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1 exchange fish or game or eggs for propagating, scientific or stocking
2 purposes;

3 (7) to provide public facilities where necessary or proper
4 to facilitate the taking of fish or game, and to enter into coopera-
5 tive agreements with any person to effect them;

6 (8) to exercise administrative, budgeting, and fiscal
7 powers;

8 (9) to construct, operate, supervise, and maintain vessels
9 used by the Department of Fish and Game;

10 (10) to authorize the holder of an interim-use permit under
11 AS 16.43 to engage on an experimental basis in commercial taking of a
12 fishery resource with vessel, gear, and techniques not presently
13 qualifying for licensing under this chapter in conformity with stan-
14 dards established by the Alaska Commercial Fisheries Entry Commission;

15 (11) not later than January 31 of each year, to provide to
16 the commissioner of revenue the names of those fish and shellfish
17 species that [WHICH] the commissioner of fish and game designates as
18 developing commercial fish species for that calendar year; a fish or
19 shellfish species is a developing commercial fish species if, within a
20 specified geographical region,

21 (A) the optimum yield from the harvest of the species
22 has not been reached;

23 (B) a substantial portion of the allowable harvest of
24 the species has been allocated to fishing vessels of a foreign
25 nation; or

26 (C) a commercial harvest of the fish species has
27 recently developed;

28 (12) to initiate or conduct research necessary or advisable
29 to carry out the purposes of this title except AS 16.51 and AS 16.52;

1 (13) to enter into cooperative agreements with agencies of
2 the federal government, educational institutions, or other agencies or
3 organizations, when in the public interest, to carry out the purposes
4 of this title except AS 16.51 and AS 16.52;

5 (14) to sell fish caught during commercial fisheries test
6 fishing operations;

7 (15) to establish and charge fees equal to the cost of
8 services provided by the department, including provision of public
9 shooting ranges, broodstock and eggs for private nonprofit hatcheries,
10 department publications, and other direct services.

11 * Sec. 30. AS 16.05 is amended by adding a new section to read:

12 Sec. 16.05.055. ACCOUNTING AND DISPOSITION OF RECEIPTS. The
13 commissioner of administration shall separately account for money
14 collected under AS 16.05.050(4), (14), and (15) and that the depart-
15 ment deposits in the general fund. The annual estimated balance in
16 each account may be used by the legislature to make appropriations to
17 the department to carry out the activities for which fees have been
18 charged or for which the money was collected.

19 * Sec. 31. AS 16.05.826 is amended by adding a new subsection to read:

20 (d) The commissioner of administration shall separately account
21 for receipts from waterfowl conservation limited edition prints that
22 the department deposits in the general fund. The annual estimated
23 balance in the account may be used by the legislature to make appro-
24 priations to the department to carry out the purposes set out in
25 AS 16.05.130(b).

26 * Sec. 32. AS 16.43 is amended by adding a new section to read:

27 Sec. 16.43.105. ACCOUNTING AND DISPOSITION OF FEES. The commis-
28 sioner of administration shall separately account for fees collected
29 under AS 16.43.100, 16.43.160, and 16.43.960 that the commission

1 deposits in the general fund. The annual estimated balance in the
2 account may be used by the legislature to make appropriations to the
3 commission to carry out the activities for which fees have been char-
4 ged.

5 * Sec. 33. AS 16.51.160(b) is amended to read:

6 (b) The seafood marketing assessment collected under this chap-
7 ter shall be deposited by the Department of Revenue in the general
8 fund and the commissioner of administration shall separately account
9 for the deposits. The legislature may make appropriations to the
10 Department of Commerce and Economic Development for the purpose of
11 providing financing to the institute based on the annual estimated
12 balance in the account [COLLECTIONS OF THE SEAFOOD MARKETING ASSESS-
13 MENT], and may appropriate additional money beyond the seafood market-
14 ing assessment as need is demonstrated by the institute.

15 * Sec. 34. AS 17.30.100 is amended by adding a new subsection to read:

16 (c) The Department of Public Safety, in cooperation with other
17 state and federal agencies, and in accordance with AS 37.07 (the
18 Executive Budget Act), may apply for and accept money necessary to
19 exchange information concerning narcotics trafficking between the
20 states. The commissioner of administration shall separately account
21 for money received under this subsection that the Department of Public
22 Safety deposits in the general fund. The annual estimated balance in
23 the account may be used by the legislature to make appropriations to
24 the department to carry out the purposes of this section.

25 * Sec. 35. AS 18.50.330(b) is amended to read:

26 (b) The state registrar shall account for fees received by the
27 bureau under this section and shall pay them to the Department of
28 Revenue. The Department of Revenue shall deposit them in the general
29 fund. The commissioner of administration shall separately account for

1 the fees deposited in the general fund. The annual estimated balance
2 in the account may be used by the legislature to make appropriations
3 to the Department of Health and Social Services to carry out the
4 purposes of this section.

5 * Sec. 36. AS 18.60 is amended by adding a new section to read:

6 ARTICLE 14. MISCELLANEOUS PROVISIONS.

7 Sec. 18.60.950. ACCOUNTING AND DISPOSITION OF FEES. The commis-
8 sioner of administration shall separately account for fees collected
9 by the Department of Labor under this chapter and deposited in the
10 general fund. The annual estimated balance in the account may be used
11 by the legislature to make appropriations to the Department of Labor
12 to carry out the purposes of this chapter.

13 * Sec. 37. AS 18.62.030 is amended to read:

14 Sec. 18.62.030. FEE. When submitting an application, an appli-
15 cant shall pay a fee of \$40 for a certificate valid for one year or
16 \$75 for a certificate valid for three years. The commissioner of
17 administration shall separately account for certificate of fitness
18 fees that the Department of Labor deposits in the general fund. The
19 annual estimated balance in the account may be used by the legislature
20 to make appropriations to the department to carry out the purposes of
21 this chapter.

22 * Sec. 38. AS 18.70.080 is amended by adding a new subsection to read:

23 (b) The commissioner of public safety may establish by regu-
24 lation and the department may charge reasonable fees for fire and life
25 safety plan checks made to determine compliance with regulations
26 adopted under (a)(2) of this section. The commissioner of adminis-
27 tration shall separately account for fees collected under this sub-
28 section that the Department of Public Safety deposits in the general
29 fund. The annual estimated balance in the account may be used by the

1 legislature to make appropriations to the department to carry out the
2 purposes of this chapter.

3 * Sec. 39. AS 19.05 is amended by adding a new section to read:

4 Sec. 19.05.046. ACCOUNTING AND DISPOSITION OF RECEIPTS FROM
5 NONSTATE ENTITIES. The commissioner of administration shall separ-
6 ately account for money that is derived from maintenance services
7 provided to nonstate entities and that the department deposits in the
8 general fund. The annual estimated balance in the account may be used
9 by the legislature to make appropriations to the department to carry
10 out the purposes of this chapter.

11 * Sec. 40. AS 19.25 is amended by adding a new section to article 2 to
12 read:

13 Sec. 19.25.040. DAMAGES TO STATE HIGHWAYS AND ROADS. The com-
14 missioner of administration shall separately account for money depos-
15 ited in the general fund that is derived from damages that are re-
16 covered from vehicle owners, drivers, or insurance companies for
17 damage to property related to state-owned roads and highways, includ-
18 ing bridges, overpasses, signal poles, street lights and poles, traf-
19 fic signals, guardrails, or fences. The annual estimated balance in
20 the account may be used by the legislature to make appropriations to
21 the department for the purpose of repairing the damage.

22 * Sec. 41. AS 19.25.200 is amended to read:

23 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be
24 constructed, placed, changed or maintained across or along a highway
25 but only in accordance with regulations adopted by the department. An
26 [NO] encroachment may not be constructed, placed, maintained or chan-
27 ged until it is duly authorized by a written permit issued by the
28 department. The department may charge a fee for a permit issued under
29 this section. The commissioner of administration shall separately

1 account for encroachment permit fees that the department deposits in
2 the general fund. The annual estimated balance in the account may be
3 used by the legislature to make appropriations to the department to
4 carry out the purposes of this section.

5 * Sec. 42. AS 21.06 is amended by adding a new section to read:

6 Sec. 21.06.260. ACCOUNTING AND DISPOSITION OF FEES. The commis-
7 sioner of administration shall separately account for fees collected
8 under this chapter that the division deposits in the general fund.
9 The annual estimated balance in the account may be used by the legis-
10 lature to make appropriations to the Department of Commerce and Eco-
11 nomic Development to carry out the operations of the division.

12 * Sec. 43. AS 23.05.060 is amended to read:

13 Sec. 23.05.060. POWERS OF THE DEPARTMENT. The department may

14 (1) enforce all state labor laws;

15 (2) act as mediator and appoint deputy commissioners of
16 conciliation in labor disputes whenever it considers the interest of
17 industrial peace requires it;

18 (3) make investigations, collect and compile statistical
19 information concerning the conditions of labor generally and upon all
20 matters relating to the enforcement of this chapter;

21 (4) institute court proceedings against an employer of
22 labor without cost to the employee when it is satisfied that the
23 employer has failed to pay an employee an amount due by contract;

24 (5) issue cease and desist orders and other orders and
25 regulations necessary for the enforcement of state labor laws;

26 (6) in accordance with AS 37.07 (the Executive Budget Act),
27 receive and spend money derived from agreements with local govern-
28 ments, nongovernmental organizations, or other persons.

29 * Sec. 44. AS 23.05 is amended by adding a new section to read:

1 Sec. 23.05.070. ACCOUNTING AND DISPOSITION OF RECEIPTS. The
2 commissioner of administration shall separately account for money
3 received under AS 23.05.060(6) that the department deposits in the
4 general fund. The annual estimated balance in the account may be used
5 by the legislature to make appropriations to the department to carry
6 out the purposes of AS 23.05.060.

7 * Sec. 45. AS 23.15.130(c) is repealed and reenacted to read:

8 (c) The commissioner of administration shall separately account
9 for receipts under (b) of this section that are paid into the voca-
10 tional rehabilitation small business enterprise revolving fund. The
11 annual estimated receipts of the fund may be used by the legislature
12 to make appropriations to the department to aid licensees in operating
13 vending machine facilities.

14 * Sec. 46. AS 26.05.230(b) is amended to read:

15 (b) The armory of each battalion, company, or other unit is sub-
16 ject to the order of the adjutant general and under the charge of its
17 armory board, which shall keep in the armory all property furnished by
18 the state. Except for scout battalions organized under special au-
19 thority of the Secretary of the Army, a [NO] unit may not be furnished
20 with arms or equipment until a suitable armory is provided for their
21 deposit. Subject to regulations adopted by the adjutant general, an
22 armory may be used for any reasonable and legitimate civilian activity
23 so long as the activity does not interfere with its use for military
24 purposes. Proceeds received as rental or otherwise at an armory from
25 nonmilitary use shall be deposited in the [STATE] general fund. The
26 commissioner of administration shall separately account for facilities
27 rental fees that are deposited in the general fund under this subsec-
28 tion. The annual estimated balance in the account may be used by the
29 legislature to make appropriations to the Department of Military and

1 Veterans' Affairs to carry out the purposes of this section.

2 * Sec. 47. AS 28.05.021 is amended by adding a new subsection to read:

3 (b) The commissioner of administration shall separately account
4 for money that is derived from activities authorized under this sec-
5 tion and that the department deposits in the general fund. The annual
6 estimated balance in the account may be used by the legislature to
7 make appropriations to the department to carry out the purposes of
8 this section, including payment to commissioned agents.

9 * Sec. 48. AS 28.10.431 is amended by adding a new subsection to read:

10 (i) The commissioner of administration shall separately account
11 for the collection costs received under (e) of this section that the
12 department deposits in the general fund. The annual estimated balance
13 in the account may be used by the legislature to make appropriations
14 to the department to carry out the purposes of this section.

15 * Sec. 49. AS 33.30.070 is amended to read:

16 Sec. 33.30.070. FURNISHING [COMMISSIONER MAY CONTRACT TO FUR-
17 NISH] FACILITIES TO UNITED STATES OR A POLITICAL SUBDIVISION OF THIS
18 STATE. The commissioner may contract with the proper authorities of
19 the United States or a political subdivision of this state to provide
20 the services of state prison facilities for the safekeeping, care, and
21 subsistence of persons held under the authority of the law of the
22 [THEIR] respective jurisdiction [JURISDICTIONS]. The commissioner of
23 administration shall separately account for payments received for the
24 services provided under this section that the department deposits in
25 the general fund. The annual estimated balance in the account may be
26 used by the legislature to make appropriations to the department to
27 carry out the purposes of this section.

28 * Sec. 50. AS 33.32.020(a) is amended to read:

29 (a) There is established in the Department of Corrections an

1 intragovernmental service [A] fund [TO BE] known as the correctional
2 industries fund. All expenses of the correctional industries program,
3 except salaries and benefits of state employees, may [ARE TO] be fi-
4 nanced from the correctional industries fund [AND BUDGETED] in accord-
5 ance with AS 37.07 (the Executive Budget Act) [(AS 37.07)]. The
6 commissioner of corrections shall report annually to the legislature
7 all activities and balances of the fund.

8 * Sec. 51. AS 33.32.020(b) is amended to read:

9 (b) The legislature may appropriate to the correctional indus-
10 tries fund the [ANY] amounts necessary to implement this chapter.
11 Money [, WHICH MAY EQUAL OR EXCEED THE AMOUNTS] received by the state
12 for services rendered or products sold by the correctional industries
13 program shall be deposited in the correctional industries fund. The
14 annual estimated balance in the fund may be used by the legislature to
15 make appropriations to the Department of Corrections to carry out the
16 purposes of this section.

17 * Sec. 52. AS 34.55.020 is amended by adding a new subsection to read:

18 (g) The commissioner of administration shall separately account
19 for filing, registration, and inspection fees collected under this
20 chapter that the department deposits in the general fund. The annual
21 estimated balance in the account may be used by the legislature to
22 make appropriations to the department to carry out the purposes of
23 this section.

24 * Sec. 53. AS 37.12.023 is amended to read:

25 Sec. 37.12.023. DEPOSIT OF MONEY. Repayments of principal and
26 payments of interest and other income from loans of the corporation,
27 dividends received from capital stock investments, and money received
28 from the sale of equity investments or other assets of the corporation
29 shall [MUST] be deposited in the general fund. The commissioner of

1 administration shall separately account for money collected under this
2 section that is deposited by the corporation or the Department of
3 Revenue. The annual estimated balance in the account may be used by
4 the legislature to make appropriations to the department to administer
5 the winding-up of the corporation.

6 * Sec. 54. AS 37.15.420(a) is amended to read:

7 (a) There is established a capital project fund [A SPECIAL FUND
8 OF THE STATE] known as the "International Airports Construction Fund,"
9 into which shall be paid the proceeds of the sale of the bonds (except
10 any accrued interest paid on them, which shall be paid into the bond
11 redemption fund) and [ANY] grant or other money that [WHICH] is legal-
12 ly provided for the same purposes for which the bonds are authorized.
13 The money in the construction fund shall be used to pay the costs of
14 acquiring, equipping, constructing and installing additions and im-
15 provements to and extensions of and facilities for the airports and
16 costs incidental thereto, including costs of the authorization, issu-
17 ance and sale of the bonds. To the extent provided in the bond reso-
18 lution, money in the construction fund may also be used for the pay-
19 ment of interest on the bonds during the period of actual construc-
20 tion, and for a [SUCH] further period, not exceeding one year after
21 the period of construction, that [AS] may be provided in the bond
22 resolution. Money in the construction fund may also be transferred to
23 the bond redemption fund, to the extent provided in the bond resolu-
24 tion, to establish a reserve for the payment of the principal of and
25 interest on the bonds.

26 * Sec. 55. AS 37.15.430(a) is amended to read:

27 (a) There is established an enterprise fund [ANOTHER SPECIAL
28 FUND OF THE STATE,] known as the "International Airports Revenue
29 Fund," [WHICH SHALL BE COMPLETELY SEGREGATED AND SET APART FROM ALL

1 OTHER FUNDS OF THE STATE, WHICH IS A TRUST FUND FOR THE USES AND PUR-
2 POSES PROVIDED IN AS 37.15.410 - 37.15.550, AND] into which shall be
3 paid all revenue [REVENUES], fees, charges, and rentals derived by the
4 state from the ownership, lease, use, and operation of the airports
5 and all of the facilities and improvements of them and facilities and
6 improvements used in connection with them. The revenue [THESE REVE-
7 NUES], charges, fees, and rentals may [SHALL] not include the proceeds
8 of any state tax or license. The money in the revenue fund may
9 [SHALL] only be used for the purpose of

10 (1) paying or securing the payment of the principal of and
11 interest on the bonds and of and on any other revenue bonds issued by
12 authorization of the legislature to provide money [FUNDS] to acquire,
13 equip, construct, and install additions and improvements to, and
14 extensions of and facilities for, the airports, and to be payable out
15 of the revenue fund;

16 (2) [, THE PURPOSE OF] paying the normal and necessary
17 costs of maintaining and operating the airports and all of the im-
18 provements and facilities of them;

19 (3) [, THE PURPOSE OF] paying the costs of renewals, re-
20 placements, and extraordinary repairs to the airports and all of the
21 improvements and facilities of them;

22 (4) [, THE PURPOSE OF] redeeming before their fixed matur-
23 ities any and all revenue bonds issued for the purposes of the air-
24 ports;

25 (5) [, THE PURPOSE OF] providing money [FUNDS] to acquire,
26 construct and install necessary additions and improvements to and
27 extensions of and facilities for the airports and all of their facil-
28 ities; [,] and

29 (6) [THE PURPOSE OF] providing money [FUNDS] to pay any and

1 all other costs relating to the ownership, use, and operation of the
2 airports.

3 * Sec. 56. AS 38.35.140(b) is amended to read:

4 (b) The lessee shall reimburse the state for all reasonable
5 costs incurred in processing an application filed under AS 38.35.050
6 and in monitoring the construction of the pipeline on the right-of-
7 way. The commissioner of administration shall separately account for
8 money received under this subsection that the Department of Natural
9 Resources deposits in the general fund. The annual estimated balance
10 in the account may be used by the legislature to make appropriations
11 to the department to carry out the purposes of this section.

12 * Sec. 57. AS 39.35.080 is amended to read:

13 Sec. 39.35.080. DUTIES OF COMMISSIONER OF REVENUE. The commis-
14 sioner of revenue is the treasurer of the system and shall

15 (1) act as official custodian of the cash and securities
16 belonging to the system and provide adequate safe deposit facilities
17 for them;

18 (2) receive cash belonging to the system;

19 (3) collect the interest and principal on securities ac-
20 quired by the system and deposit it in the pension fund maintained in
21 the name of the system;

22 (4) invest and reinvest the assets of the pension fund in
23 accordance with AS 39.35.110; and

24 (5) receive and spend appropriations from the retirement
25 fund to cover the cost of fiduciary duties.

26 * Sec. 58. AS 41.08 is amended by adding a new section to read:

27 Sec. 41.08.025. ACCOUNTING AND DISPOSITION OF RECEIPTS. The
28 commissioner of administration shall separately account for money
29 received under AS 41.08.020(b)(5) from agreements with individuals,

1 private agencies, communities and private industry and that the De-
2 partment of Natural Resources deposits in the general fund. The
3 annual estimated balance in the account may be used by the legislature
4 to make appropriations to the department to carry out the purposes of
5 AS 41.08.020.

6 * Sec. 59. AS 42.05.651 is amended by adding a new subsection to read:

7 (b) The commissioner of administration shall separately account
8 for investigation and hearing costs collected under this section that
9 the commission deposits in the general fund. The annual estimated
10 balance in the account may be used by the legislature to make appro-
11 priations to the commission to carry out the purposes of this section.

12 * Sec. 60. AS 42.06.610 is amended by adding a new subsection to read:

13 (c) The commissioner of administration shall separately account
14 for investigation and hearing costs collected under this section that
15 the commission deposits in the general fund. The annual estimated
16 balance in the account may be used by the legislature to make appro-
17 priations to the commission to carry out the purposes of this chapter.

18 * Sec. 61. AS 42.30.225 is amended by adding a new subsection to read:

19 (f) The commissioner of administration shall separately account
20 for certificate of compliance fees collected under this section that
21 the department deposits in the general fund. The annual estimated
22 balance in the account may be used by the legislature to make appro-
23 priations to the department to carry out the purposes of this section.

24 * Sec. 62. AS 43.10 is amended by adding a new section to read:

25 Sec. 43.10.037. ACCOUNTING AND DISPOSITION OF FEES. The commis-
26 sioner of administration shall separately account for collection fees
27 added to delinquent taxes and that the department deposits in the
28 general fund. The annual estimated balance in the account may be used
29 by the legislature to make appropriations to the department to carry

1 out the purposes of this chapter.

2 * Sec. 63. AS 43.23.065 is repealed and reenacted to read:

3 Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. (a)

4 Except as provided in (b) of this section, 50 percent of the annual
5 permanent fund dividend payable to an individual is exempt from levy,
6 execution, garnishment, attachment, or any other remedy for the col-
7 lection of debt. This exemption applies to an eligible individual's
8 permanent fund dividend both before and after payment is made to the
9 individual.

10 (b) An exemption is not available under this section for perma-
11 nent fund dividends taken to satisfy

12 (1) child support obligations required by court order or
13 decision of the child support enforcement agency under AS 47.23.140 -
14 47.23.220;

15 (2) court ordered restitution under AS 12.55.045 - 12.55.-
16 051 or 12.55.100;

17 (3) a court ordered probation fee under AS 12.55.105; or

18 (4) a debt owed by an eligible individual to an agency of
19 the state, unless the debt is contested and an appeal is pending, or
20 the time limit for filing an appeal has not expired.

21 (c) Claims listed in (b) of this section have priority in the
22 order listed over other claims on a permanent fund dividend.

23 * Sec. 64. AS 44.21.160 is amended by adding a new subsection to read:

24 (g) The commissioner of administration shall separately account
25 for data processing services fees charged to political subdivisions
26 and deposited in the general fund. The annual estimated balance in
27 the account may be used by the legislature to make appropriations to
28 the department to carry out the purposes of this section.

29 * Sec. 65. AS 44.29 is amended by adding new sections to article 1 to

1 read:

2 Sec. 44.29.022. FEES FOR DEPARTMENT SERVICES. (a) The commis-
3 sioner of health and social services may establish by regulation a
4 schedule of reasonable fees for services provided by the Department of
5 Health and Social Services under AS 44.29.010(1) - (9), AS 47.10,
6 AS 47.30.655 - 47.30.910, and AS 47.80.100 - 47.80.170. The fee
7 established for a service may not exceed the actual cost of providing
8 the service. The commissioner may define or establish the "actual
9 cost of providing a service" by regulation. The Department of Health
10 and Social Services shall charge and collect the fees established
11 under this subsection. The department may waive collection of a fee
12 upon a finding that collection is not economically feasible or in the
13 public interest.

14 (b) The commissioner of health and social services may establish
15 by regulation and the department may charge reasonable fees for de-
16 partment publications and research data to cover the cost of reproduc-
17 tion, printing, mailing, and distribution

18 (c) The commissioner of administration shall separately account
19 for fees collected under this section that the Department of Health
20 and Social Services deposits in the general fund. The annual esti-
21 mated balance in the account may be used by the legislature to make
22 appropriations to the department.

23 Sec. 44.29.024. FEES FOR SERVICES OF CONTRACTORS OR GRANTEES.
24 (a) The commissioner of health and social services may establish by
25 regulation a schedule of reasonable fees for services provided by a
26 contractor or grantee of the Department of Health and Social Services
27 under AS 18 or AS 47. The fee established for a service may not
28 exceed the actual cost of providing the service. The commissioner may
29 define or establish the "actual cost of providing a service" by

1 regulation.

2 (b) The Department of Health and Social Services may require the
3 recipient of a grant or a contractor under a grant to charge the fees
4 established under (a) of this section for services provided by the
5 recipient or contractor and to use the fees collected for the program
6 providing the services.

7 * Sec. 66. AS 44.33.020 is amended by adding new paragraphs to read:

8 (28) sell at cost, to the extent possible, publications and
9 promotional materials developed by the department;

10 (29) as delegated by the governor, administer under 16
11 U.S.C. 1856 the internal waters foreign processing permit procedures
12 and collect related fees.

13 * Sec. 67. AS 44.33 is amended by adding a new section to read:

14 Sec. 44.33.022. ACCOUNTING AND DISPOSITION OF FEES. The commis-
15 sioner of administration shall separately account for fees collected
16 under AS 44.33.020(25), (28) and (29), respectively, that the Depart-
17 ment of Commerce and Economic Development deposits in the general
18 fund. The annual estimated balance in each account may be used by the
19 legislature to make appropriations to the department to finance the
20 programs from which the receipts are derived.

21 * Sec. 68. AS 44.33.120 is amended by adding a new subsection to read:

22 (c) The commissioner of administration shall separately account
23 for money that derives from the sale of pamphlets, brochures, and
24 other graphic and pictorial materials under this section and AS 44.-
25 33.020(28) and that the division of tourism deposits in the general
26 fund. The annual estimated balance in the account may be used by the
27 legislature to make appropriations to the Department of Commerce and
28 Economic Development to cover related costs of the division of tour-
29 ism.

1 * Sec. 69. AS 44.37.025(b) is amended to read:

2 (b) The department shall engage and compensate recorders and
3 deputy recorders, prescribe and account for recording fees, and do all
4 other things necessary to maintain the recording system established
5 under the laws of this state. The commissioner of administration
6 shall separately account for fees collected under this section that
7 the Department of Natural Resources deposits in the general fund. The
8 annual estimated balance in the account may be used by the legislature
9 to make appropriations to the department to carry out the purposes of
10 this section.

11 * Sec. 70. AS 44.41.020 is amended to read:

12 Sec. 44.41.020. DUTIES OF DEPARTMENT. The Department of Public
13 Safety shall administer functions relative to the protection of life
14 and property. The department may enter into agreements with nonprofit
15 organizations and federal and local government agencies to train
16 personnel of those agencies in the protection of life and property.
17 The commissioner of administration shall separately account for train-
18 ing fees received under training agreements and that the department
19 deposits in the general fund. The annual estimated balance in the
20 account may be used by the legislature to make appropriations to the
21 department to carry out the purposes of this section.

22 * Sec. 71. AS 44.41.020 is amended by adding a new subsection to read:

23 (b) The department may enter into agreements with federal and
24 local government agencies to provide a statewide criminal justice
25 information system. Reasonable fees may be charged by the department
26 to cover the costs of providing services under these agreements,
27 including maintenance of terminal hardware and network connect char-
28 ges. The commissioner of administration shall separately account for
29 the criminal justice information system fees that the Department of

1 Public Safety deposits in the general fund. The annual estimated bal-
2 ance in the account may be used by the legislature to make appropria-
3 tions to the department to carry out the purposes of this section.

4 * Sec. 72. AS 44.41 is amended by adding a new section to read:

5 Sec. 44.41.025. FEES FOR FINGERPRINT INFORMATION. The commis-
6 sioner of public safety may establish by regulation and the Department
7 of Public Safety may charge a reasonable fee to be paid by a person
8 requesting information from the Alaska automated fingerprint system.
9 The commissioner of administration shall separately account for fees
10 collected under this subsection that the Department of Public Safety
11 deposits in the general fund. The annual estimated balance in the
12 account may be used by the legislature to make appropriations to the
13 department to carry out the purposes of this section.

14 * Sec. 73. AS 44.42.020(b) is amended to read:

15 (b) The department may

16 (1) engage in experimental projects relating to available
17 or future modes of transportation and any means of improving existing
18 transportation facilities and service;

19 (2) exercise the power of eminent domain, including the
20 declaration of taking as provided in AS 09.55;

21 (3) publish plans, schedules, directories, guides, and man-
22 uals for distribution, with or without charge, to private or public
23 entities or persons.

24 * Sec. 74. AS 44.42 is amended by adding a new section to read:

25 Sec. 44.42.025. ACCOUNTING AND DISPOSITION OF RECEIPTS. The
26 commissioner of administration shall separately account for money that
27 derives from the sale of documents under AS 44.42.020(b)(3) and that
28 the Department of Transportation and Public Facilities deposits in the
29 general fund. The annual estimated balance in the account may be used

1 by the legislature to make appropriations to the department to carry
2 out the purposes of AS 44.42.020.

3 * Sec. 75. AS 44.47 is amended by adding a new section to read:

4 Sec. 44.47.055. FEES FOR PUBLICATIONS AND RESEARCH DATA. The
5 commissioner may establish by regulation and the department may charge
6 reasonable fees for department publications and research data to cover
7 the cost of reproduction, printing, mailing, and distribution. The
8 commissioner of administration shall separately account for fees
9 collected under this section that the department deposits in the
10 general fund. The annual estimated balance in the account may be used
11 by the legislature to make appropriations to the department to carry
12 out the purposes of this section.

13 * Sec. 76. AS 44.62.175(d) is amended to read:

14 (d) The lieutenant governor shall sell individual copies of and
15 subscriptions to the journal at a price reasonably calculated to
16 offset the cost of publication and distribution. The commissioner of
17 administration shall separately account for money collected under this
18 subsection that the lieutenant governor deposits in the general fund.
19 The annual estimated balance in the account may be used by the legis-
20 lature to make appropriations to the office of the lieutenant governor
21 to carry out the purposes of this section.

22 * Sec. 77. AS 44.74.010 is amended to read:

23 Sec. 44.74.010. WORKING CAPITAL FUND. The highways equipment
24 [A] working capital fund is established as an intragovernmental ser-
25 vice fund [IN THE STATE TREASURY] for the use of the Department of
26 Transportation and Public Facilities.

27 * Sec. 78. AS 44.74.020 is amended to read:

28 Sec. 44.74.020. USE OF FUND. The Department of Transportation
29 and Public Facilities [DEPARTMENT] shall use the highways equipment

1 working capital fund for necessary expenses resulting from the cen-
2 tralization of equipment maintenance and for the operation of supply
3 depots. The annual estimated balance in the fund may be used by the
4 legislature to make appropriations to the department to carry out the
5 purposes of this section.

6 * Sec. 79. AS 44.83.195 is amended by adding a new subsection to read:

7 (c) The commissioner of administration shall separately account
8 for money collected under (a) of this section that the authority
9 deposits in the general fund. The annual estimated balance in the
10 account may be used by the legislature to make appropriations to the
11 authority to cover the cost of project operations.

12 * Sec. 80. AS 45.09 is amended by adding a new section to article 4 to
13 read:

14 Sec. 45.09.409. ACCOUNTING AND DISPOSITION OF FEES. The commis-
15 sioner of administration shall separately account for fees charged
16 under AS 45.09.401 - 45.09.408 that the Department of Natural Re-
17 sources deposits in the general fund. The annual estimated balance in
18 the account may be used by the legislature to make appropriations to
19 the department to carry out the purposes of AS 45.09.401 - 45.09.408.

20 * Sec. 81. AS 45.55 is amended by adding a new section to read:

21 Sec. 45.55.265. ACCOUNTING AND DISPOSITION OF FEES. The commis-
22 sioner of administration shall separately account for all fees col-
23 lected under this chapter that the Department of Commerce and Economic
24 Development deposits in the general fund. The annual estimated bal-
25 ance in the account may be used by the legislature to make appropria-
26 tions to the department to carry out the purposes of this chapter.

27 * Sec. 82. AS 46.03.020 is amended by adding a new paragraph to read:

28 (12) deposit environmental service fees into an account in
29 the general fund.

1 * Sec. 83. AS 46.03 is amended by adding a new section to read:

2 Sec. 46.03.025. ACCOUNTING AND DISPOSITION OF FEES. The commis-
3 sioner of administration shall separately account for environmental
4 service fees collected under AS 46.03.020(12) that the department
5 deposits in the general fund. The annual estimated balance in the
6 account may be used by the legislature to make appropriations to the
7 department to carry out the purposes of

8 (1) seafood processor permits under AS 03.05;

9 (2) food service and bar permits under AS 18.35;

10 (3) drinking water plan review, air quality permits, haz-
11 arduous waste clean-up, on-site fees, wastewater disposal permits,
12 subdivision approval, oil pollution control plan approval and applica-
13 tions, and water and wastewater operator training under this title.

14 * Sec. 84. AS 47.10.120(a) is amended to read.

15 (a) When a child in need of aid or a delinquent minor is
16 committed under this chapter, the court shall [MAY], after giving the
17 parent or legal guardian a reasonable opportunity to be heard, adjudge
18 that the parent or guardian [SHALL] pay to the department in a manner
19 that [WHICH] the court directs a sum that is based on the fee schedule
20 adopted under AS 44.29.022 to [WHICH WILL] cover in full or in part
21 the maintenance and care [SUPPORT] of the child or [IN NEED OF AID.
22 WHEN A DELINQUENT MINOR IS COMMITTED UNDER THIS CHAPTER, THE COURT
23 SHALL ORDER THAT THE PARENT OF THE MINOR PAY IN A MANNER WHICH THE
24 COURT DIRECTS A SUM WHICH WILL COVER IN FULL OR IN PART THE SUPPORT OF
25 THE DELINQUENT] minor.

26 * Sec. 85. AS 47.10.120 is amended by adding a new subsection to read:

27 (d) The commissioner of administration shall separately account
28 for support fees collected under this section that the Department of
29 Health and Social Services deposits in the general fund. The annual

1 estimated balance in the account may be used by the legislature to
2 make appropriations to the department to carry out the purposes of
3 this section.

4 * Sec. 86. AS 47.10.230(c) is amended to read:

5 (c) The department may receive, care for, and make appropriate
6 placement of minors accepted for care for a period of up to six months
7 on the basis of an individual voluntary written agreement between the
8 minor's parent, legal guardian, or other person having legal custody
9 and the department. The agreement must [MAY] include provisions for
10 payment of fees under AS 44.29.022 [, IN WHOLE OR IN PART,] to the
11 department for the minor's care and treatment. The agreement entered
12 into may [SHALL] not [OPERATE TO] prohibit a minor's parent, legal
13 guardian, or other person who had legal custody from regaining care of
14 the minor at any time.

15 * Sec. 87. AS 47.10.290(1) is amended to read:

16 (1) "care" or "caring" under AS 47.10.010(a)(2)(A), 47.10.-
17 120(a) and 47.10.230(c), means to provide for the physical, emotional,
18 mental, and social needs of the child;

19 * Sec. 88. AS 47.10.290 is amended by adding a new paragraph to read:

20 (8) "department" means the Department of Health and Social
21 Services.

22 * Sec. 89. AS 47.23 is amended by adding a new section to read:

23 Sec. 47.23.125. ACCOUNTING AND DISPOSITION OF FEDERAL RECEIPTS
24 AND AGENCY COLLECTIONS. (a) Federal incentive payments received by
25 the state under 42 U.S.C. 658 shall be deposited in the general fund
26 and the commissioner of administration shall separately account for
27 the payments. The annual estimated balance in the account may be used
28 by the legislature to make appropriations to the Department of Revenue
29 to carry out the purposes of AS 47.23.020.

1 (b) The commissioner of administration shall separately account
2 for the state share of payments made by obligors under AS 47.23.120
3 that the agency collects and deposits in the general fund. The annual
4 estimated balance in the account may be used by the legislature to
5 make appropriations to the Department of Health and Social Services to
6 carry out the purposes of AS 47.10.230 - 47.10.260 and AS 47.25.310 -
7 47.25.420.

8 * Sec. 90. AS 47.25.030 is amended by adding a new subsection to read:

9 (e) The commissioner of administration shall separately account
10 for money received under this section and deposited in the general
11 fund. The annual estimated balance in the account may be used by the
12 legislature to make appropriations to the Department of Administration
13 to carry out the purposes of this section.

14 * Sec. 91. AS 47.30.910 is amended by adding a new subsection to read:

15 (g) The commissioner of administration shall separately account
16 for medical care and treatment fees collected under this section that
17 the department deposits in the general fund. The annual estimated
18 balance in the account may be used by the legislature to make appro-
19 priations to the department to carry out the purposes of this section.

20 * Sec. 92. AS 47.80.150(a) is amended to read:

21 (a) A person with a handicap or the person's legal representa-
22 tive acting in a representative capacity, [OR] the person's spouse, or
23 the person's parents if the person is a minor, shall pay or contribute
24 to the payment of the charges for the care or treatment in accordance
25 with the fee schedule adopted under AS 44.29.022 [THE MANNER AND
26 PROPORTION WHICH THE DEPARTMENT FINDS IS NOT DETRIMENTAL TO REHABILI-
27 TATION AND WHICH IS WITHIN THE RESPONSIBLE PERSON'S ABILITY TO PAY.
28 THE CHARGES MAY NOT EXCEED THE ACTUAL COST OF THE CARE OR TREATMENT AS
29 DETERMINED BY THE DEPARTMENT]. The order of the department relating

1 to the payment of charges shall be prospective in effect and may
2 [SHALL] relate only to charges to be incurred, except that if a person
3 intentionally conceals ability to pay, the person shall be ordered to
4 pay to the extent of the person's ability to pay the charges accruing
5 during the period of the concealment. The order of the department
6 relating to the payment of charges by the person with a handicap or
7 the person's legal representative, or the person's spouse or parents,
8 shall be issued within six months of the date on which the charge was
9 incurred. The department may make necessary investigations to deter-
10 mine the ability to pay. The order shall remain in full force and
11 effect unless modified by subsequent court or department orders.

12 * Sec. 93. AS 47.80.150(b) is amended to read:

13 (b) As used in (a) of this section, the term "actual cost of the
14 care and treatment" means the lesser of (1) [EITHER] the rate provided
15 for by a contract entered into under this chapter, (2) the fee estab-
16 lished under AS 44.29.022 for services provided under this chapter or,
17 (3) if the person is under the age of 18, the cost of care of a person
18 of the same age who is not a person with a handicap and who resides
19 with a parent or guardian [IN THE ABSENCE OF A CONTRACT, A DAILY RATE
20 FIXED BY THE DEPARTMENT], and includes expenses of transportation
21 incidental to treatment and carrying out the intent of this chapter.
22 In establishing fees for services under this chapter, the commissioner
23 shall consider the income and family size of the responsible party,
24 age of the person receiving the services, and other factors that
25 relate to the ability to pay. Fees may not exceed the actual cost of
26 the care or treatment.

27 * Sec. 94. AS 47.80.150(e) is amended to read:

28 (e) All money paid to the department by the person with a handi-
29 cap or on the person's behalf, under this section, shall be deposited

1 in the general fund [STATE TREASURY].

2 * Sec. 95. AS 47.80.150(f) is amended to read:

3 (f) If an order of payment is entered by the department under
4 this section and delinquency in the payment of any amount due the
5 state under the order continues for a period of more than 30 days
6 after the notification by the department to the person, the legal
7 representative, parent, or spouse of the person with a handicap, the
8 state may proceed to collect the amounts due by appropriate proceed-
9 ings. Actions to enforce the collection of payments may only be
10 brought within three years after the date of notification of a delin-
11 quent payment.

12 * Sec. 96. AS 47.80.150 is amended by adding a new subsection to read:

13 (g) The commissioner of administration shall separately account
14 for medical care and treatment fees collected under this section that
15 the department deposits in the general fund. The annual estimated
16 balance in the account may be used by the legislature to make appro-
17 priations to the department to carry out the purposes of this chapter.

18 * Sec. 97. AS 47.80.150(c) is repealed.

19 * Sec. 98. In preparing the governor's budget for fiscal year 1988,
20 proposed general fund appropriations that are based on estimated program
21 receipts under this Act shall be identified as "general fund/program re-
22 ceipts" to distinguish them from other general fund appropriations.

23 * Sec. 99. Except for sec. 1 of this Act, this Act takes effect July 1,
24 1986.

25 * Sec. 100. Section 1 of this Act takes effect July 1, 1987.

Introduced: 3/14/86
Referred: House Special Committee on
State Loans and Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

HOUSE BILL NO. 699

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act creating the Railbelt energy fund; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 44.25 is amended by adding a new section to read:

10 Sec. 44.25.050. RAILBELT ENERGY FUND. There is established in
11 the general fund the Railbelt energy fund. The fund consists of money
12 appropriated to it by the legislature. The Department of Revenue
13 shall manage the fund. Interest received on money in the fund shall
14 be accounted for separately and may be appropriated into the fund
15 annually. The legislature may appropriate money from the fund to
16 assist in meeting Railbelt energy needs.

17 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No: HB 699
Title: Creating the Railbelt Energy Fund

Sponsor: House Finance
Requestor: House Loans
Date of Request: March 24, 1986

FISCAL DETAIL

Agency Affected: Revenue
BRU: Treasury Management

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: _____

Approved by Commissioner: [Signature]
Agency: [Signature]

Date: 3/25/86

Distribution (by Agency preparing fiscal note):

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

AMENDMENT Proposed
by DC+RA

Sec. 29.60.310. PAYMENT. Each fiscal year the department shall make payments authorized by AS 29.60.010 - 29.60.300 no later than July 31, based upon the calculations made the preceeding fiscal year.

Introduced: 3/14/86
Referred: House Special Committee on
State Loans and Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

HOUSE BILL NO. 699

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act creating the Railbelt energy fund; and pro-
7 viding for an effective date."

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

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10 Sec. 44.25.050. RAILBELT ENERGY FUND. There is established in
11 the general fund the Railbelt energy fund. The fund consists of money
12 appropriated to it by the legislature. The Department of Revenue
13 shall manage the fund. Interest received on money in the fund shall
14 be accounted for separately and may be appropriated into the fund
15 annually. The legislature may appropriate money from the fund to
16 assist in meeting Railbelt energy needs.

17 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

COMMITTEE REPORT
SENATE

FURTHER:

4/18/86

Date 4/25/86

Mr. President

The Committee on FINANCE considered HB 699
creating the Railbelt energy fund; efd

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
@ DOR A/B
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

Paul Grish

Dickson

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

[Signature]
Co-Chairman
do pass
Chairman recommendation

Introduced: 3/14/86
Referred: House Special Committee on
State Loans and Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

HOUSE BILL NO. 699

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act creating the Railbelt energy fund; and pro-

7

viding for an effective date."

8

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

9

* Section 1. AS 44.25 is amended by adding a new section to read:

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Sec. 44.25.050. RAILBELT ENERGY FUND. There is established in

11

the general fund the Railbelt energy fund. The fund consists of money

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shall manage the fund. Interest received on money in the fund shall

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be accounted for separately and may be appropriated into the fund

15

annually. The legislature may appropriate money from the fund to

16

assist in meeting Railbelt energy needs.

17

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

18

10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No: HB 699
Title: Creating the Railbelt Energy
Fund

Sponsor: House Finance
Requestor: House Loans
Date of Request: March 24, 1986

FISCAL DETAIL

Agency Affected: Revenue
BRU: Treasury Management

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: _____

Approved by Commissioner: [Signature]
Agency: [Signature]

Date: 3/25/86

Distribution (by Agency preparing fiscal note):

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

**HOUSE
COMMITTEE REPORT**

(11)
Date referred: 4/17/86
(Judiciary waived 4/17)

FURTHER REFERRALS:

DATE: 4-23-86

The FINANCE Committee has considered HB 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSSHB 700 (FIN) same title
 new title

and recommends do pass

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - ~~new~~ fiscal note 4/11/86 19.9
 - zero fiscal note

SIGNING, DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Albert P. Gada
Jim ...
Mike ...
Jim ...
Ronald ...
Kat ...
Jack ...
Steve ...
Dolne ...
Ken ...

Albert P. Gada
Chairman

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

REQUEST Page 1 of 3 (1)

Revision Date: _____

Bill/Resolution No.: CSSSHB 700 (CASA) FIN
 Title: An Act Relating to Possession
 of Alcohol

FISCAL DETAIL

Agency Affected: Alaska Court System
 BRU: Trial Courts

Sponsor: _____
 Requestor: _____
 Date of Request: _____

Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		19.9				
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		19.9				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		19.9				
FEDERAL FUNDS						
OTHER						
TOTAL		19.9				

POSITIONS :

FULL TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See Attachments

Prepared by: Robert G. Fisher
 Division: Alaska Court System

Phone: 264-8215
 Date: 4/11/86

Approved by Commissioner: Arthur H. Snowden, II *AHS II*
 Agency: Alaska Court System

Date: 4/11/86

Distribution (by Agency preparing fiscal note):

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

ALASKA COURT SYSTEM
 SCHEDULE OF MAGISTRATE TRAINING CONFERENCE COSTS
~~CSSHB 700~~ - ALCOHOL POSSESSION
 FY 87

CSSSHB 700 (FIN)

ESTIMATED
AIR FARE
COST

Page 2 of 3

--- PER DIEM ---
#/DAYS RATEESTIMATED
TOTAL COST

First District Magistrates:

FROM	TO	ESTIMATED AIR FARE COST	#/DAYS	PER DIEM RATE	ESTIMATED COST	ESTIMATED TOTAL COST
Angoon	Anchorage	\$366	3	\$80	\$240	\$606
Craig	Anchorage	366	3	80	240	606
Haines	Anchorage	366	3	80	240	606
Hoonah	Anchorage	366	3	80	240	606
Kake	Anchorage	452	3	80	240	692
Pelican	Anchorage	366	3	80	240	606
Skagway	Anchorage	366	3	80	240	606
Yakutat	Anchorage	268	3	80	240	508

Bethel Area Magistrates:

Aniak	Anchorage	328	3	80	240	568
Emmonak	Anchorage	328	3	80	240	568
Hooper Bay	Anchorage	328	3	80	240	568
Mekoryuk	Anchorage	428	3	80	240	668
Quinhagak	Anchorage	328	3	80	240	568
St. Marys	Anchorage	328	3	80	240	568

Second District Magistrates:

Gambell	Anchorage	428	3	80	240	668
Kiana	Anchorage	428	3	80	240	668
Noorvik	Anchorage	428	3	80	240	668
Point Hope	Anchorage	428	3	80	240	668
Savoonga	Anchorage	428	3	80	240	668
Selawik	Anchorage	428	3	80	240	668
Shungnak	Anchorage	428	3	80	240	668
Unalakleet	Anchorage	428	3	80	240	668

Third District Magistrates:

Cordova	Anchorage	130	3	80	240	370
Dillingham	Anchorage	320	3	80	240	560
Glennallen	Anchorage	94	3	80	240	334
Naknek	Anchorage	292	3	80	240	532
Seward	Anchorage	63	3	80	240	303
Unalaska	Anchorage	594	3	80	240	834
Whittier	Anchorage	37	3	80	240	277

Fourth District Magistrates:

Delta Junction	Anchorage	272	3	80	240	512
Ft. Yukon	Anchorage	322	3	80	240	562
Galena	Anchorage	358	3	80	240	598
Healy	Anchorage	130	3	80	240	370
Tanana	Anchorage	272	3	80	240	512
Tok	Anchorage	165	3	80	240	405

Total Cost

\$19,857

This bill establishes a mail-in bail forfeiture procedure as the means of enforcing local ordinances which may be adopted to ban the possession of alcohol. The bill impacts the court system by requiring courts to accept and process citations and bail payments for these new offenses.

Accurate processing and accounting procedures will be critical to successful implementation of this bill. For example, if the court issues a bench warrant because its records erroneously indicate a defendant has failed to pay the bail amount or to perform community work, the defendant is likely to sue the state for false arrest.

Although courts in urban areas are familiar with mail-in bail for traffic offenses, outlying magistrate courts have far less experience with these procedures. This fiscal note sets out the costs of a one-time meeting for magistrates to explain the law and the details of the processing and accounting procedures which each affected court will be required to establish.

Original sponsor: Rules Committee by request

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic vio-
20 lence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small, iso-
23 lated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent;

26 (7) in communities that have chosen to ban the sale and importa-
27 tion of alcohol, most drinking takes place in private homes;

28 (8) the economic cost of alcohol abuse is high, and cannot be
29 afforded by the state or small rural communities; and

1 (9) a fine in the amount of \$1,000 or 200 hours of community
2 work, is not so severe a penalty as to indicate criminality in either rural
3 or urban Alaska communities.

4 * Sec. 2. AS 04.11 is amended by adding a new section to read:

5 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVER-
6 AGES. (a) The following question, appearing alone, may be placed
7 before the voters of a municipality or an established village in
8 accordance with AS 04.11.502: "Shall the possession of alcoholic
9 beverages be prohibited in (name of municipality or vil-
10 lage)? (yes or no)."

11 (b) If a majority of the voters of an established village vote
12 "yes" on the question set out in (a) of this section, and the sale of
13 alcoholic beverages, or the sale and importation of alcoholic bever-
14 ages, has been previously prohibited in the established village in
15 accordance with AS 04.11.490 or 04.11.494, a person, beginning on the
16 first day of the month following certification of the results of the
17 election, may not knowingly possess an alcoholic beverage in the
18 established village, unless the alcoholic beverage is wine to be used
19 for bona fide religious purposes based on tenets or teachings of a
20 church or religious body, is limited in quantity to the amount neces-
21 sary for religious purposes, and is dispensed only for religious
22 purposes, by a person recognized by the church or religious body as
23 authorized to dispense the wine. The board shall be notified immedi-
24 ately after certification of the results of the election and there-
25 after may not issue, renew, or transfer between holders or locations a
26 license for licensed premises located within the perimeter of the
27 established village as defined in AS 04.21.080(b)(8).

28 (c) If a majority of the voters of an established village vote
29 "yes" on the question set out in (a) of this section and the sale of

1 alcoholic beverages, or the sale and importation of alcoholic bever-
2 ages, has not been previously prohibited in the established village in
3 accordance with AS 04.11.490 or 04.11.494, and a person, beginning 90
4 days after certification of the results of the election, may not
5 knowingly possess an alcoholic beverage in the established village,
6 unless the person is licensed by the board or the alcoholic beverage
7 is wine to be used for bona fide religious purposes based on tenets or
8 teachings of a church or religious body, is limited in quantity to the
9 amount necessary for religious purposes, and is dispensed only for
10 religious purposes by a person by the church or religious body as
11 authorized to dispense the wine. The board shall be notified immedi-
12 ately after certification of the results of the election and there-
13 after may not issue, renew, or transfer between holders or locations a
14 license for licensed premises located within the perimeter of the
15 established village as defined in AS 04.21.080(b)(8). Licenses that
16 may not be renewed because of a local option election held under this
17 section are void 90 days after the results of the election are cer-
18 tified. A license that will expire during the 90 days after the
19 results of a local option election under this section are certified
20 may be extended until it is void under this section, by payment of a
21 prorated portion of the annual license fee.

22 (d) If a majority of the voters of a municipality vote "yes" on
23 the question set out in (a) of this section, and the sale of alcoholic
24 beverages, or the sale and importation of alcoholic beverages, has
25 been previously prohibited in the municipality in accordance with
26 AS 04.11.490 or 04.11.494, an ordinance is adopted that becomes effec-
27 tive beginning on the first day of the month following certification
28 of the results of the election, and a person may not knowingly possess
29 an alcoholic beverage in the municipality, unless the alcoholic

1 beverage is wine to be used for bona fide religious purposes based on
2 tenets or teachings of a church or religious body, is limited in
3 quantity to the amount necessary for religious purposes, and is dis-
4 pensed only for religious purposes, by a person recognized by the
5 church or religious body as authorized to dispense the wine. The
6 board shall be notified immediately after certification of the results
7 of the election and thereafter may not issue, renew, or transfer
8 between holders or locations a license for licensed premises located
9 within the boundaries of the municipality and within unincorporated
10 areas within five miles of the boundaries of the municipality.

11 (e) If the majority of the voters of a municipality vote "yes"
12 on the question set out in (a) of this section and the sale of alco-
13 holic beverages, or the sale and importation of alcoholic beverages,
14 has not been previously prohibited in the municipality in accordance
15 with AS 04.11.490 or 04.11.494, and an ordinance is adopted that
16 becomes effective beginning 90 days after certification of the results
17 of the election, and a person may not knowingly possess an alcoholic
18 beverage in the municipality, unless the alcoholic beverage is wine to
19 be used for bona fide religious purposes based on tenets or teachings
20 of a church or religious body, is limited in quantity to the amount
21 necessary for religious purposes, and is dispensed only for religious
22 purposes by a person recognized by the church or religious body as
23 authorized to dispense the wine. The board shall be notified immedi-
24 ately after the adoption of the ordinance and thereafter may not
25 issue, renew, or transfer between holders or locations a license for
26 licensed premises located within the boundaries of the municipality
27 and within unincorporated areas within five miles of the boundaries of
28 the municipality. Licenses that may not be renewed because of a local
29 option election held under this section are void 90 days after the

1 results of the election are certified. A license that will expire
2 during the 90 days after the results of a local option election under
3 this section are certified may be extended, until it is void under
4 this section, by payment of a prorated portion of the annual fee.

5 (f) If a majority of the voters vote "no" on the question set
6 out in (a) of this section or vote "yes" on the questions set out in
7 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
8 AS 04.11.502 after an election in which the voters voted "yes" on the
9 question set out in (a) of this section, the prohibition on the pos-
10 session of alcoholic beverages is removed effective 90 days after the
11 results of the election are certified except as those prohibitions
12 continue to be imposed in accordance with the results of the subse-
13 quent election.

14 (g) For the purposes of this section, "possession" means having
15 physical possession of or exercising dominion or control over alco-
16 holic beverages, but does not include having alcoholic beverages
17 within the digestive system of a person.

18 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

19 (c) A petition filed with the local governing body of a munic-
20 ipality in accordance with (a) of this section, which places on the
21 ballot the question set out in AS 04.11.498, shall constitute a pro-
22 posed ordinance of the municipality.

23 * Sec. 4. AS 04.16 is amended by adding a new section to read:

24 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
25 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
26 in a municipality or established village in violation of AS 04.11.498
27 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
28 punished by a fine not to exceed \$1,000. When a peace officer stops
29 or contacts a person concerning a violation of AS 04.11.498 or an

1 ordinance enacted under AS 04.11.498, the peace officer may, in the
2 officer's discretion, issue a citation to the person as provided in
3 AS 12.25.180.

4 (b) A person cited for a violation of AS 04.11.498 or an ordi-
5 nance adopted under AS 04.11.498 for which a bail amount has been
6 established under (c) of this section may, within 30 days after the
7 date the citation is issued

8 (1) mail or personally deliver to the clerk of the court in
9 which the citation is filed by the peace officer the amount of bail
10 indicated on the citation and a copy of the citation indicating that
11 the right to an appearance is waived, a plea of no contest is entered
12 and the bail and all alcoholic beverages seized are forfeited; or

13 (2) perform community work in lieu of payment of the fine
14 or a portion of the fine as provided in (d) of this section.

15 (c) The supreme court shall establish by rule or order a sched-
16 ule of bail amounts that may be forfeited without a court appearance
17 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
18 11.498. In establishing the bail schedule the supreme court may
19 consider the quantity of alcoholic beverages possessed and the number
20 of prior violations of the person cited. Before establishing or
21 amending the schedule of bail amounts required by this subsection, the
22 supreme court shall appoint and consult with an advisory committee
23 consisting of the following seven persons: one superior court judge,
24 one magistrate from each judicial district in the state, a representa-
25 tive of the Department of Law, and a representative of the Public
26 Defender Agency. The maximum bail amount may not exceed \$1,000, and
27 the issuing officer shall write on the citation the amount of bail
28 applicable to the violation.

29 (d) Community work shall be performed at the direction of the

1 governing body of the municipality or the governing body of the estab-
2 lished village. The value of community work in lieu of a fine is
3 \$5.00 per hour. When the community work is completed, the person
4 cited for the violation shall mail or personally deliver to the clerk
5 of the court in which the citation is filed by the peace officer

6 (1) a form, prescribed by the administrative director of
7 the Alaska Court System, indicating completion of the community work;
8 and

9 (2) a copy of the citation, indicating that the right to an
10 appearance is waived, a plea of no contest is entered, and that the
11 bail is forfeited or community work has been performed and that all
12 alcoholic beverages seized are forfeited.

13 (e) When bail has been forfeited or proof of performance of
14 community work under this section has been filed with the court, a
15 judgment shall be entered. Forfeiture of bail or filing proof of
16 performance of community work and forfeiture of all seized items is a
17 complete satisfaction for the violation. The clerk of court accepting
18 the bail or the form indicating performance of community work shall
19 provide the offender with a receipt stating that fact, if requested.

20 (f) If the person fails to pay the bail amount established under
21 (c) of this section, or fails to provide proof of performance as spec-
22 ified in (d)(1) of this section to the court, the citation is con-
23 sidered a summons.

24 (g) Notwithstanding other provisions of law, if a person cited
25 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
26 11.498 for which a bail amount has been established under (c) of this
27 section appears in court and is found guilty, the penalty that is
28 imposed for the offense may not exceed the bail amount for that of-
29 fense established under (c) of this section.

1 (h) A violation of AS 04.11.498 or an ordinance adopted under
2 AS 04.11.498 may not be considered a criminal offense and may not
3 result in imprisonment, nor is a fine imposed for a violation con-
4 sidered criminal punishment. A person cited for a violation does not
5 have a right to a jury trial or court appointed counsel.

6 (i) The commissioner of public safety shall prescribe and pro-
7 vide a suitable standard citation form that is in a form necessary to
8 identify the offender, to identify the offense, and to meet the needs
9 of public safety and administration of justice.

10 (j) A municipality shall adopt a citation form that is equiva-
11 lent to that prescribed by the commissioner under (i) of this section.

12 * Sec. 5. AS 04.16.220(a) is amended to read:

13 (a) The following are subject to forfeiture:

14 (1) alcoholic beverages manufactured, sold, offered for
15 sale or possessed for sale, bartered or exchanged for goods and ser-
16 vices in this state in violation of AS 04.11.010; alcoholic beverages
17 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
18 alcoholic beverages possessed, sold or offered for sale in an area
19 where the results of a local option election have, under AS 04.11.-
20 490 - 04.11.500, prohibited the possession of alcoholic beverages or
21 prohibited the board from issuing, renewing, or transferring one or
22 more licenses or permits under this title in the area; alcoholic
23 beverages transported into the state and sold to persons not licensed
24 under this chapter in violation of AS 04.16.170(b);

25 (2) materials and equipment used in the manufacture, sale,
26 offering for sale, possession for sale, barter or exchange of alco-
27 holic beverages for goods and services in this state in violation of
28 AS 04.11.010; materials and equipment used in the stocking, warehous-
29 ing, or storage of alcoholic beverages in violation of AS 04.21.060;

1 materials and equipment used in the sale or offering for sale of an
2 alcoholic beverage in an area where the results of a local option
3 election have, under AS 04.11.490 - 04.11.500, prohibited the board
4 from issuing, renewing, or transferring one or more licenses or per-
5 mits under this title in the area;

6 (3) aircraft, vehicles, or vessels used to transport, or
7 facilitate the transportation of

8 (A) alcoholic beverages manufactured, sold, offered
9 for sale or possessed for sale, bartered or exchanged for goods
10 and services in this state in violation of AS 04.11.010;

11 (B) property stocked, warehoused, or otherwise stored
12 in violation of AS 04.21.060;

13 (C) alcoholic beverages imported into a municipality
14 or established village in violation of AS 04.11.496;

15 (4) alcoholic beverages found on licensed premises that
16 [WHICH] do not bear federal excise stamps if excise stamps are re-
17 quired under federal law;

18 (5) alcoholic beverages, materials, or equipment used in
19 violation of AS 04.16.175.

20 * Sec. 6. AS 04.16.220(b) is amended to read:

21 (b) Property subject to forfeiture under this section may be
22 actually or constructively seized under an order issued by the su-
23 perior court upon a showing of probable cause that the property is
24 subject to forfeiture under this section. Constructive seizure is
25 effected upon posting a signed notice of seizure on the item to be
26 forfeited, stating the violation and the date and place of seizure.
27 Seizure without a court order may be made if

28 (1) the seizure is incident to a valid arrest or search;

29 (2) the property subject to seizure is the subject of a

1 prior judgment in favor of the state; or

2 (3) there is probable cause to believe that the property is
3 subject to forfeiture under (a) of this section; except for alcoholic
4 beverages possessed in violation of AS 04.11.498 or an ordinance
5 adopted under AS 04.11.498, property seized under this paragraph may
6 not be held over 48 hours or until an order of forfeiture is issued by
7 the court, whichever is earlier.

8 * Sec. 7. AS 04.16.220(d) is amended to read:

9 (d) Property subject to forfeiture under (a) of this section may
10 be forfeited

11 (1) upon conviction of a person under AS 04.11.010, 04.11.-
12 496(b), or AS 04.21.060 or upon entry of judgment under AS 04.11.498
13 or an ordinance adopted under AS 04.11.498;

14 (2) upon judgment by the superior court in a proceeding in
15 rem that the property was used in a manner subjecting it to forfeiture
16 under (a) of this section.

17 * Sec. 8. AS 04.16.220(h) is amended to read:

18 (h) Alcoholic beverages forfeited under (d) of this section
19 shall be placed in the custody of a peace officer of the state and
20 destroyed no earlier than 30 days after forfeiture. All other prop-
21 erty [PROPERTY] forfeited under this section shall be placed in the
22 custody of the commissioner of public safety for disposition according
23 to an order entered by the court. The court shall order destroyed any
24 property forfeited under this section that [WHICH] is harmful to the
25 public. Other property shall be ordered sold and the proceeds used
26 for payment of expenses of the proceedings for forfeiture and sale,
27 including expenses of seizure, custody and court costs. The remainder
28 of the proceeds shall be deposited in the general fund.

29 * Sec. 9. AS 04.21.010(a) is amended to read:

1 (a) A municipality may adopt ordinances governing the barter,
2 sale, and consumption of alcoholic beverages within the municipality
3 as necessary for the orderly conduct of the business of selling alco-
4 holic beverages within the municipality and may ban possession of
5 alcoholic beverages under AS 04.11.498(d) or (e). An ordinance adopt-
6 ed under this section may not be inconsistent with this title or
7 regulations adopted under this title.

8 * Sec. 10. AS 04.21.080(b)(1) is repealed and reenacted to read:

9 (1) "alcoholic beverage" means spirituous, vinous, malt or
10 other fermented or distilled liquids, whatever the origin, that are
11 intended for human consumption as a beverage and that contain alcohol,
12 whether produced commercially or privately;

13 * Sec. 11. AS 04.21.080(b) is amended by adding a new paragraph to
14 read:

15 (12) "community work" means and is limited to work on
16 projects designed to reduce or eliminate environmental damage, protect
17 the public health, or improve public land, forests, parks, roads,
18 highways, facilities, or education; community work may not confer a
19 private benefit on a person except as may be incidental to the public
20 benefit.

21 * Sec. 12. AS 29.10.200 is amended by adding a new paragraph to read:

22 (47) AS 29.20.270(e) (ordinance veto by mayor).

23 * Sec. 13. AS 29.20.270(a) is amended to read:

24 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
25 tion, the mayor may veto an ordinance, resolution, motion, or other
26 action of the governing body and may strike or reduce appropriation
27 items.

28 * Sec. 14. AS 29.20.270 is amended by adding a new subsection to read:

29 (e) The veto does not extend to an ordinance adopted under

1 AS 04.11.498. This subsection applies to home rule and general law
2 municipalities.

3 * Sec. 15. AS 29.25.020 is amended by adding a new subsection to read:

4
5 (d) This section does not apply to an ordinance proposed under
6 AS 04.11.502(c).

7 * Sec. 16. AS 29.25.070 is amended by adding a new subsection to read:

8 (d) This section does not apply to an ordinance adopted under
9 AS 04.11.498(d) or (e).

10 * Sec. 17. AS 29.35.080(a) is amended to read:

11 (a) A municipality may regulate the possession, barter, sale,
12 importation, and consumption of alcoholic beverages in accordance with
13 AS 04.11.480 - 04.11.506 and AS 04.21.010.
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**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No.: CSSSHB 700 (Fin) am
 Title: "An Act relating to regulation
 of alcoholic beverages and enactment
 of municipal ordinances."
 Sponsor: Rules Committee
 Requestor: Senate Finance
 Date of Request: 4/25/86

FISCAL DETAIL

Agency Affected Public Safety
 BRU: DPS Administration
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Kathy Niles, Admin Assistant
 Division: Commissioner's Office

Phone: 465-4336
 Date: 4/25/86

Approved by Commissioner: [Signature]
 Agency: Public Safety

Date: 4/25/86

Distribution (by Agency preparing fiscal note):

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

A SEARCH FOR CONTROL:
THE EFFECT OF ALCOHOL ON
PUBLIC RIGHTS AND PRIVATE WRONGS



REPORT TO THE LEGISLATURE
JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS

Representative John Binkley, Chairman
Senator John Sackett
Senator Vic Fischer
Senator Edna DeVries
Representative Katie Hurley
Representative John Sund

EXECUTIVE SUMMARY

March 1986

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A SEARCH FOR CONTROL:
THE EFFECT OF ALCOHOL ON
PUBLIC RIGHTS AND PRIVATE WRONGS

EXECUTIVE SUMMARY

Introduction

The numbers of social problems stemming from alcohol abuse in Alaska are staggering. The ravaging effects of alcohol are particularly acute in the isolated native communities of rural Alaska.

As a result of the enactment of the present local option law, villagers are precluded from banning alcohol. Many villagers want the power to ban alcohol in their communities because they believe that alcohol prohibition is a way to prevent serious social problems from occurring. Moreover, many villagers and expert analysts believe that existing bans on importing alcohol cannot be enforced unless possession of alcohol is also banned.

In response to requests made by the city councils of several communities in the Yukon-Kuskokwim Delta, the Fourteenth Legislature created the Joint Special Committee on Local Option Laws. The mandate of the Committee was to take testimony and collect data on the question of banning possession of alcoholic beverages within a community.

Eighteen hearings were held by the Committee during the months of November and December 1985. Hearing locations were limited by financial and time constraints to communities located in the western and northern areas of Alaska. These two areas were chosen because most of the communities which have taken advantage of the existing local option law are in western and northern Alaska.

Two significant facts were made clear to the Committee as a result of the hearing testimony. First, villagers want to have strong and healthy communities. However, their ability to turn this desire into reality is limited because they do not have meaningful input into, and thus control over, most of the governmental decisions that directly affect their lives. Second, the problems related to alcohol abuse in the villages cut across every aspect of community and family life.

After considering a vast body of evidence, the Committee found that the harm caused by alcohol abuse is so pervasive, serious and overwhelming that villages should have the authority to ban possession of alcohol. The Committee, therefore, proposed legislation that would add a new alternative to the present local option law and that would allow communities to implement a ban on alcohol. Violation of a ban on possession of alcohol would be punishable by a fine and violators would not receive a criminal record.

The proposed legislation authorizes the Alaska Supreme Court to set a bail forfeiture schedule for violations of the law. Because the statute allows for bail forfeiture, persons not contesting a citation for possessing alcohol could simply mail the appropriate amount of bail to the nearest court in lieu of a fine. Because many villagers have limited access to cash, community services performed under the direction of the city or village council could be substituted for cash bail. One hour of community service would be equal to \$5.00 in cash. Confiscation and forfeiture of liquor possessed in violation of the ban would be permitted.

History of Alcohol Regulation in Alaska

From the time of initial Russian contacts with native Alaskans, through the present-day local option legislation, alcohol regulation has been a consistent theme of law enforcement in rural Alaska. Until the last ten to twenty years, federal statutes, state statutes, village ordinances, and community sanctions have all been used as control mechanisms to prohibit rural Alaskans from using alcohol.

Most recently, the legislature adopted the existing local option law in 1980. Under the local option statute, communities that want to limit the importation or distribution of alcoholic beverages can hold elections and choose one of several options for regulating alcohol. The available options are:

1. Prohibition of the sale of alcohol;
2. Prohibition of the sale and importation of alcohol;
3. Restriction of the types of license available for selling alcohol (i.e., beer and wine only);
4. Restriction of alcohol sales to community-owned liquor stores.

Studies of Alaska's Local Option Law

In-depth studies have shown that communities are adopting a wide variety of control measures, including the local option law, in an attempt to prevent residents from abusing alcohol. The local option law is an indirect method of controlling alcohol-related behavior and is used because villages do not have direct control over either the use of alcohol by community

members or the resulting alcohol-related deviant behavior. Local option is considered to be a significant and indispensable tool because it helps prevent problems from occurring.

The most frequently used option allows for banning the sale and importation of alcohol. The use of the most restrictive option reflects the desire of many villages to severely limit access to alcohol. If villages could totally prohibit both the manufacture and possession of alcohol, many communities would opt for complete prohibition.

In the communities that have implemented the local option law, there has been a significant reduction in alcohol-related dangerous behavior. After adoption of the local option law, communities have less public drinking and public drunkenness, declines in the amount of alcohol-related interpersonal violence and accidents, and marked improvements in the physical appearance and scholastic performance of the children of drinking parents.

In addition to the direct benefits, other positive side effects of the local option law have been identified. These benefits resulted from the process used in making the decision to regulate alcohol. By implementing the law through an election, the burden of responsibility for the law shifted from the council and village leaders to the entire voting population. As a result, both lawmaking and enforcement have been made easier.

Villagers' concerns about alcohol are not based on moral judgments about drinking, or a desire to intrude on the power of individuals to make decisions about their personal health. The primary reason people want to ban alcohol is because it is intimately related to the deaths of village members. The deaths of young people are of particular concern because many villagers believe that the survival of their culture is completely dependent on the caliber of future community leaders, many of whom are dying in alcohol-related incidents.

The 1985 Local Option Hearings

Alcohol is involved in a wide range of social problems occurring in Alaska communities. Some of the problems described during the testimony are:

- * Virtually all of the violent crime is alcohol related, as is a majority of all types of criminal activity in Alaska.
- * A large number of deaths, including suicides, are alcohol related.
- * Children of alcohol abusers suffer problems with their schooling. They do not get enough sleep at night and do not get their homework done because of parents drinking and partying in the home.

- * Most cases of child abuse and neglect involve alcohol abuse. Many children of drinkers suffer from malnourishment, and some have health problems caused by mothers drinking during pregnancy.
- * Children of drinkers follow in their parents' footsteps by using and abusing alcohol.
- * Elders become uneasy and fearful, and cannot eat or sleep, as a result of concern about the behavior of alcohol abusers. This fear and unease causes problems which require medical intervention.
- * The use and abuse of alcohol is threatening the structure of the extended family. Children and grandchildren in some families are either excluded, or exclude themselves, from extended family activities in an effort to be protected from alcohol abusers.
- * Alcohol abusers can interrupt critically important subsistence activities.
- * Essential and irreplaceable family tools, such as snowmachines and boat engines, are broken or destroyed by persons under the influence of alcohol.

The Social Costs of Alcohol Abuse

The overall level of alcohol consumption, regardless of beverage source, determines the prevalence of dangerous drinkers and alcohol-related problems, both nationally and within Alaska. Alaska has a high rate of annual consumption in comparison to both the rest of the world and the rest of the United States. Moreover, Alaska has historically shown a dramatic increase over the years in the average annual alcohol consumption rate.

In analyzing which factors most affect per capita consumption rates, a recent study pointed to three variables: the cost of alcohol, the hours in which alcohol is available for sale, and the number of outlets in which alcohol may be purchased. Thus, states with "strict, tight or conservative" liquor laws were found to have low per capita consumption rates, and states with "permissive, loose, or liberal" liquor laws had high per capita consumption.

Chronic alcohol consumption has toxic effects on every part of the body, with medical consequences ranging from slight impairments of physical condition to life-threatening diseases. The most common location of the disease is the liver; however, alcohol may also directly injure the gastro-intestinal tract, muscles, and the pancreas. The cardiovascular system, the nervous system, and the endocrine system may be damaged by alcohol. Finally, there is evidence of a strong association between chronic alcohol use and cancer of the stomach, large intestine, pancreas, and liver.

Studies have consistently shown that alcoholics and heavy drinkers have significantly higher death rates than the rest of

the population. The numbers of homicides, suicides, and accidental deaths are increased as a result of alcohol. Native Alaskans have a particularly high alcohol-related suicide rate. The leading cause of death in Alaska is "accidents" and the rate of accidental death is over twice the national average. A majority of Alaska's accidental deaths are alcohol-related.

Alcohol and violent crime are inseparable in Alaska. Many different studies have shown the close link between criminal activity and the abusive use of alcohol. The highest correlation between alcohol and crime is with violent acts committed in rural Alaska.

Studies have shown that a strong relationship exists between problem drinking and spouse abuse. The domestic violence problems linked to alcohol were not limited to incidents of spouse abuse; child abuse and parent abuse have also been found to be common. In comparing men who abuse their spouses with those who do not, researchers have found that the abusers had a history of exposure to spouse abuse in their childhood home. These findings suggest that spouse abuse may become more widespread as children from violent homes make families of their own.

Heavy drinking during pregnancy increases the risk of miscarriage and can result in alcohol-related birth defects. When consumed in large amounts, alcohol can cause fetal alcohol syndrome.

There is a substantial relationship between having an alcoholic parent and development of alcoholism. Children of alcoholics are frequent victims of incest, child neglect, and other forms of violence and exploitation. In 90% of child abuse cases, alcohol is a significant factor. Children of alcoholics are prone to experience a range of psychological difficulties, including learning disabilities, anxiety, attempted and completed suicide, eating disorders, and compulsive achieving.

The economic cost to society from alcohol abuse is high. Various methodologies have been used for measuring the cost of alcohol abuse to the State of Alaska in dollars. One study concluded that the total cost for fiscal year 1984, including direct and indirect costs, was \$195,500,000. Another analysis of the economic cost of alcohol abuse during the same period found the cost to be \$185,294,061.

Legal Issues Presented by Proposal to Ban Alcohol

Under federal law, states are given the power to absolutely prohibit, or to limit and regulate, traffic in intoxicating liquors within their borders. The Alaska Supreme Court has recognized that the legislature has the power to impose either complete prohibition or any other conditions deemed necessary to protect the people of the state.

A ban on the possession of alcohol would not violate the protection given to individual privacy rights in the Alaska Constitution. The courts have repeatedly held that the right to privacy must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare. "No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely," according to the Alaska Supreme Court.

The Court has found that there is an unmistakable correlation between alcohol consumptions and poor health, death, family violence, child abuse, and crime. Based on this correlation, the court has upheld the portion of the current local option law which allows communities to ban the specific reference to previous rulings of the Alaska Supreme Court that had expressly recognized "the deleterious effects of consuming alcoholic beverages" and that had expressly found alcohol to be more dangerous than either marijuana or cocaine.

Committee Findings

Finding Number One: The abusive use of alcohol interferes in a serious manner with the health, safety, rights, and privileges of Alaskans, and with the public welfare.

Finding Number Two: The public health and welfare will, in fact, suffer if the abusive use of alcohol is not controlled.

Finding Number Three: The prohibition of alcohol in rural Alaska villages is an effective tool for controlling the abusive use of alcohol.

Finding Number Four: Serious crimes, and a wide variety of other social problems, could be prevented if the possession of alcohol were prohibited.

Finding Number Five: There is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, death, suicide, crime, family violence, family stability, and child abuse.

Finding Number Six: The level of dangerous alcohol-related behavior is directly tied to the level of alcohol consumption, and the level of alcohol consumption is directly tied to both the cost and availability of alcohol. A law prohibiting possession would limit the availability of alcohol, and would increase the cost of illicitly-available liquor.

Finding Number Seven: The dangers resulting from alcohol abuse are particularly acute in rural Alaska because the communities are small, isolated, without adequate law enforcement, without adequate health care facilities, and populated by people who are closely related and interdependent.

Finding Number Eight: The most damaging type of abusive alcohol-related behavior is that which affects innocent victims, such as children and elders. Children are particularly vulnerable, and as a result of parental alcohol abuse, suffer from a broad range of serious problems.

Finding Number Nine: The abusive use of alcohol perpetuates an escalating pattern of crime and violence from generation to generation.

Finding Number Ten: The most serious harm to the innocent victims of alcohol abuse takes place in private homes and behind closed doors. In communities that have chosen to ban the sale and importation of alcohol, and that have significant alcohol-related social problems, most drinking takes place in private homes.

Finding Number Eleven: The economic cost of alcohol abuse is high and cannot be afforded by either the state or rural communities.

Finding Number Twelve: A significant number of rural Alaska communities want, and would use, the authority to ban possession of alcohol. These communities have had a long-standing belief that alcohol should be completely banned, and this belief is based on a lengthy history of alcohol prohibition in rural villages.

Finding Number Thirteen: The policy decision to ban possession of alcohol is one that must be made by local governments. If local authorities are precluded from making such a decision, self-government efforts are undermined, respect for the state legal system is lost, and the public welfare is damaged.

Finding Number Fourteen: Although Alaska law permits communities to ban the sale and importation of alcoholic beverages, the present law is unenforceable because the possession of alcoholic beverages, including homebrew, is permitted.

Committee Conclusions

The severity of Alaska's problems with alcohol cannot be overemphasized, or exaggerated. Alcohol-induced tragedies have become a reality of daily life across the entire state. Every possible tool must be available for use in combatting the threat posed by alcohol.

Since Alaska communities are extremely diverse, the tools available to fight alcohol abuse must be equally varied. Approaches to controlling alcohol that are effective in urban areas are unlikely to work in the rural villages of the state. Similarly, alcohol control mechanisms that help stop the disintegration of homogenous and isolated villages, would be completely out of place in a complex urban community. Laws must be flexible enough to provide solutions to the problems faced in all communities.

Villagers repeatedly told the Committee that they want the power to completely prohibit alcohol. The broad range of problems that are associated with alcohol abuse, and which are set forth in the Committee Findings of Fact, legally and morally justify legislative action that grants villages that power. Therefore, the recommendation of the Committee is that the local option law be amended and that communities be granted the power to ban possession of alcohol

Ford.

A M E N D M E N T

Offered in the HOUSE FINANCE COMMITTEE

By Binkley

TO: CSSSHB 700(C&RA)

Page 1, line 27, delete "and"

Page 1, line 29, following "communities", delete "." and insert "; and"

Page 1, after line 29, insert a new paragraph to read:

"(9) a fine in the amount of \$1,000 or 200 hours of community work, is not so severe a penalty as to indicate criminality in either rural or urban Alaska communities."

Sectional Analysis

Committee Substitute for Sponsor Substitute Bill for House Bill 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

SECTION 1: Sets forth in Legislative Findings the specific reasons for amending the existing local option law.

SECTION 2: Provides established villages and municipalities the authority to hold elections to ban possession of alcohol, as an addition to the options for regulating alcohol allowed under current law. Following an election, alcoholic beverages would be banned by city ordinance in municipalities and by state statute in established villages. Excludes from the definition of possession "alcoholic beverages within the digestive system of a person."

SECTION 3: Specifies that a petition for local option election constitutes a proposed ordinance of a municipality.

SECTION 4: Sets penalty for possession of alcohol in violation of law as a maximum \$1,000 fine, for which community work, supervised by the governing body of the community, may be substituted at the option of the offender. Authorizes the Supreme Court to set a bail forfeiture schedule after consultation with an advisory committee. Mandates that the Commissioner of the Department of Public Safety develop a uniform citation form, which must be adopted by municipalities. Allows appearance on a citation to be waived, a plea of no contest to be entered, and bail and all alcoholic beverages seized to be forfeited. Specifies that possession of alcohol in violation of the law is not a criminal offense, and does not give rise to the right to jury trial or to court-appointed counsel.

SECTION 5: Provides that alcoholic beverages possessed in violation of a ban is subject to forfeiture.

SECTION 6: Provides an exception to the requirement that a court hearing be held within 48 hours of seizure of property subject to forfeiture for alcoholic beverages possessed in violation of a community ban on alcohol. This section does not change Alaska law

relating to search and seizure, rather it recognizes that alcohol possessed in violation of a ban is contraband and that a court hearing to consider the propriety of its seizure would have no purpose.

SECTION 7: Specifies that forfeiture may occur at the point when judgment has been entered on a citation.

SECTION 8: Requires that alcoholic beverages forfeited under the law be destroyed no earlier than 30 days after forfeiture.

SECTION 9: Authorizes municipalities to adopt ordinances banning possession of alcohol as set forth in Section 2 of CSSSHB700.

SECTION 10: Clarifies that the definition of alcoholic beverage includes privately produced beverages containing alcohol.

SECTION 11: Conforms Title 29 with Sections 2 and 9.

SECTION 12: Conforms Title 29 with Sections 2 and 9.

SECTION 13: Conforms Title 29 with Sections 2 and 9.

SECTION 14: Conforms Title 29 with Sections 2 and 9.

SECTION 15: Conforms Title 29 with Sections 2 and 9.

SECTION 16: Conforms Title 29 with Sections 2 and 9.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 284-8228

April 9, 1986

Rep. Peter Goll, Chair
House Community and
Regional Affairs Committee
P. O. Box V
Juneau AK 99811

Dear Rep. Goll:

I am writing on behalf of the Alaska Court System to bring to your attention some minor questions with HB 700, relating to the regulation of alcoholic beverages and enactment of municipal ordinances. The court system shares the legislature's concern about the consequences of alcohol abuse. As you know, this bill would permit localities to determine whether an ordinance should be adopted prohibiting the possession of alcoholic beverages within the municipality or village. Because possession of alcohol is not an offense under current law, issuance of citations to enforce these ordinances will increase the court's workload. However, because enforcement is tied to a mail-in bail forfeiture system rather than to a mandatory court appearance, most of the impact will be at the clerical level.

Adoption of such ordinances will impact the court system in two ways. First, although the bail mail-in forfeiture mechanism eliminates the need for mandatory court appearances (which are time-consuming for enforcement officials and judicial officers), new work is created for court clerks who are required to accept bail forfeiture payments. Work is also created for judicial officers when an individual fails to pay the bail forfeiture amount or fails to perform community work, in which case a bench warrant must be issued. Additionally, some new trials will occur for those defendants who decide to plead not guilty and who request a court appearance. The workload impact on the courts as a result of these new violations will depend on the number of citations which are filed.

I have discussed the potential workload impact with Laurie Otto. Although precise information is unavailable, it is assumed that about half of the villages which now ban importation of alcohol would adopt restrictive ordinances. Population in these villages ranges from 150 to 600, with an

Peter Goll
April 9, 1986
Page 2

estimated 15-30 problem drinkers. Some of these persons will be cited repeatedly. Magistrate locations can therefore anticipate increased filing of citations. Ms. Otto indicates that citations for other alcohol offenses should decrease (since it is hoped that the seizure provisions of this bill will have a major impact on problem drinking). However, implementation of bail forfeiture procedures will require magistrate training. Training is especially critical in the area of bench warrant procedures, since improper issuance of warrants leads to litigation against the state for false arrest.

The court system will review the anticipated workload increase as well as magistrate training needs (for which funding is severely limited under current budget projections), and will determine the extent of any fiscal impact.

Another area of impact involves the supreme court, which will be required to adopt a bail forfeiture schedule for violations of these ordinances. The supreme court has adopted similar schedules for traffic infractions and misdemeanors, for misdemeanors committed in state parks, and for fish and game offenses. The court endeavors to establish an amount which will penalize the defendant for the conduct while at the same time giving a violator an incentive to plead not guilty rather than to appear in court and contest the citation.

One area of concern with this bill relates to the manner in which the supreme court will adopt the bail forfeiture schedule. This legislation anticipates that the supreme court will set varying levels of bail forfeitures depending on a number of prior violations and the quantity of alcoholic beverages possessed. There is no simple way for the supreme court to arrive at appropriate figures. In fish and game and park offenses, the legislature has recognized this concern by creating committees consisting of appropriate enforcement officials and legislators to make recommendations to the supreme court in an advisory capacity about the proposed bail schedule. Establishment of such a committee could prove helpful to the supreme court in setting a bail schedule for these ordinances.

Another problem for courts stems from the difficulty in knowing whether a defendant has complied. Under the bill a citation is considered a summons if a defendant fails to pay the bail forfeiture amount or fails to perform community work. Courts will know whether a bail forfeiture amount has been paid because these payments are received directly by the court. However, it is possible that a defendant could perform community work yet fail to submit the necessary paperwork to the court system. In this case, the court might issue a bench warrant based on the summons for a defendant who had already performed community work but had failed to submit the necessary paperwork to the court. An alternative approach would be for local officials rather than defendants to inform courts when community work has been completed and for a bench warrant to issue within a specified number of days after the court receives notice from the locality.

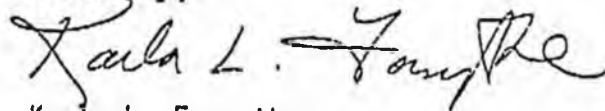
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Peter Goll
April 9, 1986
Page 3

Successful implementation of this legislation will require close coordination between courts and enforcement officials. If possible, a uniform citation should be drafted and should be reviewed by the court prior to adoption, to ensure it comports with court processing procedures. Second, courts and localities need to determine how courts will be informed that a person has completed community work.

I hope these comments are helpful. The court system will be glad to provide any additional information which the committee or the bill sponsors require to address these and any other court-related concerns.

Sincerely,



Karla L. Forsythe
Staff Counsel

KF/k1

cc: Arthur H. Snowden, II
Rep. Binkley

POSITION PAPER
ON
SPONSOR SUBSTITUTE FOR HOUSE BILL 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

Discussion

From a public health and public safety perspective the Department of Health and Social Services is entirely supportive of SSHB 700. Consistent with previous Alaska Judiciary findings in *Boehl vs. Saber Jet* and *Harrison vs. State of Alaska*, SSHB 700 makes note, under Legislative Findings, of the deleterious relationship between alcohol abuse and a variety of health and social ills. This Department, which too often provides services for the casualties of alcohol abuse, applauds the Joint Special Committee on Local Alcohol Options for the inclusion of this section in the bill.

This bill implements a process to ban possession of alcohol. To the maximum extent possible, SSHB 700 attempts to place the decision for adoption, responsibility, enforcement, and adjudication upon the local government unit. The Department is supportive of this approach because of the unique nature of individual communities in rural Alaska that are likely to be impacted by the passage of this bill. Even though past local option initiatives have generally produced healthier villages, a problem of enforcement does exist. The transfer of this responsibility from the State to local "community governing body", as outlined in section 4, will be most helpful in strengthening the process of local option. An argument may be advanced regarding an individual resident's right to possess alcohol in a dry area. With regard to alcohol in rural Alaska, it is the Department's position that the right of health and well-being of the community exceeds those rights of the individual. This right of the rural community to take an action to ensure its well-being and safety is clearly outlined by the Supreme Court in the *Harrison* case. The State was upheld, in part, because inadequate health and public safety responses are prevalent in rural Alaska to assist with the injuries that occur as a result of alcohol abuse. Furthermore, the problem of alcohol abuse in rural Alaska is of catastrophic proportions and requires a major community response.

The Department did commission a study recently by the Justice Center, University of Alaska/Anchorage, entitled *Feasibility Study on the Effects of Local Option Law on Local Communities*. A principle finding of this study is that the negative consequences of drinking have greatly decreased in villages that have banned importation. The study also indicated, however, that considerable frustration exists in villages if alcohol is imported undetected, since there presently is no legal remedy for this situation. SSHB 700 attempts to go one step further in the array of options available to a community by allowing ordinances to ban possession. A Village Public Safety Officer (VPSO) estimated a 25% decrease in the availability of alcohol in a village that banned importation. It is expected that if a village exercises its option to ban possession the availability of alcohol could be further decreased.

The Department recognizes passage of SSHB 700 will not be a panacea for all of the alcohol problems in rural Alaska but does view it as a vehicle or tool for further improvement of the present condition.

Position

The Department of Health and Social Services strongly supports SSHB 700. This legislation continues the Office of Alcoholism and Drug Abuse's past efforts in the prevention of alcohol abuse in rural Alaska by limiting availability. SSHB 700 gives rural Alaskans a method of fulfilling their apparently strong desire to improve the health and welfare of their communities.

Recommended by:

Matthew C. Felix
.....
Matthew C. Felix
Coordinator
Office of Alcoholism/
Drug Abuse

Date:

4/4/86
.....

Approved by:

John R. Pugh
.....
John R. Pugh
Commissioner
Department of Health
and Social Services

Date:

4/4/86
.....

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SSHB 700

Support

April 11, 1986

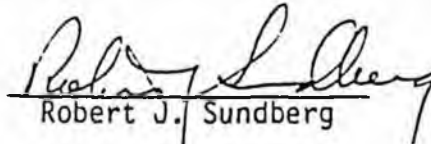
SSHB 700 - "An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

The Department of Public Safety supports SSHB 700.

The impetus of this bill is to restrict alcohol, as much as possible, from any village or municipality, that votes to outlaw the possession of such.

The bill addresses the problem currently faced by many of the villages after they voted in favor of restricting the importation and sale of alcohol where in possession is still a constant unenforceable problem.

The bill further addresses the punitive aspects in a manner that does not materially impact law enforcement, the courts or Corrections.


Robert J. Sundberg

Introduced: 4/4/86
Referred: Community & Regional
Affairs, Judiciary and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages

7

and enactment of municipal ordinances."

8

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

9

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10

(1) abuse of alcohol seriously interferes with the rights and

11

privileges of the people of the state;

12

(2) the public health, safety, and welfare does in fact suffer

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when alcohol abuse is not controlled;

14

(3) prohibition of alcohol in rural areas of the state is an

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effective tool for controlling the abuse of alcohol;

16

(4) serious crimes and a wide variety of other social problems

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could be prevented if the possession of alcohol were prohibited;

18

(5) there is a strong and unmistakable correlation between

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alcohol consumption and poor health, fetal damage, suicide, domestic vio-

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lence, and crime;

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(6) the dangers resulting from alcohol abuse are particularly

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acute in rural areas of the state because the communities are small,

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isolated, without adequate law enforcement, without adequate health care

24

facilities, and populated by people who are closely related and interdepen-

25

dent;

26

(7) in communities that have chosen to ban the sale and importa-

27

tion of alcohol, most drinking takes place in private homes; and

28

(8) the economic cost of alcohol abuse is high, and cannot be

29

afforded by the state or small rural communities.

1 * Sec. 2. AS 04.11 is amended by adding a new section to read:

2 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVER-
3 AGES. (a) The following question, appearing alone, may be placed
4 before the voters of a municipality or an established village in
5 accordance with AS 04.11.502: "Shall the possession of alcoholic
6 beverages be prohibited in (name of municipality or vil-
7 lage)? (yes or no)."

8 (b) If a majority of the voters of an established village vote
9 "yes" on the question set out in (a) of this section, a person, begin-
10 ning on the first day of the month following certification of the
11 results of the election, may not knowingly possess an alcoholic
12 beverage in the established village, unless the alcoholic beverage is
13 sacramental wine to be used for bona fide religious purposes based on
14 tenets or teachings of a church or religious body, is limited in
15 quantity to the amount necessary for religious purposes, and is dis-
16 pensed only for religious purposes by a person authorized by the
17 church or religious body to dispense the sacramental wine. The board
18 shall be notified immediately after certification of the results of
19 the election and thereafter may not issue, renew, or transfer between
20 holders or locations a license for licensed premises located within
21 the perimeter of the established village. Licenses that may not be
22 renewed because of a local option election held under this section are
23 void on the first day of the month following certification of the
24 election.

25 (c) If a majority of the voters of a municipality vote "yes" on
26 the question set out in (a) of this section, an ordinance is adopted
27 that becomes effective beginning on the first day of the month follow-
28 ing certification of the results of the election, and a person may not
29 knowingly possess an alcoholic beverage in the municipality, unless

1 the alcoholic beverage is sacramental wine to be used for bona fide
2 religious purposes based on tenets or teachings of a church or reli-
3 gious body, is limited in quantity to the amount necessary for reli-
4 gious purposes, and is dispensed only for religious purposes by a
5 person authorized by the church or religious body to dispense the
6 sacramental wine. The board shall be notified immediately after the
7 adoption of the ordinance and thereafter may not issue, renew, or
8 transfer between holders or locations a license for licensed premises
9 located within the boundaries of the municipality and within unincor-
10 porated areas within five miles of the boundaries of the municipality.
11 Licenses that may not be renewed because of a local option election
12 held under this section are void on the first day of the month follow-
13 ing certification of the election.

14 (d) If a majority of the voters vote "no" on the question set
15 out in (a) of this section or vote "yes" on the questions set out in
16 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
17 AS 04.11.502 after an election in which the voters voted "yes" on the
18 question set out in (a) of this section, the prohibition on the pos-
19 session of alcoholic beverages is removed effective 90 days after the
20 results of the election are certified except as those prohibitions
21 continue to be imposed in accordance with the results of the subse-
22 quent election.

23 (e) For the purposes of this section, "possession" means having
24 physical possession of or exercising dominion or control over alco-
25 holic beverages, but does not include having alcoholic beverages
26 within the digestive system of a person.

27 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

28 (c) A petition filed with the local governing body of a munic-
29 ipality in accordance with (a) of this section, which places on the

1 ballot the question set out in AS 04.11.498, shall constitute a pro-
2 posed ordinance of the municipality.

3 * Sec. 4. AS 04.16 is amended by adding a new section to read:

4 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
5 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
6 in a municipality or established village in violation of AS 04.11.498
7 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
8 punished by a fine not to exceed \$1,000. When a peace officer stops
9 or contacts a person concerning a violation of AS 04.11.498 or an
10 ordinance enacted under AS 04.11.498, the peace officer may, in the
11 officer's discretion, issue a citation to the person as provided in
12 AS 12.25.180.

13 (b) A person cited for a violation of AS 04.11.498 or an ordi-
14 nance adopted under AS 04.11.498 for which a bail amount has been
15 established under (c) of this section may, within 30 days after the
16 date of the citation

17 (1) mail or personally deliver to the clerk of the court in
18 which the citation is filed by the peace officer the amount of bail
19 indicated on the citation and a copy of the citation indicating that
20 the right to an appearance is waived, a plea of no contest is entered
21 and the bail and all alcoholic beverages seized are forfeited; or

22 (2) perform community work in lieu of payment of the fine
23 or a portion of the fine as provided in (d) of this section.

24 (c) The supreme court shall establish by rule or order a sched-
25 ule of bail amounts that may be forfeited without a court appearance
26 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
27 11.498. In establishing the bail schedule the supreme court may
28 consider the quantity of alcoholic beverages possessed and the number
29 of prior violations of the person cited. The maximum bail amount may

1 not exceed \$1,000, and if a citation is issued that may be disposed of
2 without court appearance, the issuing officer shall write on the
3 citation the amount of bail applicable to the violation.

4 (d) Community work shall be performed at the direction of the
5 governing body of the municipality or the village council of the
6 established village. The value of community work in lieu of a fine is
7 \$5.00 per hour. When the community work is completed, the person
8 cited for the violation shall mail or personally deliver to the clerk
9 of the court in which the citation is filed by the peace officer

10 (1) a form, prescribed by the board, indicating completion
11 of the community work; and

12 (2) a copy of the citation, indicating that the right to an
13 appearance is waived, a plea of no contest is entered, and that the
14 bail is forfeited or community work has been performed and that all
15 alcoholic beverages seized are forfeited.

16 (e) When bail has been forfeited or community work performed
17 under this section, a judgment of conviction shall be entered. For-
18 feiture of bail or performance of community work and forfeiture of all
19 seized items is a complete satisfaction for the violation. The clerk
20 of court accepting the bail or the form indicating performance of
21 community work shall provide the offender with a receipt stating that
22 fact.

23 (f) If the person fails to pay the bail amount established under
24 (c) of this section or to perform community work as provided in (d) of
25 this section, the citation is considered a summons.

26 (g) Notwithstanding other provisions of law, if a person cited
27 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
28 11.498 for which a bail amount has been established under (c) of this
29 section appears in court and is found guilty, the penalty that is

1 imposed for the offense may not exceed the bail amount for that
2 offense established under (c) of this section.

3 (h) A violation of AS 04.11.498 or an ordinance adopted under
4 AS 04.11.498 may not be considered a criminal offense and may not
5 result in imprisonment, nor is a fine imposed for a violation con-
6 sidered criminal punishment. A person cited for a violation does not
7 have a right to a jury trial or court appointed counsel.

8 * Sec. 5. AS 04.16.220(a) is amended to read:

9 (a) The following are subject to forfeiture:

10 (1) alcoholic beverages manufactured, sold, offered for
11 sale or possessed for sale, bartered or exchanged for goods and ser-
12 vices in this state in violation of AS 04.11.010; alcoholic beverages
13 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
14 alcoholic beverages possessed, sold or offered for sale in an area
15 where the results of a local option election have, under AS 04.11.-
16 490 - 04.11.500, prohibited the possession of alcoholic beverages or
17 prohibited the board from issuing, renewing, or transferring one or
18 more licenses or permits under this title in the area; alcoholic
19 beverages transported into the state and sold to persons not licensed
20 under this chapter in violation of AS 04.16.170(b);

21 (2) materials and equipment used in the manufacture, sale,
22 offering for sale, possession for sale, barter or exchange of alco-
23 holic beverages for goods and services in this state in violation of
24 AS 04.11.010; materials and equipment used in the stocking, warehous-
25 ing, or storage of alcoholic beverages in violation of AS 04.21.060;
26 materials and equipment used in the sale or offering for sale of an
27 alcoholic beverage in an area where the results of a local option
28 election have, under AS 04.11.490 - 04.11.500, prohibited the board
29 from issuing, renewing, or transferring one or more licenses or

1 permits under this title in the area;

2 (3) aircraft, vehicles, or vessels used to transport, or
3 facilitate the transportation of

4 (A) alcoholic beverages manufactured, sold, offered
5 for sale or possessed for sale, bartered or exchanged for goods
6 and services in this state in violation of AS 04.11.010;

7 (B) property stocked, warehoused, or otherwise stored
8 in violation of AS 04.21.060;

9 (C) alcoholic beverages imported into a municipality
10 or established village in violation of AS 04.11.496;

11 (D) alcoholic beverages possessed in violation of
12 AS 04.11.498 or an ordinance adopted under AS 04.11.498;

13 (4) alcoholic beverages found on licensed premises that
14 [WHICH] do not bear federal excise stamps if excise stamps are re-
15 quired under federal law;

16 (5) alcoholic beverages, materials, or equipment used in
17 violation of AS 04.16.175.

18 * Sec. 6. AS 04.16.220(b) is amended to read:

19 (b) Property subject to forfeiture under this section may be
20 actually or constructively seized under an order issued by the
21 superior court upon a showing of probable cause that the property is
22 subject to forfeiture under this section. Constructive seizure is
23 effected upon posting a signed notice of seizure on the item to be
24 forfeited, stating the violation and the date and place of seizure.
25 Seizure without a court order may be made if

26 (1) the seizure is incident to a valid arrest, [OR] search,
27 or a citation issued under AS 04.11.498 or an ordinance adopted under
28 AS 04.11.498;

29 (2) the property subject to seizure is the subject of a

1 prior judgment in favor of the state; or

2 (3) there is probable cause to believe that the property is
3 subject to forfeiture under (a) of this section; property seized under
4 this paragraph may not be held over 48 hours or until an order of
5 forfeiture is issued by the court, whichever is earlier.

6 * Sec. 7. AS 04.16.220(d) is amended to read:

7 (d) Property subject to forfeiture under (a) of this section may
8 be forfeited

9 (1) upon conviction of a person under AS 04.11.010, 04.11.-
10 496(b), 04.11.498, or AS 04.21.060;

11 (2) upon judgment by the superior court in a proceeding in
12 rem that the property was used in a manner subjecting it to forfeiture
13 under (a) of this section.

14 * Sec. 8. AS 04.16.220(h) is amended to read:

15 (h) Alcoholic beverages forfeited under (d) of this section
16 shall be placed in the custody of a peace officer of the state and
17 destroyed not later than 30 days after forfeiture. All other property
18 [PROPERTY] forfeited under this section shall be placed in the custody
19 of the commissioner of public safety for disposition according to an
20 order entered by the court. The court shall order destroyed any
21 property forfeited under this section that [WHICH] is harmful to the
22 public. Other property shall be ordered sold and the proceeds used
23 for payment of expenses of the proceedings for forfeiture and sale,
24 including expenses of seizure, custody and court costs. The remainder
25 of the proceeds shall be deposited in the general fund.

26 * Sec. 9. AS 04.21.010(a) is amended to read:

27 (a) A municipality may adopt ordinances governing the barter,
28 sale, and consumption of alcoholic beverages within the municipality
29 as necessary for the orderly conduct of the business of selling

1 alcoholic beverages within the municipality and may ban possession of
2 alcoholic beverages under AS 04.11.498(c). An ordinance adopted under
3 this section may not be inconsistent with this title or regulations
4 adopted under this title.

5 * Sec. 10. AS 04.21.080(b)(1) is repealed and reenacted to read:
6 (1) "alcoholic beverage" means spirituous, vinous, malt or
7 other fermented or distilled liquids, whatever the origin, that are
8 intended for human consumption and that contain alcohol, whether
9 produced commercially or privately;

10 * Sec. 11. AS 29.10.200 is amended by adding a new paragraph to read:
11 (47) AS 29.20.270(e) (ordinance veto by mayor).

12 * Sec. 12. AS 29.20.270(a) is amended to read:
13 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
14 tion, the mayor may veto an ordinance, resolution, motion, or other
15 action of the governing body and may strike or reduce appropriation
16 items.

17 * Sec. 13. AS 29.20.270 is amended by adding a new subsection to read:
18 (e) The veto does not extend to an ordinance adopted under
19 AS 04.11.498. This subsection applies to home rule and general law
20 municipalities.

21 * Sec. 14. AS 29.25.020 is amended by adding a new subsection to read:
22 (d) This section does not apply to an ordinance proposed under
23 AS 04.11.502(c).

24 * Sec. 15. AS 29.25.070 is amended by adding a new subsection to read:
25 (d) This section does not apply to an ordinance adopted under
26 AS 04.11.498(c).

27 * Sec. 16. AS 29.35.080(a) is amended to read:
28 (a) A municipality may regulate the possession, barter, sale,
29 importation, and consumption of alcoholic beverages in accordance with

1 AS 04.11.480 - 04.11.506 and AS 04.21.010.