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SENATE COMMITTEE REPORT

FURTHER

3/1/89

DATE TURNED INTO OFFICE 4/11/89

Mr. President:

Finance

Committee considered SB 94

limiting liability for certain activities of the Alaska National Guard  
and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS SB 94 (Jud) )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

- FISCAL NOTE(S)  <sup>New</sup> zero  fiscal impact  appropriation no FN
- new  updated  previous DM 4 UA (50.0)
- same as previous fiscal note(s) published 3/1/89

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

Aearce

Paul Frick

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[Signature]  
Chairman signature and recommendation

Committee Backup attached

[Signature] CO-CHAIR

[Signature]

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: An act limiting liabilities for BRU: Risk Management  
activities of the Alaska National Guard  
 Sponsor: Rules Committee Components: \_\_\_\_\_  
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The fiscal benefit is difficult to project because State retentions (deductibles) have varied in past years and this legislation applies only to future claims. The Division of Risk Management would reduce costs of insurance allocations to the Department of Military and Veterans Affairs by \$50.0. However, since this exposure represents only a small portion of total State exposures, it is unlikely that total cost of risk to the State would be immediately affected. Certainly passage of this bill might save considerable defense costs should claims occur in the future.

Prepared By: Donald J. Hitchcock Phone: 465-2180  
 Division: Risk Management Date: \_\_\_\_\_

Approved by Commissioner: John M. Andrews Date: 3/6/89  
 Agency: Department of Administration

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

**FISCAL NOTE**

**REQUEST:**

Revision Date: February 28, 1989  
Title: An Act limiting liability for activities of the Alaska National Guard  
Sponsor: Sen. Judiciary  
Requestor: Sen. Judiciary

Agency Affected: Military & Veterans Affairs  
BRU: Alaska National Guard  
Components: Office of the Adjutant General

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>(50.0)</b>	<b>(50.0)</b>	<b>(50.0)</b>	<b>(50.0)</b>	<b>(50.0)</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Passage of this bill will reduce the civil liability exposure of the State of Alaska. This reduction in exposure will be reflected by a reduction in the insurance costs charged to DMVA by the Division of Risk Management.

Prepared by: Jeff Morrison  
Division: Administrative & Support Services, DMVA

Phone: 465-4600  
Date: February 28, 1989

Approved by *for* Commissioner MG John Schaeffer  
Agency: Department of Military & Veterans Affairs

Date: February 28, 1989

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Offered: 3/1/89  
Referred: Rules

740 SFC 4-11-89  
go0229sE

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 94 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act limiting civil liability for certain activ-  
7 ities of the Alaska National Guard."

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

9 \* Section 1. AS 26.05 is amended by adding a new section to read:

10 Sec. 26.05.145. IMMUNITY FROM CIVIL LIABILITY. The state, an  
11 employee or representative of the state, and an individual member of  
12 the Alaska National Guard are not civilly liable for damages arising  
13 from Alaska National Guard activities of a member of the Alaska  
14 National Guard while acting as an employee of the government. In this  
15 section, "employee of the government" has the meaning given in  
16 28 U.S.C. 2671 (Federal Tort Claims Act).

17

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 9, 1989

The Honorable Tim Kelly  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

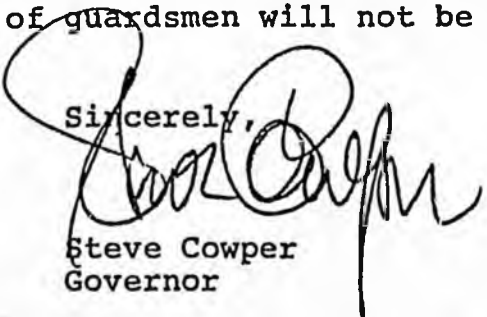
Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to liability immunity of the state, its employees and agents, and members of the Alaska National Guard.

While training or on duty under federal mandate, the state national guards are performing a United States Government activity. Nevertheless, there have been occasions in which states, rather than the United States, have been exposed to tort liability for injuries or damage resulting from federally mandated guard activities.

In 1981, Congress amended 28 U.S.C. 2671 by adding to the definition of "employees of the government" members of the National Guard while training or on duty under federal order under 32 U.S.C. The effect of this amendment was to clarify that the United States considers the Guard as a federal function during 32 U.S.C. activities and that claims for injuries resulting from such activities could be pursued under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In spite of this change in the law, there are rare occasions when the state remedy is preferred by an injured third party, who consequently will file a claim for damages in state court on the basis of state law. This bill will prevent suits of this nature, and assure that persons injured or property damaged as a result of federally mandated and controlled Guard activities will be required to seek damages from the United States Government. Existing worker's compensation coverage of guardsmen will not be affected by this bill.

Sincerely,

  
Steve Cowper  
Governor

*Transmittal Letter*

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An act limiting liabilities for activities of the Alaska National Guard  
Sponsor: Rules Committee  
Requestor: Governor

Agency Affected: Dept. of Military & Veterans Affairs  
BRU: Alaska National Guard *Risk Management*  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
<b>OTHER</b>	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
TOTAL	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

*OTHER FUNDS (interagency receipts)*

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The fiscal benefit is difficult to project because the State insurance deductible has varied, also this legislation would apply only to future claims. There could, however, be rather substantial savings in claims defense costs.

Prepared By: Donald J. Hitchcock  
Division: Risk Management

Phone: 465-2180

Date: 12-19-88

Approved by Commissioner: John M. Andrews

Date: 12-19-88

Agency: Department of Administration

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

*Updated by 3-6-89 note.*

### FISCAL NOTE

**REQUEST:**

Revision Date: December 22, 1988  
 Title: An Act limiting liability for activities of the Alaska National Guard  
 Sponsor: Rules Committee  
 Requestor: Governor

Agency Affected: Military & Veterans Affairs  
 BRU: Alaska National Guard  
 Components: Office of the Adjutant General

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

*GENERAL FUNDS*

<b>GENERAL FUND</b>		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Passage of this bill will reduce the civil liability exposure of the State of Alaska. This reduction in exposure will be reflected by a reduction in the insurance costs charged to DMVA by the Division of Risk Management.

Prepared by: Jeff Morrison Phone: 465-4600

Division: Administrative & Support Services, DMVA Date: 12/21/88

Approved by *J. Morrison for* Commissioner: MG John Schaeffer Date: 12/21/88

Agency: Department of Military & Veterans Affairs

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)