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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 59
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DPS
 Title PFD Ineligibility for DUI BRU Statewide Support
 Component APSIN
 Sponsor Senator Cowdery
 Requester Senate Judiciary Component No. 528

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

No fiscal impact to the department.

Prepared by: Diane Schenker, Criminal Justice Info Services Manager Phone (907) 269-5092
 Division Administrative Services Date/Time 2/26/03 9:11 AM
 Approved by: William Tandeske, Commissioner Date 2/26/2003
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 59(JUD)
 (j) Publish Date: _____

Revision Date/Time (Note if correction): 3/11/03 8:15am Dept. Affected: Environmental Conservation
 Title An Act Relating to Evaluation and BRU Spill Prevention and Response
Cleanup of Illegal Drug Sites Component Prevention and Emergency Response
 Sponsor Rep. Holm
 Requester House Finance Component No. 2064

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	25.0	7.0	7.0	7.0	7.0	7.0
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	30.0	12.0	12.0	12.0	12.0	12.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	30.0	12.0	12.0	12.0	12.0	12.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	30.0	12.0	12.0	12.0	12.0	12.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

This revised fiscal notes changes the funding source from respose funds to general funds. These activities are not considered to be response fund eligible. The evaluation and cleanup process for illegal drug sites proposed in this bill will require the Department to develop health standards, sampling protocols, analytical methods, and decontamination guidelines for lead, mercury, volatile organic compounds, and methamphetamines. The Department may also determine whether additional substances pose a substantial risk and include such substances in the guidelines development. In the first year funds will be used for the initial guidelines development. In the out years funds will be used to review and update the standards and protocols, and provide for the development of additional standards for compounds that may be added to the list of substances covered under this legislation. An addition of one compound per year is assumed.

Prepared by: Larry Dietrick, Director
 Division Division of Spill Prevention and Response
 Approved by: Kurt Fredriksson
 Agency Department of Environmental Conservation

Phone 465-5255
 Date/Time 3/11/03 8:21 AM
 Date 3/11/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 59(JUD)

ANALYSIS CONTINUATION

Continuation from Page 1

The Department will maintain a list of laboratories, a list of contaminated properties, and develop the proposed regulations using existing staff resources, and will contract for compound analysis and guidelines development. Once a property owner has certified to the Department that a site has been cleaned up in accordance with the Department's guidelines, the property will be removed from the list. It is assumed that the Department will not be undertaking any independent verification of laboratories or of the property owner's certification.

In preparing this fiscal note, the Department has assumed that the expected number of contaminated sites requiring evaluation and cleanup would be approximately 20 a year based on actual numbers of 13 sites last year and 25 the year before. Additionally, it is assumed that standards and cleanup guidance documents from other states can be used as templates.

Line Item Description	FY 2004	FY 2005	FY 2006	FY 2007	FY2008	FY2009
Personal Services	\$0	\$0	\$0	\$0	\$0	\$0
Travel	\$0	\$0	\$0	\$0	\$0	\$0
Contractual						
• Analytical Methods	\$4,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
• Health Standards	\$4,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
• Sampling protocols	\$7,000	\$1,750	\$1,750	\$1,750	\$1,750	\$1,750
• Decontamination guidelines	\$9,000	\$2,250	\$2,250	\$2,250	\$2,250	\$2,250
• Additional substance analysis	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Subtotal:	\$25,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
Supplies						
• Copies of regulations and guidance	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Equipment	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$30,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000

SENATOR
JOHN J. COWDERY
Anchorage

Committees
Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council



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State Capitol, Suite 101
Juneau, Alaska 99801-1182
Tel: 907-465-3879
Toll Free: 888-269-3879
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May - December:
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Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT SB59

"An act relating to permanent fund dividend program notice requirements and to the ineligibility ... of certain persons sentenced for driving while under the influence ... or for refusing to submit to a chemical test."

Each year hundreds of Alaskans fall victim to drivers who are drunk or under the influence of other substances.

The purpose of SB59 is to add a conviction for driving while under the influence (DUI), or refusing to take a chemical test, to the list of existing conditions that make a person ineligible for a permanent fund dividend.

A first offense brings a one-year suspension of the PFD.

A second offense brings a five-year suspension of the PFD.

This means the dividend cannot be used to offset fines or debts. Instead the offender is simply ineligible for the dividend. Which leaves the dividend amount in the overall pot to be equally distributed among eligible Alaskans.

Because a permanent fund dividend is not a right, but a privilege, these penalties fall above and beyond all other penalties currently provided for by law.

In the year 2001 alone there were 1146 alcohol related accidents (36 fatal crashes, 506 nonfatal injury crashes and 604 crashes that resulted in only property damage). There were 85 total traffic deaths and 50% of those were alcohol related. An estimated 2800 people were involved in these crashes and that's obviously a large rise from say the year 1983 when there we no injuries recorded.

SB59 is constructed to give back to those who want to make Alaska's streets safer and raise the awareness that Drinking and Driving will not be accepted.

23-LS0377\D
Cook
2/27/03

CS FOR SENATE BILL NO. 59()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to permanent fund dividend program notice requirements and to the
2 ineligibility for permanent fund dividends of certain persons sentenced for driving while
3 under the influence of an alcoholic beverage, inhalant, or controlled substance, or for
4 refusal to submit to a chemical test."

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

6 * Section 1. AS 43.23.005(g) is amended to read:

7 (g) For purposes of applying (d)(1) and (i) of this section, the date the court
8 imposes a sentence or suspends the imposition of sentence shall be treated as the date
9 of conviction. For purposes of applying (d)(2)(B) and (i)(2) of this section, multiple
10 convictions arising out of a single criminal episode shall be treated as a single
11 conviction.

12 * Sec. 2. AS 43.23.005 is amended by adding a new subsection to read:

13 (i) Notwithstanding the provisions of (a) - (c) of this section, an individual is
14 not eligible for a permanent fund dividend for a dividend year when,

1 (1) during the qualifying year, the individual was sentenced as a result
2 of conviction in this state of the offense of

3 (A) driving while under the influence of an alcoholic beverage,
4 inhalant, or controlled substance under AS 28.35.030 or under a municipal
5 ordinance with similar elements; or

6 (B) refusal to submit to a chemical test under AS 28.35.032 or
7 under a municipal ordinance with similar elements; or

8 (2) during the qualifying year or the four years immediately before that
9 qualifying year, the individual was sentenced as a result of conviction in this state of
10 the offense of

11 (A) driving while under the influence of an alcoholic beverage,
12 inhalant, or controlled substance under AS 28.35.030 or under a municipal
13 ordinance with similar elements if the individual has been convicted of a prior
14 offense under AS 28.35.030 or 28.35.032, or under a municipal ordinance with
15 elements similar to AS 28.35.030 or 28.35.032; or

16 (B) refusal to submit to a chemical test under AS 28.35.032 or
17 under a municipal ordinance with similar elements if the individual has been
18 convicted of a prior offense under AS 28.35.030 or 28.35.032, or under a
19 municipal ordinance with elements similar to AS 28.35.030 or 28.35.032.

20 * Sec. 3. AS 43.23.028(a) is amended to read:

21 (a) By October 1 of each year, the commissioner shall give public notice of
22 the value of each permanent fund dividend for that year and notice of the information
23 required to be disclosed under (3) of this subsection. In addition, the stub attached to
24 each individual dividend check and direct deposit advice must

25 (1) disclose the amount of each dividend attributable to income earned
26 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
27 Constitution of the State of Alaska;

28 (2) disclose the amount of each dividend attributable to income earned
29 by the permanent fund from appropriations to that fund and from amounts added to
30 that fund to offset the effects of inflation;

31 (3) disclose the amount by which each dividend has been reduced due

1 to each appropriation from the dividend fund, including amounts to pay the costs of
2 administering the dividend program and the hold harmless provisions of
3 AS 43.23.075;

4 (4) include a statement that an individual is not eligible for a dividend
5 when,

6 (A) during the qualifying year, the individual was convicted in
7 this state of

8 (i) a felony;

9 (ii) the offense of driving while under the influence
10 of an alcoholic beverage, inhalant, or controlled substance under
11 AS 28.35.030 or under a municipal ordinance with similar
12 elements; or

13 (iii) the offense of refusal to submit to a chemical test
14 under AS 28.35.032 or under a municipal ordinance with similar
15 elements;

16 (B) during all or part of the qualifying year, the individual was
17 incarcerated as a result of the conviction in this state of a

18 (i) felony; or

19 (ii) misdemeanor if the individual has been convicted of
20 a prior felony or two or more prior misdemeanors; or

21 (C) during the qualifying year or the four years
22 immediately before that qualifying year, the individual was sentenced as a
23 result of conviction in this state of the offense of

24 (i) driving while under the influence of an alcoholic
25 beverage, inhalant, or controlled substance under AS 28.35.030 or
26 under a municipal ordinance with similar elements if the individual
27 has been convicted of a prior offense under AS 28.35.030 or
28 28.35.032, or under a municipal ordinance with elements similar to
29 AS 28.35.030 or 28.35.032;

30 (ii) refusal to submit to a chemical test under
31 AS 28.35.032 or under a municipal ordinance with similar

1 elements if the individual has been convicted of a prior offense
2 under AS 28.35.030 or 28.35.032, or a municipal ordinance with
3 elements similar to AS 28.35.030 or 20.35.032;

4 (5) include a statement that the legislative purpose for making
5 individuals listed under (4) of this subsection ineligible is to

6 (A) obtain reimbursement for some of the costs imposed on the
7 state criminal justice system related to incarceration or probation of those
8 individuals;

9 (B) provide funds for services for and payments to crime
10 victims and for grants for the operation of domestic violence and sexual assault
11 programs;

12 (6) disclose the total amount that would have been paid during the
13 previous fiscal year to individuals who were ineligible to receive dividends under
14 AS 43.23.005(d) if they had been eligible;

15 (7) disclose the total amount appropriated for the current fiscal year
16 under (b) of this section for each of the funds and agencies listed in (b) of this section.

17 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY. The amendments made by secs. 1 and 2 of this Act apply only to
20 individuals convicted of offenses under AS 28.35.030 or 28.35.032, or under a municipal
21 ordinance with elements similar to AS 28.35.030 or 28.35.032, committed after December 31,
22 2003. Convictions for offenses committed before January 1, 2004, may not be considered in
23 determining prior convictions for purposes of applying AS 43.23.005(i)(2), added by sec. 2 of
24 this Act.

23-LS0377\H
Cook
4/2/03

CS FOR SENATE BILL NO. 59()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to permanent fund dividend program notice requirements and to the
2 ineligibility for permanent fund dividends of certain persons sentenced for driving while
3 under the influence of an alcoholic beverage, inhalant, or controlled substance, or for
4 refusal to submit to a chemical test."

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

6 * Section 1. AS 43.23.005(g) is amended to read:

7 (g) For purposes of applying (d)(1) and (i) of this section, the date the court
8 imposes a sentence or suspends the imposition of sentence shall be treated as the date
9 of conviction. For purposes of applying (d)(2)(B) and (i)(2) of this section, multiple
10 convictions arising out of a single criminal episode shall be treated as a single
11 conviction.

12 * Sec. 2. AS 43.23.005 is amended by adding a new subsection to read:

13 (i) Notwithstanding the provisions of (a) - (c) of this section, an individual is
14 not eligible for a permanent fund dividend for a dividend year when,

1 (1) during the qualifying year, the individual was sentenced as a result
2 of conviction in this state of the offense of

3 (A) driving while under the influence of an alcoholic beverage,
4 inhalant, or controlled substance under AS 28.35.030 or under a municipal
5 ordinance with similar elements; or

6 (B) refusal to submit to a chemical test under AS 28.35.032 or
7 under a municipal ordinance with similar elements; or

8 (2) during the qualifying year or the four years immediately before that
9 qualifying year, the individual was sentenced as a result of conviction in this state of
10 the offense of

11 (A) driving while under the influence of an alcoholic beverage,
12 inhalant, or controlled substance under AS 28.35.030 or under a municipal
13 ordinance with similar elements if the individual has been convicted of a prior
14 offense under AS 28.35.030 or 28.35.032, r under a municipal ordinance with
15 elements similar to AS 28.35.030 or 28.35.032; or

16 (B) refusal to submit to a chemical test under AS 28.35.032 or
17 under a municipal ordinance with similar elements if the individual has been
18 convicted of a prior offense under AS 28.35.030 or 28.35.032, or under a
19 municipal ordinance with elements similar to AS 28.35.030 or 28.35.032.

20 * Sec. 3. AS 43.23.028(a) is amended to read:

21 (a) By October 1 of each year, the commissioner shall give public notice of
22 the value of each permanent fund dividend for that year and notice of the information
23 required to be disclosed under (3) of this subsection. In addition, the stub attached to
24 each individual dividend check and direct deposit advice must

25 (1) disclose the amount of each dividend attributable to income earned
26 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
27 Constitution of the State of Alaska;

28 (2) disclose the amount of each dividend attributable to income earned
29 by the permanent fund from appropriations to that fund and from amounts added to
30 that fund to offset the effects of inflation;

31 (3) disclose the amount by which each dividend has been reduced due

1 to each appropriation from the dividend fund, including amounts to pay the costs of
2 administering the dividend program and the hold harmless provisions of
3 AS 43.23.075;

4 (4) include a statement that an individual is not eligible for a dividend
5 when,

6 (A) during the qualifying year, the individual was convicted in
7 this state of

8 (i) a felony;

9 (ii) the offense of driving while under the influence
10 of an alcoholic beverage, inhalant, or controlled substance under
11 AS 28.35.030 or under a municipal ordinance with similar
12 elements; or

13 (iii) the offense of refusal to submit to a chemical test
14 under AS 28.35.032 or under a municipal ordinance with similar
15 elements;

16 (B) during all or part of the qualifying year, the individual was
17 incarcerated as a result of the conviction in this state of a

18 (i) felony; or

19 (ii) misdemeanor if the individual has been convicted of
20 a prior felony or two or more prior misdemeanors; or

21 (C) during the qualifying year or the four years
22 immediately before that qualifying year, the individual was sentenced as a
23 result of conviction in this state of the offense of

24 (i) driving while under the influence of an alcoholic
25 beverage, inhalant, or controlled substance under AS 28.35.030 or
26 under a municipal ordinance with similar elements if the individual
27 has been convicted of a prior offense under AS 28.35.030 or
28 28.35.032, or under a municipal ordinance with elements similar to
29 AS 28.35.030 or 28.35.032;

30 (ii) refusal to submit to a chemical test under
31 AS 28.35.032 or under a municipal ordinance with similar

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elements if the individual has been convicted of a prior offense under AS 28.35.030 or 28.35.032, or a municipal ordinance with elements similar to AS 28.35.030 or 20.35.032;

(5) include a statement that the legislative purpose for making certain individuals listed under (4) of this subsection ineligible is to

(A) obtain reimbursement for some of the costs imposed on the state criminal justice system related to incarceration or probation of those individuals;

(B) provide funds for services for and payments to crime victims and for grants for the operation of domestic violence and sexual assault programs;

(6) disclose the total amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had been eligible;

(7) disclose the total amount appropriated for the current fiscal year under (b) of this section for each of the funds and agencies listed in (b) of this section.

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The amendments made by secs. 1 and 2 of this Act apply only to individuals convicted of offenses under AS 28.35.030 or 28.35.032, or under a municipal ordinance with elements similar to AS 28.35.030 or 28.35.032, committed after December 31, 2003. Convictions for offenses committed before January 1, 2004, may not be considered in determining prior convictions for purposes of applying AS 43.23.005(i)(2), added by sec. 2 of this Act.

ALASKA STATE LEGISLATURE
SENATE DISTRICT 0

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John J. Cowdery
Senate Rules, Chair
Senate Transportation Committee, Chair
World Trade State & Federal Relations, Chair
State Affairs, Legislative Council

February 6, 2003

The Honorable Ralph Seekins, Chair
Senate Judiciary Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, AK 99801

RE: SB 59 (Ineligibility for PFD of certain persons sentenced for driving under the influence or for refusing to submit a chemical test)

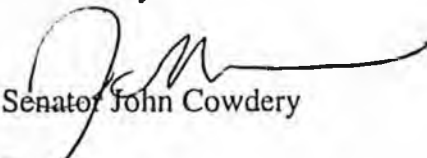
Dear Senator Seekins,

Senate Bill 59 was introduced February 5, 2003 and referred to your committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

Included with this letter of request are the bill and my sponsor statement. Other supporting documents may be forthcoming.

If you have any questions about the bill or require further information please feel free to call me at any time. Thank you for the consideration of this request.

Yours truly,


Senator John Cowdery

Enclosures

SENATOR
JOHN J. COWDERY
Anchorage

Committees
Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council



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Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT SB59

"An act relating to permanent fund dividend program notice requirements and to the ineligibility ... of certain persons sentenced for driving while under the influence ... or for refusing to submit to a chemical test."

Each year hundreds of Alaskans fall victim to drivers who are drunk or under the influence of other substances.

The purpose of SB59 is to add a conviction for driving while under the influence (DUI), or refusing to take a chemical test, to the list of existing conditions that make a person ineligible for a permanent fund dividend.

A first offense brings a one-year suspension of the PFD.

A second offense brings a five-year suspension of the PFD.

This means the dividend cannot be used to offset fines or debts. Instead the offender is simply ineligible for the dividend. Which leaves the dividend amount in the overall pot to be equally distributed among eligible Alaskans.

Because a permanent fund dividend is not a right, but a privilege, these penalties fall above and beyond all other penalties currently provided for by law.

In the year 2001 alone there were 1146 alcohol related accidents (36 fatal crashes, 506 nonfatal injury crashes and 604 crashes that resulted in only property damage). There were 85 total traffic deaths and 50% of those were alcohol related. An estimated 2800 people were involved in these crashes and that's obviously a large rise from say the year 1983 when there were no injuries recorded.

SB59 is constructed to give back to those who want to make Alaska's streets safer and raise the awareness that Drinking and Driving will not be accepted.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 59
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Ineligibility for DUI BRU Child Support Division
 Component Child Support Division
 Sponsor Senator Cowdery
 Requester Senate Judiciary Committee Component No. 111

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would amend statute to add convictions for driving under the influence of an alcoholic beverage, inhalant or controlled substance and convictions for refusing to submit to a chemical test to the list of offenses that cause an individual to lose his or her eligibility to receive the Permanent Fund dividend. The list currently includes individuals convicted or incarcerated for a felony, a third misdemeanor, or a misdemeanor with a prior felony.

From the perspective of the Child Support Enforcement Division, any legislation that diminishes the ability of the Division to garnishee dividends from delinquent parents would deny a source of funds owed to custodial parents. Unfortunately, the dividend often is the only payment collected for some parents all year, and the dividend is the single largest source of collections for the Child Support Division (almost 15% of total annual collections in recent years). The more Alaskans added to the list of ineligible applicants for the dividend, the fewer dividends the Division can collect. By statute, child support takes first priority over all other garnishments against a dividend.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 2/16/03 1.35 PM
 Approved by: Larry Persily, Deputy Commissioner Date 2/16/2003
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 59
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: ... ineligibility for permanent fund dividends of BRU Civil Division
certain persons sentenced for driving while under the influence ... Component Collections and Support
Sponsor: Senato Cowdery
Requester: Senate Judiciary Committee Component No. 2210

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (GF/Prog Rcpts)			(*****)	(*****)	(*****)	(*****)
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The collections unit of the Department of Law is responsible for collecting civil and criminal judgments owed to the State of Alaska, and beginning in January 2002, restitution on behalf of victims of all types of crimes (violent, non-violent, and property crimes) and delinquent acts. Criminal judgments include criminal fines, costs of incarceration, costs of appointed counsel, forfeited bonds, minor offense fines, and costs related to those fines. Civil judgments include cost and attorney fees awarded to the state in civil litigation, and APOC and OSHA penalties.

Approximately two-thirds of the state revenue generated by the unit is deposited in the general fund. The remaining revenue is appropriated as general fund program receipts both to support DUI incarceration and court appointed counsel programs, and to pay for the collections unit. Restitution revenue is paid to victims.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 2/18/03 2:50 PM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 2/18/2003
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 59

ANALYSIS CONTINUATION

The unit's primary collection tool is the permanent fund dividend attachment. Historically, over 85 percent of the unit's collections each year are received through the attachment of defendants' permanent fund dividends. During FY 02, the unit collected \$3,574,907 of which \$2,960,210 was through the dividend attachment. Although the unit may use other collection tools, such as wage withholding or attachment of funds in bank accounts, most of the judgments that the unit collects are simply not large enough to justify the cost of such collection actions. The cost of collection would exceed the amount collected. To succeed, the unit must be able to collect a high volume of relatively small judgments. The only cost-effective way to do this is through the electronic attachment process used for the permanent fund dividend attachment. As a practical matter, if the permanent fund dividend cannot be attached, most of these judgments would be uncollectible when the cost of collection is factored in the equation.

Because of the unit's reliance on the attachment of dividends, a bill that removes persons from eligibility for the permanent fund dividend will adversely affect the unit's collections. SB 59 will affect most significantly the collection of judgments for costs of incarceration which are almost exclusively limited to persons convicted of driving while under the influence under AS 28.35.030, but it will also affect the collection of fines and other judgments owed by such persons, including restitution owed to victims of these defendants.

The bill will delay the collection of such judgments for one year if the defendant has no prior convictions for this type of offense and for four years if the defendant has been convicted previously for a similar offense. Thus, the impact on collections will be attributable primarily to the delay. The unit has found that the earlier the collection proceedings begin the more likely the judgment will be collected. Over time, defendants leave Alaska, die, are incarcerated for new crimes, or incur debts with a higher priority under the dividend priority scheme. Thus, debts that the unit could have collected during the first year or two after the defendant is released from jail may be uncollectible after the one-year or four-year delay imposed by the bill.

It is extremely difficult to estimate the impact of this bill on the unit's collections. The impact will be masked initially because during the first year or two after the bill takes effect, the unit will be collecting judgments that pre-date the bill's effective date. These earlier judgments will be unaffected by the bill's restrictions because the bill applies only to defendants convicted of crimes committed after December 31, 2003. As collections continue on older judgments, the effect of the bill will be limited. In addition, the current law precludes defendants from receiving a dividend while incarcerated. In these cases, the unit would be unable to collect the judgment until the defendant was released from jail anyway. Thus, the unit will not begin to feel the effect of the bill until these new defendants begin to be released from incarceration. At that point, we should see a sharp drop in collections, as the old judgments are paid off and the new judgments are not collectible because the defendants are ineligible for the dividend.

As illustrated in the above discussion, there are many variables that will affect the actual loss in collections related to this bill over time. There can be no doubt that the provisions of SB 59 will reduce the collections of criminal fines, restitution for crime victims, and other judgments owed to the state. The actual amount of the reduction, however, cannot be determined at this time.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 59
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Ineligibility for DUI BRU Revenue Operations
 Component Permanent Fund Dividend
 Sponsor Senator Cowdery
 Requester Senate Judiciary Committee Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 2/16/03 1:10 PM
 Approved by: Larry Persily, Deputy Commissioner Date 2/16/2003
 Agency Department of Revenue

Department of Revenue

This legislation would amend AS 43.23.005(d) and AS 43.23.028(a) to add convictions for driving while under the influence of an alcoholic beverage, inhalant or controlled substance and convictions for the crime of refusing to submit to a chemical test to the list of offenses that cause an individual to lose his or her eligibility to receive the Alaska Permanent Fund dividend. The list currently includes individuals convicted or incarcerated for a felony, a third misdemeanor, or a misdemeanor with a prior felony.

This legislation would declare persons convicted of driving while under the influence of an alcoholic beverage, inhalant or controlled substance or convicted of refusing to submit to a chemical test ineligible for the dividend for the year after their conviction or incarceration. Second-time offenders would lose their eligibility for the dividend for five years after their conviction or incarceration.

The dividend money that otherwise would have gone to Alaskans convicted of driving while under the influence of an alcoholic beverage, inhalant or controlled substance or convicted of refusing to submit to a chemical test instead would be added to the funds already diverted from those convicted of felonies and misdemeanors and which is used to fund programs at the Department of Corrections, Department of Public Safety's Council on Domestic Violence and Sexual Assault, Crime Victim Compensation Fund, and Legislative Office of Victims' Rights.

This legislation would not affect the amount of the annual dividend.

Although it would not increase the cost of operations for the Dividend Division it likely would increase the number of appeals as some applicants would contest their denials and the Division would have to research and verify their conviction and/or incarceration records.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 59
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act related to PFD ineligibility for BRU Legal and Advocacy Services
DUI or Refusal conviction Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester (S) JUD Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: ***

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 See attached page for analysis.

Prepared by: Linda K. Wilson, Deputy Director
 Division: Public Defender Agency
 Approved by: Mike Miller, Commissioner
 Agency: Department of Administration

Phone (907)-334-4416
 Date/Time 2/19/03 9:26 AM
 Date 2/19/2003

Fiscal Note Analysis for SB 59: (continued)

This legislation would make a person convicted of DUI or Refusal ineligible for a PFD for the qualifying year they were convicted and if it was their second or subsequent offense, the person would be ineligible for five years.

The Public Defender Agency's operations may be affected by this bill. With these increased penalties for convictions for DUI and Refusal, more people charged with these offenses may choose to go to trial. This would increase the workload of the Agency. For many indigent people, the PFD is one of their primary sources of income, and when they are convicted of a crime and owe fines, restitution, surcharges, fees, and other financial obligations including child support, their PFD is often attached and used towards those amounts due. If people convicted of DUI or Refusal are ineligible for a PFD for a qualifying year, and/or four more years for repeat offenders, the dividend could not be used to offset restitution, fines, or other debts owed. If they are not able to pay restitution, fines, surcharges, or fees, whose payment is a condition of their probation or parole, and are in violation of those conditions, petitions to revoke probation or parole would be filed. This would also increase the caseload and workload of the Agency, however, it is not possible to determine the extent of that impact. The Agency represents indigent persons in both parole and probation revocations, and both may increase if this bill becomes law, but it is not possible to predict the increased number. Therefore, an indeterminate fiscal note is submitted.

LEGAL SERVICES

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

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

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

MEMORANDUM

February 19, 2003

SUBJECT: DWI: permanent fund dividend ineligibility (SB 59)

TO: Senator John Cowdery
Attn: Crystal Moore

FROM: Tamara Brandt Cook *TBC*
Director

SB 59 makes a person ineligible for a permanent fund dividend when (1) during the qualifying year the person was sentenced for DWI or refusal to submit to a chemical test; or (2) during the qualifying year or the four previous years the person was sentenced for DWI or refusal to submit to a chemical test and the person has prior convictions for either crime. Under bill section 4, the ineligibility provisions apply only to crimes committed after December 31, 2003. You ask whether the bill can be expanded to apply to prior convictions.

If the bill were expanded to disqualify people based on crimes committed before the effective date of the bill, there is a substantial likelihood that such an expansion would be struck down as an ex post facto law. However, if the bill is expanded so that past convictions are considered only for purposes of the enhanced period of ineligibility based on prior convictions, this is more likely to survive constitutional attack. The actual applicability section in SB 59 is tied to the beginning of a dividend year, rather than the effective date of the bill, for ease of administration.

The federal and state constitutions both prohibit the state from enacting ex post facto laws. (United States Constitution, art. I, sec. 10; Alaska Constitution, art. I, sec. 15) An ex post facto law is one that

- (1) makes criminal conduct that was innocent at the time that the act was performed;
- (2) aggravates a crime or makes the crime greater than at the time that it was committed;
- (3) permits imposition of a different or more severe punishment than was permissible when the crime was committed;
- (4) changes the legal rules of evidence to permit less or different testimony to convict the offender than was required when the crime was committed.

The first PFD disqualification provision under AS 43.23.005(d) was enacted in ch. 54, SLA 1991. It made ineligible for dividends felons who were incarcerated during a

current year regardless of the date of the crime that resulted in the incarceration. When it was challenged as an ex post facto law, the court upheld the provision largely because the court found that the purpose of the law was to reimburse the state for crime related costs rather than to increase punishment. (State v. Anthony, 816 P.2d 1377 (Alaska 1991) opinion on rehearing) The court stated at page 1387:

As we noted in our original opinion, the articulated purpose of AS 43.23.005(d) is to obtain funds for crime victims. In addition, we noted that the parties did not dispute at trial that a purpose of the statute is to reimburse the state for the cost of confinement. It is significant that a person convicted of a felony who is not sentenced to incarceration is not made ineligible for a permanent fund dividend. Since the purpose of the statute is compensatory rather than punitive, we conclude that it does not violate the ex post facto clause of either the United States or the Alaska Constitution.

The court, in the first appeal brought by Anthony, had earlier upheld the law on equal protection grounds. State v. Anthony, 810 P.2d 155 (Alaska 1991) Later the law was held not to be a separate punishment for double jeopardy purposes. (Hertz v. Storer, 943 P.2d 725 (Alaska 1997), cert. denied, 522 U.S. 1059 (1998))

AS 43.23.005(d) was expanded under ch. 46, SLA 1996 to add ineligibility for people sentenced during a current year or incarcerated during a current year for misdemeanors if they had been convicted of a prior felony or two or more prior misdemeanors. In order to avoid the possibility of an adverse ruling if the new law were challenged as an ex post facto law, sec. 6 of that 1996 law contained language essentially identical to that included in SB 59 under sec. 4. Because SB 59 greatly expands the category of people who are ineligible for dividends based on DWI related criminal activity, it is difficult to argue that the purpose of this legislation is "compensatory rather than punitive." Therefore, there is a reasonable chance that a challenge would succeed if the legislation is expanded to include all persons convicted in the past of DWIs or refusal to submit to a chemical test.

However, it might be possible to successfully defend against an ex post facto challenge if convictions that occur before the effective date of the measure are considered only for purposes of applying the enhanced period of ineligibility for prior convictions based upon the reasoning in Danks v. State, 619 P.2d 720 (Alaska 1980). The court held that the license of a defendant convicted of DWI for the third time could be revoked for three years under former AS 28.15.210(c), even though that statute was enacted after Danks' first two DWI convictions. The court followed a decision of the United States Supreme Court and ruled that the enhanced sentence was not to be viewed as a new jeopardy or additional penalty for the two earlier DWIs, but rather as a stiffened penalty for the most recent one.

DWI MISDEMEANORS & FELONIES FY02 AND JULY-DEC. FY03 DRIVING WITHOUT INSURANCE						
	FY02		FY03 JULY - DECEMBER			
	FDWI	MDWI	FDWI	MDWI	INSURANCE	
ANCHORAGE	157	1750	97	894	3	
BARROW	13	76	1	24	0	
BETHEL	18	146	5	74	1	
CORDOVA	0	20	1	10	0	
CRAIG	1	44	2	18	0	
DELTA JCT	0	16	0	4	0	
DILLINGHAM	4	59	3	31	0	
FAIRBANKS	50	978	51	551	15	
GLENNALLEN	1	24	0	15	1	
HAINES	1	11	0	5	0	
HEALY	0	21	0	14	0	
HOMER	4	129	4	76	19	
JUNEAU	19	256	5	112	1	
KENAI	18	442	10	180	27	
KETCHIKAN	11	160	15	73	9	
KODIAK	6	148	3	70	1	
KOTZEBUE	12	91	5	45	1	
NAKNEK	0	15	0	14	1	
NENANA	0	17	0	19	0	
NOME	3	75	3	49	0	
PALMER	57	605	No statistics available			
PETERSBURG	1	24	1	17	4	
SEWARD	7	121	3	48	0	
SITKA	4	78	1	48	0	
TOK	0	17	0	6	0	

2-19-03 Alaska Court System

UNALASKA		4	40		2	15	11
VALDEZ		1	72		3	29	0
WRANGELL		2	27		0	11	1
TOTAL		394	5462		215	2452	95

2-19-03 Alaska Court System

Figures provided by DPS + PFD

Alcohol Arrest Incidents	Number of Offenders	Percent of Offenders
1	52201	94%
2	3276	6%
3	203	0%
4	15	0%
5	2	0%
Ten-Year Total	<u>55,697</u>	100%

Year	DWI Arrests	DWI Est 85% Conviction
1993	6,665	5,665
1994	6,446	5,479
1995	6,134	5,214
1996	6,009	5,108
1997	5,357	4,553
1998	5,676	4,825
1999	5,661	4,812
2000	5,652	4,804
2001	5,660	4,811
2002	6,172	5,246
	<u>59,432</u>	<u>50,517</u>

	Approx. # DWI	% change		
1998	4825			
1999	4812	-0.3%		
2000	4804	-0.2%	4 year average	4813
2001	4811	0.1%		
2002	5246	9.0%		

	Median Case Dividend (from APFC)	4 year average DWI's	Potential Projected \$'s withheld
FY03	\$ 1,100	4813	\$ 5,294,204
FY04	\$ 840	4813	\$ 4,042,847
FY05	\$ 700	4813	\$ 3,369,039
FY06	\$ 770	4813	\$ 3,705,943
FY07	\$ 1,040	4813	\$ 5,005,429
FY08	\$ 1,310	4813	\$ 6,304,915