (C) do not impose more than a small burden on interstate or foreign commerce.

The reference in (b)(1) is to a long-established program for harbor project fee review by the Federal Maritime Commission. The Port Director administers this program for CBJ. I have attached copies of the new language and the referenced FMC statute.

The new statutory language essentially restates the constitutional rule described in my July 22, 1999 memorandum to the Assembly on the passenger fee initiative. Briefly, the rule is that we can impose a fee on visitors only to the extent we provide a service to visitors. We cannot charge them a fee for services we provide to someone else, such as ourselves.

Some services, such as dock construction and maintenance, are clearly justifiable as a service to ships and passengers. Others are less defensible. The statute will prevent the most flagrant abuses, such as a fee imposed on ships that merely pass through local waters without stopping. So said Congressman Young in the November 22, 2001 *Congressional Record*, attached. However, it can be used in less egregious circumstances as well. Mr. Young speculated that "generally taxes will not be allowed under this section". *Id.*

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Even though the statute does not break any new legal ground, it does provide a reasonably clear and concise statement of the law. In this respect, it is more usable, (both for us and for plaintiffs) than a fuzzy principle extracted from constitutional text and a few judicial cases; which is all we had to work with before the statute.

Also, the statute adds some new emphasis to the constitutional rule. The new language says that fees must be use "solely" to provide a service to the vessel, must "enhance the safety and efficiency" of interstate and foreign commerce, and must impose only a "small" burden on that commerce. We must await judicial interpretation to learn exactly what these qualifiers mean, but they certainly do not make things easier for local port fees.

According to the KTOO story, the Murkowski administration has concluded that the new law prohibits passenger fees. I'm not sure that the Attorney General shares this view: informal contact with his staff suggests that they see it pretty much as I do.

II. Conclusion:

For the most part, the new statute just restates existing constitutional law. It makes no fundamental changes and does not invalidate our port or passenger fees.

However, it will serve to focus attention on how we use the fee revenue. Also, the statutory language is slightly more stringent than the constitutional rule it supplements. As a result, we should take extra care to spend passenger fee revenues on programs (or parts of programs) that benefit only the people who pay the fee. We may not balance our budget by taxing people who cannot vote.

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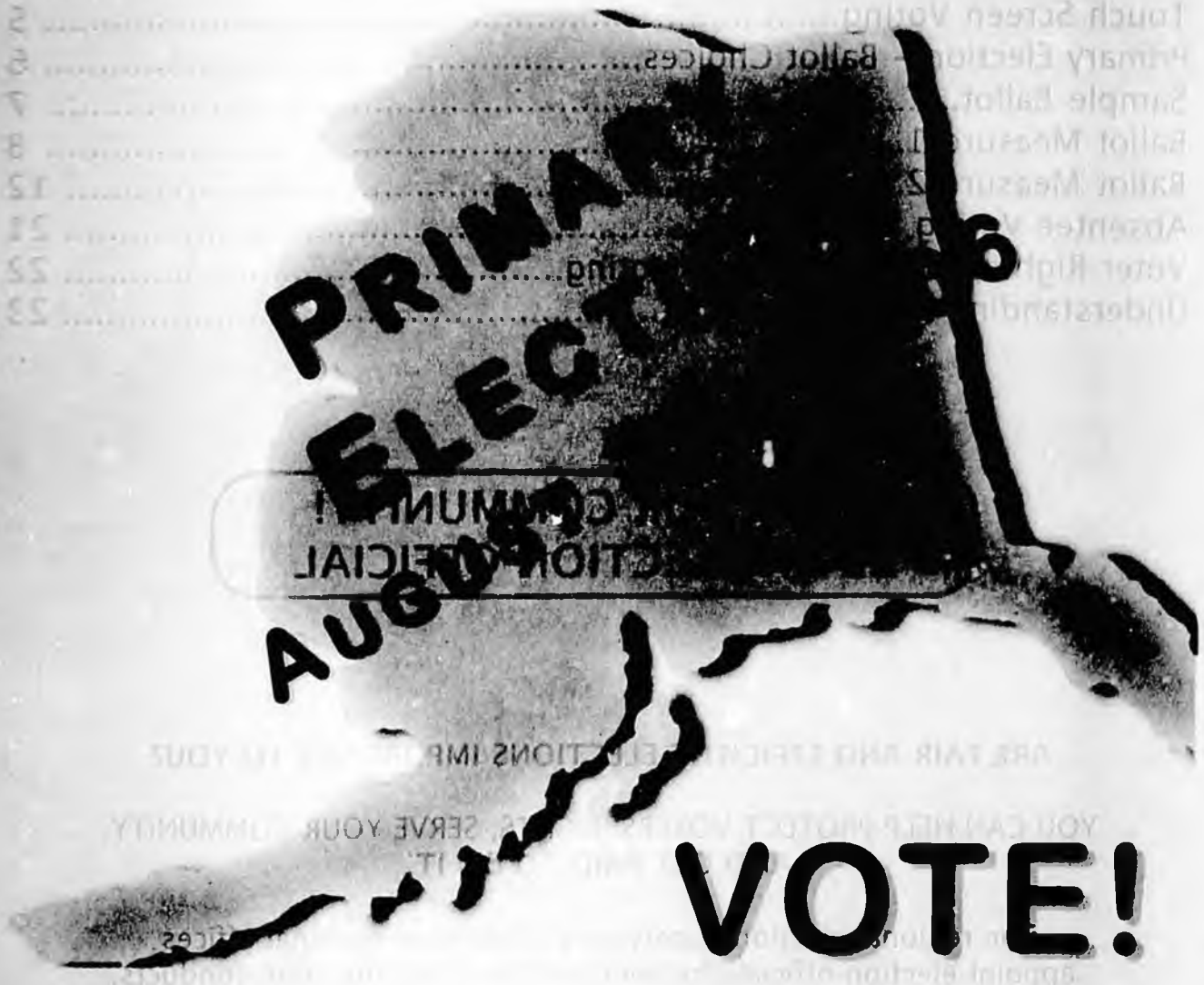
STATE OF ALASKA

PRIMARY ELECTION VOTER PAMPHLET



It's your right.

It's your responsibility!

DIVISION OF ELECTIONS

Table of Contents

Primary Election Day is Tuesday, August 22, 2006

HELP YOUR COMMUNITY!
BE AN ELECTION OFFICIAL

ARE FAIR AND EFFICIENT ELECTIONS IMPORTANT TO YOU?

YOU CAN HELP PROTECT VOTERS' RIGHTS, SERVE YOUR COMMUNITY,
AND GET PAID TO DO IT.

The regional election supervisors in our four regional offices appoint election officials for every election that the state conducts.

If you are interested in serving as an election official, contact the elections office nearest you.
(Office locations on the back cover of this publication)

This publication was prepared by the Division of Elections, produced at a cost of $.15 per copy to inform Alaskan voters about issues appearing on the 2006 Primary Election Ballot per AS 15.58.010 and printed in Anchorage, Alaska.

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Lt_Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

August 2006

Dear Alaska Voter:

The Division of Elections and I are pleased to provide you with the *2006 Primary Voter Pamphlet*, your guide to the August Primary Election. I hope this is useful to you as you prepare to vote.

Perhaps the most important principle in our State constitution is in the Declaration of Rights, Article 1, Section 2:

> *All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.*

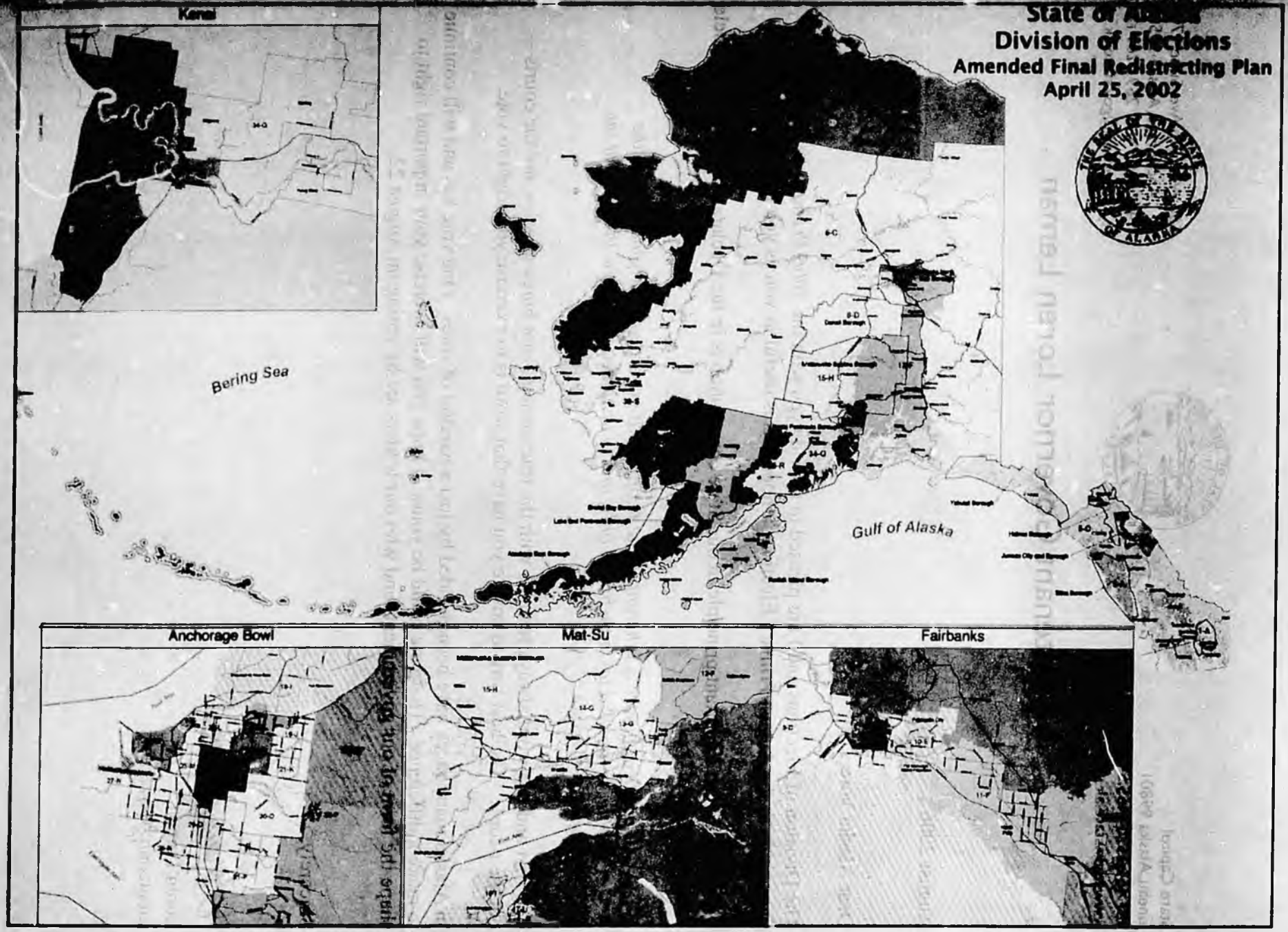
The first and last word always remains with the true owners—not bureaucracies, not the courts—but the people. The best way to ensure you have that word is to exercise your right to vote.

In Alaska many races have been decided by just a handful of votes. One vote has and will continue to make a difference. That vote could be yours. I hope you will exercise your important right to shape the form of our governments and who our leaders are by voting on August 22.

Sincerely,

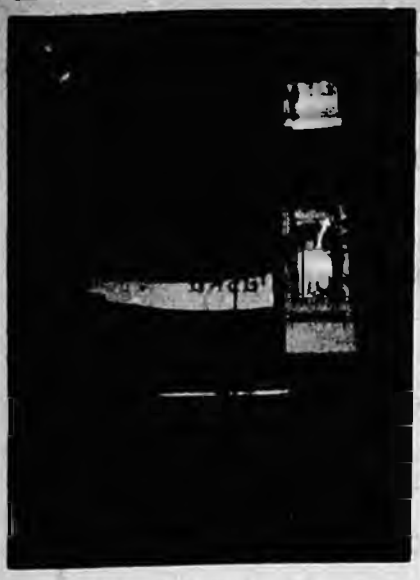
Loren Leman

Loren Leman
Lieutenant Governor



State of Alaska
Division of Elections
Amended Final Redistricting Plan
April 25, 2002

Alaska's New Touch Screen Voting Machine



Through the funding of the federal Help America Vote Act (HAVA), Alaska has purchased a touch screen machine for each of the state's 439 polling places, which will be used in the 2006 Primary Election. The touch screen machines allow voters with disabilities the ability to cast a private and independent ballot. The touch screen machines will be available for any voter who wishes to vote on them; however, those with disabilities will have priority in using them. The touch screen machines accommodate visually impaired and blind voters, as well as those with mobility issues.

The voter casts an electronic ballot, and confirms his or her selection with a voter verifiable paper trail produced by the touch screen. This paper print-out is secured behind a screen and is treated as an official ballot in the event of a recount or audit.

A FEW TOUCH SCREEN VOTING MACHINE FAQs:

Q: How will visually impaired and disabled voters cast an independent ballot?
A: The touch screen machines can be used in many different ways to accommodate different disabilities, and offer large print, high-contrast and audio-only ballots. The ballot appearing on the touch screen can be voted using "pointer sticks" for those with limited or no use of their hands or arms.

Q: What is stored on the voter access card?
A: The voter access card holds ballot information that is read by the touch screen machine and presented to the voter. The voter access card holds only ballot information, not results, and is unusable after being used to vote until it is re-encoded by a poll worker. It does not hold information about the voter or how he or she voted.

Q: How is the voter access card encoded?
A: The voter access card is encoded by poll workers using a device called an encoder that looks much like a small calculator and contains ballot information from the Division of Elections.

Q: Can a voter access card be used to vote twice?
A. No, once a voter has finished voting, the voter access card must be re-encoded by a poll worker before being used by another voter.

Q: How will the paper ballots be transported after an election?
A: As voters cast their ballots, the paper record is collected in a security canister inside the touch screen machine's printer module. Once voting ends, ballots will be secured and treated as other paper ballots are.

For more information contact your local elections office or visit the Division of Elections' website: http://www.elections.state.ak.us

Primary Election – Ballot Choices

There are three ballot types:

Combined with Ballot Measures	Alaska Democratic Party Alaska Libertarian Party Alaskan Independence Party Green Party of Alaska
Republican with Ballot Measures	Alaska Republican Party
Ballot Measures Only	No candidates *This ballot is for voters who do not want to vote for any candidate*

The ballot type you are eligible to vote is based upon your party affiliation listed on the precinct register.

YOU MAY VOTE ONLY **ONE** BALLOT TYPE

If your party affiliation listed on the register is:	Below is the ballot you are eligible to vote:
A – Alaskan Independence Party	Combined **OR** Measures Only
D – Democratic Party	Combined **OR** Measures Only
G – Green Party of Alaska	Combined **OR** Measures Only
L – Libertarian Party	Combined **OR** Measures Only
M – Republican Moderate Party	Combined **OR** Measures Only
R – Republican Party	Combined **OR** Republican **OR** Measures Only
N – Nonpartisan	Combined **OR** Republican **OR** Measures Only
S – Other	Combined **OR** Measures Only
U – Undeclared	Combined **OR** Republican **OR** Measures Only
V – Veterans Party of Alaska	Combined **OR** Measures Only

If you want a different ballot type than what the precinct register shows you are eligible for, you must vote a questioned ballot.

If you do not want to vote for any political party candidates, you may request the Ballot Measures Only ballot.

Sample Ballot

STATE OF ALASKA
PRIMARY ELECTION
AUGUST 22, 2006

OFFICIAL XXXX PARTY BALLOT

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

REPRESENTATIVE
(vote for one)

○ US REPRESENTATIVE CANDIDATE XXXX

○ STATE REPRESENTATIVE CANDIDATE XXXX

GOVERNOR
(vote for one)

○ GOVERNOR CANDIDATE

BALLOT MEASURE NO. 1
Contribution Limits, Lobbying and Disclosure
09DISC

○ YES
○ NO

○ LT GOVERNOR XXXX

○ STATE SENATOR CANDIDATE XXXX

BALLOT MEASURE NO. 2
Cruise Ship Taxation, Regulation and Disclosure
09CTAX

○ YES
○ NO

VOTE BOTH SIDES

Card 65

Ballot Measure 1

Campaign Contribution Limits, Lobbying, and Disclosure

BALLOT LANGUAGE

This initiative would decrease the maximum amount an individual may give a candidate or group from $1,000 to $500, and decrease the amount an individual may give a political party for any purpose from $10,000 to $5,000. It would decrease the amount a group may give a candidate, or group, from $2,000 to $1,000. It would decrease the amount a group may give to a political party from $4,000 to $1,000. It would require groups to disclose the name, address, occupation, employer, date and amount given by each contributor for contributions more than $100 during a calendar year. It would reduce from 40 to 10 the hours a person who is not a professional lobbyist could lobby in any 30-day period before having to register as a lobbyist. It would require legislators, public members of the select committee on legislative ethics, and legislative directors to disclose outside income sources greater than $1,000.

SHOULD THIS INITIATIVE BECOME LAW?

⬭ Yes

⬭ No

LEGISLATIVE AFFAIRS AGENCY SUMMARY

This bill lowers the limit on campaign contributions. Under this bill, a person could give $500 a year to a candidate's campaign. That's half of what is allowed now. Personal gifts to political parties would be capped at $5,000. A gift by a group would be limited to $1,000 a year. Groups would have to report more about donors. For gifts over $100 to a group, the group would have to report the true source of the gift. The group would also have to report the donor's job and the donor's employer. The bill changes the meaning of "lobbyist." This would make someone who lobbies 10 hours a month report. Now it's 40 hours. It reduces the amount of pay a legislator can receive for personal services without reporting the income. This also applies to certain legislative employees, and members of the legislative ethics committee.

STATEMENT OF COSTS AND REVENUES FOR BALLOT MEASURE 1 - INITIATIVE 03DISC - Prepared by the Alaska Public Offices Commission (APOC)

As required by AS 15.58.020(b), the Alaska Public Offices Commission has determined that there would not be significant costs to APOC for implementing the law proposed in Ballot Measure 1 - Initiative 03DISC.

FULL TEXT OF PROPOSED LAW

AN ACT RELATING TO CONTRIBUTION LIMITS, LOBBYISTS, AND DISCLOSURE

Be it enacted by the people of the State of Alaska:

Section 1. AS 15.13.070(b) is amended to read:
(b) an individual may contribute not more than
(1) $500 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;
(2) $5,000 per year to a political party.

Section 2. AS 15.13.070(c) is amended to read:
(c) A group that is not a political party may contribute not more than $1,000 per year
(1) to a candidate, or to an individual who conducts a write-in campaign as a candidate;
(2) to another group, to a non-group entity, or to a political party.

Section 3. AS 15.13.040(b) is amended to read:
(b) Each group shall make a full report upon a form prescribed by the commission, listing
(1) the name and address of each officer and director;
(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of $100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, "contributor" means the true source of the funds, property, or services

The text of this bill is presented as submitted by petition sponsors.

being contributed; and

(3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

Section 4. AS 24.45.171(8) is amended to read:

(8) "lobbyist" means a person who

(A) is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agents with any public official for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period in one calendar year; or

(B) represents oneself as engaging in the influencing of legislative or administrative action as a business, occupation or profession.

Section 5. AS 24.60.200 is amended to read:

Sec. 24.60.200. Financial disclosure by legislators, public members of the committee, and legislative directors. A legislator, a public member of the committee, and a legislative director shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska Public Offices Commission giving the following information about the income received by the discloser, the discloser's spouse or domestic partner, the discloser's dependent children, and the discloser's nondependent children who are living with the discloser:

(1) the information that a public official is required to report under AS 39.50.030, other than information about gifts;

(2) as to income in excess of $1,000 received as compensation for personal services, the name and address of the source of the income, and a statement describing the nature of the services performed; if the source of income is known or reasonably should be known to have a substantial interest in legislative, administrative, or political action and the recipient of the income is a legislator or legislative director, the amount of income received from the source shall be disclosed;

(3) as to each loan or loan guarantee over $1,000 from a source with a substantial interest in legislative, administrative, or political action, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists.

Section 6. Effective Date. This Act takes effect January 1, 2005.

Ballot Measure 1

Campaign Contribution Limits, Lobbying, and Disclosure

STATEMENT IN SUPPORT

THE "TAKE OUR STATE BACK" INITIATIVE

Corruption is not limited to one party or individual. Ethics should be not only bi-partisan but also universal. From the Abramoff and Jefferson scandals in Washington D.C. to side deals in Juneau, special interests are becoming bolder every day. They used to try to buy elections. Now they are trying to buy the legislators themselves.

Alaskans deserve to know who is paying our legislators and funding their campaigns. In 2004 the Legislature wrote its own rules to govern its conduct and it reduced or eliminated any real restrictions or disclosure requirements.

Measure 1 ensures that you know who is paying your legislator and who is lobbying them. It limits the amount of special interest influence in legislative campaigns and closes the soft money loophole.

Vote "Yes" on Measure 1.

Measure 1 takes our State back in four specific ways.

1. REQUIRES LEGISLATORS TO DISCLOSE WHO IS PAYING THEM.

Under the rules the Legislature wrote for themselves, a legislator can earn thousands of dollars on the side from special interests with no disclosure. We deserve to know who is paying our legislators and why. Measure 1 requires that a legislator disclose any income over $1,000. Period.

2. REQUIRES LOBBYISTS TO REGISTER.

The Legislature rewrote the law so that only a few lobbyists are now required to register. This is a major loophole. Without this registration, there is no disclosure of who is paying lobbyists to influence our legislature. Measure 1 requires any lobbyist who works over ten hours per month to register and to disclose who is paying for the lobbying.

3. LIMITS CAMPAIGN CONTRIBUTIONS TO $500.

Most Alaskans don't write huge checks to political campaigns. The more special interests can contribute, the more influence they have over our politicians. Measure 1 limits contributions to $500 from an individual and to $1,000 from a group.

4 CLOSES THE SOFT MONEY LOOPHOLE.

The Legislature created another major loophole. It allows unlimited donations to political parties. No limit at all. Measure 1 places a $5,000 limit on these donations. On the national level, Sen. John McCain and Sen. Russ Feingold have been champions of limiting soft money. We have the chance to take the first step here in Alaska to limit soft money by passing Measure 1.

Vote to **TAKE YOUR STATE BACK.**

Vote "YES" on Measure 1

Chancy Croft
President, Alaska State Senate
1975-1976

Rick Halford
President, Alaska State Senate
1993-1994, 2001-2002

Lowell Thomas, Jr.
Former Lieutenant Governor
Former State Senator

The statement printed on this page is the opinion of the author(s) and is presented as submitted to the Division of Elections.

Ballot Measure 1

Campaign Contribution Limits, Lobbying, and Disclosure

STATEMENT IN OPPOSITION

This initiative diminishes citizen rights and participation while increasing incumbent power.

Our individual right of free speech is radically reduced in Section 1. Our maximum contribution to a candidate or party is cut in half. Challengers can raise less money, thwarting your ability to change elected public officials. This initiative empowers incumbents and the wealthy self-funded candidate.

Our right of free speech to influence elections is further eroded in Section 2. The maximum contribution a group may make to a candidate is reduced by half.

Contribution transparency in the Alaskan campaign disclosure law is destroyed in Section 3. The initiative is a step backward. The change eliminates the disclosure of some donor names and addresses. What do the sponsors, who are all legislators, plan to hide from citizen view?

Section 4 changes the lobbyist definition by chopping a citizen's time to communicate with public officials from 40 to 10 hours per month. More employees of small businesses must register as lobbyists. Eleven hours work in a single month demands filing 16 reports in a two year period. Instead of accepting this ridiculous new burden that discloses their client list to their competitors, most businesses will abandon citizen representation and hire a professional lobbyist. Furthermore, these 'new' lobbyists are prohibited from contributing to any candidate outside of their own legislative district. That is a terrible blow to all citizen's rights. The incumbents, including the initiative sponsors, are protected from well-funded challengers.

The change of income disclosure limits increases the reporting burden materially. While inflation over the decades has effectively reduced this limit, this change from $5000 to $1000 simply increases the paper process without meaningful information.

Gloria Shriver, Founder
Alaska Excellence in Public Service

The statement printed on this page is the opinion of the author(s) and is presented as submitted to the Division of Elections.

Ballot Measure 2

Cruise Ship Taxation, Regulation and Disclosure

BALLOT LANGUAGE

This initiative would impose a $46 per person per voyage tax on large cruise ships to pay for vessel services. It would provide for the proceeds from the tax to be deposited in the state general fund and, subject to appropriation by the legislature, distributed to municipalities. It would levy a tax on cruise ship gambling activities in state waters. It would change the way cruise ship corporate income tax is calculated. It would require cruise ship operators to gather and report more information, and get a new type of permit for sewage, graywater or other wastewater before discharging in state marine waters. It would assess a $4 per passenger berth fee and require large cruise ships to have state-employed marine engineers (Ocean Rangers) licensed by the Coast Guard to observe health, safety and wastewater treatment and discharge operations. It would authorize citizen lawsuits against an owner or operator of a large cruise ship, or against the Department of Environmental Conservation, for an alleged violation of any permit condition, provision of environmental statutes or performance of duties. It would also enable a person who provides information leading to enforcement of the law to receive 25 to 50 percent of fines imposed. It would impose additional requirements on disclosures about on-ship promotions of shoreside businesses.

SHOULD THIS INITIATIVE BECOME LAW?

⬭ Yes

⬭ No

LEGISLATIVE AFFAIRS AGENCY SUMMARY

Part of this bill is about cruise ship taxes. It imposes a $46 a person tax on cruise ship passengers. That money goes into a special account in the state's general fund. The legislature may appropriate part of that money to the vessel's ports of call. But, towns that receive that money cannot impose local cruise ship head taxes. The bill also taxes gambling on cruise ships. The tax is 33 percent of the cruise ship's adjusted gross income from the gambling. The bill changes the state's corporate income tax law so it could be applied to cruise ships.

The bill also changes environmental laws that apply to cruise ships. It requires wastewater discharge permits for cruise ships. It sets minimum standards and conditions for use of those permits. It prohibits wastewater discharges without a permit. It changes the monitoring and record keeping requirements for wastewater discharges. It establishes a new ocean ranger program. A ranger is a marine engineer. It requires each cruise ship to have a ranger on board. The ranger is an independent observer. The ranger monitors compliance with pollution laws. The bill imposes a four-dollar fee per berth for operating the ranger program. It gives private citizens the right to sue for discharge violations. It also establishes financial penalties for violations of environmental laws.

Finally, the bill regulates sales on cruise ships. Persons paid to mention or promote a business in a state port must say they are paid. Written materials must also say that the person is paid. Persons selling tours and other shore-side activities on board a cruise ship must disclose how much they are paid for each sale. A seller must give the address and phone number of the shore-side business if asked. It makes violation of these laws an unfair trade practice.

STATEMENT OF COSTS AND REVENUES FOR BALLOT MEASURE 2 - INITIATIVE 03CTAX - Prepared by the Alaska Department of Revenue

As required by AS 15.58.020(b), the Alaska Department of Revenue has prepared the following statement of costs to the Department of implementing the law proposed in Ballot Measure 2 - Initiative 03CTAX.

COSTS

In order to administer the tax collection process required by this initiative, the Department of Revenue would require six new positions, at an estimated cost of $626,000 per year for staff and associated costs.

Ballot Measure 2

Cruise Ship Taxation, Regulation and Disclosure

REVENUES

This initiative would impose an excise tax of $46 per passenger per voyage on travel on commercial passenger vessels with 250 or more berths, and a "Ranger fee" of $4 per passenger berth.

We assume that 2007 cruise ship activity will be similar to the scheduled 2006 cruise ship activity. We cannot predict whether the excise tax might impact the number of passengers.

Assuming the ships sail at 100 percent capacity, we estimate the $46 per passenger excise tax would be applied to approximately 900,000 passengers in the 2007 season, resulting in revenue of approximately $41 million. About $14 million of that revenue would be shared with municipalities at which the cruise ships stopped. Twenty-five percent of the total, or approximately $10 million, would be placed in a "Regional Cruise Ship Impact Fund," to be distributed to other affected municipalities. The $4 per berth Ranger fee would bring in approximately $3.6 million.

Net revenues to the state, after deducting costs for the Departments of Revenue and Environmental Conservation, and deducting the $24 million in shared revenues cited above, would be approximately $14.4 million.

This initiative would impose a tax of 33 percent of the adjusted gross income from operation of gaming or gambling activities on ships operating in Alaskan waters.

The Department has no data on the extent or profitability of cruise ship gaming in Alaskan waters, and therefore cannot calculate revenues from the proposed gaming tax.

This initiative would also change the way the corporate income tax is calculated for the cruise ship industry. The Department does not have adequate data to estimate the effects of this change on corporate income tax revenue.

STATEMENT OF COSTS FOR BALLOT MEASURE 2 - INITIATIVE 03CTAX- Prepared by the Alaska Department of Environmental Conservation

As required by AS 15.58.020(b), the Alaska Department of Environmental Conservation ("DEC") has prepared the following statement of costs to the Department of implementing the law proposed in Ballot Measure 2 Initiative - 03CTAX.

The initiative would require DEC to develop and maintain a new permit program for Large Commercial Passenger Vessels ("cruise ships") to replace the current program for regulating these vessels. It would also require DEC to place marine engineers ("Ocean Rangers") licensed by the Coast Guard on the cruise ships to monitor compliance with State and Federal environmental laws. Two marine engineers working alternating twelve-hour shifts would be placed on each cruise ship operating in Alaska waters.

The cost to the state during the first full year of the implementation of this initiative is estimated to be approximately $5.6 million.

FULL TEXT OF THE PROPOSED LAW

FOR AN ACT PROVIDING FOR TAXATION OF CERTAIN COMMERCIAL SHIP VESSELS, PERTAINING TO CERTAIN VESSEL ACTIVITIES and RELATED TO SHIP VESSEL OPERATIONS TAKING PLACE IN THE MARINE WATERS OF THE STATE OF ALASKA

Be it enacted by the People of the State of Alaska:

*** Section 1.** AS 43 is amended by adding a new chapter to read:

Chapter 52. Excise Tax on Travel Aboard Commercial Passenger Vessels.

Sec. 43.52.010. Levy of excise tax on overnight accommodations on commercial passenger vessels. There is imposed an excise tax on travel on commercial passenger vessels providing overnight

accommodations in the state's marine water.

Sec. 43.52.020. Rate of tax. The tax imposed by AS 43.52.010 - 43.52.095 is levied at a rate of $46 a passenger per voyage.

Sec. 43.52.030. Liability for payment of tax. A passenger traveling on a commercial passenger vessel providing overnight accommodations in state marine water is liable for the tax imposed by AS 43.52.010 -- 43.52.095. The tax shall be collected and is due and payable to the department

(1) by the person who provides travel aboard a commercial vessel for which the tax is payable; and

(2) in the manner and at the times required by the department by regulation.

Sec. 43.52.040. Disposition of receipts.
(a) The proceeds from the tax on travel on commercial passenger vessels providing overnight accommodations in the state's marine water shall be deposited in a special "Commercial Vessel Passenger Tax Account" in the general fund. The legislature may appropriate money from this account for the purposes described in (b) and (c) of this section, for state-owned port and harbor facilities, other services to properly provide for vessel or watercraft visits, to enhance the safety and efficiency of interstate and foreign commerce and such other lawful purposes as determined by the legislature.

(b) For each voyage of a commercial passenger vessel providing overnight accommodations, the commissioner shall identify the first five ports of call in the state and the number of passengers on board the vessel at each port of call. Subject to appropriation by the legislature, the commissioner shall distribute to each port of call $5 per passenger of the tax revenue collected from the tax levied under this chapter. If the port of call is a city located within a borough not otherwise unified with the borough, the commissioner shall, subject to appropriation by the legislature, distribute $2.50 per passenger to the city and $2.50 to the borough. Each port of call receiving funds under this section shall use the funds in a manner calculated to improve port and harbor facilities and other services to properly provide for vessel or water craft visits and to enhance the safety and efficiency of interstate and foreign commerce.

(c) A "Regional Cruise Ship Impact Fund" consisting of 25% of the proceeds from the tax on travel aboard commercial passenger vessels providing overnight accommodations in the state's marine water shall be established as sub-account of the funds established in (a), above, and deposited in the general fund. Subject to appropriation by the legislature and regulations adopted by the Department of Revenue, the commissioner shall distribute funds to municipalities or other governmental entities within the Prince William Sound Region, Southeast Alaska or any other distinctive region impacted by cruise ship related tourism activities but not entitled to receive funds based on port of call visitation as allowed by (b), above, provided that any funds used from this account shall be used to provide services and infrastructure directly related to passenger vessel or water craft visits or to enhance the safety and efficiency of interstate and foreign commerce related to vessel or water craft activities.

Sec. 43.52.050. Administration.
(a) The department shall

(1) administer this chapter; and

(2) collect, supervise, and enforce the collection of taxes due under this chapter and penalties as provided in AS 43.05.

(b) The department may adopt regulations necessary for the administration of this chapter.

Sec. 43.52.060. Local levies. Any municipality, whether home rule or general law, that receives passenger ship fee funds under this chapter may not impose an additional form of tax on travel on commercial passenger vessels engaged in activities involving overnight accommodations for passengers in state marine waters. Any form of tax on travel on commercial passenger vessels engaged in activities involving overnight accommodations for passengers in state marine waters enacted by a municipality, whether home rule or general law, prior to the effective date of this legislation shall expire one year after enactment of this law if that municipality elects to receive funds under this chapter.

The text of this bill is presented as submitted by petition sponsors.

Ballot Measure 2

Cruise Ship Taxation, Regulation and Disclosure

Sec. 43.52.095. Definitions. In this chapter, (1) "commercial passenger vessel" means a boat or vessel that is used in the common carriage of passengers in commerce; "commercial passenger vessel" does not include

(A) vessels with fewer than 250 berths or other overnight accommodations for passengers;

(B) noncommercial vessels, warships, and vessels operated by the state, the United States, or a foreign government;

(2) "marine water of the state" and "state marine water" have the meaning given to "waters" in AS 46.03.900, except that they include only marine waters.

(3) "passenger" means a person whom a common carrier has contracted to carry from one place to another.

(4) "voyage" means any trip or itinerary lasting more than 72 hours.

* **Sec. 2.** AS 05, is amended by adding a new chapter to read:

Chapter 16. Games of Chance and Contests of Skill on Ships Operating on Waters Within the Jurisdiction of Alaska.

Sec. AS 05.16.010. Gambling activities aboard commercial vessels purportedly authorized by federal law. This chapter applies to the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended for gaming or gambling used in the waters under the jurisdiction of the State of Alaska on a voyage described in 15 U.S.C. Section 1175(c)(2), and to any other gambling activities taking place aboard large passenger vessels in the state.

Sec. AS 05.16.020. Tax on gambling activities authorized by AS 05.16.010. There is imposed on the operator of a gaming or gambling activities aboard large passenger vessels in the state a tax of 33% of the adjusted gross income from those activities. "Adjusted gross income" means gross income less prizes awarded and federal and municipal taxes paid or owed on the income. The tax shall be collected and is due and payable to the department of revenue in the manner and at the times required by the department of revenue.

Sec. 05.16.030. Disposition of receipts. (a) The proceeds from the tax on gambling operations aboard commercial passenger vessels in the state's marine water shall be deposited in a special "Commercial Vessel Passenger Tax Account" in the general fund.

* **Sec. 3.** AS 43.20.021 is repealed and reenacted as follows:

Sec. 43.20.021(a). Internal Revenue Code adopted by reference. (a) Sections 26 U.S.C. - 1399 and 6001 - 7872 (Internal Revenue Code), as amended, are adopted by reference as a part of this chapter. These portions of the Internal Revenue Code have full force and effect under this chapter unless excepted to or modified by other provisions of this chapter.

(b) Nothing in this chapter or in AS 43.19 (Multistate Tax Compact) may be construed as an exception to or modification of 26 U.S.C. 883.

(c) The provision in (b), above, does not apply to commercial passenger vessels as defined in AS 43.52.095.

* **Sec 4.** AS 46.03.462 is repealed and re-enacted as follows:

Sec. 46.03.462. Terms and conditions of discharge permits. (a) An owner or operator may not discharge any treated sewage, graywater, or other wastewater from a large commercial passenger vessel into the marine waters of the state unless the owner or operator obtains a permit under AS 46.03.100, which shall comply with the terms and conditions of vessel discharge requirements specified in (b) of this section.

(b) The minimum standard terms and conditions for all discharge permits authorized under this provision require that the owner or operator:

(1) may not discharge untreated sewage, treated sewage, graywater, or other waste-

waters in a manner that violates any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge;

(2) shall maintain records and provide the reports required under AS 46.03.465(a);

(3) shall collect and test samples as required under AS 46.03.465(b) and (d) and provide the reports with respect those samples required by AS 46.03.475(c);

(4) shall report discharges in accordance with AS 46.03.475(a);

(5) shall allow the department access to the vessel at the time samples are taken under AS 46.03.465 for purposes of taking the samples or for purposes of verifying the integrity of the sampling process; and

(6) shall submit records, notices, and reports to the department in accordance with AS 46.03.475(b), (d), and (e).

* **Sec. 5.** AS 46.03.463 is amended to read as follows:

Sec. 46.03.463(d) is repealed.

Sec. 46.03.463(e) is repealed and reenacted to read: An owner or operator may not discharge any treated sewage, graywater, or other wastewater from a large commercial passenger vessel into the marine waters of the state unless the owner or operator obtains a permit under AS 46.03.100 and AS 46.03.462, and provided that the vessel is not in an area where the discharge of treated sewage, graywater or other wastewaters is otherwise prohibited.

Sec. 46.03.463(g) is repealed.

* **Sec 6.** AS 46.03.465 repealed and reenacted to read as follows:

Sec. 46.03.465. Information-gathering requirements. (a) The owner or operator of a commercial passenger vessel shall maintain daily records related to the period of operation while in the State, detailing the dates, times, and locations, and the volumes and flow rates of any discharges of sewage, graywater, or other waster into the marine waters of the State, provide electronic copies of such records on a monthly basis to the department no later than 5 days after each calendar month of operation in State waters.

(b) while a commercial passenger vessel is present in the marine waters of the State, the owner or operator of the vessel shall provide an hourly report of the vessel's location based on Global Positioning System technology and collect routine samples of the vessel's treated sewage, graywater, and other wastewaters being discharged into marine waters of the State with a sampling technique approved by the department.

(c) while a commercial passenger vessel is present in the marine waters of the State, the Department, or an independent contractor retained by the Department, may collect additional samples of the vessel's treated sewage, graywater, and other wastewaters being discharged into the marine waters of the State.

(d) the owner or operator of a vessel required to collect samples under (b) of this section shall ensure that all sampling techniques and frequency of sampling events are approved by the department in a manner sufficient to ensure demonstration of compliance with all discharge requirements under AS 46.03.462.

(e) the owner or operator of a commercial passenger vessel shall pay for all reporting, sampling and testing of samples under this section.

(f) if the owner or operator of a commercial passenger vessel has, when complying with another state of federal law that requires substantially equivalent information required under (a), (b), or (d) of this section, the owner or operator shall be considered to be in compliance with that subsection so long as the information is also provided to the department.

The text of this bill is presented as submitted by petition sponsors.

Ballot Measure 2

Cruise Ship Taxation, Regulation and Disclosure

* **Sec. 7.** AS 46.03 is amended to include new provisions as follows:

Sec. 46.03.476. Ocean Rangers. (a) An owner or operator of a large commercial passenger vessel entering the marine waters of the state is required to have a marine engineer licensed by the United States Coast Guard hired or retained by the department on board the vessel to act as an independent observer for the purpose of monitoring state and federal requirements pertaining to marine discharge and pollution requirements and to insure that passengers, crew and residents at ports are protected from improper sanitation, health and safety practices.

(b) The licensed marine engineer shall monitor, observe and record data and information related to the engineering, sanitation and health related operations of the vessel, including but not limited to registration, reporting, record keeping and discharge functions required by state and federal law.

(c) Any information recorded or gathered by the licensed marine engineer shall be promptly conveyed to the Alaska Department of Environmental Conservation and the United State Coast Guard on a form or in a manner approved by the Commissioner of Environmental Conservation. The Commissioner may share information gathered with other state and federal agencies.

46.03.481. Citizens suits. (a) Any citizen of the State of Alaska may commence a civil action

(1) against an owner or operator of a large passenger vessel alleged to have violated any provision of this chapter, or

(2) against the department where there is an alleged failure to perform any act or duty under this chapter which is not discretionary. No civil action may be commenced under this section, however, prior to 45 days after the plaintiff has provided written notice of the intent to sue to the Attorney General of Alaska.

(b) Subject to appropriation, as necessary, up to 50% and not less than 25% of any fines, penalties or other funds recovered as a result of enforcement of this chapter shall be paid to the person or entity, other than the defendant, providing information sufficient to commence an investigation and enforcement of this chapter under this provision.

* **Sec. 8.** AS 46.03.480 is amended as follows:

Sec. 46.03.480 is amended by adding a new section to read:
(d) An additional fee in the amount of $4.00 per berth, is imposed on all large commercial passenger vessels, other than vessels operated by the state, for the purpose of operating the Ocean Ranger program established in AS 46.03.476; said program shall be subject to legislative appropriation.

Sec. 46.03.480(d) shall be repealed and reenacted as 46.03.480(e).

* **Sec. 9.** AS 46.03.760 is amended as follows:

Sec. AS 46.03.760 is amended by adding a new section to read:

(f) An owner, agent, employee or operator of a commercial passenger vessels as defined in AS 43.52.095 who falsifies a registration or report required by AS 46.03.460 or 46.03.475 or who violates or causes or permits to be violated a provision of AS 46.03.250 - 46.03.314, 46.03.460 - 46.03.490, AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under AS 46.03.250 - 46.03.314, 46.03.460 - 46.03.490, or AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than $5000 nor more than $100,000 for the initial violation, nor more than $10,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics

of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality; for a violation relating to AS 46.14, the court, in making its determination under this paragraph, shall also consider the degree to which the discharge causes harm to persons or property; this paragraph may not be construed to limit the right of parties other than the state to recover for personal injuries or damage to their property;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged; and

(4) the need for an enhanced civil penalty to deter future noncompliance.

Sec. 46.03.760(f) shall be repealed and reenacted as 46.03.760(g).

* Sec. 10. AS 45.50.474 is repealed and reenacted to read as follows:

Sec. 45.50.474. Required disclosures in promotions and shore side sales on board cruise ships. (a) A person may not conduct a promotion on board a cruise ship that mentions or features a business in a state port that has paid something of value for the purpose of having the business mentioned, featured or otherwise promoted, unless the person conducting the promotion clearly and fully discloses orally and in all written materials used in the promotion that the featured businesses have paid to be included in the promotion. All such written notice of disclosure shall be in a type not less than 14-point typeface and in a contrasting color calculated to draw attention to the disclosure.

(b) A person or other entity aboard a cruise ship conducting or making a sale of tours, flightseeing operations or other shore-side activities to be delivered by a vendor or other entity at a future port of call shall disclose, both orally and in writing, the amount of commission or percentage of the total sale retained or returned to the person making the sale. The person or entity aboard a cruise ship making or attempting to make a sale of servires or goods provided by a shore-side vendor shall disclose the address and telephone number of the shore side vendor if asked by a consumer. All such written notice of disclosure shall be in a type not less than 14-point typeface and in a contrasting color calculated to draw attention to the disclosure.

(c) Each violation of this section constitutes an unfair trade practice under AS 45.50.471, and shall result in a penalty of not more than $100 for each violation. In this section, "cruise ship" means a ship that operates at least 48 hours in length for ticketed passengers, provides overnight accommodations and meals for at least 250 passengers, is operated by an authorized cruise ship operator, and is certified under the International Convention for the Safety of Life at Sea or otherwise certified by the United States Coast Guard.

* **Sec. 11. Severability.** It is the intention of the people of Alaska that any portion of this legislation that is declared unlawful shall be stricken in a manner that preserves the remaining portion of the remaining legislation to the maximum extent possible.

* **Sec. 12. Effective Date.** This Act takes effect 90 days after enactment.

The text of this bill is presented as submitted by petition sponsors.

Ballot Measure 2

Cruise Ship Taxation, Regulation and Disclosure

STATEMENT IN SUPPORT

The cruise lines should follow Alaska's taxation and pollution rules like everyone else. This initiative protects our fisheries and helps pay for cruise ship impacts on Alaskan communities by establishing/requiring:

1. $50 passenger tax - Alaskans pay tourism taxes when traveling Outside and independent tourists pay taxes on rental cars and lodging in Alaska. Cruise passengers willingly pay similar fees throughout the world. A typical cruise, including tickets, airfare, shopping, tours, gambling, and alcohol, costs over $3000. A $50 fee won't make people choose a cruise to New Jersey - therefore there will be no negative impact on Alaska's tourism economy. Federal law requires the funds be spent "servicing the industry," for example, maintaining ports and harbor infrastructure. This tax will help SUPPORT the Alaska tourism economy. Communities preferring their own tax program can opt out of the statewide program.

2. Meet Alaska Water Quality Standards - Alaskans need clean water and healthy fish. Cruise ships are the only major polluters not required to have a discharge permit and meet ALL Alaska water quality standards. Everyone else has a permit; no new permitting program is necessary. Nearly every major cruise line has felony convictions for dumping, tampering with pollution control equipment, or falsifying documents to the Coast Guard. This initiative places an independent marine engineer observer on every ship (paid through the passenger tax) to monitor discharges, inspect equipment, and verify logbook entries. The cruise lines have proven they cannot be trusted to help keep Alaska's waters clean and productive.

3. End tax evasion - All legal gambling operations in Alaska, except those on cruise ships, pay 1/3 of their profits to charity or in tax. Lucrative cruise line casino operations in Alaska pay nothing. Alaska corporations pay Corporate Income Tax. The cruise industry lobbied for and was granted a specialized income tax exemption for revenue from foreign registered ships. Under the initiative, the cruise lines will pay the same taxes that local businesses and U.S. registered vessels pay on their income and gambling profits.

4. Support local businesses - Since 1994, Alaska law has required oral and written disclosure to passengers by cruise lines when they receive commissions for promoting shore-based tours/businesses. Cruise line promotions are presented as "advice" when they are really "advertisements." This is unfair to local businesses that can't afford the steep, advertising commission. This initiative will require cruise lines to disclose the size of their commissions which will help local businesses compete for tourism dollars. No local businesses will have to report anything.

The cruise lines are "selling" Alaska - while impacting our docks, roads, public facilities, wildlife, and the quality of our lives. This initiative will do nothing to turn visitors away; it will help keep our tourism industry sustainable while protecting the needs of all Alaskans. The Miami/Vancouver-based cruise lines make billions in profits by registering their ships in third world countries to avoid paying U.S. income taxes and wages. The cruise lines can easily afford to play by Alaska's rules like everyone else.

Please vote YES on Ballot Measure 2!

RESPONSIBLE CRUISING IN ALASKA

Gershon Cohen
Haines, Alaska

Joe Geldhof
Juneau, Alaska

The statement printed on this page is the opinion of the author(s) and is presented as submitted to the Division of Elections.

Ballot Measure 2

Cruise Ship Taxation, Regulation and Disclosure

STATEMENT IN OPPOSITION

Vote "No" on Ballot Measure 2
It just doesn't make sense!

Dear fellow Alaskans,

Ballot Measure 2 is a direct attack on Alaska's economy. It will hurt our tourism industry -- a growing industry and the 4th largest employer of Alaskans. Additional taxes, lost jobs and more lawsuits in Alaska are not the answer. **Ballot Measure 2 deserves a "No" vote on August 22nd.**

The Alaska State Chamber of Commerce, Anchorage Chamber of Commerce, City of Fairbanks, Associated General Contractors of Alaska, Southeast Conference, Alaska Travel Industry Association, Resource Development Council, Juneau Chamber of Commerce, City of Skagway and the Ketchikan Chamber of Commerce and several hundred others all **oppose Ballot Measure 2 because it's bad for Alaska.**

Measure 2 will:

Mandate four additional new taxes including a state wide head tax of $50 per person, $100 per couple, and $200 for an average family of four. Rising oil prices are driving up the cost of living, which has reduced all travelers' budgets. Imposing more taxes and fees on top of the other additional travel costs will keep tourists away and hurt our economy instead of helping it.

Force the disclosure of confidential business information about Alaska's local small businesses to competitors including those in the lower 48. No other business in Alaska is required to disclose this type of information. Forced disclosure would reduce the pre-purchase of tours and excursions, hurting Alaska businesses.

Raise costs and discourage tourism to Alaska. Tourists already pay millions of dollars in taxes and fees on their plane tickets, hotels, restaurants, tours and shopping. Additionally, there are more than 26,000 local jobs provided by the tourism industry contributing tens of millions of dollars to our strong economy. Measure 2 would increase costs, discourage tourism and reduce spending at our local businesses.

Open the door and create new motives for lawyers to file predatory lawsuits. Lawyers will be allowed to file suit and collect up to 50% of any fines collected. Out-of-state attorneys will line up and flood Alaska's court systems with frivolous lawsuits. The Measure would even allow individuals to sue the state of Alaska.

Increase the amount of bureaucratic red tape, bureaucracy and size of state government in Alaska. Measure 2 creates a new layer of state bureaucracy, red tape, paperwork and unnecessary government regulations that don't provide any additional benefits to Alaskans or the environment. Increasing the number of state bureaucrats, cost of state government and the amount of red tape doesn't solve anything.

Tourism is over a $2 billion dollar industry in Alaska. Attacking the tourism industry through Measure 2 and attempting to pass more taxes, unnecessary and redundant government regulations, and tourism disincentives is the wrong move.

Threatening Alaska's economy, over 26,000 local jobs and thousands of small businesses across the state isn't the answer.

Also endorsing this letter: Mayor Bob Weinstein, City of Ketchikan; Chris Anderson, ORSO and Glacier BrewHouse - Anchorage

Vote "No" on Ballot Measure 2.

Carol Fraser
Aspen Hotels of Alaska

Steve Frank
Rivers Edge Resort in Fairbanks

Marc Langland
President Fiscal Policy Council of Alaska

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Absentee Voting

In Person/By Mail/By Fax/Special Needs Voting

GENERAL INFORMATION ABOUT ABSENTEE VOTING

In accordance with Alaska law, any voter may vote before Election Day for any reason. You may vote absentee in person, by mail, by fax or vote a special needs ballot through a personal representative.

ABSENTEE IN PERSON

Beginning on **August 7, 2006**, you may vote absentee in person at any of the regional elections offices or other voting sites established by the Division of Elections. Ballots for all 40 districts are available at all regional elections offices. Absentee voting officials will only have ballots for their house district. On Election Day, these stations will offer absentee in person voting.

ABSENTEE BY MAIL

Absentee ballot applications are available and can be submitted after January 1st of each calendar year, up to 10 days prior to each election for any state elections during that year. You can request a ballot for a specific election or for all elections in the year. To receive an absentee ballot by mail, you must first send an application so that your voter registration can be verified. **Apply early to ensure timely delivery of your ballot.** All absentee by mail ballot applications must be received **AT LEAST 10 DAYS** prior to the election. Voted absentee by mail ballots must be postmarked on or before Election Day.

ABSENTEE BY FAX

Absentee by fax should be your last alternative for casting your ballot. You may apply for an absentee by fax ballot beginning on August 7, 2006 by completing a by fax application. Your completed application must be received by 5:00 pm AST on or before August 21, 2006. If you choose to return your voted ballot by fax, you voluntarily waive a portion of your right to a secret ballot. **Voted fax ballots may be returned by fax before 8:00 pm AST on Election Day and may also be returned by mail, postmarked on or before Election Day.**

SPECIAL NEEDS VOTING

A qualified voter who is unable to go to the polls due to age, serious illness or a disability may apply for a special needs ballot through a personal representative. A personal representative can be anyone over 18, except a candidate for office in the election, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union. The personal representative may obtain a ballot for the voter beginning on August 7, 2006 through August 22, 2006 at any regional elections office or any absentee voting site. In addition, special needs ballots may be obtained at the precincts on Election Day.

Contact any Division of Elections office to obtain a by mail or by fax application. For additional information on by mail and by fax voting, contact the Absentee Voting Section. For information on in person and special needs voting, contact the regional elections office nearest you. Absentee voting information is also available online:

http://www.elections.state.ak.us

MAIL OR FAX YOUR COMPLETED ABSENTEE BY MAIL BALLOT APPLICATION TO:

DIVISION OF ELECTIONS
ABSENTEE VOTING SECTION
619 E. SHIP CREEK AVE. #329
ANCHORAGE, ALASKA 99501-1677
PHONE: (907) 375-6400 - FAX: (907) 375-6480

Voter Rights/Assistance While Voting

Primary Election Day is August 22, 2006

The polls will be open from 7:00 a.m. to 8:00 p.m. on Election Day. TO LOCATE YOUR POLLING PLACE PLEASE CALL 1-888-383-8683. IN ANCHORAGE, PLEASE CALL 269-8683. The following information explains basic voting rights and will help voters with special needs.

Election information is also available on the Division of Elections' website:
http://www.elections.state.ak.us

ASSISTANCE WHILE VOTING
If you have difficulty voting because of a disability, difficulty reading or writing English, or for any other reason, you may bring someone to help you at the polls. The person you bring may go into the voting booth with you and help you vote. This person may be an election official, family member, friend, bystander, campaign worker, or anyone else who is not a candidate for office in the election, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union. This is your right under federal law.

NON ENGLISH SPEAKING VOTERS
Alaska Native and Tagalog language assistance is available at many polling places throughout the state. Let the Division of Elections know ahead of time if you will need this service when you vote.

HEARING IMPAIRED VOTERS
The Division of Elections has a TTY telecommunications device, which allows hearing impaired voters to obtain general information about elections by calling (907) 465-3020.

VISUALLY IMPAIRED VOTERS
Magnifying ballot viewers for the visually impaired will be available at all polling places and absentee voting sites, in addition to touch screen machines, which will offer magnified, high-contrast and audio ballots.

Audio tape recordings of the **2006 Primary Election Voter Pamphlet** are available from the Alaska State Library, Talking Book Center, located in Anchorage. Telephone the library at (907) 269-6575 for information.

PHYSICALLY DISABLED VOTERS:
If you have difficulty gaining access to your polling place, or if you have accessibility questions about your polling place, please let the Division of Elections know. We make every effort to ensure that polling places are accessible to all Alaskans.

EMERGENCY ABSENCES:
If you are unable to vote at your polling place for the Primary Election and did not have time to apply for an absentee by mail ballot or to vote absentee in person, you may be able to vote by fax. The application period for voting by fax begins on **August 7, 2006** and applications must be received by **5:00 p.m.** AST on **August 21, 2006.**

IF YOU HAVE QUESTIONS OR WOULD LIKE MORE INFORMATION ABOUT OUR SPECIAL SERVICES, PLEASE CONTACT ANY REGIONAL ELECTIONS OFFICE.

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Region II	**ANCHORAGE: (907) 522-8683**	**MAT-SU: (907) 373-8952**
Region III	**FAIRBANKS: (907) 451-2835**	
Region IV	**NOME: (907) 443-5285**	

Understanding Ballot Rotation for 2006

For the 2006 Primary Election, the following races will be up for election: U.S. Representative, Governor, Lt. Governor, 10 State Senate Districts and 40 State House Districts. All ballot rotation will take place by State House District.

Candidates for the U.S. Representative, Governor and Lt. Governor races will be placed on the first ballot (House District 1) in alphabetical order. Then, beginning with the House District 2 ballot, candidates will rotate by the top candidate moving to the bottom of the race and all other candidates moving up one position. This rotation will continue through all 40 State House District ballots.

Each State Senate District is comprised of two State House Districts. For the 10 State Senate races, there will be a random draw of the letters of the alphabet to determine the order of how the candidates will be placed on the first State House District ballot. For the second State House District, in which the State Senate District appears, the candidates will rotate by the top candidate moving to the bottom of the race and all other candidates moving up one position.

For the 40 State House District races, there will be a random draw of the letter of the alphabet to determine the order of how the candidates will be placed on the State House District ballot.

There will be one random draw of the letters of the alphabet for both the State Senate and State House District races.

State of Alaska - Division of Elections
Official Ballot
House District 1

US Representative	Governor or Lt. Governor
❍ Apple, Joe	❍ Arctic, Jones
❍ Banana, Mary	❍ Barrow, Margaret
❍ Cantaloupe, Susie	❍ Caribou, Jamie

State Senate District A	State House District 1
❍ Jackson, Henry	❍ Jack, Shelly
❍ Darby, Meghan	❍ Queen, Whitney
❍ Wakefield, Sandie	❍ King, Joseph

State of Alaska - Division of Elections
Official Ballot
House District 2

US Representative	Governor or Lt. Governor
❍ Banana, Mary	❍ Barrow, Margaret
❍ Cantaloupe, Susie	❍ Caribou, Jamie
❍ Apple, Joe	❍ Arctic, Jones

State Senate District A	State House District 2
❍ Darby, Meghan	❍ Glenn, Marty
❍ Wakefield, Sandie	❍ Arrow, Don
❍ Jackson, Henry	❍ Seward, Doreen

State of Alaska - Division of Elections
Official Ballot
House District 3

US Representative	Governor or Lt. Governor
❍ Cantaloupe, Susie	❍ Caribou, Jamie
❍ Apple, Joe	❍ Arctic, Jones
❍ Banana, Mary	❍ Barrow, Margaret

State House District 3
❍ O'Malley, Grace
❍ Minnesota, Rachel
❍ Abbott, Mable

STATE OF ALASKA
Division of Elections
P.O. Box 110017
Juneau, Alaska 99811-0017

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REGIONAL ELECTIONS OFFICES

Region I Elections Office
(House Districts 1-5, 33-36)
9109 Mendenhall Mall Road, Suite 3
P.O. Box 110018
Juneau, Alaska 99811-0018
Phone: (907) 465-3021

Kenai Elections Office
11312 Kenai Spur Highway,
Suite 45
Kenai, Alaska 99611
Phone: (907) 283-3805

Region III Elections Office
(House Districts 6-12)
675 7th Avenue, Suite H-3
Fairbanks, Alaska 99701-4594
Phone: (907) 451-2835

Region II Elections Office
(House Districts 13-32)
2525 Gambell Street, Suite 100
Anchorage, Alaska 99503-2838
Phone: (907) 522-8683

Matanuska-Susitna Elections Office
North Fork Professional Building
1700 E. Bogard Road, Suite B102
Wasilla, Alaska 99654
Phone: (907) 373-8952

Region IV Elections Office
(House Districts 37-40)
Alaska State Office Building
103 Front Street
P.O. Box 577
Nome, Alaska 99762-0577
Phone: (907) 443-5285

Election information is also available on the Division of Elections' website at:
http://www.elections.state.ak.us

5/12/07
Testimony of Gershon Cohen, Ph.D. on SB168

Dear Mr. Chairman and Members of the Senate Judiciary Committee,

I anticipate you will hear testimony today in support of SB168 that claim monies raised by the head tax provision in the ballot measure approved last August cannot be spent for constitutional and practicality reasons. Both arguments are purely speculative and unsupported by facts and a plain reading of the law.

Supporters previously stated to the House Community and Regional Affairs Committee that the Tonnage Clause of the Constitution prohibits the imposition of this tax on large cruise ships. Alaska's statewide passenger tax on large cruise vessels is a fee charged on the passengers and is not in any way based on the tonnage of the vessel. Similarly, supporters have tried to claim that the head tax would violate 33 U.S.C. Section 5 and the Commerce Clause of the Constitution. Again, there is nothing in those statutes prohibiting the collection of fees from vessels provided those funds are used to pay the cost of a service to the vessel. The argument on legitimate expenditures hinges on the interpretation of the phrase "service the vessel." There is no reason to assume that servicing the vessel is restricted to functions such as lifting the anchor or repainting the hull. It was and is the belief of the sponsors of the ballot measure and a majority of Alaskans that maintaining docks and harbors used by the cruise ships and other similar activities are well within the scope of federal law. Nevertheless, the final decision on this matter will be up to the courts if the cruise lines decide to pursue litigation. It is certainly not a matter that can be settled by this committee here today.

The second argument you will hear from the bill sponsors is that the State will not be able to spend the funds collected for reasons of practicality. In fact, no reasonable analysis has been presented by the sponsors to date to support this claim. The costs of maintaining existing docks and harbors and building new cruise ship servicing facilities are enormous and will only increase with time. The industry is constantly looking for new ports of call and areas of the State to visit, and our communities will be well-served by access to the funds raised by the head tax. Without the head tax, the costs for these cruise ship related facilities will continue to fall on the backs of local communities willing to gamble on establishing a long term relationship with the industry. It is worth noting that on numerous occasions the cruise lines have unilaterally severed relationships with Alaska towns for a variety of self-serving motives, leaving the long term infrastructure costs to the towns they deserted that no longer have the direct income to support their debt.

There is an Alaska Constitutional issue at stake that does deserve your immediate consideration. While no one denies the right of the Legislature to amend an initiative, the Alaska Constitution prohibits the repeal of an initiative until two years have expired following the date of adoption. As you know, the case law is thin on interpreting how significant an amendment may be before it constitutes a repeal of the initiative. Adhering to the intent of the voters must warrant the highest consideration by this committee.

SB168 would achieve two purposes in direct conflict with the intent of the voters: it would encourage the unequal distribution of the funds collected from the head tax, and ironically, it could result in a portion of the head tax collected from the passengers to be paid to the cruise lines themselves.

If all eligible communities opt in to the State program, the State will be able to fairly and equitably disperse the funds. However, it is a fact that any community that decides to opt out of the State program has the legal right to charge a head tax of any amount. Whether they receive that money will depend on decisions made by the passengers and the cruise lines, as it should in a free marketplace.

It is likely Juneau and Ketchikan will opt out of the program since they already charge more than the $5 per passenger tax rate recommended in State law. Capping the head tax at $50 regardless of the fee set by any opt out community would significantly limit the amount of funds available to ports of call (and the State) that opt in to the program. It has often been stated in this debate that SB168 limits the potential tax of any municipality to $10. This is not the case – only the "credit" is limited to $10 or the lesser of the taxes charged. A municipality could opt out and charge $15 or more. The cruise lines would likely have no objection if the entire head tax was limited to $50 by SB168. That municipality's higher fee would then be credited against the $50, lowering the amount to be shared by everyone else.

The whole idea of a credit for head taxes flies directly in the face of the voter's intent. The industry stated during questioning from the Senate Finance Committee that they had no intention of writing 1 million checks for $10 or $15 to each passenger that came to Alaska and paid a separate head tax to a community that opted out of the statewide program. They admitted they would offer an onboard "credit." In other words, the passengers would be charged the fee, the money would come to the State, and the State would give those funds to the cruise lines who would then offer the passenger a credit for a drink or a portion of their bill in one of the ship's boutiques. Since the ships have a huge markup on their own merchandise and alcohol, the cruise lines would in fact be profiting from the imposition of the head tax. Depending upon the amount charged by the opting out communities, the cruise lines could end up pocketing 20% or more of the head tax charged to the passengers. I challenge anyone to assert that this would accurately interpret the voter's intent when the ballot measure was approved by more than 81,000 Alaskans last August.

The Legislature would do a great disservice to the people of Alaska by not giving the new cruise industry rules a chance to work. SB168 is a seriously flawed bill in terms of public policy and constitutionality, and I respectfully urge you to deny moving it out of committee today.

Gershon Cohen Ph.D.
Responsible Cruising in Alaska
Box 956 Haines, Alaska, 99827 907-766-3005

SB 168 - The Cruise Tax Rebate Bill Is Bad State Policy

This bill before the Senate Judiciary committee today would rebate the cruise taxes approved by state voters in August, 2006. Before the tax is even collected, SB 168 gives it back.

Voters determined in August, 2006 that cruise facilities should be available to all viable ports, not waiting for the industry to give the OK. Yet SB 168 REBATES new, state cruise taxes before collection ensues, and deprives smaller Alaska ports of voter-approved funding. This is WRONG, and is bad public policy.

The argument that passenger tax funds cannot be spent is ludicrous; ships are getting bigger, more numerous, and in need of new Alaska ports of call. Towns like Juneau and Ketchikan are 'maxed-out' with 4 ships and 10,000 passengers per day, yet SB 168 denies funding to smaller & future ports to build new cruise docks and facilities. With the passage of SB 168:

Ports like Skagway, Hoonah, Whittier, Cordova, Valdez and Kodiak will never receive fair and adequate funds to build or bond for $20M Panamax docks, or for other passenger improvements allowed by federal maritime law.

Under today's cruise statutes, communities can CHOOSE to be included in the state passenger fee program, or they can impose a tax locally, as a municipality. Juneau & Ketchikan can retain their present status and bond locally, or switch to state funding. But they can't and shouldn't do both.

Importantly, under present law, they cannot "double-dip." However, SB 168 would impose a double-dip system, allowing local-tax cruise ports to charge even more against state funds, and squeeze out small, competitor ports that need full, state funding to build docks. Vote NO on SB 168; it is bad, public policy. Thank you.

Chip Thoma
Box 21884, Juneau
Cruise Initiative Supporter

SB

183

SENATOR KIM ELTON

MEMORANDUM

March 19, 2008

To: Senator Hollis French, Chair
Senate Judiciary Committee

From: Kim Elton

Re: SB 183, Restoring Public Pensions

I respectfully request a hearing on Senate Bill 183, restoring pensions to teachers, fire fighters, and other public employees.

I look forward to discussing the bill with the committee.

If you have questions about scheduling this bill, please feel free to contact Jesse Kiehl in my office.

ALASKA SENATE
STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907)-465-2108
SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

SENATOR KIM ELTON

MEMORANDUM

March 24, 2008

To: Senator Hollis French, Chair
Senate Judiciary Committee

From: Kim Elton

Re: Sectional Analysis, SB 183

Sec. 1 Updates the definition of a retirement "plan" in the teachers' retirement system to remove references to the DC plan repealed by the bill.

Sec. 2 Replaces language limiting the DC plan to employees hired after July 1, 2006 with language describing the defined benefit teachers' retirement system.

Sec. 3 Adjusts a reference for the purpose of applying existing law to teachers who elect to remain in the former DC plan, repealed by the bill.

Secs. 4 and 5 Allow the Alaska Retirement Management Board to adjust pension payments for inflation when the financial condition of the TRS trust fund permits, by removing the 105 percent minimum funding ratio.

Sec. 6 Adjusts a reference for the purpose of applying existing law to teachers who elect to remain in the former DC plan, repealed by the bill.

Secs. 7 through 11 Adjust references for the purpose of applying existing law to teachers and public employees who elect to remain in the former DC plan, repealed by the bill. Sec. 9 also corrects a drafting error in SB 123.

Sec. 12 Adjusts a reference to ensure the Alaska Retirement Management Board continues oversight of the health reimbursement arrangement portion of the former DC plan, repealed by the bill.

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SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

Secs. 13 through 22 Adjust references for the purpose of applying existing law to teachers and public employees who elect to remain in the former DC plan, repealed by the bill.

Sec. 23 Updates the definition of a retirement "plan" in the public employees' retirement system to remove references to the DC plan repealed by the bill.

Sec. 24 Updates the definition of a retirement "system" in the public employees' retirement system to remove references to the DC plan repealed by the bill.

Sec. 25 Replaces language limiting the DC plan to employees hired after July 1, 2006 with language describing the defined benefit public employees' retirement system.

Secs. 26 and 27 Delete language allowing employers who terminate participation in the defined benefit plan to participate in the defined contribution plan.

Sec. 28 Allows the Alaska Retirement Management Board to adjust pension payments for inflation when the financial condition of the PERS trust fund permits, by removing the 105 percent minimum funding ratio.

Sec. 29 Adjusts a reference for the purpose of applying existing law to public employees who elect to remain in the former DC plan, repealed by the bill.

Sec. 30 Repeals the defined contribution retirement systems for both teachers and other public employees.

Sec. 31 Gives employees hired into the defined contribution plans who have not refunded out of those plans a 90-day period from the effective date of the bill to convert into PERS tier III or TRS tier II, as appropriate.

Sec. 32 Governs the conversion election in Sec. 31 and allows the Alaska Retirement Management Board to adopt regulations related to the conversion. The choice to convert is irrevocable, and certain information must be provided. Employees who transfer get credited service in the defined benefit plan equal to the lesser of the employee's actual service or the actuarially calculated value of the employer and employee money transferred from the defined contribution account.

Sec. 33 Allows the Commissioner of Administration to adopt regulations to implement and make specific the bill's provisions.

Sec. 34 Instructs the Revisor of Statutes to submit a bill via the Legislative Council to make technical or clarifying changes, if needed.

Sec. 35 Allows the ARM Board and the Commissioner of Administration to adopt regulations under sections 32 and 33 immediately.

AARP Alaska

March 26, 2008

The Honorable Hollis French, Chair
Senate Judiciary Committee
Alaska State Capitol, Room 417
Juneau, Alaska 99801-1182

RE: SB 183 (Elton)--Support

Dear Chair French:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Judiciary Committee to support SB 183, authored by Senator Kim Elton and co-sponsored by Senators McGuire, Wielechowski and Ellis.

Lifetime financial security is a cornerstone of the American dream: if you work hard and follow the rules, you will be able to retire without financial worries. For most Alaskans, Social Security forms the base of a secure retirement and it is augmented by pensions, IRA's, 401-K's and savings. However few of our teachers or state and municipal employees participate in Social Security. Our defined benefit pensions under TRS and PERS were a stable substitute for Social Security. You cannot outlive Social Security. You cannot outlive a defined benefit pension.

Alaskans who make it to 65 have to prepare financially for a long time in retirement. Of all the women who reach age 65, 29% will also reach age 90. Eighteen percent of men who reach age 65 will also reach age 90.

Our newly hired public employees will only have the defined contribution plan. What will Alaska do with retired teachers, police officers and firefighters who outlive their contributions and have no defined benefit plan under PERS or TRS and do not participate in Social Security?

SB 183 will return to a system that will provide reasonable pension benefits that cannot be outlived.

3601 C Street, Suite 1420 | Anchorage, AK 99503 | toll-free 866-227-7447 | 907-341-2270 fax | toll-free 877-434-7598 TTY
Marie F. Smith, President | William D. Novelli, Chief Executive Officer | www.aarp.org/ak

We urge an "AYE" vote on SB 183.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3514).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Charlie Huggins
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Gene Therriault

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an ACS company

February 11, 2008

VIA EMAIL

Mr. Pat Shier
Director
Division of Retirement and Benefits
Department of Administration
State of Alaska
333 Willoughby Avenue
6th Floor State Office Building
Juneau, AK 99811-0208

Re: Alaska PERS and TRS
Comparison of DB versus DCR Costs

Dear Pat:

As requested, we are providing a comparison of the costs between the defined benefit (DB) plans and the Defined Contribution Retirement Plan (DCR) for the State of Alaska Teachers' Retirement System (TRS) and Public Employees' Retirement System (PERS). The results provided represent employer costs as a percent of pay for FY10 and do not include member contributions. The comparison is between the most recent tier of the DB plan (Tier 2 for TRS, Tier 3 for PERS) and the DCR Plan (Tier 3 for TRS, Tier 4 for PERS). The rates were determined using the payroll applicable to each group and are not based on total payroll.

We have provided the results under two scenarios. The first assumes that the plans are administered under the current law. The second assumes that new members may choose the plan in which they would like to become a member. Under the choice option, some adverse selection may occur and is factored into our results. Adverse selection may occur because older members are more likely to select the DB plan which would increase the normal cost rate.

RESULTS WITHOUT ADVERSE SELECTION

The following results compare the DB and DCR plans under the current law.

Teachers' Retirement System	DB Plan Tier 2	DCR Plan Tier 3
DB Plan Employer Normal Cost Rate	2.70%	N/A
DC Employer Contribution Rate	N/A	7.00%
Occupational Death and Disability Normal Cost Rate	N/A	0.56%*
Medical Normal Cost Rate	5.81%	0.99%*
HRA Contribution Rate	N/A	3.00%
Total	**8.51%**	**11.55%**

*Based on estimates as of June 30, 2005. Updated results as of June 30, 2007 will be ready in the next few weeks.

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Public Employees' Retirement System (All)	DB Plan Tier 3	DCR Plan Tier 4
DB Plan Employer Normal Cost Rate	3.05%	N/A
DC Employer Contribution Rate	N/A	5.00%
Occupational Death and Disability Normal Cost Rate	N/A	0.67%*
Medical Normal Cost Rate	7.37%	0.99%*
HRA Contribution Rate	N/A	3.00%
Total	**10.42%**	**9.66%**

*Based on estimates as of June 30, 2005. Updated results as of June 30, 2007 will be ready in the next few weeks.

RESULTS WITH ADVERSE SELECTION

The following results compare the DB and DCR plans assuming the members may choose which plan to participate.

Teachers' Retirement System	DB Plan Tier 2	DCR Plan Tier 3
DB Plan Employer Normal Cost Rate	2.70%	N/A
DC Employer Contribution Rate	N/A	7.00%
Occupational Death and Disability Normal Cost Rate	N/A	0.56%*
Medical Normal Cost Rate	5.81%	0.99%*
HRA Contribution Rate	N/A	3.00%
Adverse Selection**	0.34%	N/A
Total	**8.85%**	**11.55%**

*Based on estimates as of June 30, 2005. Updated results as of June 30, 2007 will be ready in the next few weeks.
**We have estimated the affect of adverse selection and loaded the contribution rate by 2%.

Public Employees' Retirement System (All)	DB Plan Tier 3	DCR Plan Tier 4
DB Plan Employer Normal Cost Rate	3.05%	N/A
DC Employer Contribution Rate	N/A	5.00%
Occupational Death and Disability Normal Cost Rate	N/A	0.67%*
Medical Normal Cost Rate	7.37%	0.99%*
HRA Contribution Rate	N/A	3.00%
Adverse Selection**	0.35%	N/A
Total	**10.77%**	**9.66%**

*Based on estimates as of June 30, 2005. Updated results as of June 30, 2007 will be ready in the next few weeks.
**We have estimated the affect of adverse selection and loaded the contribution rate by 2%.

Due to recent favorable healthcare experience, the cost of the TRS DB plan is less than the TRS DCR plan under both scenarios. The PERS DB plan also had favorable healthcare experience recently; however, the lower DC employer contribution rate keeps the cost of the PERS DCR plan lower than the DB plan.

As discussed, there are other factors to consider, not just cost, when comparing the DB and the DCR plans. One of the fundamental differences between a defined benefit and defined contribution plan is who bears the risk. The risk, whether investment risk or mortality risk, is borne by the employer in a DB plan. This risk causes volatility over the short-term in determining the annual cost that will sufficiently meet the long-term benefit obligation. The employer contribution rates for the DB plan shown in this letter represent the expected long-term cost of the DB plan benefits. When experience is different than assumed from one year to the next, hence short-term volatility, the employer contribution rates change. The employer contribution rates in the DCR plan are not subject to this short-term volatility since the members bear the risk. As a result, employer contribution rates are stable and not subject to volatility.

DATA, ASSUMPTIONS, METHODS AND PROVISIONS

The data, assumptions, plan provisions and methods used for the DB plan costs are described in the actuarial valuation reports as of June 30, 2007. The postretirement healthcare and occupational death and disability rates shown for the DCR plan costs are estimates based on the June 30, 2005 data on the most recent tier of the DB plans. The assumptions, methods and provisions used for the DCR plan costs are the same as those outlined in our previous letter sent to Melanie Millhorn on May 24, 2006. The actual FY10 DCR rates will be finalized in the next few weeks.

Please let me know if you have any questions or if we can be of further assistance.

Sincerely,

David H. Slishinsky

David H. Slishinsky, ASA, EA, MAAA
Principal, Consulting Actuary

Michelle Reding DeLange

Michelle Reding DeLange, FSA, EA, MAAA
Director, Retirement Actuary

/mlp

c: Mr. Kevin Worley, State of Alaska
Mr. Joe Cooper, Buck Consultants
Mr. Chris Hulla, Buck Consultants

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February 1, 2008

VIA EMAIL

Mr. Pat Shier
Director
Division of Retirement and Benefits
Department of Administration
State of Alaska
333 Willoughby Avenue
6th Floor State Office Building
Juneau, AK 99811-0208

Re: Projected Employer Contributions from FY09 through FY14 for DB Plans, DCR Plans and Choice

Dear Pat:

As requested, we have calculated the expected change in employer contributions from FY09 through FY14 for members hired after June 30, 2006 if current members of the Defined Contribution Retirement Plan (DCR) and future new hires are offered a choice between the defined benefit (DB) plan or DCR plan for the State of Alaska Teachers' Retirement System (TRS) and Public Employees' Retirement System (PERS).

The results show the change in employer contributions in dollars from FY09 through FY 2014 and do not include member contributions. For PERS, contributions were split into State and Non-State amounts. The difference in contributions was developed by assuming those members that choose the DB plan will earn the most recent tier of DB benefits (Tier 2 for TRS, Tier 3 for PERS) and comparing those costs to the employer contributions required for the benefits the member would have earned in the DCR Plan (Tier 3 for TRS, Tier 4 for PERS).

We have provided the results under several scenarios varying the percentage of current DCR members and future new hires that elect to join the DB plan instead of the DCR plan. Under the choice option, we have assumed some adverse selection will occur. Adverse selection occurs when a greater portion of older members select the DB plan which increases the normal cost rate. The scenario in which 100% elect the DB plan would represent the estimated future additional employer costs if the DCR plan is repealed. Results are in the attached exhibits.

DATA, ASSUMPTIONS, METHODS AND PROVISIONS

The data used to determine the additional plan costs was based on the DCR data provided by the State during the standard data collection process and was analyzed for consistency and reasonability. The assumptions, plan provisions and methods used are described in the actuarial valuation reports as of June 30, 2007. The allocation between State and Non-State employers for PERS was based on the current payroll as of June 30, 2007. The State payroll is assumed to be the same portion of total payroll for the entire projection period.

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In order to determine future costs, we used projected payroll and applied the assumptions and plan provisions described in the actuarial valuation reports as of June 30, 2007. The assumptions were adjusted for the DCR members to reflect the benefit provisions in their plan. The total population was projected to increase at a rate of 1% per year.

To account for the adverse selection that we assume will occur when a choice between a DB and a DCR plan is offered we loaded the total normal cost rate for the DB plan by .51% of pay if 25% of the members elect the DB plan, .34% of pay if 50% elect the DB plan and .17% of pay if 75% elect the DB plan.

Please let me know if you have any questions or if we can be of further assistance.

Sincerely,

David H. Slishinsky

David H. Slishinsky, A.S.A.
Principal and Consulting Actuary

/mlp

Enclosures

c: Mr. Kevin Worley, State of Alaska
Mr. Joe Cooper, Buck Consultants
Ms. Michelle DeLange, Buck Consultants
Mr. Chris Hulla, Buck Consultants