

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2871

HB

136

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

DATE: 4/21/05

FURTHER:

DATE TURNED
IN TO OFFICE:

2 May 2005

Finance Committee considered

HOUSE BILL NO. 136

HB 136 DRUNK DRIVING TREATMENT PROGRAM

"An Act restricting the authority of a court to suspend execution of a sentence or grant probation in prosecutions for driving while under the influence and prosecutions for refusal to submit to a chemical test; and allowing a court to suspend up to 75 percent of the minimum fines required for driving while under the influence and for refusal to submit to a chemical test if the defendant successfully completes a court-ordered treatment program."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- opt Letter of Intent by House Judiciary Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Cor	3/21/05			✓	#1
Court	3/17/05			✓	#2
DPS	3/18/05			✓	#3
Admin	3/21/05		*		#4
Law-Civil	3/20/05		*		#5
Law-Criminal	3/20/05		*		#6

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
[Signature]	✓			
[Signature]	✓			
COCHAIR: <u>Erin Wille</u>	✓			
COCHAIR: <u>Linda Rice</u>	✓			

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Nancy Dahlstrom
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
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House Judiciary Committee Letter of Intent HB 136

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

It is the intent of the Legislature that the Court System and Department of Law continue their practice with regard to the collection of unpaid fines for driving under the influence of alcohol. That practice is to pursue the payment of unpaid fines through a civil action by the Department of Law and not through revoking probation. It is also the intent of the Legislature to encourage the use of fines, wellness courts and interlock devices, when appropriate, as tools for addressing these crimes and those who commit them.

A handwritten signature in cursive script, appearing to read "Lesil McGuire".

Representative Lesil McGuire
Chair

Adopted by the House
April 12, 2005

COMMITTEE COPY

MAY 2 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 136
(H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: "An act restricting the authority of a court to RDU Institutional Facilities
suspend execution of a sentence or grant probation driving under Component Institution Director's Office
Sponsor: Representative Rokeberg
Requester: Judiciary, Finance Component No. 524

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone: 465-4641
Division: Administrative Services Date/Time: 3/21/05 7:01 AM
Approved by: Portia C K Parker, Deputy Commissioner Date: 3/21/2005
Agency: Department of Corrections

FISCAL NOTE

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 136
 (H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Drunk Driving Treatment Program BRU Alaska Court System
 Component: Trial Courts
 Sponsor Representative Rokeberg
 Requester _____ Component No. 768

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of HB 136.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time: 3/17/05 2:52 PM
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date: 3/17/2005
 Agency: Alaska Court System

FISCAL NOTE

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 136
(H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title "An Act restricting the authority of a court to suspend RDU Alaska State Troopers
execution of a sentence or grant probation in..." Component AST Detachments
Sponsor Representative Rokeberg
Requester House Judiciary Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will have no fiscal impact on the Alaska State Troopers.

The bill does amends sections of Title 28 and suspends up to 75 percent of the minimum fines for driving while under the influence and refusal to submit to a chemical test if the defendant successfully completes a court-ordered treatment program.

Prepared by: Lieutenant Todd Sharp Phone 907-269-4532
Division Alaska State Troopers Date/Time 3/18/05 3:39 PM
Approved by: Commissioner William Tandeske Date 3/19/2005
Agency Department of Public Safety

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MAY 2 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: HB 136
(H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act restricting authority of court RDU Legal and Advocacy Services
to suspend execution of sentence... Component Public Defender Agency
Sponsor Rep. Rokeburg
Requester House Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill restricts the court's ability to suspend a minimum fine imposed for DUI or Refusal convictions. It also opens therapeutic courts to felony DUI offenders. Opening therapeutic courts to felony DUI will increase the workload of the Agency. Currently the Agency closes a case after sentencing. The therapeutic court model and "court-ordered treatment" requires a lengthy time in treatment, intensive supervision and monitoring, and frequent court review hearings, often once a week, which significantly extends the life of a case. Requiring attorneys to attend additional hearings in cases, that currently would be closed, will increase the workload of the Agency. It is unknown how many felony DUI offenders would participate in court-ordered treatment programs like "Wellness Court" in Anchorage, if offered, or whether the special court would be a newly established one in superior court, the jurisdiction for felony cases. This bill, if enacted, will have a fiscal impact on the operations of the Agency, but it is not possible to predict with any certainty what that impact would be. Therefore an indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
Division Public Defender Agency Date/Time 3/21/05 8:44 AM
Approved by: Michael Tibbles, Deputy Commissioner Date 3/21/2005
Agency Department of Administration

FISCAL NOTE

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: HB 136
 (H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act restricting the authority of a court to RDU CIVIL
suspend execution of a sentence or grant probation..." Component Collections and Support
 Sponsor Representative Rokeberg
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This bill amends AS 28.35.030 (Driving under the influence) and 28.35.032 (Refusal to take a breath test) by making it a requirement that a convicted person pay the minimum fine required as a condition of a suspended sentence or probation. The bill also allows the court to forgive 75% of the minimum fine in cases of felony DUI or Refusal if the person has successfully completed an 18-month court-ordered treatment program. The Department of Law believed the provision requiring mandatory fines that could not be suspended was part of HB, passed three years ago, but an overlooked court of appeals opinion made it possible to suspend the fines. Passage of this legislation could result in additional revenues collected by the Collections Unit, but the amount is difficult to determine.

Prepared by: Kathryn Daughheteo, Director Phone 465-3673
 Division Administrative Services Division Date/Time 3/20/05 12:19 PM
 Approved by: K. Daughheteo for Scott Nordstrand, Acting Attorney General Date 3/20/2005
 Agency Department of Law

MAY 2 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: HB 136
(H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act restricting the authority of a court to RDU: CRIMINAL
suspend execution of a sentence or grant probation..." Component: Criminal Justice Litigation
Sponsor: Representative Rokeberg
Requester: House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*****	*****	*****	*****	*****	*****
Travel	*****	*****	*****	*****	*****	*****
Contractual	*****	*****	*****	*****	*****	*****
Supplies	*****	*****	*****	*****	*****	*****
Equipment	*****	*****	*****	*****	*****	*****
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill amends AS 28.35.030 (Driving under the influence) and 28.35.032 (Refusal to take a breath test) by making it a requirement that a convicted person pay the minimum fine required as a condition of a suspended sentence or probation. The bill also allows the court to forgive 75% of the minimum fine in cases of felony DUI or Refusal if the person has successfully completed an 18-month court-ordered treatment program. The Department of Law believed the provision requiring mandatory fines that could not be suspended was part of HB4 passed three years ago, but an overlooked court of appeals opinion made it possible to suspend the fines. A fiscal note to HB4 provided by this agency was reduced to half of the requested amount, thus we are underfunded for work arising from changes the legislature has made in passing stricter DUI laws in HB4. The change created by this bill will have a fiscal impact on the Department of Law because more trials will likely be required for those who can't afford the

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division: Administrative Services Division Date/Time 3/20/05 12:21 PM
Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/20/2005
Agency: Department of Law

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FISCAL NOTE #6

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB 136

ANALYSIS CONTINUATION

minimum fines, or more probation revocations or collection efforts will be required for those who do not pay the fines. However, the exact fiscal impact is difficult to determine.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

website: <http://www.aklegpublicans.org/rokeberg/index.php>



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FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR HB 136

By: Representative Norman Rokeberg

Title: An Act restricting the authority of a court to suspend execution of a sentence or grant probation in prosecutions for driving while under the influence and prosecutions for refusal to submit to a chemical test; and allowing a court to suspend up to 75 percent of the minimum fines required for driving while under the influence and for refusal to submit to a chemical test if the defendant successfully completes a court-ordered treatment program.

The Legislature believes in the effectiveness of therapeutic courts. Anchorage and Bethel have active therapeutic courts, and various other Alaska communities - Ketchikan, Juneau and Fairbanks - are currently working to establish these courts at the misdemeanor, and in some cases felony, level. I introduced HB 136 in order to provide additional statutory assistance to the operations of therapeutic courts around the state.

Specifically, HB 136 expands the court-ordered treatment programs, i.e. "Wellness Courts," to felony DUI defendants. The statutory authority for these courts can be found under AS 28.35.030 and AS 28.35.032. There are several reasons for doing this:

1. Opening therapeutic courts to felons would increase public protection from DUI crimes. The success of the 18-month "court-ordered treatment" system created by the Legislature is demonstrated by data that shows that over a three-year period, only 25% of graduates have had any repeat offenses. This is in stark contrast to the 75% of DUI offenders who repeat after serving their time in jail.
2. It creates economies of scale if the newly established DUI Wellness Courts are open to both felony and misdemeanor DUI cases.
3. This is an opportune time to extend the DUI/Wellness Court model. The National Highway Traffic Safety Administration (NHTSA) has made funding of this type of court a priority.

In addition to expanding the therapeutic court provisions to felony DUI offenders, HB 136 gives a judge the ability to reward a graduating DUI offender by suspending 75% of the mandatory fine. This amount is increased from the present 50%. Currently, Wellness Court participants pay for most of their own treatment. This is a very costly requirement over the course of the required 18-month program. Allowing the judge to reduce mandatory fines will increase the incentive for defendants to enter a Wellness Court.

Lastly, HB 136 requires that misdemeanor and felony DUI offenders, who are not participants in a court-ordered treatment program, must pay the minimum fines provided in statute. It has been brought to my attention that judges, under the authority of a 1992 Alaska Court of Appeals decision (*Curtis v. State*), are often suspending the fines that the Legislature has specifically set out in statute. HB 136 overrides this decision and makes it absolutely clear to the courts that these defendants must pay the minimum fines.

I urge your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR HB 136

By: Representative Norman Rokeberg

Title: An Act restricting the authority of a court to suspend execution of a sentence or grant probation in prosecutions for driving while under the influence and prosecutions for refusal to submit to a chemical test; and allowing a court to suspend up to 75 percent of the minimum fines required for driving while under the influence and for refusal to submit to a chemical test if the defendant successfully completes a court-ordered treatment program.

- Section 1:** Requires the courts to impose the minimum fines for a misdemeanor DUI offense.
- Section 2:** Requires the courts to impose the minimum fines for a felony DUI offense.
- Section 3:** Expands the provisions for "court-ordered treatment programs" to felony DUI offenses. Allows the court to suspend 75% (up from 50%) of the minimum fines for successful participants.
- Section 4:** Requires the courts to impose the minimum fines for a misdemeanor offense of refusal to submit to a chemical test.
- Section 5:** Requires the courts to impose the minimum fines for a felony offense of refusal to submit to a chemical test.
- Section 6:** Mirrors the provisions of Section 3 in the refusal to submit to a chemical test statutes.



MADD

Activism | Victim Services | Education™

Mothers Against Drunk Driving
JUNEAU CHAPTER
211 4th St., Suite 314
Juneau, AK 99801
Phone (907)463-2562
Fax (907)463-2540
madd@alaska.net
www.madd.org/ak/juneau

May 1, 2003

Representative Norman Rokeberg
State Capitol
Juneau, Alaska 99801

RE: Dismissal of DUI fines

Dear Representative Rokeberg:

I am providing the enclosed information for your interest. As you well know, your House Bill 4 raised the minimum and maximum level of fines for offenders sentenced with driving while under the influence (DUI).

Historically judges have not dismissed DUI fines because of the theory that this served as an encouragement for compliance of the law. The fine also provided sufficient reason to seek a job for those DUI offenders arrested while unemployed. This theory has proven effective for many DUI offenders and most Alaska judges continue to hand down sentences which include fines.

In the case of *Jack Curtis v. State of Alaska*, the Court of Appeals have ruled that "while courts do not have the inherent power to suspend execution of a sentence, the Alaska legislature has given the power to the trial courts." This is possible when the minimum prison sentence has been served.

They point out in *Dunham v. Juneau* that while the law states no portion of the mandated minimum fine can be suspended; the Appellate court is "convinced that this conclusion was hasty. The parties in *Dunham* did not distinguish between the mandated imprisonment and the mandated fine..." Therefore a fine may be dismissed regardless of prison time.

Defending attorneys have become aggressive in searching for judges and magistrates who consider this option in DUI cases. Defending attorneys are pushing for a dismissal of fines by pointing out the DUI offender does not have job and therefore cannot afford to pay the fine. Unfortunately some judges and magistrates are beginning to listen to this appeal.

One such example is across the street from your Juneau office. On occasion, Magistrate Sivertsen will consider such an option, and in doing so creates a dangerous precedent for prosecuting attorneys.



MADD

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Mothers Against Drunk Driving
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www.madd.org/ak/juneau

One public defender is taking all his DUI cases assigned to Judge Froehlich and having them bumped to Magistrate Sivertsen or to Ketchikan Judge Miller.

This action has several negative effects:

- Creates a negative public impression the Legislature is allowing DUI offenders to not pay for their actions.
- Public Defending Agency costs the state and therefore the taxpayers of Alaska additional and unnecessary costs as DUI cases move from one town to another.
- Allows DUI offenders to walk away without paying a penny for the crime committed based on the fact they did not, while arrested for DUI, have a job.
- Has a negative impact on Judge Froehlich's grade as district court judge.

As the enclosed documents show, MADD encouraged the Public Defending Agency to reconsider this decision but was unsuccessful.

Please let me know if you have any questions on this matter. MADD hopes this situation may be worked out so all DUI offenders are obligated to fines for the dangerous crimes they choose to commit.

Sincerely,

Cindy Cashen
Executive Director

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STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)463-3600
FAX: (907)463-2075

December 9, 2003

The Honorable Norman Rokeberg
Alaska State Legislature
716 W 4th Suite 300
Anchorage, AK 99501-2133

Dear Rep. Rokeberg:

This is in response to your letter of August 20, in which you expressed your concern that the statutory minimum fines in drunk driving cases are sometimes being suspended, despite your intent in introducing and supporting House Bill 4 in the 2001 and 2002 sessions. Based on case law from the court of appeals, and given the language of the statute, we believe that additional legislation will be needed if such fines are to be fully imposed.

As you know, your bill greatly increased the financial costs of being convicted of drunk driving. Minimum fines for first and second offenders increased six-fold, from \$250 to \$1500 and from \$500 to \$3000, respectively. Fines for subsequent misdemeanor convictions increased by \$3000. Fines for felony drunk driving doubled to \$10,000. In addition, HB 4 increased the maximum amount that offenders must pay to the state as reimbursement for the costs of incarceration from \$1000 to \$2000. Your bill also doubled the fees that convicted repeat offenders would have to pay to reinstate their driver licenses. Finally, your bill required vehicle forfeiture for offenders convicted of felony drunk driving.

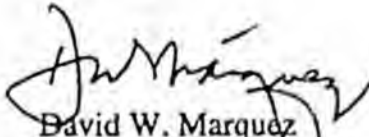
The opinion of the Alaska Court of Appeals in *Curtis v. State*, 831 P.2d 359 (Alaska App. 1992) was, up until recently, an obscure two-page decision more than a decade old. With fines for first and second offenders set at \$250 and \$500, judges rarely, if ever, invoked the *Curtis* decision to suspend a portion of the fines. In any event, with the large increase in fines enacted in HB 4, the *Curtis* opinion has, in essence, been rediscovered by lawyers and judges. In fact, it came as a surprise to state prosecutors, who had long forgotten about it. Ultimately, *Curtis* leaves the decision to impose or suspend a fine in a drunk driving case to the discretion of the sentencing judge. The

minimum period of incarceration, however, cannot be suspended, unless the person completes a "therapeutic court" program.

It certainly can be argued, as mentioned in your letter, that the legislature's intent was that the only way fines could be reduced is by completing a "therapeutic court" program described in AS 28.35.030(q) or in the special legislation setting up the Anchorage and Bethel therapeutic courts. However, the therapeutic court program allows both fines and imprisonment to be suspended. The decision in *Curtis*, which is based on the specific statutory language in AS 28.35.030(b)(2)(A), only applies to suspending fines. Because the language of the statute in issue in *Curtis* remains unchanged, in our opinion that holding is still valid and would not be successfully challenged on appeal. The relationship between *Curtis* and HB 4 was raised by state prosecutors during the Murkowski administration transition process as an item for possible legislative action. If the legislature's desire is to reverse the *Curtis* opinion, that would require a relatively simple amendment to AS 28.35.030(b)(2)(A) and the similar provisions governing felony driving under the influence and refusal to take a breath test.

If you have further questions, please contact me.

Sincerely,



David W. Marquez
Legislative Liason

LEXSEE 831 P2D 359

JACK CURTIS, Appellant, v. STATE OF ALASKA, Appellee.

No. 1222, Court of Appeals No. A-4035

COURT OF APPEALS OF ALASKA

831 P.2d 359; 1992 Alas. App. LEXIS 33

May 15, 1992, Decided

PRIOR HISTORY: [1]**

Appeal from the District Court, Third Judicial District, Anchorage. Martha Beckwith, Judge. Trial Court No. 3AN-90-3132 Cr

DISPOSITION:

REMANDED

CASE SUMMARY:

PROCEDURAL POSTURE: Defendant sought review of an order of the District Court, Third Judicial District, Anchorage (Alaska), which modified a sentence imposed on him for driving while intoxicated (DWI). The trial court originally believed he was a first offender and his sentence included a \$ 250 fine. Upon the State's motion after it was discovered defendant had a prior offense, the court modified the fine to \$ 500, in accordance with *Alaska Stat. § 28.35.030(c)*.

OVERVIEW: Defendant contended that the trial court was authorized to modify his sentence only to the extent necessary to correct its illegality, and that although the minimum fine was \$ 500 for a second offense, the trial court was able to suspend all or part of this minimum fine, and was required to suspend it to the amount of the original fine. On appeal, the court held that (1) under *Alaska Stat. § 28.35.030(c)*, the only limitation on the trial court's authority to suspend a DWI offender's sentence was the condition that he serve the mandated 20 days' imprisonment; (2) although a prior case held that no portion of the mandated minimum fine was subject to suspension, the conclusion made in that case was hasty and the parties therein did not distinguish between the

mandated imprisonment and the mandated fine; (3) although courts did not have an inherent power to suspend execution of a sentence, § 28.35.030(c) limited a sentencing court's authority to suspend a term of imprisonment but did not limit the sentencing court's authority to suspend a fine; and (4) because defendant's original sentence included a \$ 250 fine, the trial court was required to suspend one-half of the \$ 500 fine.

OUTCOME: The court remanded the case to the trial court with directions to amend the judgement.

LexisNexis(R) Headnotes

*Criminal Law & Procedure > Criminal Offenses > Vehicular Crimes > Driving Under the Influence
Criminal Law & Procedure > Sentencing > Sentencing Ranges*

Criminal Law & Procedure > Sentencing > Fines
[HN1] *Alaska Stat. § 28.35.030(c)* provides that, when a person is convicted of a second driving while intoxicated offense within 10 years, a sentencing court is required to impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than \$ 500. The statute also provides that execution of sentence can not be suspended nor probation be granted except on condition that the minimum imprisonment provided in this section is served.

*Criminal Law & Procedure > Criminal Offenses > Vehicular Crimes > Driving Under the Influence
Criminal Law & Procedure > Sentencing > Suspension of Sentence*

Criminal Law & Procedure > Sentencing > Fines
[HN2] Under *Alaska Stat. § 28.35.030(c)*, the only limitation on a district court's authority to suspend a

driving while intoxicated offender's sentence is the condition that the offender serve the mandated 20 days' imprisonment. The statute imposes no condition on the court's authority to suspend the mandated \$ 500 fine.

*Governments > Legislation > Interpretation
Criminal Law & Procedure > Sentencing > Suspension
of Sentence*

[HN3] While courts do not have the inherent power to suspend execution of a sentence, the Alaska legislature has given this power to trial courts. *Alaska Stat. § 12.55.080*; *Alaska Stat. § 12.55.015(a)(7)*. When a statute of general application grants sentencing courts the power to suspend all or part of a sentence, that statute will govern unless the legislature specifically provides otherwise.

COUNSEL:

Appearances: David R. Weber, Assistant Public Defender, and John B. Salemi, Public Defender, Anchorage, for Appellant.

Susan Wibker, Assistant District Attorney, Edward E. McNally, District Attorney, Anchorage, and Charles E. Cole, Attorney General, Juneau, for Appellee.

JUDGES: Before: Bryner, Chief Judge, and Coats and Mannheim, Judges.

OPINIONBY: MANNHEIMER

OPINION:

[*360] OPINION

MANNHEIMER, Judge.

On August 9, 1990, Jack Curtis was sentenced for driving while intoxicated (DWI), *AS 28.35.030(a)*. Believing that Curtis was a first DWI offender, the district court sentenced him to 60 days' imprisonment with 57 days suspended, plus a \$ 250 fine. The 3 days to serve and the \$ 250 fine were the specified minimum penalties for a first offender, *AS 28.35.030(c)*.

Two months later, the State moved to modify Curtis's sentence after discovering that Curtis had a prior DWI conviction from 1987. The district court granted the motion and modified Curtis's sentence to 60 days' imprisonment with 40 days suspended, plus a \$ 500 fine.

Curtis does not challenge the district court's authority to [*2] modify his sentence after learning that it was less than the statutory minimum. Curtis points out, however, that under *Love v. State*, 799 P.2d 1343, 1346 (Alaska App. 1990), and *Dunham v. Juneau*, 790 P.2d 239, 241 (Alaska App. 1990), the district court was

authorized to modify the sentence only to the extent necessary to correct the illegality. Curtis contends that, although the minimum fine is \$ 500 for a second offense, the district court is empowered to suspend all or part of this minimum fine. Therefore, Curtis argues, to correct the portion of the original judgement that sentenced him to pay a fine of \$ 250, the district court should have sentenced Curtis to a \$ 500 fine with \$ 250 suspended. We agree.

The 1990 version of *AS 28.35.030(c)* (the version that governs the sentencing in Curtis's case) [HN1] provided that, when a person was convicted of a second DWI offense within 10 years, the sentencing court was required to "impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than \$ 500". The statute also provided that "execution of sentence [could] not be suspended nor . . . probation be granted except [**3] on condition that the minimum imprisonment provided in this section [was] served." (emphasis added)

Curtis points out that, [HN2] under *AS 28.35.030(c)*, the only limitation on the district court's authority to suspend a DWI offender's sentence was the condition that the offender serve the mandated 20 days' imprisonment. The statute imposed no condition on the court's authority to suspend the mandated \$ 500 fine. Thus, Curtis argues, the district court retained the authority to suspend all or part of the minimum fine, and therefore the least amount of judicial intervention necessary to correct the illegality of his original fine - \$ 250 to pay - was to change it to a fine of \$ 500 with \$ 250 suspended.

The State counters that this Court has already held, in *Dunham v. Juneau*, that no portion of the mandated minimum fine can be suspended. 790 P.2d at 240-41. The *Dunham* decision does in fact say this, but we are convinced that this conclusion was hasty. The parties in *Dunham* did not [*361] distinguish between the mandated imprisonment and the mandated fine; the defendant simply argued that his sentence could not be altered.

[HN3] While courts do not have the inherent power [*4] to suspend execution of a sentence, *Pete v. State*, 379 P.2d 625, 626 (Alaska 1963), the Alaska legislature has given this power to the trial courts. *AS 12.55.080*; *AS 12.55.015(a) (7)*. When a statute of general application grants sentencing courts the power to suspend all or part of a sentence, that statute will govern unless the legislature specifically provides otherwise. *Spreas v. State*, 511 P.2d 130 (Alaska 1973). Curtis is correct that *AS 28.35.030(c)* limits a sentencing court's authority to suspend the term of imprisonment but does not limit the court's authority to suspend the fine. Thus,

because *AS 28.35.030(c)* does not restrict a sentencing court from suspending all or part of the mandatory minimum fine, the court retains this power.

The district court originally ordered Curtis to pay a \$ 250 fine. The mandatory minimum fine for a second DWI offender was \$ 500. To correct the illegality, the

district court needed to increase Curtis's fine to \$ 500 with \$ 250 suspended.

This case is therefore REMANDED to the district court with [**5] directions to amend the judgement in this manner.

Misdemeanor and Felony DUI Sentences and Fines

Misdemeanor DUI	Prison	Fine	License Revocation	Look Back
class A misdemeanor				
1 st offense	72 hours	\$1500	90 day suspension	
2 nd offense	20 days	\$3000	1 year suspension	within 15 years
3 rd offense	60 days	\$4000	3 year suspension	within 15 years
4 th offense	120 days	\$5000	5 year suspension	within 15 years
5 th offense	240 days	\$6000	5 year suspension	within 15 years
6 th offense	360 days	\$7000	5 year suspension	within 15 years
Felony DUI				
class C felony				
3 rd offense	120 days	\$10,000	3 year suspension	2+ times since 1996 and within 10 years
4 th offense	240 days	\$10,000	5 year suspension	
5 th offense	360 days	\$10,000	5 year suspension	

By: Representative Norman Rokeberg

DRIVING WHILE INTOXICATED SENTENCES - JUNEAU

DATE FYI Juneau Empire	NAME	CHARGE	JUDGE	JAIL	SUSPENDED	FINE	SUSPENDED	LICENSE	PROBATION
1/2/04	Whiting	Felony (third, seventh drunk driving)	Weeks	5 years	2 years suspended		\$10,000	Permanently Revoked	
10/08/04	Patterson	.134	Froehlich	75 days	35 days suspended	\$1,500		90 days	2 years
10/15/04	Schmidt	Misdemeanor	Froehlich	63 days	30 suspended	\$1,500		90 days revocation	2 years
10/22/04	Bugbee		Sivertsen	63 days	30 suspended	\$3,000	\$1,500	90 days	18 months
10/29/04	Johnson	2 nd degree assault & misdemeanor DWI	Weeks	6 months on DWI	All but 3 days suspended on DWI	\$1,500	\$1,500	90 days	10 years
10/29/04	Thomas		Weeks	32 months	14 months suspended	\$10,000	\$10,000	Permanently suspended	3 years
10/29/04	Smith		Weeks	84 months	28 months	\$10,000	\$5,000	Permanently Revoked	3 years
11/12/04	Andrews		Froehlich	63 days	30 suspended	\$1,500		90 days	2 years
11/19/04	Morris	.210	Froehlich	45 days	40 days suspended	\$1,500	\$1,500	90 days	2 years

DATE FYI Juneau Empire	NAME	CHARGE	JUDGE	JAIL	SUSPENDED	FINE	SUSPENDED	LICENSE	PROBATION
11/26/04	Roche-Carlton	Felony	Weeks	18 months	14 suspended	\$10,000	\$7,500	Permanently Revoked	2 years
12/03/04	Quick	.147	Sivertsen	90 days	65 days suspended	\$3,000	\$2,500	1 year	2 years
12/17/04	Willis	Felony	Weeks	3 years	1 year 225 days suspended	\$10,000	\$10,000	Permanently Revoked	3 years
1/7/05	Claffin	Felony	Collins	240 days	120 suspended	\$10,000	\$7,500		5 years
1/7/05	Moy	Misdemeanor	Sivertsen	240 days	80 suspended	\$4,000	\$3,250	Three years revocation	4 years
1/7/05	Wiseman	Misdemeanor	Sivertsen	70 days	45 suspended	\$3,000	\$2,500	One year revocation	2 years
1/7/05	Crowley	Misdemeanor	Sivertsen	34 days	30 suspended	\$1,500	\$750	90 days revocation	18 months
1/14/05	Rose	Felony	Weeks	18 months	14 suspended	\$10,000	\$10,000	Lifetime revocation	2 years
1/14/05	Williams, Jr.	Felony	Collins	16 months	12 suspended	\$10,000	\$9,000	Permanently revoked	2 years
1/14/05	Lott	Felony	Collins	20 months	16 months	\$10,000	\$9,000	Permanently revoked	4 years
1/28/05	Lofaso	.191	Sivertsen	40 days	34 suspended	\$3,000	\$1,500	90 days revocation	2 years

DATE FYI Juneau Empire	NAME	CHARGE	JUDGE	JAIL	SUSPENDED	FINE	SUSPENDED	LICENSE	PROBATION
1/28/05	Lemke	.181	Sivertsen	46 days	40 suspended	\$3,000	\$1,500	90 days revocation	18 months
1/28/05	Knott	.205	Sivertsen	60 days	54 suspended	\$1,500		90 days revocation	2 years
1/28/05	Helart	.185	Sivertsen	150 days	130 suspended	\$3,000		One year revocation	3 years
1/28/05	Gomez- Olvera	.192	Sivertsen	90 days	70 suspended	\$3,000	\$3,000	One year revocation	3 years
1/28/05	Hope	.218	Sivertsen	46 days	40 suspended	\$3,000	\$1,500 suspended	90 days revocation	2 years plus guilty of probation violation, 30 days with 3 suspended and additional 2 years probation
1/28/05	Robinson		Sivertsen	90 days	70 suspended	\$3,000		One year revocation	2 years
1/28/05	Dusenberry		Miller	90 days	84 suspended	\$1,500		90 days revocation	3 years
1/28/05	Ortiz		Miller	70 days	50 suspended	\$3,000		One year revocation	5 years

DATE FYI Juneau Empire	NAME	CHARGE	JUDGE	JAIL	SUSPENDED	FINE	SUSPENDED	LICENSE	PROBATION
1/28/05	Haltiner		Miller	40 days	30 suspended	\$1,500		90 days	2 years
2/04/05	Milton		Sivertsen	240 days	200 days		\$3,000	One year revocation	3 years probation + for probation violations
2/4/05	Wendling	Misdemeanor	Collins	12 months	10 months	\$4,000	\$4,000	4 years	30 months probation
2/4/05	Cooper		Sivertsen	46 days	40 suspended	\$1,500	\$750	90 days	2 years
2/4/05	Benson of Maui		Sivertsen	35 days	30 suspended	\$3,000	\$1,500	90 days	1 year probation
2/4/05	Casey		Sivertsen	180 days	120 suspended	\$4,000		3 years	3 years
2/4/05	Manager		Sivertsen	33 days	30 suspended	\$3,000	\$1,500	90 days	18 months
2/4/05	Lane	.186	Sivertsen	36 days	30 suspended	\$3,000	\$1,500	90 days	1 year

DRIVING WHILE INTOXICATED SENTENCES - PER NOME NUGGET

DATE Nome Nugget	NAME	CHARGE	JUDGE	JAIL	SUSPENDED	FINE	SUSPENDED	LICENSE	PROBATION
10/7/04	Aketachunak			90 days	80 days	\$1500	\$1,200	90 days revocation	Until 9/1/2006
10/14/04	Cantrell			60days	40 days	\$3,000	\$1,000	1 year	Until 10/24/06
10/21/04	Tocktoo			30 days	27 days	\$1,500	\$1,200	90 days revocation	Until 10/12/05
10/21/04	Pete			140 days	120 days	\$,1500	\$1,200	90 days revocation	Until 10/08/05
11/04/2004	Nashoanak, Sr.			30 days	27 days	\$1,500	\$1,200	90 days revocation	Until 10/22/05
11/11/04	Otten, Jr.			30 days	27 days	\$1,500	\$1,300	90 days revocation	Until 10/26/05
11/11/04	Smith			60 days	40 days	\$3,000	\$2,000	1 year revocation	Until 10/28/05
11/25/04	Fagerstrom			1 year	120 days	\$10,000	\$5,000	Lifetime revocation	2 years
11/25/04	Angi			1 years	120 suspended	\$10,000	\$7,000	Lifetime revocation	2 years
11/25/04	Kavairlook, Sr.			30 days	27 days	\$1,500	0	90 days revocation	Until 11/8/05
11/25/04	Jackson			120 days	90 days	\$3,000	\$1,000	1 year	Until 11/9/08

DATE Nome Nugget	NAME	CHARGE	JUDGE	JAIL	SUSPENDED	FINE	SUSPENDED	LICENSE	PROBATION
12/2/04	McGuffey			30 days	27 days	\$1,500	\$1,200	90 days	Until 11/15/05
12/9/04	Malewotkuk, Jr.			150 days	0	\$1,500	\$1,200	90 days	Until 11/22/05
12/9/04	Iyakitan			30 days	27 days	\$1,500	\$1,300	90 days	Until 11/30/05
12/9/04	Wilson			60 days	40 days	\$3,000	\$2,000	1 year	Until 11/30/05
12/9/04	Hoogendorn			35 days	32 days	\$1,500	\$1,200	90 days	Until 12/1/05
12/9/04	Hamilton			30 days	27 days	\$1,500	\$1,200	90 days	Until 11/29/05
12/16/04	Kasper			40 days	20 days	\$3,000	\$2,000	1 year	Until 12/6/04
12/16/04	Hunt, Jr.			40 days	20 days	\$3,000	\$2,000	1 year	Until 12/2/05
1/6/05	Olanna			180 days	120 days	\$3,000	\$2,000	1 year	Until 12/21/07
1/27/05	Wheeler			30 days	27 days	\$1,500	\$1,200	90 days	Until 1/20/06
2/3/05	Tocktoo			120 days	90 days	\$1,500	\$1,200	90 days	Until 1/24/06



National Council on Alcoholism and Drug Dependence
Juneau Affiliate
211 4th Street, Suite #102
Juneau, AK 99801

Phone: (907) 463-3755

Fax: (907) 463-2539

<http://www.ncadd-j.org>

National Intervention Network (800) 654-HOPE

March 3, 2005

Representative Norman Rokeberg
Chairman House Rules Committee
Alaska State Legislature
Juneau, Alaska

Dear Representative Rokeberg:

The National Council on Alcoholism and Drug Dependence (NCADD)- Juneau Affiliate, strongly supports the passage of **HB 136**.

This bill enhances the current structure of therapeutic courts in Alaska by extending the same rights of a successful misdemeanor court graduate to a felony refusal or felony DUI court graduate. This would increase the amount of people able to benefit from therapeutic courts by increasing the pool of applicants and providing larger incentives to participate in these effective and cost efficient courts. It would also decrease the number of drunk drivers returning to Alaska's highways after release from a correctional institution.

Decreasing drunk driving and other alcohol related crimes is a priority for NCADD, especially in a state where the rate at which alcohol kills Alaskans is twice the U.S. average. Drug courts, DUI courts, family care courts, and mental health courts are just a few of the 1600 therapeutic courts currently operating in the U.S. These alternative "problem-solving" courts have proven themselves effective in reducing recidivism for the chronic alcohol or drug dependent offender. They have been so successful that John Walters, the drug czar for the Bush administration, recently came out in favor of them as the most effective way of dealing with this population of offender thus reducing drug crimes. The Bush administration's proposed budget for 2006 includes 70 million for drug/DUI courts, double the current budget. This financial commitment supports the value of these courts to our nation. **House Bill 136** fits very well with the federal commitment.

Thank you for your past efforts and continued support this year.

Sincerely,

Matt Felix, Executive Director



The Alaska Center for Therapeutic Courts

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Anchorage, Alaska 99501
Fax: 907-272-1194
wellnessjudge@yahoo.com

A division of Partners for Progress, Inc.

James N. Wanamaker
Director

Phone: 907-272-1193
Mobile: 907-227-4084

March 2, 2005

Representative Norman Rokeberg
Chairman House Rules Committee
Alaska Legislature
Juneau, Alaska

Fax 1-907-465-2040

Re: House Bill No. 136

Dear Representative Rokeberg:

The Alaska Center for Therapeutic Courts strongly supports the passage of HB 136.

Sections 3 and 6 of the bill will extend the methodology of the Anchorage Wellness Court to include felony DUI and felony refusal cases. The Anchorage Wellness Court has certainly proved itself as a system that should be made available in other parts of the state. Any defendant who completes the 18 months of monitored sobriety and all the strict requirements of the Wellness Court can gain a suspension of 75% of minimum jail sentence and, with this bill, 75% of the minimum fine.

The Alaska public is protected by this system because that defendant who completes Wellness Court has embarked on a life of sobriety and has a wealth of tools to maintain sobriety. This is in stark contrast to the usual DUI defendant who gets drunk and rearrested for DUI within days of release from jail.

Currently, misdemeanor DUI courts are being developed in Ketchikan, Juneau, and Fairbanks. Extending the Wellness Court method to felony DUI and refusal cases will help to increase the volume of defendants who choose to enter these Wellness Court programs, and make more efficient use of public resources.

March 2, 2005

Page 2

This is an extremely opportune time to expand the DUI Wellness Courts since federal funding is available through National Highway Traffic Safety Administration (NHTSA).

Of a housekeeping nature, are Sections 1, 2, 4, and 5 of the bill which make it clear that the DUI defendant must actually pay the minimum fines set by the Legislature. This would end the minority practice of suspending all or a portion of the minimum fine or offsetting the cost of treatment as a credit against the fine.

The practice of reducing the minimum fine will then be limited to persons who graduate from Wellness Court. The bill increases the permitted offset (for Wellness Court graduates only) to 75%. This is a much smaller number than the whole DUI offender population and will not adversely affect state finances.

Thank you for your constant and effective support of the therapeutic court program. I return from Hawaii to Anchorage on March 9. In the meantime, I am available on my mobile phone (907) 227-4084 (yes, it will ring right through to Hawaii and I would be pleased to receive your call if there are any questions.)

Sincerely,



James N. Wanamaker
Director



MADD

Activism | Victim Services | Education™

Mothers Against Drunk Driving
JUNEAU CHAPTER
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Juneau, AK 99801
Phone (907)463-2562
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madd@alaska.net
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February 25, 2005

Representative Norman Rokeberg
State Capitol, room 214
Juneau, AK 99801-1182

RE: House Bill 136 -An Act restricting the authority of a court to suspend execution of a sentence or grant probation in prosecutions for driving while under the influence and prosecutions for refusal to submit to a chemical test;

Dear Representative Rokeberg:

The MADD Alaska Chapters are grateful for your sponsorship of HB 136. MADD is a strong proponent of restorative justice. The Justice System, the offender and the victim/community all play a necessary role in community safety, competency development and accountability.

There is a reason a DUI offender is held responsible for his/her actions. Society demands this of the offender. Accountability is connected to community safety and competency development; without one, the other two are most likely to be ineffective.

There is sensible reason behind the need for comprehensive sentencing. One DUI offender may find the fines deter any future drunk driving while another might discover treatment is the answer. Some discover losing their license an effective consequence and others discover jail is something they never want to go through again. It's important that each part of a DUI sentence be passed down to all offenders because there is no way of knowing which part of the sentence will be the effective tool in preventing future drunk driving.

Unfortunately Alaska has Judges who dismiss all or more than the mandatory minimum fines for many DUI offenders. Financial disclosures do not seem to play a part in the dismissals as MADD volunteers have witnessed dismissals with repeat offenders who own property and have lucrative jobs.

MADD is grateful Rep. Rokeberg is willing to take a stand for restorative justice.

Sincerely,

Cindy Cashen
Executive Director



Sentence Structure

DRIVEN magazine, Spring 2002



The case has gone to trial. The evidence has been presented. Both the prosecution and the defense have rested their cases. The jury has reached a verdict: guilty. Now the critical phase of punishing the defendant begins – the sentencing.

In cases where there's a guilty verdict, the judge is usually responsible for sentencing the offender. While some jurisdictions have mandatory minimum sentences for certain offenses that judges must adhere to or enhance, the judge has considerable discretion over sanctions including confinement, fines, probation, treatment and creative sentencing options.

Judges consider the defendant's background, past offenses, the seriousness of the crime, post-arrest behavior, circumstances of the offense, remorsefulness of the defendant and any victim impact statements. Ultimately, the fundamental question facing a judge is what sanction or combination of sanctions will most effectively reduce or eliminate future criminal activity by the offender.

In the case of driving under the influence (DUI) offenses, rendering punishment that reduces recidivism of drunk drivers is paramount. Currently, almost one-third of all offenders arrested for DUI are repeat offenders, indicating that traditional sentences such as jail time, fines and community service simply are not working. In fact, through its research-based Higher Risk Driver program, MADD advocates sanctions that encompass driving restrictions, community restitution and offender recovery.

One of the most difficult challenges now before the courts is to find the perfect combination of sanctions to reduce the alarming recidivism rate in this country. Fortunately, judges nationwide are rising to the challenge by establishing innovative sanctions and programs designed to reduce the crime of drunk driving. Here are just three examples of the hundreds of passionate judges across the country who are taking the first step.

Each Sentence Is a Work of Art

"DUI cases are the most important cases that judges handle," says Judge William Todd of Rockdale, Georgia. "And those sentences cannot be mechanical; they must be individualized to the offender."

During his 10 years as chief assistant district attorney, Todd saw his share of drunk driving cases. When he took the bench in 1993, he quickly developed a database for himself designed to track his cases and offender data such as the number of DUIs in the defendant's lifetime, number of DUIs in the past five years, crashes, sentence (s) received, location where the defendant was drinking, marital status, type of car the defendant was driving and demographic information. Using this database, Todd looks at trends, tracks progress and identifies problematic patterns. Most importantly, though, the database allows Todd to review the profile of the defendant before him, which helps him create an individualized sentence using a combination of sanctions designed to reduce the recidivism rate for that specific offender.

Todd uses a vast combination of sanctions. Traditional measures such as jail, electronic monitoring, Alcoholics Anonymous meetings, random drug and breath tests, fines, DUI school, treatment, victim impact panels, ignition interlock devices and other vehicle sanctions are used in conjunction with non-traditional sanctions. People who have sold cigarettes to minors have found that they and their families were required to pick up cigarette butts at a park. Those who littered have spent time on the side of the road picking up trash.

However, Todd believes sanctions alone are not the answer. "Both treatment and rehabilitation as well as prompt sanctions are the key," Todd says. "Follow-up is also important. You must enforce the sanctions and hold the offender accountable."

Todd has offenders check in with his court and keeps "steady pressure" on them by having defendants write

essays about their experience and charging offenders for all costs associated with their sanctions. He also works to establish a trust relationship with the offender. "I will try everything I can to turn people around," Todd explains. "This often means changing terms of probation, revoking terms where appropriate, or modifying sentences based on a change in behavior or a change in circumstances."

The numbers show that his program is working. Recidivism rates in Judge Todd's court dropped to half, and last year his court saw a considerable decline in the number of DUIs compared to years past. And since 1997, there have been only two DUI-related deaths in Rockdale County, even with increases in population and in the number of bars in the county. A 1998 study of the Todd program by the National Highway Traffic Safety Administration (NHTSA) found that it was more effective, by a wide margin, than a sentencing program that imposed the minimum sanctions.

Todd encourages other judges to try innovative sanctions and find the right combination for each individual offender. "Each sentence is a work of art," he says. "First you paint the picture, and then oftentimes it needs to be touched up."

Creativity and Consequences

Sentencing takes on new meaning in the courtroom of Judge Ted Poe of the Criminal District Court in Harris County, Texas, in Houston, as one woman convicted of a DUI found out. Poe sentenced her to carrying a placard reading, "I am a drunk driver" outside the Neiman Marcus store where she regularly shopped.



"It was far worse for her to have to carry that sign and face her friends than pay the \$5,000 fine," Poe says. "That woman will never be back in the system because it was far too embarrassing for her."

A judge for nearly 20 years, Poe uses what he calls "hybrid sentencing" – a combination of jail and creative sanctions. "I keep all the options open, from prison to community service," Poe explains. "My philosophy is that the offenders need to do something for the victim, do something for the community and do something for themselves."

Poe is known for his creative sentences. Whether it is sanctioning the offender to make restitution, personalizing the crime or inflicting public punishment, Poe does whatever is necessary to serve justice. "Restitution to the victim can include money for damages or funeral expenses," Poe says. "Offenders can be required to sell their cars, take out loans or get a job to pay the restitution owed." In one case, the offender had destroyed the victim's car in a drunk driving crash, leaving her with no vehicle. Poe required the defendant to turn over his vehicle to the victim in a courtroom ceremony for use until the victim's car was repaired. Poe maintains, "This type of punishment causes shock, thus changes the defendant's behavior."

Another victim-based sanction Poe uses is ordering defendants to erect and maintain markers at the crash site to honor victims. Poe says, "This personalizes the crime for the offender."

Along the same line, Poe requires that a picture of the victim be prominently displayed in the offender's prison cell – a standard part of Poe's sentences in all homicide cases, including those caused by drunk drivers. "This is also designed to change the offender's attitude," Poe explains. "I know it works because defendants are always trying to have [the pictures] removed."

The only time Poe doesn't use this sanction is when he believes the defendant will use the picture as a "badge to brag" – this is especially true with younger defendants.

Poe has found that younger offenders can be harder to reach. But that doesn't stop him from trying and succeeding. Poe recalls one case where a popular 17-year-old high-school senior drove drunk, and crashed into a van, killing two people and injuring another. Poe sentenced the minor to jail and ordered the victims' photos posted in his cell.

Poe also ordered him to attend a work camp for those younger than 27, to erect and maintain a marker at the crash site, to visit and maintain the victims' grave sites, including bringing flowers, to send a check to the victims'

high school as well as his own; to view an autopsy; and to carry a placard at the crash site and at the convenience store where he purchased the beer. The placard read, "I killed two people while driving drunk." Also, as part of the defendant's 10 years of probation, he was ordered to do 20 hours of public speaking a year at area schools about the dangers of underage drinking and drunk driving. Poe mandated that he start at his former high school, where he was once so popular.

That was five years ago. Today, the defendant not only does his annual 20 hours of speaking, he voluntarily dedicates nine months out of the year to speak at schools. In addition, on his own accord, he carries around his placard, which he now views as a public warning rather than a punishment.

Poe doesn't issue his creative sanctions to be cruel. On the contrary, he says, "People must learn that drunk driving is a crime of violence, much like shooting a gun into a crowd of people. Sometimes you hit and kill someone, and sometimes you are lucky. Drunk driving is not socially acceptable and people must learn that."

Poe is a tough judge, and his approach seems to be working. His court has a 20 percent recidivism rate, while the national average for offenders failing to maintain the terms of their probation is about 50 percent. Poe says, "The system must offer consequences. Where judges often fail is in giving lofty probation terms, and when the defendant fails to complete them, nothing happens. The system loses credibility and the probation office is unsuccessful in working with [offenders] because they have lost respect for the system."

Poe believes that through tough and appropriate sanctions, defendants can turn around and become productive citizens.

Empowering Offenders to Change

Similar to Poe's philosophy, Judge Dorothy Baker of the 4th Judicial District in Oregon also focuses on serving justice while enabling offenders to change their behavior. "In order to increase community safety, we as a society need to increase the quality of life for those who threaten our safety, because if you increase quality of life, it is less likely the person will re-offend," Baker says.

MADD Fact:
In 2000, it's estimated that more than 1 million people were arrested in the United States for driving under the influence.

On the bench for more than 20 years, Baker has chosen to work only with drunk driving offenders. And, like Todd, she feels that dealing with offenders needs to be individualized. "Each offender must be individually assessed and monitored closely while they work on their recovery," Baker explains. "By paying attention to each detail in an offender's life and investing time and energy to empower that offender, most can change their quality of life, become vested in themselves and make our communities a better place."

Baker's DUI Intensive Supervision Program (DISP) is one of a kind. The first phase of the program consists of obtaining and maintaining sobriety. The second phase concentrates on quality of life. "My program includes complete behavior modification and is designed to impact all areas of a defendant's life," Baker says.

Defendants voluntarily enter into Baker's three-year program through a plea agreement. Once in her courtroom, defendants discuss their plea, the legal consequences of their actions, their past crimes and the threat they pose to society. Baker then interviews them on a personal level, asking them questions such as: what they think about before they drink; if drinking makes them feel better; if they think drinking alcohol is working for their life; if alcohol is solving problems; and if they feel that there is an underlying problem and what that problem may be. Baker says her philosophy is clear: "Lead the defendant down the path to discover the destructive behavior and then attack the problem causing the drinking."

The conditions of Baker's program are standard. Participants must work a minimum of 35 hours per week, lead an organized, structured life, and have some type of social activity that does not involve alcohol.

Additionally, offenders are required to take polygraph tests, report to their probation officer and have a follow-up meeting with Baker 45 to 90 days after sentencing.

Offenders and their family members also must sign a document stating that there will be only one vehicle per licensed driver in the household, that the keys will be kept from the offender, and that there will be no alcohol or drugs brought into the house.

However, Baker says that absolute honesty is the most important point in the program because it helps offenders regain accountability for their actions. "If an offender violates their probation, they must tell on themselves," Baker explains. "Based on the violation, I modify the terms of the program."

In one case, an offender called Baker to confess he was drinking and that he should be put in jail. The next day in court when he was sober, he protested when Baker modified his probation to include jail. Baker matter-of-factly states, "I was doing what he had asked and sent him to jail."

The numbers testify to Baker's success. In more than three years, slightly more than 1 percent of the participants have re-offended. But it is the gratitude from those who have gone through the program and their families that speaks volumes. Wives call crying to thank her. Parents beg her to take their other children into the program even though no crime has been committed. And, she receives an abundance of appreciation from those who have turned their lives around and graduated from the program.

When asked about the success of DISP, Baker says, "Be dedicated to consistency and work based on that. Any community can create a program like this. All it takes is communication and dedication among the criminal justice community."

Where the justice system has failed to make an impact on drunk driving by rendering standard sentencing, judges nationwide are successfully using personalized programs and creative sanctions. This individualized approach aims to not only punish offenders for their crimes, but to rehabilitate them as well, thus helping to reduce drunk driving recidivism and make the streets safer for everyone. Through the efforts of Judges Todd, Poe, Baker and thousands like them, the criminal justice system is helping to solve the nation's drunk driving problem one case at a time.

This information is brought to you courtesy of Mothers Against Drunk Driving – find us online at <http://www.madd.org/>.

The mission of MADD is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.



Higher Risk Driver Fact Sheet

Higher-Risk Drivers: The Problem & Proven Solutions

Higher-Risk Driver: MADD defines the "higher-risk driver" as 1) Repeat offenders convicted (conviction is defined as receiving a court-imposed sanction) of a second driving-under-the-influence offense within a 5- year period; 2) High BAC offenders convicted of a driving-under-the-influence offense with a BAC of .15% or higher; and/or 3) Driving-while-suspended (DWS) where the suspension was the result of a conviction for driving under the influence.

THE PROBLEM

Repeat Offenders:

- About one-third of all drivers arrested or convicted of driving under the influence are repeat offenders. These drivers are 40% more likely to be involved in a fatal crash than those without prior DUI's.¹

High-BAC Offenders:

- 58% of alcohol-related traffic fatalities in 2001 involved drivers with a BAC of .15% and above.² These drivers are at least 382 times more likely to be involved in a fatal crash than a non-drinking driver.¹⁷
- During a typical weekend night, 1% of drivers will have a blood alcohol concentration (BAC) of .15 or higher.¹³

Offenders Who Drive on a Suspending License:

- 50-75% of drunk drivers whose licenses are suspended continue to drive.¹⁴
- 32% of suspended second-time offenders and 61% of suspended third-time offenders received violations or were involved in crashes during their suspensions.³
- Generally, unlicensed drivers are 4.9 times more likely to be involved in a fatal crash than properly licensed drivers.¹⁶

Drivers Who Refuse a BAC Test:

- Depending on the state, 3% to 59% of those under suspicion for DUI/DWI refused to take a BAC test.¹⁵
- Not surprisingly, those states that did not sanction those who refuse the test more than those who take the test had higher refusal rates. Also, offenders who refuse the test tend to have higher recidivism rates and more previous offenses.

MADD SOLUTIONS: THE THREE R'S

Restrictions on Driving:

- Restrict vehicle operation by suspending licenses, impounding or immobilizing vehicles, and requiring alcohol ignition interlock devices on offenders' vehicles.
 - Studies show that license revocation laws can decrease fatal late-night crashes by 9%.⁶
 - Interlock systems have reduced repeat DWI offenses among convicted drinking drivers in Maryland⁷, California⁸ and other states^{9,10} by 65% to 90%.

- o License suspension was effective in reducing DWI offenses among convicted drinking drivers in Ohio⁴. After two years, there were lower rates of moving violations and crashes compared with DUI offenders convicted before the law went into effect and this reduction significantly reduced alcohol-related fatalities.
- o Vehicle impoundment has reduced DWI offenses among convicted drinking drivers. First-time offenders who had their vehicles impounded had 25% fewer crashes and repeat offenders had 38% fewer crashes than similar offenders who had access to their vehicles in California.⁵

Restitution Sanctions:

- Require compensation to the community through fines, mandatory incarceration and financial restitution to crash victims.
 - o Community service has little or no impact on reducing recidivism. However, some judges use creative sentencing and restitution sanctions to create more meaning from sanctions.
 - o Fines and court fees can be used to offset the costs of law enforcement efforts to crack down on drunk drivers and to pay the cost of treatment programs. They can also fund special minimum-security facilities for DUI offenders.

Recovery Provisions:

- Promote recovery programs through mandatory alcohol assessment and treatment, intensive probation and attendance at victim impact panels.
 - o Over 70% of DUI offenders have alcohol abuse problems and between 10% and 50% were alcohol dependent.¹¹ Repeat offenders are the most likely to be alcohol dependent.
 - o A 1995 study found that DUI offenders who participated in treatment programs had a 7-9% reduction in recidivism over those who had no treatment.¹²

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14. Nichols, J.L., and Ross, H.L. The effectiveness of legal sanctions in dealing with drinking drivers. *Alcohol, Drugs and Driving* 6(2):33 55, 1990.
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The mission of MADD is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.

SENATE COMMITTEE REPORT

DATE: 4/13/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/21/05

Judiciary Committee considered HOUSE BILL NO. 136

HB 136 DRUNK DRIVING TREATMENT PROGRAM

"An Act restricting the authority of a court to suspend execution of a sentence or grant probation in prosecutions for driving while under the influence and prosecutions for refusal to submit to a chemical test; and allowing a court to suspend up to 75 percent of the minimum fines required for driving while under the influence and for refusal to submit to a chemical test if the defendant successfully completes a court-ordered treatment program."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COR	3/21/05			✓	1
CRT	3/11/05			✓	2
DPS	3/12/05			✓	3
Adm	3/2/05		✓		4
LAW	3/20/05		✓		5
LAW	3/20/05		✓		6

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
French	X			
Gress	X			
Huggins	X			
CHAIR:	✓			

French
Gress
Huggins

Seckins

HB

144

HFIN

FILE

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January 24, 2006

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
House Finance Committee, State Capital
Juneau, AK 99801-1182

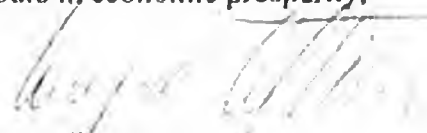
The Honorable Chairmen and Members of the House Finance Committee,

The Alaska State Chamber of Commerce strongly supports a sustainable community dividend program. Providing local revenue sharing is one of the State Chamber's top priorities. Without a revenue sharing program, local communities are often forced to raise property taxes or limit basic public services, which may affect a business's ability to stay profitable or find suitable locations to operate.

We appreciate Representative Thomas's willingness early on to re-start a community dividend program by introducing HB 144; however, the State Chamber feels that HB 144 limits immediate community funding by the advisory vote language within the bill. The legislature has within its power to fund a community dividend program this year using any and all available financing options.

We urge the legislature to pass a bill this year that encompasses a sustainable community dividend. As one of our top priorities, we are hopeful the legislature will find some common ground in creating a sustainable dividend program this year.

Yours in economic prosperity,


Wayne Stevens
President
Alaska State Chamber of Commerce

**Alaska State Chamber of Commerce
2006 Priority
Community Dividend**

The State Chamber urges the Legislature to implement a sustainable community dividend using an endowment management method to provide local tax relief to business and families, and to assist in providing basic public services throughout Alaska.



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

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HB 144

Advisory Vote on Community Dividend

Changes Made in House State Affairs Committee

P.1, line 6 Intent Language

"It is the intent of the legislature that regulations adopted to implement AS 29.60.140 (b) also be applied to the community dividend program."

This is the statute that spells out the program for providing state aid to unincorporated communities.

P.2, line 3 "Up to" added, "adjusted for inflation" removed.

P.3, line 16 "Up to" added, "adjusted for inflation" removed.

Sponsor Statement HB 144

“An act authorizing an advisory vote on whether income of the Alaska permanent fund in the earnings reserve account should be used for a community dividend program”

Due to the elimination of state revenue sharing and a variety of increasing costs, many Alaskan municipalities are facing budget shortfalls and will be forced to increase local sales and property taxes while also cutting back on basic services. In recent years municipalities have faced a number of cost increases in areas such as education, insurance, PERS/TRS, and regulatory compliance costs. Some state transfer programs have put harbor and road maintenance under local responsibility. Residents who are already paying high sales and property taxes, and whose fees and general cost of living are daunting, are facing even higher costs. This is not only a disincentive for Alaskans to remain in their home state, it inhibits new investment from outside Alaska. But we have another option: The earnings of the Permanent Fund. The time is now to use those earnings to close the budget shortfalls in our communities.

The question posed by HB 144 is: Shall the Legislature appropriate \$150 million annually, adjusted for inflation, from the unreserved earnings of the Permanent Fund to a Community Dividend Program? Under this plan, each municipality would receive a \$50,000 minimum base grant and each unincorporated municipality in the unorganized borough would receive \$25,000. The remaining balance of the \$150 million would be distributed only to incorporated cities and boroughs on a per capita basis. HB 144 calls for an advisory vote of the people on this matter out of respect to the will of the people on issues relating to the Permanent Fund. If the people consent to this program, the legislature should follow suit by passing this plan early in the 2007 legislative session.

The Community Dividend program envisioned by HB 144 recognizes that all of our municipalities have important needs in the provision of services. Urban areas have unique issues, as do rural villages. This plan would uphold the current dividend to individuals while also providing a fair, dependable, long-term distribution of Permanent Fund earnings that would address local government funding as an Alaskan issue. The needs are found statewide; so must the solution be applied.



Alaska Permanent Fund Corporation

Bill Analysis - HB 144

Financial projection comparison of the Alaska Permanent Fund under current statutes versus HB 144, Community Dividend Program.

All \$ values in millions except the per person dividend

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY05-FY15</u>
Current Statutes												Totals
Total market value end of year (after payouts)	29,316	31,169	32,923	34,541	36,180	37,942	39,777	41,682	43,659	45,710	47,836	47,836
Total lump sum dividend appropriation	607	691	886	1,082	1,170	1,168	1,229	1,290	1,352	1,417	1,484	12,378
Per person dividend under current statute	\$ 950	\$ 1,080	\$ 1,380	\$ 1,680	\$ 1,800	\$ 1,780	\$ 1,860	\$ 1,930	\$ 2,000	\$ 2,070	\$ 2,150	\$ 18,680
Current Statutes & Community Dividend												Totals
Total market value end of year (after payouts)	29,316	31,169	32,773	34,231	35,698	37,278	38,922	40,626	42,392	44,223	46,119	46,119
Total lump sum dividend appropriation	607	691	886	1,082	1,168	1,163	1,220	1,276	1,332	1,390	1,451	12,267
Per person dividend under current statute	\$ 950	\$ 1,080	\$ 1,380	\$ 1,680	\$ 1,800	\$ 1,770	\$ 1,840	\$ 1,910	\$ 1,970	\$ 2,040	\$ 2,100	\$ 18,520
Additional lump sum payout - Community Dividend*	0	0	150	150	150	150	150	150	150	150	150	1,350

Assumptions:

Callan Associates 2004 Capital Market Assumptions. APFC 2004 asset allocation, Fall 2004 revenue forecast, financial statements through 06/30/04. All payouts are assumed to happen at fiscal year end, all dollar values in millions except the per person dividend, which is rounded to the closest \$10.

*Community dividend is a lump sum of \$150 million beginning in FY07.

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ALASKA PERMANENT FUND FUND FINANCIAL HISTORY & PROJECTIONS as of December 31, 2004

As of Dec. 2004, statutory net income is trending to end the fiscal year more than 25% below the mid case.

Projections will extend ten years, and are based on best available information (\$ in millions)

Reserved Fund Balance - Principal										Unreserved Fund Balance							TOTAL FUND (m) FY-End Balance	
FY	FY-Begin Contrib. Balance	Appropriations	Dedicated		FY-End Balance	Unrealized Gain (Loss)		FY-End Reserved Balance	Acct. Net Income (1)	Statutory Net Income (2)	Distributions of Statutory Net Income			Realized Earnings Account		FY		
			State Revenues	Inflation Proofing		Net Change	FY-End Balance				Dividends	Inflation Proofing	General Fund	Net Change	FY-End Balance			
77-98	0	6,734	6,250	5,533	18,517	3,971	3,971	22,488	20,683	18,667	7,589	5,533	268	1,389	1,389	77-98	23,877	
99	18,517	41	155	288	19,001	(430)	3,541	22,542	2,148	2,544	1,045	288	3	1,201	2,590	99	25,132	
00	19,001	264	326	423	20,014	(12)	3,529	23,543	2,249	2,222	1,172	423	3	387	2,972	00	26,515	
01	20,014	8	339	686	21,047	(2,146)	1,383	22,430	(924)	1,199	1,113	686	4	(588)	2,384	01	24,814	
02	21,047	(23) (3)	258	602	21,884	(878)	505	22,389	(617)	257	926	602	5	(1,248)	1,136	02	23,525	
03	21,884	354 (3)	398	352	22,988	601	1,106	24,094	963	355	691	352	0	(1,035)	100	03	24,194	
04	22,988	(319) (1)	353	524 (4)	23,526	1,909	3,015	26,541	3,434	1,502	581	170 (1)	0	759	859	04	27,400	
10% 05	23,526	19	476	624	24,645	(2,996)	993	25,640	(1,509)	1,468	502	624	0	342	1,201	05	25,865	10%
25% 05	23,526	21	476	624	24,647	(2,022)	993	25,640	(94)	1,907 (6)	548	624	0	735	1,594	05	27,233	25%
Mid 05	23,526	27	476	624	24,653	(453)	2,562	27,215	2,048	2,474	608	624	0	1,242	2,101	05	29,316	Mid
25% 06	23,526	28	476	624	24,654	1,069	4,084	28,738	4,187	3,030	672	624	0	1,794	2,653	05	31,390	25%
10% 06	23,526	31	476	624	24,657	2,125	5,140	29,796	5,765	3,609	727	624	0	2,259	3,118	05	32,914	10%
06	24,653	21	356	650	25,681	180	2,742	28,423	2,190	1,988	690	650	0	648	2,749	06	31,172	
07	25,681	23	312	676	26,691	191	2,924	29,625	2,328	2,114	885	676	0	553	3,302	07	32,927	
08	26,691	24	245	700	27,660	202	3,136	30,796	2,457	2,231	1,082	700	0	448	3,750	08	34,546	
09	27,660	26	231	725	28,643	212	3,348	31,991	2,578	2,340	1,170	725	0	445	4,195	09	36,186	
10	28,643	28	230	751	29,651	223	3,571	33,222	2,701	2,451	1,168	751	0	532	4,727	10	37,949	
11	29,651	30	231	777	30,689	234	3,805	34,494	2,834	2,570	1,229	777	0	564	5,291	11	39,785	
12	30,689	32	224	804	31,749	246	4,051	35,799	2,972	2,694	1,290	804	0	600	5,891	12	41,690	
13	31,749	34	215	831	32,829	258	4,308	37,137	3,114	2,822	1,352	831	0	639	6,531	13	43,678	
14	32,829	37	206	859	33,930	270	4,579	38,509	3,263	2,956	1,417	859	0	680	7,210	14	45,719	
15	33,930	39	195	887	35,051	284	4,862	39,914	3,417	3,094	1,484	887	0	722	7,933	15	47,846	
Cumulative Totals																		
Proj. for 2005-2015		321	2,919	8,284		1,847			29,90*	27,732	12,375	8,284	0	7,074				

Assumptions:	Total Return - Inflation=Total Real Return	Statutory Return
10% FY 2005	-5.26% 2.60% -7.86%	10% 5.31%
25% FY 2005	-0.14% 2.60% -2.74%	25% 8.90%
Mid FY 2005 (3)	7.81% 2.60% 5.01%	Mid (4) 8.95%
25% FY 2005	15.35% 2.60% 12.75%	25% 11.18%
10% FY 2005	20.58% 2.60% 17.98%	10% 13.06%
FY 2006-2015 (5)	7.61% 2.60% 5.01%	7.04% (6)

Notes to financial results and projections FY77 - FY15:

- (1) Special general fund and earnings reserve appropriations to principal, royalty settlement earnings transferred to principal per AS 37.13.145(d), and other miscellaneous appropriations to principal.
- (2) Final adjustment to principal based on reconciliation of State of AK v. Amerada Hess et al royalty case.
- (3) FY03 Senate Bill 100 transferred \$354 million from realized earnings account to principal.
- (4) Senate Bill 283 defines the FY03 special appropriation of \$354 as pre FY04 inflation proofing and appropriates the remaining \$170 million needed to fully inflation proof contributions and appropriations in FY04. An additional \$15 million in settlement earnings (earnings above inflation) is appropriated to principal per AS 37.13.145(d).
- (5) Statutory inflation proofing for FY04 is based on the inflation rate of 2.28%, or \$524 million (\$354 million pre inflation proofing plus \$170 million FY04 appropriation).
- (6) Accounting net income is statutory net income plus the net change in unrealized gains (losses) and settlement earnings. Statutory net income is realized earnings less settlement earnings and is used to calculate the annual dividend transfer.
- (7) Total Fund equals reserved fund balance plus the realized earnings account.
- (8) Based on 2004 Caltan capital market assumptions and a range of expected returns based on the probability of the return outcomes.
- (9) Based on 2004 Caltan capital market assumptions and median expected returns (the mid case). Actual results will vary from projections.

Income year-to-date as of December 31, 2004

FY05 Statutory net income	
Interest, dividends, real estate & other income	\$ 419.4
Realized gains on the sale of invested assets	404.8
Less operating expenses	(22.6)
Statutory net income	\$ 801.6

FY05 GAAP (accounting) net income	
Statutory net income	\$ 801.6
Adjustment for unrealized gains (losses) on invested assets	1,571.6
Accounting net income (loss)	\$ 2,373.2

PERFORMANCE SUMMARY

(preliminary as of December 31, 2004)

	Current Month	Last 3 Months	Fiscal Y-T-D	Calendar Y-T-D	Last 12 Months	Last 3 Years	Last 5 Years
Alaska CDs	0.18%	0.48%	0.85%	1.55%	1.55%	1.87%	3.12%
Domestic Fixed Income	0.94%	1.01%	4.15%	4.27%	4.27%	6.11%	7.56%
Non-Domestic Fixed Income	1.23%	6.74%	10.69%	9.95%	9.95%	12.55%	8.09%
Domestic Equities	3.57%	10.50%	7.67%	12.12%	12.12%	5.18%	-0.58%
Non-Domestic Equities	4.25%	14.54%	15.22%	17.81%	17.81%	11.55%	-0.74%
Real Estate	3.03%	8.82%	14.12%	20.74%	20.74%	15.87%	14.42%
Absolute Return	N/A	1.90%					
Total Fund	2.77%	8.05%	8.70%	11.39%	11.39%	8.32%	4.56%
Total Fund Return Benchmark	2.67%	7.90%	8.76%	11.64%	11.64%	8.15%	3.93%



ALASKA PERMANENT FUND FUND FINANCIAL HISTORY & PROJECTIONS as of December 31, 2005

* Fiscal year end results for FY06 are trending to be greater than the mid case.

Projections are for ten years, and are based on best available information (\$ in millions)

FY	Reserved Fund Balance - Principal						Unrealized Gain (Loss)		FY-End Reserved Balance	Unreserved Fund Balance					TOTAL FY-End Balance		
	FY-Begin Contrib. Balance	Appro- prialions	Dedicated State Revenues	Inflation Proofing	FY-End Contributions	FY-End Balance	Gain (Loss)			Accl. Net Income ⁽¹⁾	Statutory Net Income ⁽²⁾	Distributions of Statutory Net Income				Realized Earnings	
							Net Change	FY-End Balance				Dividends	Inflation Proofing	Gen. Fund / Other		Net Change	FY-End Balance
77-98	0	6,734	6,250	5,533	18,517	-971	3,971	22,488	20,683	18,667	7,589	5,533	268	1,389	1,389	77-98	23,877
99	18,517	41	155	288	19,001	(420)	3,541	22,542	2,148	2,544	1,045	288	3	1,201	2,590	99	25,132
00	19,001	264	326	423	20,014	(12)	3,529	23,543	2,249	2,222	1,172	423	3	382	2,972	00	26,515
01	20,014	8	339	696	21,047	(2,145)	1,383	22,430	(924)	1,199	1,113	686	4	(588)	2,384	01	24,814
02	21,047	(23) ⁽³⁾	258	602	21,884	(578)	505	22,389	(617)	257	926	602	5	(1,244)	1,136	02	23,525
03	21,884	354 ⁽³⁾	398	352	22,988	601	1,106	24,094	963	355	691	352	0	(1,075)	100	03	24,194
04	22,988	(33) ⁽⁴⁾	353	524 ⁽⁴⁾	23,526	1,909	3,015	26,541	3,434	1,502	581	170 ⁽⁴⁾	0	759	859	04	27,400
05	23,526	0	480	641	24,647	859	3,874	28,522	2,640	1,754	532	641	27 ^{(1)(k)}	581	1,440	05	29,962
10% 06	24,647	0	579	855	26,081	(2,930)	894	26,975	(1,704)	1,259	538	855	18	(135)	1,306	06	28,281
25% 06	24,647	0	579	855	26,081	(1,750)	2,124	28,205	(183)	1,545	568	855	22	121	1,562	06	29,767
Mid 06	24,647	0	579	855	26,081	277	4,151	30,232	2,243 *	1,939 *	0	855	28	474	1,914	06	32,146
25% 06	24,647	0	579	855	26,081	1,749	5,623	31,704	4,178	2,395	658	855	34	882	2,323	06	34,027
10% 06	24,647	0	579	855	26,081	2,921	6,795	32,877	5,765	2,804	701	855	40	1,248	2,638	06	35,565
07	26,081	0	466	690	27,235	359	4,510	31,748	2,408	2,021	795	690	28	536	2,450	07	34,198
08	27,235	0	366	718	28,322	382	4,892	33,214	2,559	2,150	983	718	28	449	2,900	08	36,113
09	28,322	0	202	742	29,265	402	5,294	34,559	2,697	2,268	1,064	742	28	462	3,362	09	37,921
10	29,265	0	198	766	30,229	422	5,716	35,945	2,833	2,383	1,130	766	28	487	3,849	10	39,794
11	30,229	0	187	791	31,207	443	6,159	37,365	2,973	2,503	1,189	791	28	523	4,372	11	41,738
12	31,207	0	179	816	32,202	464	6,621	38,825	3,119	2,627	1,253	816	28	558	4,931	12	43,756
13	32,202	0	169	842	33,212	487	7,110	40,322	3,271	2,757	1,316	842	28	599	5,530	13	45,851
14	33,212	0	160	868	34,240	510	7,619	41,859	3,428	2,891	1,382	868	28	641	6,171	14	48,030
15	34,240	0	152	894	35,286	534	8,153	43,440	3,592	3,030	1,450	894	28	686	6,857	15	50,296
16	35,286	0	160	922	36,367	559	8,713	45,080	3,763	3,176	1,520	922	28	734	7,591	16	52,671
Cumulative Totals Proj for 2006-2016		0	2,817	8,903		4,838			32,887	27,745	12,692	8,903	303	6,150			

Assumptions:	Total Return - Inflation	Total Real Return	Statutory Return		
10% FY 2006	-5.95%	3.39%	-9.34%	10%	4.22%
25% FY 2006	-0.46%	3.39%	-3.85%	25%	5.18%
Mid FY 2006 ^(m)	7.60%	3.39%	4.21%	Mid ^(m)	6.50%
25% FY 2006	15.29%	3.35%	11.90%	25%	8.03%
10% FY 2006	21.71%	3.39%	18.32%	10%	9.40%
FY 2007-2016 ⁽ⁿ⁾	7.61%	2.60%	5.01%		6.50% ^(m)

Notes to financial history and projections FY77 - FY16:

⁽¹⁾ Appropriations include special general fund and earnings reserve appropriations to principal, royalty settlement earnings transferred to principal through FY04 per AS 37.13.145(d), and other miscellaneous appropriations to principal.

⁽²⁾ Represents a final adjustment to principal based on reconciliation of State of AK v. Amerasia Hess et al royalty case.

⁽³⁾ FY03 Senate Bill 100 transferred \$354 million from realized earnings account to principal.

⁽⁴⁾ Senate Bill 283 defines the FY03 special appropriation of \$354 as pro FY04 inflation proofing and appropriates the remaining \$170 million needed to fully inflation proof contributions and appropriations in FY04. An additional \$15 million in settlement earnings (earnings above inflation) is appropriated to principal per AS 37.13.145(d).

^(k) Statutory inflation proofing for FY04 is based on the inflation rate of 2.28%, or \$524 million (\$354 million pre-inflation proofing plus \$170 million FY01 appropriation).

^(l) Accounting net income is statutory net income plus the net change in unrealized gains (losses) and settlement earnings. Statutory net income is realized earnings less settlement earnings and is used to calculate the annual dividend transfer.

^(m) Total Fund equity received fund balance plus the realized earnings balance.

⁽ⁿ⁾ Based on 2005 Callan capital market assumptions and a range of expected returns based on the probability of the return outcomes.

^(o) Based on 2005 Callan capital market assumptions and median expected returns (the mid case). Actual results will vary from projections.

^(p) Am Hess settlement earnings transferred to Alaska Capital Income Fund as per HB # 167 & SB # 46.

Income year-to-date as of December 31, 2005

FY06 Statutory net income	
Interest, dividends, real estate & other income	\$ 596.3
Realized gains on the sale of invested assets	789.0
Less operating exp / Legis. appropriations	(27.8)
Less AK Capital Inc. Fund committed realized earnings	(18.5)
Statutory net income	\$ 1,338.0

FY06 GAAP (accounting) net income	
Statutory net income	\$ 1,338.0
Adjustment for unrealized gains (losses) on invested assets	621.2
AK Capital Inc. Fund committed realized earnings	16.5
GAAP (accounting) net income	\$ 1,977.7

PERFORMANCE SUMMARY (preliminary as of December 31, 2005)	Current Month	Last 3 Months	Fiscal Y-T-D	Calendar Y-T-D	Last 12 Months	Last 3 Years	Last 5 Years
Alaska CDs	0.32%	0.93%	1.77%	3.13%	3.13%	2.05%	2.65%
Domestic Fixed Income	0.88%	0.64%	0.17%	2.70%	2.70%	3.90%	5.86%
Non-Domestic Fixed Income	0.86%	-1.31%	-1.18%	-1.69%	-1.69%	6.87%	7.09%
Domestic Equities	0.17%	2.91%	7.42%	6.75%	6.95%	15.94%	2.10%
Non-Domestic Equities	4.91%	4.72%	16.15%	16.29%	16.29%	23.41%	5.65%
Real Estate	0.76%	2.51%	7.40%	15.06%	15.06%	20.49%	15.26%
Absolute Return	1.56%	2.86%	5.56%	7.32%	7.32%		
Total Fund	1.39%	2.44%	6.71%	7.99%	7.99%	13.35%	6.22%
<i>Total Fund Return Benchmark</i>	<i>1.29%</i>	<i>1.95%</i>	<i>5.83%</i>	<i>7.27%</i>	<i>7.27%</i>	<i>13.16%</i>	<i>5.56%</i>



ALASKA PERMANENT FUND FUND FINANCIAL HISTORY & PROJECTIONS USER GUIDE

Reserved Fund Balance: The portion of the Fund that may not be spent. Contains all contributions into the Fund and all unrealized gains (losses) as of the date shown.

Fiscal Year (FY): The State of Alaska's fiscal year begins on July 1 of the previous calendar year and ends on June 30.

FY - Begin. Contrib. Balance: The sum of all historical contributions to the Fund's principal on the first day of the fiscal year. This includes constitutionally mandated mineral revenues, inflation proofing transfers from income and other appropriations to principal.

Appropriations: Legislative appropriations to principal for the fiscal year.

Dedicated State Revenues: Constitutionally and statutorily mandated mineral revenues for the fiscal year (currently 25% of the total mineral revenue received by the state).

Inflation Proofing: The inflation proofing transfer from realized earnings to principal for the fiscal year.

FY-End Balance Contributions: The sum of the first four columns at each June 30; fiscal year-end (sum of all dedicated state revenues, other appropriations into the Fund and all inflation proofing transfers).

Unrealized Gain (Loss) Net Change: The change in net unrealized gains (losses) over the previous fiscal year-end value.

Unrealized Gain (Loss) FY-End Balance: The balance of net unrealized gains (losses) on invested assets at the end of the fiscal year.

FY-End Reserved Balance: The sum of the FY-end balance of contributions and net unrealized gains (losses) at the end of the fiscal year. This value represents the protected assets at fiscal year-end.

Unreserved Fund Balance: Also referred to as realized earnings; this represents the portion of the Fund that may be appropriated (spent) by the Legislature.

Acct. Net Income: Income of the Fund as determined using Generally Accepted Accounting Principals, including net unrealized gains (losses).

Statutory Net Income: Income of the Fund as determined using Alaska State Statutes. Statutory net income is only the realized income of the Fund, (with minor adjustments) and is used in determining the annual dividend payment. Realized earnings consist primarily of interest, dividends, real estate income and net gains (losses) on the sale of invested assets. Realized income is reduced by the costs to manage the Fund assets, and other Fund related expenses.

Distributions of Statutory Net Income: The three columns below this heading represent all money appropriated (spent) by the Legislature from the Permanent Fund's earnings.

Dividends: The lump sum recorded for the annual Permanent Fund Dividend for the fiscal year and subsequently transferred to the Permanent Fund Dividend Division.

Inflation Proofing: The inflation proofing transfer made from realized earnings to principal for the fiscal year.

General Fund/Other: Earnings transferred to the State's General Fund and other incidental appropriations from the Fund.

Realized Earnings Net Change: The change in the realized earnings balance over the previous fiscal year-end value.

Realized Earnings FY-End Balance: The balance of realized earnings after accounting for fiscal year end distributions.

Total Fund FY-End Balance: The sum of the FY-End Reserved Fund Balance and the Realized Earnings FY-End Balance at the end of the fiscal year.

FY06 projections: The current fiscal year shows the possible realized and unrealized gains (losses) for the fiscal year based on the assumptions listed in the box to the bottom left of the projection table on the prior page. The median expectation is not the most likely, but rather the mid-point in the array of statistically likely outcomes. For more information see www.apfc.org or AS 37.13.140 and

Community Dividend Estimates @ \$150 Million
 Distribution Formula: \$50,000 Base Amount for Municipalities
 \$25,000 Base Amount for Unincorporated Communities
 Balance of Funds Distributed on a Per Capita Basis to Municipalities

Municipalities	2004 Population	Base Amount	Per Capita Payment	Community Dividend
Adak	69	\$50,000	\$15,151.61	\$65,152
Akhiok	56	\$50,000	\$12,297	\$62,297
Akiak	367	\$50,000	\$80,589	\$130,589
Akutan	771	\$50,000	\$169,303	\$219,303
Alakanuk	667	\$50,000	\$146,466	\$196,466
Aleknagik	219	\$50,000	\$48,090	\$98,090
Aleutians East Borough	76	\$50,000	\$16,689	\$66,689
Allakaket	90	\$50,000	\$19,763	\$69,763
Ambler	274	\$50,000	\$60,167	\$110,167
Anaktuvuk Pass	300	\$50,000	\$65,877	\$115,877
Anchorage	277,498	\$50,000	\$60,935,384	\$60,985,384
Anderson	344	\$50,000	\$75,538	\$125,538
Angoon	481	\$50,000	\$105,622	\$155,622
Aniak	532	\$50,000	\$116,821	\$166,821
Anvik	101	\$50,000	\$22,178	\$72,178
Atka	92	\$50,000	\$20,202	\$70,202
Atkasuk	247	\$50,000	\$54,238	\$104,238
Barrow	4,351	\$50,000	\$955,430	\$1,005,430
Bethel	5,888	\$50,000	\$1,292,937	\$1,342,937
Bettles	31	\$50,000	\$6,807	\$56,807
Brevig Mission	319	\$50,000	\$70,049	\$120,049
Bristol Bay Borough	1,096	\$50,000	\$240,669	\$290,669
Buckland	437	\$50,000	\$95,960	\$145,960
Chefornak	439	\$50,000	\$96,399	\$146,399
Chevak	899	\$50,000	\$197,410	\$247,410
Chignik	92	\$50,000	\$20,202	\$70,202
Chuathbaluk	105	\$50,000	\$23,057	\$73,057
Clark's Point	62	\$50,000	\$13,614	\$63,614
Coffman Cove	177	\$50,000	\$38,867	\$88,867
Cold Bay	89	\$50,000	\$19,543	\$69,543
Cordova	2,298	\$50,000	\$504,614	\$554,614
Craig	1,127	\$50,000	\$247,476	\$297,476
Deering	145	\$50,000	\$31,840	\$81,840
Delta Junction	984	\$50,000	\$216,075	\$266,075
Denali Borough	1,498	\$50,000	\$328,944	\$378,944
Dillingham	2,422	\$50,000	\$531,843	\$581,843
Diomedes	141	\$50,000	\$30,962	\$80,962
Eagle	115	\$50,000	\$25,253	\$75,253
Eek	292	\$50,000	\$64,120	\$114,120
Egegik	76	\$50,000	\$16,689	\$66,689

Community Dividend Estimates @ \$150 Million
 Distribution Formula: \$50,000 Base Amount for Municipalities
 \$25,000 Base Amount for Unincorporated Communities
 Balance of Funds Distributed on a Per Capita Basis to Municipalities

	2004 Population	Base Amount	Per Capita Payment	Community Dividend
Ekwok	127	\$50,000	\$27,888	\$77,888
Elim	318	\$50,000	\$69,829	\$119,829
Emmonak	762	\$50,000	\$167,326	\$217,326
Fairbanks	29,954	\$50,000	\$6,577,556	\$6,627,556
Fairbanks North Star Borough	53,493	\$50,000	\$11,746,451	\$11,796,451
False Pass	62	\$50,000	\$13,614	\$63,614
Fort Yukon	594	\$50,000	\$130,436	\$180,436
Galena	717	\$50,000	\$157,445	\$207,445
Gambell	648	\$50,000	\$142,293	\$192,293
Golovin	160	\$50,000	\$35,134	\$85,134
Goodnews Bay	236	\$50,000	\$51,823	\$101,823
Grayling	182	\$50,000	\$39,965	\$89,965
Gustavus	473	\$50,000	\$103,865	\$153,865
Haines Borough	2,245	\$50,000	\$492,976	\$542,976
Holy Cross	206	\$50,000	\$45,235	\$95,235
Homer	5,332	\$50,000	\$1,170,846	\$1,220,846
Hoonah	841	\$50,000	\$184,674	\$234,674
Hooper Bay	1,124	\$50,000	\$246,818	\$296,818
Houston	1,368	\$50,000	\$300,397	\$350,397
Hughes	72	\$50,000	\$15,810	\$65,810
Huslia	269	\$50,000	\$59,069	\$109,069
Hydaburg	349	\$50,000	\$76,636	\$126,636
Juneau	30,966	\$50,000	\$6,799,779	\$6,849,779
Kachemak	475	\$50,000	\$104,305	\$154,305
Kake	663	\$50,000	\$145,587	\$195,587
Kaktovik	284	\$50,000	\$62,363	\$112,363
Kaltag	211	\$50,000	\$46,333	\$96,333
Kasaan	60	\$50,000	\$13,175	\$63,175
Kenai	6,809	\$50,000	\$1,495,178	\$1,545,178
Kenai Peninsula Borough	31,794	\$50,000	\$6,981,598	\$7,031,598
Ketchikan	7,691	\$50,000	\$1,688,856	\$1,738,856
Ketchikan Gateway Borough	4,948	\$50,000	\$1,086,524	\$1,136,524
Kiana	394	\$50,000	\$86,518	\$136,518
King Cove	723	\$50,000	\$158,763	\$208,763
Kivalina	388	\$50,000	\$85,200	\$135,200
Klawock	848	\$50,000	\$186,211	\$236,211
Kobuk	128	\$50,000	\$28,107	\$78,107
Kodiak	6,199	\$50,000	\$1,361,229	\$1,411,229
Kodiak Island Borough	6,494	\$50,000	\$1,426,008	\$1,476,008
Kotlik	588	\$50,000	\$129,118	\$179,118

Community Dividend Estimates @ \$150 Million
Distribution Formula: \$50,000 Base Amount for Municipalities
\$25,000 Base Amount for Unincorporated Communities
Balance of Funds Distributed on a Per Capita Basis to Municipalities

	2004 Population	Base Amount	Per Capita Payment	Community Dividend
Kotzebue	3,130	\$50,000	\$687,312	\$737,312
Koyuk	348	\$50,000	\$76,417	\$126,417
Koyukuk	109	\$50,000	\$23,935	\$73,935
Kupreanof	38	\$50,000	\$8,344	\$58,344
Kwethluk	695	\$50,000	\$152,614	\$202,614
Lake & Peninsula Borough	882	\$50,000	\$193,677	\$243,677
Larsen Bay	96	\$50,000	\$21,081	\$71,081
Lower Kalskag	262	\$50,000	\$57,532	\$107,532
Manokotak	405	\$50,000	\$88,933	\$138,933
Marshall	358	\$50,000	\$78,613	\$128,613
Matanuska-Susitna Borough	57,474	\$50,000	\$12,620,633	\$12,670,633
McGrath	367	\$50,000	\$80,589	\$130,589
Mekoryuk	198	\$50,000	\$43,479	\$93,479
Metlakatla	1,370	\$50,000	\$300,836	\$350,836
Mountain Village	769	\$50,000	\$168,864	\$218,864
Napakiaik	360	\$50,000	\$79,052	\$129,052
Napaskiak	436	\$50,000	\$95,741	\$145,741
Nenana	394	\$50,000	\$86,518	\$136,518
New Stuyahok	477	\$50,000	\$104,744	\$154,744
Newhalen	183	\$50,000	\$40,185	\$90,185
Nightmute	232	\$50,000	\$50,945	\$100,945
Nikolai	121	\$50,000	\$26,570	\$76,570
Nome	3,473	\$50,000	\$762,631	\$812,631
Nondalton	205	\$50,000	\$45,016	\$95,016
Noorvik	609	\$50,000	\$133,729	\$183,729
North Pole	1,532	\$50,000	\$336,410	\$386,410
North Slope Borough	235	\$50,000	\$51,603	\$101,603
Northwest Arctic Borough	708	\$50,000	\$155,469	\$205,469
Nuiqsut	430	\$50,000	\$94,423	\$144,423
Nulato	320	\$50,000	\$70,268	\$120,268
Nunam Iqua	172	\$50,000	\$37,769	\$87,769
Nunapitchuk	527	\$50,000	\$115,723	\$165,723
Old Harbor	196	\$50,000	\$43,039	\$93,039
Ouzinkie	187	\$50,000	\$41,063	\$91,063
Palmer	5,197	\$50,000	\$1,141,202	\$1,191,202
Pelican	118	\$50,000	\$25,911	\$75,911
Petersburg	3,123	\$50,000	\$685,775	\$735,775
Pilot Point	75	\$50,000	\$16,469	\$66,469
Pilot Station	559	\$50,000	\$122,750	\$172,750
Platinum	39	\$50,000	\$8,564	\$58,564

Community Dividend Estimates @ \$150 Million
 Distribution Formula: \$50,000 Base Amount for Municipalities
 \$25,000 Base Amount for Unincorporated Communities
 Balance of Funds Distributed on a Per Capita Basis to Municipalities

	2004 Population	Base Amount	Per Capita Payment	Community Dividend
Point Hope	726	\$50,000	\$159,421	\$209,421
Port Alexander	69	\$50,000	\$15,152	\$65,152
Port Heiden	90	\$50,000	\$19,753	\$69,763
Port Lions	238	\$50,000	\$52,262	\$102,262
Quinhagak	612	\$50,000	\$134,388	\$184,388
Ruby	190	\$50,000	\$41,722	\$91,722
Russian Mission	331	\$50,000	\$72,684	\$122,684
Saint George	137	\$50,000	\$30,084	\$80,084
Saint Mary's	539	\$50,000	\$118,358	\$168,358
Saint Michael	409	\$50,000	\$89,812	\$139,812
Saint Paul	494	\$50,000	\$108,477	\$158,477
Sand Point	908	\$50,000	\$199,386	\$249,386
Savoonga	710	\$50,000	\$155,908	\$205,908
Saxman	391	\$50,000	\$85,859	\$135,859
Scammon Bay	486	\$50,000	\$106,720	\$156,720
Selawik	829	\$50,000	\$182,039	\$232,039
Seldovia	263	\$50,000	\$57,752	\$107,752
Seward	2,540	\$50,000	\$557,755	\$607,755
Shageluk	132	\$50,000	\$28,986	\$78,986
Shaktolik	209	\$50,000	\$45,894	\$95,894
Shishmaref	591	\$50,000	\$129,777	\$179,777
Shungnak	264	\$50,000	\$57,971	\$107,971
Sitka	8,805	\$50,000	\$1,933,477	\$1,983,477
Skagway	870	\$50,000	\$191,042	\$241,042
Soldotna	3,767	\$50,000	\$827,190	\$877,190
Stebbins	586	\$50,000	\$128,679	\$178,679
Tanana	304	\$50,000	\$66,755	\$116,755
Teller	241	\$50,000	\$52,921	\$102,921
Tenakee Springs	105	\$50,000	\$23,057	\$73,057
Thorne Bay	497	\$50,000	\$109,136	\$159,136
Togiak	805	\$50,000	\$176,769	\$226,769
Toksook Bay	561	\$50,000	\$123,189	\$173,189
Unalakleet	728	\$50,000	\$159,860	\$209,860
Unalaska	4,366	\$50,000	\$958,724	\$1,008,724
Upper Kalskag	263	\$50,000	\$57,752	\$107,752
Valdez	3,749	\$50,000	\$823,237	\$873,237
Wainwright	531	\$50,000	\$116,602	\$166,602
Wales	152	\$50,000	\$33,377	\$83,377
Wasilla	6,109	\$50,000	\$1,341,466	\$1,391,466
White Mountain	213	\$50,000	\$46,772	\$96,772
Whittier	172	\$50,000	\$37,769	\$87,769
Wrangell	2,023	\$50,000	\$444,228	\$494,228
Yakutat	680	\$50,000	\$149,320	\$199,320
Municipal Sub Totals	637,556	\$8,150,000	\$140,000,000	\$148,150,000

Community Dividend Estimates @ \$150 Million
 Distribution Formula: \$50,000 Base Amount for Municipalities
 \$25,000 Base Amount for Unincorporated Communities
 Balance of Funds Distributed on a Per Capita Basis to Municipalities

	2004 Population	Base Amount	Per Capita Payment	Community Dividend
Unincorporated Communities				
Akiachak		\$25,000		\$25,000
Alatna		\$25,000		\$25,000
Arctic Village		\$25,000		\$25,000
Atmautluak		\$25,000		\$25,000
Beaver		\$25,000		\$25,000
Birch Creek		\$25,000		\$25,000
Chenega Bay		\$25,000		\$25,000
Central		\$25,000		\$25,000
Chalkyitsik		\$25,000		\$25,000
Chistochina		\$25,000		\$25,000
Chitina		\$25,000		\$25,000
Circle		\$25,000		\$25,000
Copper Center		\$25,000		\$25,000
Crooked Creek		\$25,000		\$25,000
Deltana		\$25,000		\$25,000
Dot Lake		\$25,000		\$25,000
Dry Creek		\$25,000		\$25,000
Eagle Village		\$25,000		\$25,000
Edna Bay		\$25,000		\$25,000
Elfin Cove		\$25,000		\$25,000
Evansville		\$25,000		\$25,000
Four Mile Road		\$25,000		\$25,000
Gakona		\$25,000		\$25,000
Glennallen		\$25,000		\$25,000
Goldstream		\$25,000		\$25,000
Gulkana		\$25,000		\$25,000
Healy Lake		\$25,000		\$25,000
Hollis		\$25,000		\$25,000
Hyder		\$25,000		\$25,000
Kasigluk		\$25,000		\$25,000
Kenny Lake		\$25,000		\$25,000
Kipnuk		\$25,000		\$25,000
Klukwan		\$25,000		\$25,000
Koliganek		\$25,000		\$25,000
Kongiganak		\$25,000		\$25,000
Kwigillingok		\$25,000		\$25,000
Lake Minchumina		\$25,000		\$25,000
Lime Village		\$25,000		\$25,000
Manley Hot Springs		\$25,000		\$25,000
McCarthy		\$25,000		\$25,000

Community Dividend Estimates @ \$150 Million
Distribution Formula: \$50,000 Base Amount for Municipalities
\$25,000 Base Amount for Unincorporated Communities
Balance of Funds Distributed on a Per Capita Basis to Municipalities

	2004 Population	Base Amount	Per Capita Payment	Community Dividend
Mentasta		\$25,000		\$25,000
Minto		\$25,000		\$25,000
Naukati		\$25,000		\$25,000
Nelchina/Mendeltna		\$25,000		\$25,000
Newtok		\$25,000		\$25,000
Nikolski		\$25,000		\$25,000
Northway		\$25,000		\$25,000
Oscarville		\$25,000		\$25,000
Paxson		\$25,000		\$25,000
Pitka's Point		\$25,000		\$25,000
Point Baker		\$25,000		\$25,000
Port Protection		\$25,000		\$25,000
Rampart		\$25,000		\$25,000
Red Devil		\$25,000		\$25,000
Silver Springs		\$25,000		\$25,000
Slana		\$25,000		\$25,000
Sleetmute		\$25,000		\$25,000
Stevens Village		\$25,000		\$25,000
Stony River		\$25,000		\$25,000
Takotna		\$25,000		\$25,000
Tanacross		\$25,000		\$25,000
Tatitlek		\$25,000		\$25,000
Tazlina		\$25,000		\$25,000
Tetlin		\$25,000		\$25,000
Tok		\$25,000		\$25,000
Tolsona		\$25,000		\$25,000
Tuluksak		\$25,000		\$25,000
Tuntutuliak		\$25,000		\$25,000
Tununak		\$25,000		\$25,000
Twin Hills		\$25,000		\$25,000
Venetic		\$25,000		\$25,000
Whale Pass		\$25,000		\$25,000
Whitestone		\$25,000		\$25,000
Wiseman		\$25,000		\$25,000
Unin. Community Sub Totals		\$1,850,000		\$1,850,000
Grand Totals		\$10,000,000	\$140,000,000	\$150,000,000



Alaska Permanent Fund Corporation

Bill Analysis - HB 144

Financial projection comparison of the Alaska Permanent Fund under current statutes versus HB 144, Community Dividend Program.

All \$ values in millions except the per person dividend.

Current Statutes	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY06-FY16 Totals
Total market value end of year (after payouts)	32,145	34,197	36,112	37,919	39,792	41,736	43,754	45,849	48,027	50,293	52,666	52,666
Total lump sum dividend appropriation	610	795	983	1,064	1,130	1,189	1,253	1,317	1,382	1,450	1,521	12,693
Per person dividend under current statute	\$ 960	\$ 1,260	\$ 1,550	\$ 1,660	\$ 1,750	\$ 1,820	\$ 1,900	\$ 1,970	\$ 2,050	\$ 2,130	\$ 2,210	\$ 19,260

Current Statutes & Community Dividend of \$150 million per year	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY06-FY16 Totals
Total market value end of year (after payouts)	32,145	34,197	35,962	37,608	39,310	41,071	42,896	44,788	46,753	48,794	50,932	50,932
Total lump sum dividend appropriation	610	795	983	1,063	1,128	1,185	1,245	1,304	1,365	1,427	1,492	12,597
Per person dividend	\$ 960	\$ 1,260	\$ 1,550	\$ 1,660	\$ 1,740	\$ 1,810	\$ 1,890	\$ 1,960	\$ 2,030	\$ 2,100	\$ 2,170	\$ 19,130
Additional lump sum payout - Community Dividend*	0	0	150	150	150	150	150	150	150	150	150	1,350

Current Statutes & Community Dividend of \$75 million per year	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY06-FY16 Totals
Total market value end of year (after payouts)	32,145	34,197	36,037	37,764	39,551	41,404	43,325	45,319	47,390	49,544	51,799	51,799
Total lump sum dividend appropriation	610	795	983	1,064	1,129	1,187	1,249	1,310	1,374	1,439	1,506	12,645
Per person dividend	\$ 960	\$ 1,260	\$ 1,550	\$ 1,660	\$ 1,740	\$ 1,820	\$ 1,890	\$ 1,960	\$ 2,040	\$ 2,110	\$ 2,190	\$ 19,180
Additional lump sum payout - Community Dividend*	0	0	75	75	75	75	75	75	75	75	75	675

Assumptions:

Callan Associates 2005 Capital Market Assumptions, APFC 2005 asset allocation, Fall 2005 revenue forecast, financial statements through 0/30/05. All payouts are assumed to happen at fiscal year end, all dollar values in millions except the per person dividend, which is rounded to the closest \$10.

*Community dividend is a lump sum of \$150 or \$75 million beginning in FY08.

3 AAC 130.093 COMMERCE, COMMUNITY, AND EC. DIV. 3 AAC 130.098

(h) The department will determine the full and true value of property for a second class city as described in AS 29.60.030(e)(3), using the procedures set out in 3 AAC 130.095 — 3 AAC 130.097.

(i) The full value of property determined under (a) — (d) of this section constitutes the full and true value of property for the purposes of AS 29.60.030(d) and (e) unless

(1) the full and true value of property is determined under (h) of this section; or

(2) the computed assessed value of a utility must be included in the full and true value of property, as determined in (g) of this section. (Eff. 10/18/87, Register 104; am 12/1/2002, Register 164)

Authority: AS 29.60.030
AS 29.60.070

AS 29.60.180

AS 29.60.290

3 AAC 130.098. ~~Definition of social unit.~~ (a) Persons residing in a place in the unorganized borough are considered to be a social unit for the purposes of state aid to unincorporated communities under AS 29.60.140 if the following criteria are met:

(1) the geographic area in which the persons reside is not disproportionate in size to that number of persons; in determining whether this standard has been met the director will consider the physical topography of the area, the use of the land, land ownership patterns, and other factors that could affect population density; an area with a population density of at least 14 persons per square mile is considered to have met this standard;

(2) persons residing in that area are a discrete and identifiable unit in determining whether this standard has been met, the director will consider school enrollment, sources of employment, voter registration, and the permanency of dwelling units; if the area has at least one commercial establishment, and if persons residing in the area do so in permanent dwelling units and their children are enrolled in an operating school in or near the area, this standard is considered to have been met.

(b) Persons residing in the following places in the unorganized borough are not considered to be a social unit for purposes of eligibility for an entitlement under AS 29.60.140:

(1) a place where public access is restricted, including restrictions on the right to move to the place and reside there;

(2) a place that is contiguous to a municipality and is dependent upon the municipality to the extent that it exists only because the municipality exists;

(3) a place provided by an employer which is populated totally by persons who are required to reside there as a condition of their employment and who do not consider the place to be their permanent place of residence. (Eff. 10/18/87, Register 104)

Comparison of Municipal Dividend Payments CSHB 144 (STA)

*Remember, boroughs and cities are both considered municipalities

<u>Entity</u>	<u>Payment</u>
Borough (Fairbanks North Star Borough)	\$50,000 base + Per Capita
(This per capita is based on the total borough population less the population of any <u>organized</u> municipalities within the borough)	
City (City of Fairbanks)	\$50,000 base + Per Capita
Unified Municipality (Anchorage, Juneau, Sitka) (There are no separate municipalities in this example, so there would be no deductions in the per capita distribution, as there are in boroughs)	\$50,000 base + Per Capita
Unincorporated community within a Borough (The borough receives a per capita dividend <u>including</u> the population of unincorporated communities within its boundaries. This is the same method used under the previous municipal revenue sharing program)	\$0
Unincorporated community outside municipal boundaries (ie not in a borough)	\$25,000

HB

147

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 147(L&C)
(H) Publish Date: 1/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Omnibus Insurance RDU Insurance (116)
Component Insurance
Sponsor Rules by request of the Governor
Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation does not have a fiscal impact on the operations of the division since there are no union health trust sections in the current version.

Prepared by: Linda S. Hall, Director Phone: 907 269 7500
Division: Insurance Date/Time: 3/29/05 5:59 PM
Approved by: Edgar Blitchford, Commissioner Date: 3/29/2005
Agency: Commerce, Community, and Economic Development

4/15/05

24-GH1983\G.3

Bullock

4/15/05

adopted N/D

AMENDMENT ↓

OFFERED IN THE HOUSE

BY REPRESENTATIVE MEYER

TO: CSHB 147(L&C)

1 Page 15, line 25, following "whether":

2 Delete "an"

3

4 Page 15, line 26:

5 Delete "insurer"

6 Insert ", "

4/15/05
adopted No

24-GH1083\G.1
Bullock
4/15/05

AMENDMENT

2

OFFERED IN THE HOUSE
TO: HB 147(L&C)

BY REPRESENTATIVE MEYER

- 1 Page 11, lines 28 - 29:
- 2 Delete "a self-funded multiple employer welfare arrangement regulated under
- 3 AS 21.85"
- 4 Insert "any person issued or required to obtain a certificate of authority under this
- 5 title to transact life insurance, annuities, and health insurance or to provide coverage for
- 6 the cost of medical care"
- 7
- 8 Page 17, line 2, following "annuities,":
- 9 Delete "or"
- 10
- 11 Page 17, lines 2 - 5:
- 12 Delete "offered or provided by an insurer, or in connection with coverage
- 13 offered or provided by a self-funded multiple employer welfare arrangement
- 14 regulated under AS 21.85 or the Comprehensive Health Insurance Association
- 15 created under AS 21.55"
- 16 Insert ", or the provision of coverage for the cost of medical care"

4/15/05
adopted N/A

24-GH1083VG.2
Bullock
4/15/05

AMENDMENT

3

OFFERED IN THE HOUSE
TO: CSB 147(L&C)

BY REPRESENTATIVE MEYER

1 Page 2, line 8, through page 3, line 21:

2 Delete all material.

3

4 Renumber the following bill sections accordingly.

5

6 Page 14, following line 31:

7 Insert a new bill section to read:

8 **** Sec. 22.** AS 21.36 is amended by adding a new section to read:

9

10 **Sec. 21.36.065. Limitation on owner controlled and contractor controlled**
11 **insurance programs.** (a) An owner controlled insurance program or a contractor
12 controlled insurance program is subject to both AS 21.39 and AS 21.42, must be
13 approved by the director, and shall be allowed only for a major construction project.
14 Owner controlled and contractor controlled insurance programs are limited to property
15 insurance as defined in AS 21.12.060 and casualty insurance as defined in
AS 21.12.070.

16 (b) In this section, an owner controlled or contractor controlled insured
17 program does not include

18 (1) builder's risk or course of construction insurance;

19 (2) insurance relating to the transportation of cargo or other property;

20 (3) insurance covering one or more affiliates, subsidiaries, partners, or
21 joint venture partners of a person; or

22 (4) insurance policies endorsed to name one or more persons as
23 additional insureds.

1 (c) In this section,

2 (1) "contractor" means a person who meets the definition of
3 "contractor" in AS 08.18.171 and who undertakes the performance of a construction
4 project for a project owner, its agent, or its representative;

5 (2) "contractor controlled insurance program" means an insurance
6 program where one or more insurance policies are procured on behalf of a contractor,
7 its agent, or its representative, by its insurance producer, as defined in AS 21.27.900,
8 for the purpose of insuring the contractor and one or more of the following:

9 (A) the project owner;

10 (B) a subcontractor;

11 (C) an architect;

12 (D) an engineer; or

13 (E) a person performing professional services;

14 (3) "major construction project" means the process of constructing a
15 structure, building, facility, or roadway or major renovation of more than 50 percent of
16 an existing structure, building, facility, or roadway having a contract cost of more than
17 \$50,000,000 of a definite term at a geographically defined project site;

18 (4) "owner controlled insurance program" means an insurance program
19 where one or more insurance policies are procured on behalf of a project owner, its
20 agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for
21 the purpose of insuring the project owner and one or more of the following:

22 (A) the contractor;

23 (B) a subcontractor;

24 (C) an architect;

25 (D) an engineer; or

26 (E) a person performing professional services;

27 (5) "project owner" means a person who, in the course of the person's
28 business, engages the service of a contractor for the purpose of working on a
29 construction project;

30 (6) "subcontractor" means a person to whom a contractor sublets all or
31 part of a contractor's initial undertaking."

1

2 Renumber the following bill sections accordingly.

3

4 Page 15, line 25:

5 Delete "AS 21.12.140"

6 Insert "AS 21.36.065"

7

8 Page 15, line 29:

9 Delete "AS 21.12.140"

10 Insert "AS 21.36.065"

11

12 Page 17, line 26:

13 Delete "22"

14 Insert "21"

15

16 Page 17, line 28:

17 Delete "22"

18 Insert "21"

19

20 Page 17, line 29:

21 Delete "22"

22 Insert "21"

Committee Changes to HB 147

Discussions from the Committee and public testimony prompted the removal of the following parts of HB 147 24-GH1083A:

Section 28: Page 15, line 6 – Page 17, line 25

Section 29: Page 17, line 26 – Page 18, line 3

Section 30: Page 18 lines 4 – 20

Section 33: Page 19 lines 12 – 15; lines 20 – 28

In addition, a new Section 3 was added into CSHB 147(L&C) on Page 2, line 8 – Page 3, line 21 and a new Section 24 on Page 25 lines 24 – 29. This amendment addresses the limitations on the use of Owner Controlled Insurance Programs (OCIP) and Contractor Controlled Insurance Programs (CCIP) to the construction of large (\$50,000,000.00+) projects of public or private nature over a defined period of time at a specified location or region.

All of the abovementioned changes have been completed with the input and consent of the Division of Insurance (the bill's sponsor).

Section Analysis of HB 147/SB 108

Sec.	Statute	Change	Purpose or Effect
1	21.09.160	Amended	Removes requirement that the director provide specific notice to agents appointed with an insurer of the suspension or revocation of the insurer's certificate of authority; clarifies automatic suspension or revocation of authority of a managing general agent of an insurer whose certificate of authority has been suspended or revoked.
2	21.09.160(c)	Added	Requires an insurer to notify its agents and managing general agents of the insurer's suspension or revocation.
3.	21.24.040(a)	Amended	Removes never used option for how deposits may be made by deleting references to a safe deposit box.
4.	21.24.040(c)	Amended	Removes never used option for how deposits may be made by deleting references to a safe deposit box.
5.	21.24.130(d)	Amended	Provides public protection by permitting the director to release an insurer's statutory deposits to a guaranty fund of which the insurer is a member, if a right to receive all or a portion of the deposit is assigned to the guaranty fund.
6	21.27.010(c)	Amended	Removes reference to the functions of a third party administrator since those are defined in AS 21.90.900; changes reference to the specific third party administrator statutes.
7	21.27.100	Amended	Eliminates requirement for insurer or managing general agents to file appointments with the division; requires the insurer and producer to maintain a listing of agents/managing general agents and to provide the list upon request of the director.
8	21.27.110	Amended	Eliminates requirement for an insurer or reinsurer to file termination of appointments with the division since appointments will no longer be filed with the division; however, an insurer or reinsurer will be required to file notice of termination when the termination is for cause.
9	21.27.380(a)	Amended	Allows the director to notify a licensee of renewal by means other than mail.
10	21.27.630(b)	Amended	Replaces the term "class of insurance" with the defined term "class of authority."
11	21.27.630(c)	Amended	Removes reference to the functions of a third party administrator since those are defined in AS 21.90.900.
12	21.27.630(k) and (l)	Added	Removes the requirement of an admitted insurer to file and obtain a separate third party administrator registration; adds a requirement for a third party administrator who qualifies for exemption to file a certification with the director.
13	21.27.650(a)	Amended	Includes a requirement for a person who meets an exemption

			provision under the chapter to file a certification with the division.
14	21.27.660	New	Clarifies that the Comprehensive Health Insurance Association is considered an insurer for the purposes of a person who acts as a third party administrator on behalf of that association.
15	21.27.650(q)	Added	Authorizes the director to immediately suspend a third party administrator's registration, without advance notice or hearing, if the administrator is insolvent, in bankruptcy, in receivership or other delinquency proceeding or is using methods or practices injurious to policy holders or the public.
16.	21.27.900(33)	New	Defines appointment
17.	21.34.040(d)	Amended	Specifies the timing for financial reporting for alien insurers to coincide with their filing dates for stockholder reports; eliminates duplication.
18.	21.34.100(a)	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
19.	21.34.100(f)	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
20.	21.36.030(a)	Amended	Expands provision prohibiting misrepresentation and false advertising to include electronic communications.
21.	21.36.030(a)	Amended	Adds reference to health discount plans to give the director authority to regulate trade practices of health discount plans that are not otherwise regulated under AS 21; specifies that misleading references to health discount plans are considered unfair trade practices.
22.	21.36.155	New	Adds provision to give the director authority to regulate trade practices of health discount plans that are not otherwise regulated under AS 21 and establishes guidelines for regulation of these products.
23.	21.36.195	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
24.	21.51.405	New	Requires that rates for health insurance policies not be excessive, inadequate or unfairly discriminatory. The change makes the standards applicable to individual health insurance rates the same as those that apply to other types of insurance and brings Alaska law in line with other states.
25.	21.55.500(16)	Amended	Clarifies that the plan administrator for the Comprehensive Health Insurance Association must be registered as a third party administrator.
26.	21.66.080(a)	Amended	Allows the director to designate the location for filing of financial statements for title insurers to be consistent with other insurers.
27.	21.66.085(b)	Amended	Changes the due date for financial statements for title insurers to be consistent with other insurers.

28.	21.85.200 - .230	New	Provides for division oversight of certain self-funded governmental plans that are exempt from coverage under the state's group plan.
29.	21.85.500	New	Defines self-funded governmental plans.
30.	21.89.120	New	Clarifies the director's authority to adopt regulations regarding the regulation of motor vehicle service contracts and guaranteed automobile protection products.
31.	21.90.900(42)	Amended	Expands definition of third party administrators to include administrators for the Comprehensive Health Insurance Association or for self-funded employer plans subject to AS 21.85.
32.	21.90.900(43)	Amended	Expands definition of transact to apply in the context of providing coverage for medical care.
33.	21.90.900(45) - (47)	New	Adds definitions for guaranteed automobile protection, health discount plan and motor vehicle service contract.
34.	21.24.040(b); 21.27.330(b); 21.27.650(p)	Repealed	Removes reference to use of safe deposit boxes; eliminates requirement for firms to file and pay a fee for branch offices; and removes provision that defines transact with respect to operating requirements for third party administrators as it has been moved to a definition section at the end of the article pertaining to third party administrators.
35.	Uncodified Law	Amended	Allows regulations for implementation for certain sections but not before those sections are effective.
36.	Uncodified Law	Amended	Provides revisors instructions regarding title of section 21.85 and restructuring of section into three articles.
37.	Effective Date		Makes certain sections effective July 1, 2005.
38.	Effective Date		Makes all other sections effective immediately.

HB 147			
	TRUST	MEWA	INSURER
Certificate of Authority		X	X
Deposit		200,000	300,000
Capital & Surplus	30% Claim Liability	0	Up to 5.2 Million
Risk Based Capital Analysis			X
Reserves	Statute 21.18	Statute 21.18	Statute 21.18
Audited Annual Statement	Traditional	Yes - 21 pages	Yes - 120 pages
Non-Audited Quarterly	X	X	X
Biographical Affidavits		X	X
Premium Tax		X	X
Fees			\$2,350
Fidelity Bond	10% of Claim Liability	ERISA	X

HOUSE BILL 147

A. FILING REQUIREMENTS

1. Contribution Rates : Adequate to pay claims
2. Plan Description : To participants so know what is covered
3. Administrative Services : Qualified handling of claims
4. Financial Audit : Solvency Analysis
5. Actuarial Opinion : Reserves for claims, Stop Loss Coverage for plan protection, recommendations for financial condition
6. Number of employees & dependents covered

B. ADDITIONAL REQUIREMENTS

1. Scope of Insurance Code
2. Director Authority for Hearings and Orders
3. Managed Care – Internal and External Review/Judgement such as utilization or pre-authorization
4. Records
5. Reserve requirements
6. Trade Practices
7. Group Life
8. Mandates
9. Group Health – Federal Requirements such as HIPPA
10. Rehabilitation & Liquidation
11. Definitions

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✚ 2 AAC 39.900. Exemption from group health and life insurance coverage for state bargaining units

✚ (a) A bargaining unit of the executive branch of the state may be exempted from the coverage of the group insurance policy or policies covering state employees, their spouses, and eligible dependents by entering into a collective bargaining agreement that meets the requirements of (b) and (c) of this section, and if the commissioner of administration approves the exemption.

(b) A collective bargaining agreement exempting a bargaining unit from the coverage of a group policy or policies as provided in (a) of this section must provide for the indemnification of the state for liability for any consequence, loss, injury, or claim arising from the exemption.

(c) An alternative insurance program implemented as a result of an exemption permitted under this section must comply with all applicable federal and state law and regulations, and, beginning July 1, 2004, meet the requirements of mandatory coverage set out in AS 39.30.090 (a)(2), and the requirements of 2 AAC 39.910 and 2 AAC 39.915.

✚ History: Eff. 6/9/89, Register 110; am 7/1/2003, Register 166

✚ Authority: AS 39.30.090

