

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 11
 Bill Version: CSHB 132(2d rls)
 (H) Publish Date: 4/29/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An act relating to the possession of
alcohol in a restricted area...and operating a vehicle..." BRU: Legal & Advocacy Svc.
 Sponsor: House Judiciary Component: Public Defender Agency
 Requester: House Rules Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	202.3	307.1	348.9	396.5	396.5	396.5
Travel	7.3	10.9	12.6	14.4	14.4	14.4
Contractual	54.0	81.0	93.9	107.1	107.1	107.1
Supplies	4.2	6.3	7.2	8.2	8.2	8.2
Equipment	18.3	5.0	5.0	5.0	2.6	2.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	286.1	410.3	467.6	531.2	528.8	528.8

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	286.1	410.3	467.6	531.2	528.8	528.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	286.1	410.3	467.6	531.2	528.8	528.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	2.5	3.0	3.5	4.0	4.0	4.0
Part-time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Page 2 for Analysis

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 Division Public Defender Agency Date/Time 04/29/01
 Approved by: Jim Duncan, Commissioner Date 4/29/01
 Agency Department of Administration

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This bill contains three major components:

The first is an increased effort at enforcement of anti-bootlegging and drug laws in rural Alaska. The Department of Public Safety (DPS) has recently received a \$1.4 million Federal appropriation for these enforcement efforts. DPS will make an interagency transfer of some of these funds to the Department of Law (DOL) to hire additional prosecutors. The prosecutors will be based in Anchorage and in Bethel. A paralegal will be added in Bethel. Legal secretaries will be added in Bethel and Anchorage.

Investigating and prosecuting bootlegging and drug delivery offenses usually involves undercover operations. Obviously, DPS and DOL will not be revealing their plans, but it can be expected that there will be extensive undercover operations. DPS and DOL will also be investigating shipments originating in Anchorage. Shipment by the U.S. Mail will be targeted in cooperation with the U.S. Postal Service.

The Public Defender Agency will need additional funding to respond to these increased enforcement efforts. Most, if not all, of the cases that will result from this effort will be prosecuted under state bootlegging and drug distribution statutes. Without adequate Public Defender Agency staff, cases coming out of this increased interdiction effort may encounter significant delays and difficulties in their process through the courts.

Based on our experience in responding to undercover operations in rural Alaska, we know that we can expect 15-25 new additional felony bootlegging and drug delivery cases to be filed per operation. (An example of an undercover operation of the type we expect to respond to occurred in Kotzebue in 1995. There were about 25 cases filed at the conclusion of the operation. See e.g. State v. Viverious, No. 2KB-95-312 CR (Alaska Sup. Sept. 8, 1995). For purposes of this fiscal note, we will estimate that there will be 20 cases per operation.

These cases will not be filed immediately. For obvious reasons, the standard practice is to complete the whole undercover operation and then file all the court cases at one time. However, we expect that the enforcement efforts in Anchorage will start immediately.

Obviously, we can only guess at the number of undercover operations that will be initiated. But given the amount of Federal funds that are available, the most conservative estimate we can arrive at is that at least seven operations will be completed by the end of FY 2002. This will result in an additional 140 cases being filed. The Public Defender Agency is usually appointed in 90% of rural cases. 90% of the cases is 126 new cases.

As far as the Anchorage enforcement operations are concerned, we estimate that at least 25 new additional felony cases will be filed in FY 2002. We predict we will be appointed in 80% of these cases, resulting in 20 new cases.

Therefore, the total of new additional cases will be about 146. According to national standards, a public defender attorney should be assigned to no more than 150 new felony cases per year. Therefore, we are requesting one additional attorney to be based in Bethel. Because we do not expect the rural Alaska cases to be filed until six months have passed, we are requesting only half of the funding in FY 2002. The funding includes one-time equipment costs and clerical support. The cost in Fiscal Year 2002 is \$84.7, and in succeeding years \$156.8.

The second component of the bill would lower the threshold blood alcohol level for Driving While Intoxicated (DWI) from .10 to .08. It also lowers the threshold presumptive level for impaired driving from .05 to .04. This bill would result in an increase in the number of new criminal cases the Public Defender Agency is appointed to handle.

CSHB 132(2d RLS) ANALYSIS: FN #11(continued)

The Department of Law, in its fiscal note, estimated the number of new prosecutions at 322 additional misdemeanor and 21 additional felony cases. The Public Defender Agency accepts the Department of Law's estimates. The Department of Law based its estimate on a 10 percent increase in prosecutions. This is a conservative estimate. As the Department of Law points out, experience in other states varies. But in Maine, a state similar to Alaska in many respects (smaller population, Northern climate), there was about a 20 percent increase in prosecutions. The Public Defender Agency will be appointed in about 75% of the cases. Using Department of Law's estimate, the Agency will be appointed to 242 additional misdemeanor cases and 16 additional felony cases.

We will need one additional full-time attorney to handle this increased caseload. Because our Palmer office handles a significant number of DWI cases and has the largest caseload growth in recent years, we will place the attorney at that office. The attorney costs include clerical support and one-time equipment costs in the first year. FY 2002 costs are \$140.6, with succeeding years' cost at \$132.9.

The third component is phasing in a 10-year "look-back" period for prior convictions for felony DUI.

This section would phase in a 10-year "look-back" for prior convictions. Again, the Public Defender Agency accepts the Department of Law's estimate of the number of new cases that would result from this change in the law. As above, we estimate that we will be appointed in about 75% of these cases. The end result is that by FY06, the Public Defender Agency will have an increased caseload of 182 felony DUIs. We will eventually need two additional attorneys to handle this caseload. Because the effect of this provision will be felt beginning in FY02 and, we will add a half-time attorney in Anchorage in FY02, add a half-time attorney in Palmer in FY03, make the half-time attorney in Anchorage full time in FY04, and add a half-time attorney in Fairbanks in FY05. Fiscal Year 2002 cost is 60.8, 2003 is 120.4, 2004 is 177.9, 2005 is 241.5, 2006 is 239.1, and 2007 is 239.1