

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 80/2

9507 SENATE • COMMUNITY & REGIONAL AFFAIRS •

148

# FISCAL NOTE

No. 3

Bill Version: SB246

(S) Publish Date: 1/16/98

**STATE OF ALASKA  
1998 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: An Act amending the definition of correctional BRU: Resource Development  
facility to include a therapeutic treatment center; ... Component: Land Development  
 Sponsor: Rules Committee  
 Requestor: Governor Knowles Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ none

**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)

There is no anticipated additional fiscal impact for the Department of Natural Resources as a result of passage of this legislation.

Prepared by: Jane Angvik, Director Phone: 269-8503  
 Division: Land Date: 8-Jan-98  
 Approved by Commissioner: [Signature] Date: 1/16/98  
 Agency: Natural Resources

FISCAL NOTE

No. 4  
 Bill Version: SB246  
 (S) Publish Date: 1/16/98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date: (Note if correction)  
 Title: "An Act amending the definition of correctional facility to include a therapeutic treatment center..."  
 Sponsor: Rules Committee  
 Requestor: Governor

Department Affected: Administration  
 BRU: General Services  
 Component: Purchasing

COMPONENT SERIAL NO. 60

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ none

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) The bill authorizes transfer of excess real property and improvements of the Harborview Development Center in Valdez to the City of Valdez. Under the terms of the transfer, the City of Valdez must agree to convert a portion of the facility to a therapeutic treatment center and lease it to the Department of Corrections. Up to 60 inmates qualifying for therapeutic treatment would be housed in the treatment facility. The fiscal note is based on the following assumptions:

1. All funds necessary to complete improvements are with either the City of Valdez and/or the Department of Corrections.
2. Transfer of the property occurs on June 30, 1998.
3. No monetary consideration is received at transfer.
4. Funding for payment of the lease and all other operating costs is with the Department of Corrections.

Prepared by: Dugan Pettv, Director  
 Division: General Services

Phone: 465-2250  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Department of Administration

Date: 1/11/98

DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information, call the Governor's Legislative Office

\*\*\*\*\*

**ALASKANS FOR A JUST SOCIETY****SYLVIA SULLIVAN, PRESIDENT****P.O. BOX 2684****VALDEZ, ALASKA 99686****907-835-3729 (ALSO FAX #)**

**("THE BLINDFOLD ON THE FIGURE OF JUSTICE,  
IS A SHIELD FROM PARTIALITY, NOT FROM REALITY")  
(JUSTICE SCOLNIK-1988)**

SENATE COMMUNITY &  
REGIONAL AFFAIRS  
COMMITTEE:

SENATORS:

JERRY MACKIE-465-3517-CHAIR  
GARY WILKEN-465-4714-VICF CHAIR  
DAVE DONLEY-465-6595  
RANDY PHILLIPS-465-4979  
LYMAN HOFFMAN-465-4523

FEBRUARY 1, 1998

RE: S.B. 246

Dear Senators,

On Monday, February 2, at 1:30 p.m. the above bill is to have it's first reading. The teleconference notice states that a person only has 3 minutes to testify and we find that we will need a longer period of time, unless you state at the beginning of the Hearing, the answers to the following questions, which we believe will be asked by others. The reason is, this is a "legally flawed drafted bill" because it is vague; ambiguous; and creates an illegal and unconstitutional situation where the citizens of Valdez are "Not being asked, if they want to comply to "Conditions by the State", which apparently still have not been negotiated. As the following points out:

- (1) It is our belief, which may be wrong, that the Harborview facility and property is currently OWNED by the State of Alaska, and has title to it. If this is true, it should be stated in this bill. If this is not true, then the parties who OWN the facility and property should be listed. So, the first sentence should state,
  - (A) "The facility and property, known as "Harborview", located at ..... Valdez, Alaska, is currently Owned and operated by the State of Alaska."
- (2) Line 10: Should not have the word "facility", i.e.:
  - (4) "correctional facility" OR "facility" means...". This sentence is defining ONLY what a "correctional facility" is, so to include just the words "OR facility", could include ANY FACILITY, and that is not what is intended.
- (3) Line 13- the bill states a "State correctional facility" means a "correctional facility, "OWNED" or "RUN" by the state;

RESPONSE:

- (1) "A state correctional "facility" must BE 100% OWNED BY THE STATE", otherwise

AFJS

PAGE. 2

there is a quasi-public/state relationship and you will have legal problems WHEN, not if, a lawsuit is filed against the owner-entities. Correctional facilities are constantly involved in law suits, as you all should be well aware of by now.

(4) Line 10: states, "A correctional facility "means", a: prison; jail, etc.

RESPONSE: You all know that the State has several facilities NOW that are "Privately owned and run by the Private Sector. ALLVEST IS ONE OF THEM, and, there are bills right now that are considering OTHER PRIVATIZED JAILS.

So LEGALLY, there has to be a CLEAR DEFINITION OF WHAT A STATE CORRECTIONAL FACILITY IS SO THAT WHEN, NOT IF, THE FACILITY OWNERS ARE SUED, THERE IS A CLEAR LINE OF RESPONSIBILITY AND ACCOUNTABILITY FOR WHAT GOES ON WITHIN THE CONFINES OF THESE "CORRECTIONAL FACILITIES" AND THIS BILL DOES NOTHING BUT CLOUDS THIS ISSUE.

WE SUGGEST THE FOLLOWING:

Section 1 33 30.901 (4) is amended to read:

- (a) "State correctional facility" IS, a facility exclusively owned and operated by the State of Alaska, under the management of the Alaska State Department of Corrections.
- (b) "A quasi-public correctional facility", IS a facility that is either partially owned or operated by the State of Alaska and a private entity, under a legal document of "Contract and Agreement" approved by the Legislature, for a "certain term" and a public record.
- (c) Both facilities may, by virtue of a "collective bargaining agreement" hire State or private employees to work in these facilities
- (d) These "correctional facilities" are for the PURPOSE of the "incarceration of "court-ordered sentenced persons" for crimes they have committed. These "correctional facilities INCLUDE, but not limited to, the following:
  - (1) prisons;
  - (2) jails;
  - (3) work camps;
  - (4) farms;
  - (5) half-way houses;
  - (6) group homes;
  - (7) THERAPEUTIC TREATMENT CENTERS; or
  - (8) other placement, designated BY the COURTS, for the PURPOSE OF:
    - (a) custody;
    - (b) custody and treatment for physical or mental maladies;
    - (c) custody and rehabilitative activities for re-entry into society, prior to release.

\*\*\*THE ABOVE DEFINITIONS SHOULD BE IN A "SEPARATE SECTION" FOR A CLEAR DEFINITION OF WHAT THE STATE DEPARTMENT OF CORRECTIONS FACILITIES INCLUDES, WHAT IT DOES NOT.

THE BILL'S SECTION 2, IS NOW SPEAKING ONLY OF THE "HARBORVIEW FACILITY" AND IT'S NEW:

- (1) OWNERSHIP;
- (2) MANAGEMENT; AND
- (3) COST-SHARING OF THE FACILITY AND OPERATION

AFJS

PAGE. 3

THE FOLLOWING "LANGUAGE MAKES NO SENSE":

- (1) (a) "The Harborview Developmental Center is declared to be "SURPLUS" TO THE "NEEDS OF THE STATE".

QUESTION: What does this mean and what relevance does it have? We think NONE, and this language should be taken out.

- (2) "THE COMMISSIONER OF "NATURAL RESOURCES" SHALL CONVEY TITLE TO THE HARBORVIEW DEVELOPMENT CENTER TO THE CITY OF VALDEZ, IN THE FORM OF A QUIT CLAIM DEED.

QUESTION: What does the Alaska State Department of Natural Resources have to do with the TITLE of this facility and land? THIS IS CLEARLY A "LEGISLATIVE DUTY, NOT A STATE BUREAUCRACY'S."

If the TITLE states the owner IS the "State of Alaska", then, it follows, that the "Quit claim deed" must show this transfer of "title" and would state:

"FROM the State of Alaska to the City of Valdez and a DESCRIPTION OF THE "ACTUAL REAL & PERSONAL PROPERTY" that is being conveyed, not "APPROXIMATELY 13 acres" We are certain that this land has "already been legally described in documents recorded in the courts" and this description should be inserted in this bill. Again, who ever "drafted this bill" was lazy and didn't get the pertinent information for the bill.

- 3 (b) "The "CONVEYANCE" required in (a) of this section is SUBJECT TO THE FOLLOWING CONDITIONS:

RESPONSE: THIS LANGUAGE "DOES NOT" BELONG IN A STATUTE. THIS LANGUAGE IS "NEGOTIATING" THE TRANSFER OF TITLE OF THE LAND AND FACILITY AND SHOULD HAVE ALREADY BEEN NEGOTIATED. THIS LAW SHOULD JUST BE MAKING THE TRANSFER FROM THE STATE TO THE CITY OF VALDEZ. THIS BILL SHOULD ONLY CONTAIN THE "RECORDED DOCUMENT OF THIS "TRANSFER OF PROPERTY", OR REFER TO THE "QUASI-STATE/PRIVATE CONTRACT, WHICH "TERM" OF CONTRACT IS UP TO THE LEGISLATURE FOR RENEWAL ON A SPECIFIC DATE, OR OTHERWISE INDICATED "IN THE CONTRACT".

A "STATE LAW IS NOT TO BE USED AS A "CONDITIONAL SALES AGREEMENT", BUT THAT IS EXACTLY WHAT YOU HAVE HERE. WHAT IF THE CITY OF VALDEZ DOESN'T DO WHAT YOU ARE REQUIRING OF IT, OR THE STATE FAILS TO DO WHAT IT IS SUPPOSE TO DO, THEN YOU HAVE A "STUPID AND UNENFORCEABLE LAW", WHICH HAS BEEN THE PRACTICE OF THIS STATE. THIS STATE HAS 209 ATTORNEYS WHO ARE AT THE PLEASURE OF THE LEGISLATURE TO "DRAFT CREDIBLE AND LEGAL DOCUMENTS (LAWS), WHICH WILL STAY IN THE STATUTES, NOT BE JOCKEYED AROUND LIKE THIS ONE.

BLACK'S LAW DICTIONARY GIVES YOU THE DEFINITION OF A STATUTE AS: "An Act OF THE LEGISLATURE, DECLARING, COMMANDING, OR PROHIBITING SOMETHING". What is Section (b) is a "Conditional Contract" and totally absurd in a law.

We, in Valdez KNOW that "negotiations" have been going on for the past several years. Either the Legislature is prepared to approve a "transfer of title or not", and this "bill" appears to say, "that the legislature hasn't been presented with the legal transfer papers" as yet for "THEIR APPROVAL". THE DEPT OF NATURAL RESOURCES, HAS NO AUTHORITY TO SELL OR TRANSFER THE "PEOPLE'S PROPERTY" TO ANOTHER ENTITY.

AFJS

PAGE. 4

IF THE DEPT. OF RESOURCES HAS THIS AUTHORITY, IT SHOULD BE REPEALED THE PEOPLE OF THIS STATE "DID NOT ELECT A BUREAUCRACY TO MAKE THESE IMPORTANT DECISIONS" AND IT IS OBVIOUS THAT "CONFLICT OF INTEREST AND CORRUPTION CAN TAKE PLACE". WE ASK THAT THIS BE INVESTIGATED AND A BILL BE PRESENTED "REPEALING THIS AUTHORITY", WHICH WE BELIEVE "IS" CURRENTLY THE LAW.

We also KNOW, that "The citizens of Valdez have NOT been presented with a Real Estate contract from the State for consideration, thus the "Open Meeting Law" is being violated because the PEOPLE are not being involved in this process, which is clearly NOT in writing

According to this vague and ambiguous bill, the "People of Valdez will be PAYING FOR SOME IF NOT ALL OF THE OPERATION OF THIS "CORRECTIONAL FACILITY", AND WE, THE PEOPLE HAVE NOT SEEN THE STATE'S CONTRACT TO DECIDE IF WE WANT TO APPROVE IT.

For the above reasons, we, the people state:

- (1) that this bill is "legally flawed" and oppose it;
- (2) We want a Legal Contract from the State that outlines:
  - (a) Who is going to be the "Owner of the property and facility";
  - (b) What the City of Valdez is going to have to pay for the;
    - (1) Exclusive Ownership or Quasi-Public/State ownership of the land & facility;
  - (c) Who is going to be "Legally responsible for the Ownership and operation of the facility and land in case of suit;
  - (d) Who is responsible for the "Maintenance; operation; management; hiring & termination of employees; and
  - (e) Who is responsible for the transportation of the prisoners to and from the facility and who is responsible in case of accident;
  - (f) Who is insuring the facility and property;
  - (g) What Federal; State; and local moneys and grants are involved and how will they be made available to the City of Valdez on an annual basis;
  - (h) all other "legal matters" that are ALWAYS INCLUDED IN A "REAL ESTATE CONTRACT" ALONG WITH ANY "AGREEMENTS" THAT ARE MADE BETWEEN THE STATE AND CITY OF VALDEZ, ESPECIALLY IN THE AREA OF MONEY, I.E. BEING RECEIVED; SPENT; ACQUIRED, AND THE "ACCOUNTABILITY FOR THESE FUNDS.
- (3) BRINGHT BEFORE THE PEOPLE OF VALDEZ WHO WILL BE AFFECTED BY ALL OF THE ABOVE

We were NOT SENT A FISCAL NOTE ON THIS BILL AND WE REQUEST ONE TO BE SENT TO US THAT CLEARLY SPELLS OUT THE ABOVE.

This Association FINDS, that this bill is "typical" of the "poor quality of legislation being drafted, which continually results in Court litigation because of the incompetence of the author's of these bills and there is no excuse for it. We want to know:

- (1) WHO DRAFTED THIS BILL?
- (2) WHICH STATE ATTORNEY "APPROVED THIS BILL FOR INTRODUCTION?"
- (3) SENATOR DONLEY IS INDICATED AS "AN ATTORNEY" IN THE AK. STATE LEGISLATURE DIRECTORY. HE ABOVE ALL "SHOULD HAVE EASILY SEEN THAT THIS BILL WAS INCOMPETENTLY DRAFTED AND APPROVED AND IT SHOULD NOT HAVE GONE A FARTHER. WHY DIDN'T HE?"

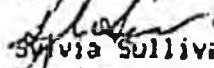
WE ASK THAT SENATOR MACKIE, THE CHAIR OF THIS COMMITTEE, IMMEDIATELY RESPOND TO US WITH A FAX "PRIOR TO THE HEARING", OR TO TABLE THIS BILL UNTIL IT HAS BEEN RE-DRAFTED IN "LEGAL FORM" AND IF HE CHOOSES TO "TABLE" THE BILL, TO FAX US, SO WE DON'T HAVE TO GO TO THE LIO

AFJS

PAGE 5

TO TESTIFY.

Sincerely,

  
Sylvia Sullivan,  
President AFJS

- CC: RULES COMMITTEE-WHICH IS CURRENTLY REALIZING HOW BADLY BILLS & REGULATIONS ARE BEING CREATED AND PASSED INTO LAW AND ARE "LEGALLY FLAWED OR ILLEGAL & UNCONSTITUTIONAL".
- CC: REPRESENTATIVE GENE KUBINA, FOR DISTRICT 35, WHICH INCLUDES VALDEZ;
- CC: SENATOR GEORGIANNA LINCOLN, WHO ALSO REPRESENTS VALDEZ;
- CC: VALDEZ MAYOR, DAVE COBB
- CC: VALDEZ NEWSPAPERS: STAR & VANGUARD;
- CC: VALDEZ RADIO STATIONS: KCHU & KVAK

TONY KNOWLES  
GOVERNOR



P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 16, 1998

The Honorable Mike Miller  
Senate President  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

SB 246

*Mike*  
Dear President Miller:

Nearly 80 percent of all crimes committed in Alaska involve substance abuse. Ensuring safe, healthy communities for Alaskans means having treatment programs designed to reduce the number of people who are victimized by persons under the influence of alcohol or drugs. In line with that effort, this bill authorizes the transfer of the Harborview Developmental Center to the City of Valdez for conversion, in part, to a therapeutic treatment center. The Department of Corrections would then lease the facility from the City of Valdez, which has agreed to invest considerable resources into the necessary conversion.

The Department of Corrections currently has three types of inmate substance abuse programs: substance abuse education, education plus an introduction to treatment, and institutional outpatient treatment. The department needs to complete its continuum of care by establishing an intensive in-prison program that treats the most severe substance abusers.

The Department of Corrections proposes to use a part of the soon-to-be-vacated facility for an intensive substance abuse treatment program, commonly referred to as a "therapeutic community". In 1997, the United States Department of Justice reported studies show consistent reductions in recidivism rates for offenders who complete such programs while in prison. That would also result in fewer crime victims.

There are currently between 90 and 110 incarcerated inmates who need and qualify for therapeutic community treatment. This bill would provide financing for 60 new corrections beds in Valdez and, thus would help ease the pressure on a severely overcrowded correctional system. This legislation also keeps with art. I, sec. 12, of the Alaska Constitution, which mandates criminal administration be based on the principle of

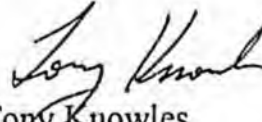
The Honorable Mike Miller  
January 16, 1998  
Page 2

reformation. Anticipated costs for fiscal year 1999 would be approximately \$2.5 million, of which \$569,000 is planned for treatment. Annual costs thereafter are estimated at \$2.7 million.

This bill is one more step the state can take to reduce the number of victims of crimes resulting from an offender's substance abuse, provide intensive treatment to reduce repeat criminal behavior, and provide new beds for a severely overcrowded correctional system.

I urge your quick and favorable action so the Department of Corrections can begin occupancy by September, 1998.

Sincerely,

  
Tony Knowles  
Governor

# STATE OF ALASKA

## DEPARTMENT OF CORRECTIONS

TONY KNOWLES, GOVERNOR

REPLY TO:

PO BOX 112000  
JUNEAU, ALASKA 99811-2000  
PHONE (907) 465-3376

January 22, 1998

Senator Jerry Mackie, Chair  
Senate Community & Regional Affairs  
State Capitol, Room 427  
Juneau, Alaska 99801

Dear Senator Mackie:

I respectfully request a hearing on Senate Bill 246, "An Act amending the definition of correctional facility to include a therapeutic center..."

The Department of Corrections is excited about the possibility of operating an in-prison intensive substance abuse program, often referred to as a Therapeutic Community or treatment center. This model of substance abuse treatment has recently been evaluated and shows a consistent reduction in recidivism rates for inmates who are chronic substance abusers.

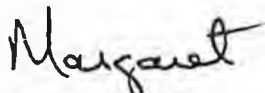
This legislation would amend the definition of "correctional facility" to include a therapeutic treatment center. In addition it would require conveyance of the title to the Harborview Developmental Center in Valdez to the City of Valdez. And finally, sets out conditions that are required in order for the conveyance to take place.

The Department of Corrections has planned for a sixty-bed treatment center in the Valdez facility. Based on other experiences from around the country, I believe this would be a positive step towards reducing the recidivism rate, and more importantly reducing the number of victims of substance abuse related crime. The current plan includes an evaluation component that will be in place before the first inmate enters treatment. It will encompass process information as well as outcome data.

I have attached materials that I believe will be helpful to members of your committee when considering this legislation for approval.

Thank you for your consideration.

Sincerely,



Margaret M. Pugh

CC: Pat Pourchot, Legislative Director  
Office of the Governor

Attachments

# Reducing Crime Through Prevention: Attacking Hardcore Substance Abuse

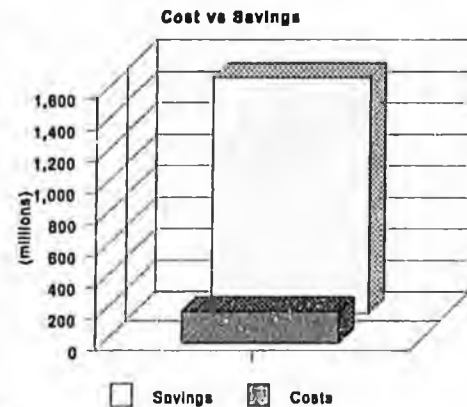
## The Need in Alaska

One of the few universally accepted propositions relating to the commission of crime in the United States is that offenders are disproportionately substance abusers. In Alaska it is estimated that between 80% - 90% of the inmates in our institutions have some involvement with substance abuse.

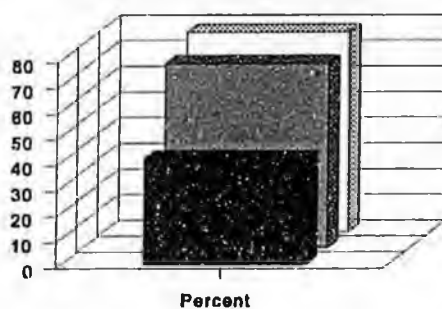
Programs throughout the U. S. have demonstrated that substance abuse treatment can reduce the rate of recidivism and ultimately impact the cost to government. The Alaska Department of Corrections proposes to operate a prison-based therapeutic treatment program for inmates who have histories of serious substance abuse.

## A Sound Investment

In 1994 Governor Pete Wilson of California directed the most rigorous, retrospective outcome study ever-conducted on drug abuse treatment. There were three major conclusions: First, treatment is very cost-beneficial to taxpayers. The cost benefit averaged a \$7 return for every \$1 invested. In 1992, the cost of treating approximately 150,000 individuals was \$200 million. But benefits gained during treatment and in the first year afterward totaled about \$1.5 billion in savings. Second, criminal activities significantly declined after treatment. And third, significant improvements in health and corresponding reductions in hospitalizations were found during and after treatment.



Arrest-Free After Treatment



## Treatment Works

Studies conducted on programs in Delaware and New York found evidence of significant success; Alaska's proposed treatment design is similar to that used in these two programs. Clearly, any increase in the number of treated offenders staying arrest-free would have a positive effect on both the criminal justice system and the overall welfare of Alaska's communities.

## The Cost of Doing Nothing

Chronic users of both alcohol and drugs tend to lose their ability to resist these substances, and many eventually engage in self-destructive and criminal behavior under their influence. The public's increasingly low level of tolerance for such behavior in recent years has resulted in longer and stronger levels of incarceration for criminal offenders. In turn, prison populations and the associated costs to the public have grown phenomenally, and will continue to do so if nothing is done. Treatment programs for chronic abusers bear the potential to reverse this trend; they will help not just the prisoners themselves, but also will reduce the financial consequences of substance abuse underwritten by the rest of society, as well.

## Valdez Therapeutic Community

The Alaska DOC offers 3 types of Inmate Substance Abuse Programs in its correctional facilities: substance abuse education, education plus an introduction to treatment, and institutional outpatient treatment. There are a substantial number of inmates who need and qualify for a therapeutic community treatment modality. There are only 4 DOC treatment beds in the community reserved for DOC furloughs who need this intensive type of treatment. DOC needs to complete its continuum of care by offering this modality to inmates.

The DOC inmate population is 118% of its emergency capacity. Inmates who complete treatment in the Valdez Therapeutic Community will enhance their opportunities for parole or furlough, thus eliminating their need for prison beds. In Alaska a significant number of the probation/parole violations involve relapse into substance abuse. If inmates receive the level of treatment they need while incarcerated, their chances of being successful in the community are increased. They are less likely to suffer relapse in the community and become repeat offenders.

Residential Substance Abuse Treatment for State Prisoners (RSAT), under the U.S. Department of Justice, reports in 1997 that recent research and evaluations show consistent reductions in recidivism rates for offenders completing in-prison substance abuse treatment programs. "Successful outcomes are tied to the length of time in treatment (at least 6 months) and continued treatment in the community after release. Programs that address the myriad problems associated with the life-style of drug use and addiction are the most effective."

### How will the Valdez Therapeutic Community be different from other DOC Inmate Substance Abuse Programs?

The Valdez Therapeutic Community will be isolated from the general inmate population so that the inmate culture will not prevail. Individuals completing the TC will not rejoin the general inmate population.

Preparation for transition into the community will be thorough.

Progression through intensive treatment phases will teach responsibility.

Day-to-day behavior will be magnified in order to break criminal thinking errors.

Cultural relevance for Alaska Natives will be a predominant treatment theme.

### Evaluation Plan for the Valdez Therapeutic Community:

The Alaska DOC has secured a technical assistance grant from Residential Substance Abuse Treatment (RSAT), under the auspices of the U.S. Department of Justice, for planning the evaluation component for the Valdez Therapeutic Community. The evaluation component will be in place before the first inmate enters treatment. It will encompass process information as well as outcome data. The evaluation component will assist DOC and the contract treatment provider in making program improvements as well as measuring the criminal recidivism rate of inmates completing the program.

### National Findings Regarding Therapeutic Communities:

According to the Office of National Drug Control Policy, February 1995, "Studies and statistics indicate that the fastest and most cost-effective way to reduce the demand for illicit drugs is to treat chronic, hardcore drug users. Without treatment, chronic hardcore users continue to use drugs and engage in criminal activity, and when arrested, they too frequently continue their addiction upon release. The cycle of dependency must be broken and the revolving door of criminal justice brought to a halt."

Therapeutic communities represent a rehabilitation response to people to whose antisocial behavior has resulted in significant and chronic problems, most often with the criminal justice system. Rates of recovery for those residents who remain in therapeutic communities beyond the first six weeks are surprisingly high. (Please see attached CSAT news brief.)

In March 1996 the Office of National Drug Control Policy reported that more than one third of all admissions to therapeutic communities demonstrate long-term, successful outcomes one to two years after treatment.

A major study of the Stay'n Out therapeutic community located at two New York prisons established that prison-based treatment based on a therapeutic community model can result in significant reductions in recidivism rates. (Falkin et al., 1991; Wexler et al., 1990)

In a study conducted on the Cornerstone Program in Oregon it was determined that 37 percent of Cornerstone graduates had no arrests, 51 percent had no convictions, and 37 percent had no time in prison. (Field, 1989)

The Key-Crest Program, a prison-based therapeutic community established in Delaware reports 73 percent of the inmates completing the program remained arrest free for a minimum of 18 months after release. The graduates of the program are three times more likely to remain drug-free than those who do not participate in treatment. (March, 1997)

The new Vision In-Prison Therapeutic Community for men, located in Kyle, Texas, treats 500 inmates. It was found that one-year after release only 7 percent of those completing the program had returned to prison. (Keeping score 1996, Drug strategies 1996)

# CSAT by Fax

January 14, 1998

Vol. 3, Issue 1

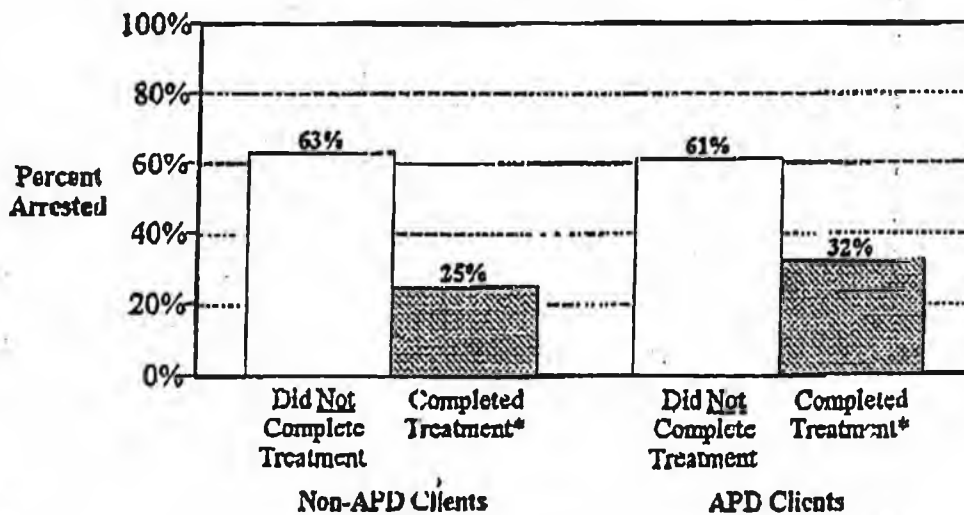
A Special Edition of **CESAR FAX** 

A Collaborative Effort of the Center for Substance Abuse Treatment (CSAT) and the Center for Substance Abuse Research (CESAR)/University of Maryland

## *Study Finds Therapeutic Community Reduces Drug Use and Criminal Activity Among Substance Abusers With Antisocial Personality Disorders*

While there has been limited research on the treatment outcomes of clients diagnosed with antisocial personality disorder (APD), it has been widely accepted that APD clients would not benefit from substance abuse treatment. However, a CSAT-funded experiment found that clients with APD were as likely to complete therapeutic community (TC) treatment as non-APD clients. In addition, APD clients who completed treatment exhibited the same patterns of reduced drug use and criminal activity as did non-APD clients. The authors suggest that efforts "be made to attract and retain the more behaviorally deviant persons into TC treatment" (p. 24).

**Post-Discharge Arrest of Therapeutic Community Treatment Clients, by Treatment Completion and Antisocial Personality Disorder (APD) Diagnosis (N=338)**



\*Completed both the inpatient and outpatient phases of treatment.

SOURCE: Adapted by CESAR from Nena Messina, Eric Wish, and Susanna Nemes, *The Efficacy of Therapeutic Community Treatment for Substance Abusers with Co-Occurring Antisocial Personality Disorders*, paper presented at the Annual Meeting of the American Society of Criminology, San Diego, CA, November 22, 1997. For more information, contact Eric Wish at 301-403-8329.

CSAT by Fax is supported by funding from CSAT, Substance Abuse and Mental Health Services Administration, and may be copied without permission with appropriate citation. For mailing list modifications contact CESAR at \*\* 301-403-8329 (voice) \*\* 301-403-8342 (fax) \*\* CESAR@cesar.umd.edu \*\* www.bsos.umd.edu/cesar/cesar.html \*\*



OFFICIAL BUSINESS

Alaska State Legislature  
Twentieth Legislature - Second Session  
**SENATE CALENDAR**

Twenty-second Legislative Day

Monday, February 2, 1998 - 11:00 a.m.

Chaplain: Pastor Paul Beran of the Resurrection Lutheran Church

**SECOND READING OF SENATE BILLS**

**SB 221**

"An Act relating to negatively amortizing loans originated under a program approved or sponsored by the state or federal government."

FIN RPT CS 2DP 3NR NEW TITLE

p. 2316

CS FOR SENATE BILL NO. 221(FIN)

"An Act relating to negatively amortizing loans secured by owner-occupied real property originated under a program approved or sponsored by the state or federal government, including congressionally chartered national corporations."

ZERO FN TO SB & CS (DCED)

p. 2316

**SB 251**

"An Act naming Herman Leirer Road near Seward."

TRA RPT 4DP

ZERO FISCAL NOTE (DOT)

p. 2357

p. 2357

**Publication Notice - Citations**

Honoring - Don Moore  
Representative(s) Kohring, Ogan  
Senator(s) Halford

Honoring - Sourdough Express, Inc., 100 Years in the Far North  
Representative(s) G. Phillips  
Senator(s) Torgerson

In Memoriam - Lorena Showers  
Representative(s) Croft, Brice

COMMITTEE PACKET

SB 246, Harborview Developmental Center

1. Letter from Governor Knowles
2. Letter from Commissioner Pugh
3. Bill
4. Four Fiscal Notes



COMMITTEE: SENATE C&RA

Subject of meeting:  
SB 246 - HARBORVIEW DEVELOPMENTAL  
CENTER

DATE: FEBRUARY 2, 1998

# SIGN-IN

PLEASE PRINT!  
NAME

ADDRESS (MAILING) & (ZIP) PHONE

REPRESENTING

DO YOU  
WANT TO  
TESTIFY?

Betsy Robson	4700 Diplomacy Dr.	269-7407	DOA	
DUGAN PETTY	STATE OFFICE BUILDING	465-5687	DOA	FOR QUESTIONS
Larry Streuber	AK OFFICE Bldg	465-1870	DHSS	yes
Rep Kubina + City Manager Dave Dingle are on <sup>the</sup> from the city managers office.				
02/02/98 13:37:56	LEGISLATIVE TELECONFERENCE NETWORK SYSTEM PARTICIPANT LIST (TESTIFIERS ONLY)		LTN1150 BY:JNU FOR:VAL	
TCN:80188 PUBLIC HEARING	SCHEDULED FOR:02/02/98 13:30 TO 15:00 SENATE COMMUNITY & REGIONAL AFFAIRS			
LOCATION:VALDEZ SB 246	MS SYLVIA P.O. BOX2684	SULLIVAN VALDEZ	ALASKANS FOR JUSTESTIFY AK 00686 (907)835-3729	

**SB**

**286**



February 25, 1998

**HAND DELIVERED**

The Honorable Rick Halford  
The State Senate  
State Capitol, Room 121  
Juneau, Alaska 99801-1182

Re: Senate Bill 286 -- Adverse Possession

Dear Senator Halford:

Thank you for your interest in Senate Bill 286, Adverse Possession. I value the opportunity to discuss this legislation with you and your staff and appreciate your thoughts on this important piece of legislation. At the Senate Resources Committee hearing for Senate Bill 286, on Friday, February 20th, various members of this Committee expressed some concern over this bill and it was held in committee to address these concerns.

As you requested, enclosed for your review is a table showing a detailed listing of each state, with the statutory citation and the number of years required for adverse possession (the "prescriptive period"). A brief summary of this analysis follows:

- Fifty percent (50%) of the states have time periods in excess of 10 years, with some as high as 30 years but most requiring between 15 and 20 years.
- There are 14 states that have a 10-year period for adverse possession, and 11 states having time periods of less than 10 years.

Sealaska is prepared to work with you and your staff to address the issues and concerns expressed during the hearing.

Thank you again for your interest in Senate Bill 286. If there are any questions, please contact me.

Sincerely,

SEALASKA CORPORATION

*Richard P. Harris*

Richard P. Harris  
Senior Vice President

The Honorable Rick Halford  
February 25, 1998  
Page 2

Enc.: As noted

cc w/ enc.: Senator Jerry Mackie ✓  
David Gray, Senator Mackie's Office

STATE	CITATION	PRESCRIPTIVE PERIOD
Alabama	6-2-33	10 Years
Alaska		10 Years
Arizona	12-526	10 Years
Arkansas	18-61-101	7 Years
California	Code Civil Procedure §§ 318/321	5 Years
Colorado	38-41-101	18 Years
Connecticut	52-575	15 Years
Delaware	10 § 7901	20 Years
Florida	95.12	7 Years
Georgia	44-5-163 44-5-164	20 Years (Color of Title 7 Years)
Hawaii	657-31	20 Years
Idaho	5-203	5 Years
Illinois	735 5/13-101	20 Years
Indiana	34-1-2-2	20 Years
Iowa	614.17A	10 Years
Kentucky	413.010	15 Years
Kansas	60-503	15 Years
Louisiana	C.C. 3486	30 Years
Maine	Ch. 723 § 6651	4 Years
Maryland	CJ § 5-103	20 Years
Massachusetts	Ch. 26 § 21	20 Years
Michigan	600.5801(4)	15 Years
Minnesota	541-02	15 Years
Mississippi	15-1-13	10 Years
Missouri	516.010	10 Years
Montana	70-19-401	5 Years

Nebraska	25-202	10 Years
Nevada	11.080 & .100	5 Years
New Hampshire	Vol. 4-C. 508:2	20 Years
New Mexico	37-1-22	10 Years
New York	RPAL § 501	10 Years
North Carolina	1-40	20 Years
North Dakota	28-01-04	20 Years
Ohio	2305-04	21 Years
Oklahoma	12 § 93	15 Years
Oregon	12.050	10 Years
Pennsylvania	42 PCSA § 5530	21 Years
Rhode Island	34-7-1	10 Years
South Carolina	15-67-210	10 Years
South Dakota	15-3-2/3	20 Years
Tennessee	28-2-103	7 Years
Texas	CP&R § 16.025	5 Years
Utah	78-12-7	7 Years
Vermont	12 § 501	15 Years
Virginia	8.01-236	15 Years
West Virginia	55-2-1	10 Years
Washington	7.28.050	7 Years
Wisconsin	893.25	20 Years
Wyoming	1-3-103	10 Years
Washington D.C.	§ 12-301 (1)	15 Years

***Issue: Limiting the Grounds for Taking Property  
Under the Doctrine of Adverse Possession***

***Description of the Issue:*** Under current Alaska law, a squatter, acting in bad faith, can take another person's property, without paying compensation, by possessing that property in an open and hostile manner for 10 years. This is the doctrine of "adverse possession," which was born in the Middle Ages and serves no modern social purpose. The issue here is whether Alaska should limit the doctrine to only those cases were: (i) a person can make a good faith claim of title under some written instrument; or (ii) there is a good faith error regarding property boundaries.

***Discussion of the Issue:*** If a person, in bad faith (indeed, with an intent to steal another person's land), enters onto remote private property and builds a squatter's cabin, or some other rudimentary improvement, the thief can claim ownership of the land he has invaded after living there for 10 years. The squatter will owe no compensation to the private landowner whose property he took.

This is the doctrine of "adverse possession," and it is the product of the Dark Ages, when a person only "owned" land if he possessed it, and when ownership could be achieved by force.

Obviously, civilized society views the original premise on which this doctrine was founded as abhorrent. And so a new justification has been woven. This one argues that at least a squatter makes productive of use of land. And, the argument continues, it is better that the land be given to a productive squatter, rather than left with the person who paid for it.

That is poor environmental policy. It is also classic Marxist theory--that is, the busy laborer having the right to take the idle capitalist's land. And it has little currency here in Alaska. Here, ANCSA corporations and other private landowners hold large tracts of remote wilderness that are difficult to patrol, and which neither can nor should be developed all at once. To nonetheless penalize these landowners for failing to undertake the massive and wasteful expense of constantly policing their long-term investment serves no valid policy function.

Legislation may be introduced in the 1998 session to deny squatters the ability to take other peoples' property. Instead, the doctrine of "adverse possession" would be limited to two circumstances where the person claiming under the doctrine might have some equity on his side;

- ◆ 1<sup>st</sup>, when a person has a competing deed or other written instrument of conveyance, and that person, in good faith reliance on that competing document, occupies the property for at least 20 years; and
- ◆ 2<sup>nd</sup>, where a neighboring landowner makes a good faith mistake about the actual boundary of his property, and mistakenly occupies some adjoining property--again for at least 20 years.

In either case, the person claiming under "adverse possession" would owe compensation to the property's actual owner, both for the value of the land taken and a fair rental for the period of adverse possession.

The legislation would apply to all claims of adverse possession except those that became "vested" before the law was changed--*i.e.*, where a squatter had already openly occupied property for the 10 now-required years.

**Recommendation:** The doctrine of adverse possession undermines the system of recording titles on which modern commerce depends. The doctrine also spawns litigation. The strict limitations on the doctrine described above would signal Alaska's commitment to protect private property rights, as well as discourage litigation and promote certainty in our legal title system. The recommendation here is to support legislation that would limit the doctrine in the manner described in this paper.

SENATE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR MACKIE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to actions to quiet title to, eject a person from, or recover real  
2 property or the possession of it, and to acquisition of real property by adverse  
3 possession; and providing for an effective date."

4

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

6

7 \* Section 1. AS 09.10.030 is amended to read:

8

Sec. 09.10.030. Actions to recover real property in 20 [10] Years.

9

A person may not bring an action for the recovery of real property, or for the  
10 recovery of the possession of it unless the action is commenced within 20 [10] years. An  
11 action may not be maintained under this section [FOR THE RECOVERY] unless it  
12 appears that the plaintiff, an ancestor, a predecessor, or the grantor of the plaintiff was  
13 seized or possessed of the premises in question within 20 [10] years before the  
14 commencement of the action.

15 \* Sec. 2. AS 09.45.052 is amended to read:

16

Sec. 09.45.052. Adverse Possession Under Color of Title. (a) The

17

uninterrupted adverse notorious possession of real property under color and claim of title  
18 for seven years or more is conclusively presumed to give title to the property, except as  
19 against the state or the United States, only if, by clear and convincing evidence, the  
20 possessor proves that the possession was uninterrupted, adverse, and notorious and

1 occurred under reasonable and good faith color and claim of title; and the possessor  
2 paid all taxes due on the property during the entire period of the possession. [FOR  
3 THE PURPOSE OF THIS SECTION, LAND THAT IS IN THE TRUST  
4 ESTABLISHED BY THE ALASKA MENTAL HEALTH ENABLING ACT OF 1956,  
5 P.L. 84-830, 70 STAT. 709, IS LAND OWNED BY THE STATE.]

6 \* Sec. 3. AS 09.45.052 is amended by adding new subsections to read:

7 (c) The court shall quiet title to property in favor of the possessor on proof of an  
8 adverse possession claim under (a) of this section and on proof of payment by the  
9 possessor to the owner of record of: (1) the appraised value of the property; (2) the fair  
10 rental value of the property during the period of adverse possession; (3) damages incurred  
11 by the owner of record as a result of the adverse possession or loss of the property; and  
12 (4) prejudgment interest on amounts required to be paid to the owner of record under (1) -  
13 (3) of this subsection.

14 (d) For purposes of determining the amount of payment under (c) of this section,  
15 the cost of appraising the property shall be borne by the possessor claiming the property.  
16 If more than one person has an ownership or security interest in the property, the court  
17 may apportion the payment in any manner required by agreement, law, or equity. If the  
18 possessor fails to make the payment within the period of time set by the court, the court  
19 shall quiet title to the property claimed by adverse possession in favor of the record  
20 owner.

21 (e) For the purpose of this section, land that is in the trust established by the  
22 Alaska Mental Health Enabling Act of 1956, P.L. 84 - 830, 70 Stat. 709, is land owned by  
23 the state.

24 \* Sec. 4. APPLICABILITY (a) AS 09.10.030, as amended in sec. 1 of this Act, applies  
25 only to actions that have not been barred before the effective date of this Act by AS 09.  
26 10.030.30 as it read before the effective date of this Act.

27 (b) AS 09.45.052 as it read before the effective date of this Act applies to adverse  
28 possession claims if the person claiming the property has completed at least seven years  
29 of uninterrupted adverse notorious possession under color and claim of title before the  
30 effective date of this Act.

1 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

## SENATE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR MACKIE

Introduced: 2/10/98

Referred: Resources, Judiciary

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to actions to quiet title \*, eject a person from, or recover real  
 2 property or the possession of it, and to acquisition of real property by adverse  
 3 possession; and providing for an effective date."

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

5 \* Section 1. AS 09.10.030 is amended to read:

6 Sec. 09.10.030. Actions to recover real property [IN 10 YEARS]. (a)  
 7 Except as provided in (b) of this section, a [A] person may not bring an action for  
 8 the recovery of real property, or for the recovery of the possession of it unless the  
 9 action is commenced within 10 years.

10 (b) An action may be brought at any time by a person whose ownership  
 11 interest in real property is recorded under AS 40.17 to

12 (1) quiet title to that real property; or

13 (2) eject a person from that real property.

14 (c) An action may not be maintained under this section [FOR THE

1 RECOVERY] unless it appears that the plaintiff, an ancestor, a predecessor, or the  
 2 grantor of the plaintiff was seized or possessed of the premises in question at some  
 3 time [WITHIN 10 YEARS] before the commencement of the action.

4 \* Sec. 2. AS 09.45.052(a) is amended to read:

5 (a) The uninterrupted adverse notorious possession of real property [UNDER  
 6 COLOR AND CLAIM OF TITLE] for 20 [SEVEN] years or more is conclusively  
 7 presumed to give title to the property, except as against the state or the United States,  
 8 only if, by clear and convincing evidence,

9 (1) the possessor proves that

10 (A) the possession was uninterrupted, adverse, and notorious  
 11 and occurred under reasonable and good faith color and claim of title;

12 (B) the possessor paid all taxes due on the property during  
 13 the entire period of the possession;

14 (C) an instrument under which the possessor claimed title  
 15 was recorded at the time the possessor's claim of title began;

16 (D) the possessor sought and obtained, in the possessor's  
 17 name, all permits, licenses, or authorizations necessary for the possessor's  
 18 use or development of the property;

19 (E) during the period of possession, the possessor obtained  
 20 any surveys of the property or plats that a reasonable landowner would  
 21 have obtained; and

22 (F) during the period of possession, the possessor provided  
 23 notice that the property was private by posting to the extent that a  
 24 reasonable landowner would have provided the notice; or

25 (2) the possessor proves that

26 (A) the possessor owns property adjacent to the property  
 27 claimed by adverse possession;

28 (B) during the entire period of possession, the possessor and  
 29 any predecessor, ancestor, or grantor of the possessor, reasonably and in  
 30 good faith believed that the property claimed by adverse possession was  
 31 within the boundaries of the adjacent property; and



1 possession claims if the person claiming the property has completed at least seven years of  
2 uninterrupted adverse notorious possession under color and claim of title before the effective  
3 date of this Act.

4 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

*Legislation to Limit the Circumstances Under Which  
A Person May Divest a Landowner of Title to Its Land  
Under the Doctrine of Adverse Possession:*

*A Rationale and Section-by-Section Analysis*

*I. Rationale*

*A. Overview of the Legislation*

"Adverse possession" is the doctrine under which a person--even a squatter acting in bad faith--can take another person's property without compensation by simply possessing it, in an open and hostile way, for a certain period of years. It is a doctrine born in the Middle Ages under circumstances that have little applicability to 20<sup>th</sup> Century Alaska, and it offends Alaska's abiding respect for private property ownership.

The enclosed legislation would limit the availability of this doctrine to two narrow circumstances where the rule may have some arguable policy justification: (1) where a person has, in good faith, occupied property under color of title for 20 years; and (2) where a property owner occupies property adjacent to his own land under a reasonable, good-faith error over the actual boundaries of his property.

In both instances, the adverse possessor would be required to pay the property's legal owner both full market value for the property taken, as well as any consequential damages.

Beyond these two limited circumstances, "adverse possession" is a doctrine inimical to the concept of private property ownership. And it imposes a particularly harsh burden on private landowners in Alaska who, because of the doctrine, are often

charged with the impossible task of policing large remote landholdings to assure themselves that no squatter has taken residence.

That burden is an economic waste, and serves no valid public policy. As a result, beyond the limited circumstances mentioned, the concept of taking another's land by "adverse possession" ought to be abolished in Alaska.

### ***B. The Origins and Purpose of the "Adverse Possession" Doctrine***

#### ***1. The Doctrine's Original Rationale--Possession was Equated with Ownership***

"Adverse possession" is a doctrine that rewards possession of land at the expense of the landowner. Not surprisingly, then, the doctrine has its roots in the feudal concept of "seizin." In the early Middle Ages, "ownership" of land was proven not by title or deed, but rather by actual possession. If a person was forcefully expelled from his property, the trespasser became the land's new "owner," and the dispossessed person could regain "ownership" only by himself resorting to force. <sup>1/</sup>

Gradually, the dispossessed "owner" was given a legal remedy to regain possession--a remedy which, by virtue of a statute issued under Henry VIII, must be exercised within 60 years of dispossession. Thus was borne the thought that a person could recover his land from an "adverse possessor," but only if he acted within a specific period of time. <sup>2/</sup>

---

<sup>1/</sup> 5 George W. Thompson, *Commentaries on the Modern Law of Real Property* (1979) ("Commentaries") at 573-76.

<sup>2/</sup> *Commentaries, supra* at 574-76. Actually, "adverse possession" rules can be traced further back, to the Code of Hammurabi, which provided, in part, that:

*If a captain or a soldier has neglected his field, his garden and his house, instead of working them; and another takes his field, his garden and his house, and works them for three years;*

Remember, though, that in those days possession--or "seizin"--~~was~~ title. Therefore, by giving the "adverse possessor"--or "disseizor"--the opportunity to bar the person he dispossessed from reclaiming his property after 60 years, feudal courts were, in their minds, doing no injustice to the prior occupant, since that occupant had lost the basis for his claim of "ownership" when he was forcibly dispossessed.

## *2. A New Rationale--Possession was the Best Proof of Ownership*

Gradually, English common law came to recognize the concept of conveying and holding land by deed. "Title" became something different from, and superior to, mere "possession." And so the doctrine of "adverse possession" needed a new rationale.

The virtue of "seizin," of course, was that it was obvious who is "seized" of a particular piece of property--the person living on it. "Title," conversely, was the source of considerable dispute, since there then existed no reliable, centralized recording system to resolve conflicting claims of "title." As a result:

*In an era of comparatively scarce land, decentralized records and crude surveying techniques, lengthy possession may have been the best possible proof of ownership.*

<sup>3/</sup> Thus, while possession no longer equated with ownership, possession remained the best evidence of "title," and so the doctrine of adverse possession continued to serve some worthwhile purpose. "Ultimately, the 1623 Statute of Limitations required that

---

*if he returns and desires to till his field, his garden, and his house, they shall not be given to him. He that has taken and worked them shall continue to use them.*

*The Hammurabi Code and the Sinaitic Legislation* at 32-33 (Chilperic Edwards ed., 1904).

<sup>3/</sup> Sprankling, *An Environmental Critique of Adverse Possession*, 79 Cornell Law Rev. 816, 822 ("Critique") (1994).

suits to recover possession of land be brought within twenty years. The Statute recited that this limit was necessary for 'quieting men's estates, and avoiding of suits...' <sup>4/</sup>

### 3. *The New American Purpose--Social Engineering*

In James I's England, if a person owned land, he probably lived on it. <sup>5/</sup> Even by the 16<sup>th</sup> century, there was precious little wild land in England that a person might own, but not make productive use of. <sup>6/</sup>

This was not true in North America, where vast tracts of wilderness might lie in private ownership. Here, the assumption that ownership was reliably proven by physical possession did not hold true:

*Transplanted to the abundant, sparsely populated wild lands of North America, however, the assumptions of the [doctrine of adverse possession] ...failed. The terrain was too hostile, the forests too impenetrable and the distances too vast for most owners to reside upon or even to inspect their properties regularly. More importantly, possession of land in the English sense, characterized by residence, cultivation or improvement, was often impractical. The minor acts, greatly separated in time, that characterized land use in wilderness areas were unlikely to afford constructive notice to the owner who did inspect occasionally.*

*Critique, supra* at 823. "Adverse possession," then, needed a new purpose, and found one in our 19<sup>th</sup> century urge to settle the West. The modern doctrine "developed when much of the continental United States was unsurveyed wilderness," and our courts and legislatures resultantly "adopted a public policy that as much land should be put to use as

---

<sup>4/</sup> *Critique, supra* at 823.

<sup>5/</sup> James I promulgated the 1623 statute just quoted.

<sup>6/</sup> By 1696, only 16% of England's land were uncultivated forest lands. *Critique, supra* at 822, n. 25.

possible.”<sup>7/</sup> Under the new theory of adverse possession, the squatter was to be rewarded for making use of wild land, even at the expense of the person who owned it:

*Beginning in the nineteenth century, American courts serving the ideology of economic expansion reformulated adverse possession in the pursuit of national productivity. These courts transformed the doctrine from a mechanism designed to protect the title of the true owner against false claims into a tool designed to transfer title to wild lands from the idle true owner to the industrious adverse possessor.*

*Critique, supra* at 821 (emphasis original).

The American justification for the doctrine also took on something of a Marxist tint. Vast expanses of public lands were conveyed to large, absentee landlords--principally, the railroads. As pioneers struck west and inadvertently homesteaded then-or-future railroad land, Western state legislators, and courts, concluded that disputed land should belong to the worker rather than the absentee capitalist:

*By 1803 more than ninety percent of the nation consisted of sparsely populated, publicly owned wild lands. The broad federal policy toward these wild lands was to transfer them into private ownership, initially through sale. Because the government had never been able to enforce its theoretical ban against squatting on these lands, sales often resulted in conflicts between new absentee owners holding legal title and actual settlers who had already placed the land in productive use.*

*Critique, supra* at 843. For this reason, the periods necessary to establish title by “adverse possession” tended to shrink as one proceeds westward--from the old 20-year English rule still prevalent in the original colonies, to as little as five years in many western states. *See Attachment A.*

---

<sup>7/</sup> *Seddon v. Harpster*, 403 So. 2<sup>nd</sup> 409, 413 (Florida 1981).

*C. Adverse Possession in 20<sup>th</sup> Century Alaska--A Doctrine Without a Reason*

To this day, some courts, including the Alaska Supreme Court, maintain that the doctrine of adverse possession serves a useful public purpose because "society will benefit from someone's making use of land the owner leaves idle." <sup>\*/</sup>

One might argue that there is considerable "idle" land in Alaska's *public* domain. However, in Alaska as elsewhere, neither the state nor federal government can be divested of title through adverse possession. AS 09.45.052(a). And Alaska has precious little "idle" private land.

The largest private landowners in Alaska are the Native corporations established under the Alaska Native Claims Settlement Act. Those lands were conveyed both in settlement of Alaska Natives' aboriginal claims, and to meet the "real economic and social needs of Natives." ANCSA, §1. ANCSA lands, then, and every acre of them, serve an important legal, social and economic purpose. They are not, any of them, "idle" in that sense.

Congress, in fact, has recognized that fact, and has accordingly extended ANCSA lands some protection from adverse possession claims as long as they remain undeveloped. 43 U.S.C. §1636(d). But ANCSA corporations often acquire other remote lands for future resource development purposes, as will other private landowners as time goes by. To the extent that these lands are not developed, it is because development now would be an economic waste, and there is no sound public policy that should prevent a private landowner from investing those lands for future generations.

---

<sup>\*/</sup> *Tenala, Ltd. v. Fowler*, \_\_\_ P.2<sup>nd</sup> \_\_\_, Slip Op. 4376 at 16 (August 2, 1996).

The last remaining modern justification for adverse possession is that it "keep[s] stale causes out of court." *Tenala, Ltd. v. Fowler, supra* at 16. But, in fact, it does just the opposite. Adverse possession cases involve untrustworthy testimony about who possessed what 10 or 20 years ago; conversely, and "considering current methods of record storage on microfiche, computer disks and data tapes," claims based on record ownership will never grow stale.<sup>9/</sup>

Similarly, allowing adverse possession claims promotes litigation, while limiting them discourages it. This because:

*Bright line standards generally deter litigation...The record title standard draws an exceedingly bright line: the holder of record title always prevails. In contrast, adverse possession as applied to wild lands is an indeterminate, murky standard under which results can rarely be predicted with certainty.*

*Critique, supra* at 878. The fact of the matter, as Florida's Supreme Court observed, is that "[w]ith modern technology and computerized transactions our society is now more capable of accurately establishing legal interest to property through paper title than through possession." *Seddon v. Harpster*, 493 So.2<sup>nd</sup> at 414.

Adverse possession serves no useful public purpose in Alaska today, and it disserves others. Apart from its impact on private property ownership generally, and implementation of ANCSA in particular, "[a]dverse possession...erode[s] the effectiveness and utility of both recording and marketable title statutes by creating uncertainty." *Outlaws, supra* at 97.

---

<sup>9/</sup> "Outlaws of the Past: A Western Perspective on Prescription and Adverse Possession," 31 Land and Water Law Review 79, 104 (1996) ("Outlaws").

The doctrine ought to be limited to those few situations where some equity might lie in the adverse possessor's favor, and the enclosed legislation attempts to do just that.

## *II. Section-by-Section Analysis*

*Section 1.* There are two adverse possession statutes in Alaska. The first is AS 09.10.030. This is the squatters' statute. The adverse possessor need not occupy the property under "color of title"--that is, a deed or other conveyance. And the squatter need not even occupy the property in good faith. <sup>10/</sup> As one commentator puts it, this statute "gives title not only to one who because of good faith error occupies the land of another but also to a person who knowingly sought to appropriate another's land." <sup>11/</sup>

Under this statute, the squatter must adversely possess the property for 10 years. After that, the statute, which is framed as a statute of limitations, bars the property's owner from bringing any action against the squatter to recover his property.

Section 1 would amend this statute to provide that a landowner could recover his or her land--by a quiet title or ejectment action--at any time. <sup>12/</sup> Because of computerized land records, the land owner's claim will never, as a practical matter, grow stale.

*Sections 2-3.* There are several elements to Sections 2-3:

*1. Retaining adverse possession claims arising under "color of title."* AS 09.45.052 is Alaska's second adverse possession statute, and it deals with adverse possession that is based on "color of title." In other words, the adverse possessor has some deed or other document purporting (but for some reason failing) to convey title to

---

<sup>10/</sup> *Hubbard v. Curtiss*, 684 P.2<sup>nd</sup> 842, 848 (Alaska 1984).

<sup>11/</sup> 7 Richard R. Powell, *Powell on Real Property*, ¶1012(3) (1993).

<sup>12/</sup> To the extent that this statute governs other types of real property claims, the 10-year statute of limitations would be retained.

the property being possessed. Unlike the statute amended by Section 1, this statute requires good faith on the part of the possessor--in other words, an honest and reasonable belief that the possessor really owns the land. *Ault v. State*, 688 P.2<sup>nd</sup> 951, 956 (Alaska 1984).

Under subsection (a)(1), Section 2 retains "color of title" as a basis for claiming property by adverse possession, but returns the required period of possession to the common law's original 20 years.

2. *Allowing adverse possession claims to be brought for good faith boundary disputes.* A second specie of adverse possession claims that may retain some public policy justification arises when a property owner, in good faith, occupies property beyond the boundaries of property owned by that person. After 20 years' notorious and adverse possession of that property, the property owner may quiet title to the adjacent property he or she has occupied.

3. *Explicitly requiring a showing of good faith.* Section 2 makes the existing court-imposed requirement of "good faith" explicit in the statute, as Oregon did in 1989.

<sup>13/</sup>

4. *Requiring the possessor to prove entitlement to the property by "clear and convincing evidence."* Again, this requirement is already imposed by the courts. <sup>14/</sup>

Section 2 would make that requirement explicit.

---

<sup>13/</sup> / ORS 105.620. As our Supreme Court has noted, "in almost all of these jurisdictions, the requirement of good faith was explicitly written into the statutes." *Lott v. Muldoon Road Baptist Church, Inc.*, 466 P.2<sup>nd</sup> 815, 818, n. 9 (Alaska 1970). The "good faith" requirement will exist whether or not this legislation is enacted; however, it is better practice for the material elements of any claim to be expressed in the statute itself.

<sup>14/</sup> / *Curran v. Mount*, 657 P.2<sup>nd</sup> 389, 391 (Alaska 1982).

5. *Requiring just compensation to the property owner.* It is one thing to allow a person to take the private property of another. It is quite another to allow the adverse possessor to do so without paying the owner, and none of the modern justifications for the doctrine of adverse possession explain the squatter's current ability to deprive property owners of land *without compensation*.

Section 3 requires the successful adverse possessor, as a condition of receiving title to the property, to: (1) pay for an appraisal of the property; (2) pay the record owner the appraised value of the property taken; and (3) pay any other damages that the owner may have suffered as a result of the adverse possession and loss of the property (including the rental value of the property during the period of adverse possession), as a condition of quieting title in the possessor's favor. If the adverse possessor fails to promptly do so, title will be quieted in the owner's favor.

Section 4. This section makes the new legislation applicable to any adverse possession claim that has not "vested" by the effective date of the legislation. Adverse possession claims "vest" when the adverse possessor has met the statutory requirements for the requisite number of years--under current Alaska law, 10 years (or seven years for claims under color of title).<sup>15/</sup> Serious constitutional questions would arise if the legislation purported to extinguish already-vested adverse possession claims; conversely, there would appear to be no constitutional difficulty in affecting unvested claims, since

---

<sup>15/</sup> *Markovich v. Chambers*, 857 P.2<sup>nd</sup> 906, 908 (Or. App. 1993).

**Sec. 14.40.291. Land of the University of Alaska not public domain land.**

Notwithstanding any other provision of law, university-grant land, state replacement land that becomes university-grant land on conveyance to the university, and any other land owned by the University of Alaska is not and may not be treated as state public domain land. Title or interest to land described in this section may not be acquired by adverse possession, prescription, or in any other manner except by conveyance from the university. The land is subject to condemnation for public purpose in accordance with law.

(§ 6 ch 22 SLA 1983)

**Sec. 09.45.052. Adverse possession.**

(a) The uninterrupted adverse notorious possession of real property under color and claim of title for seven years or more is conclusively presumed to give title to the property except as against the state or the United States. For the purpose of this section, land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, is land owned by the state.

(b) Except for an easement created by Public Land Order 1613, adverse possession will lie against property that is held by a person who holds equitable title from the United States under paragraphs 7 and 8 of Public Land Order 1613 of the Secretary of the Interior (April 7, 1958).

(§ 3.15 ch 101 SLA 1962; am § 1 ch 141 SLA 1986; am § 58 ch 66 SLA 1991)

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 286

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title An Act relating to actions to quiet title to, eject a BRU Civil Division  
 person from, or recover real property or the possession of it ... Component Natural Resources  
 Sponsor: Senator Mackie  
 Requester Senate Resources Committee Component Serial No. 2212

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY98) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 286 would repeal the statute of limitations for quiet title actions claiming title through a recorded document, and extend the statute limitations for adverse possession (no color of title) from 7 to 20 years. Adverse possession claims against the state would still be prohibited, so the latter change will have no fiscal impact on the Department of Law. However, the potential for quiet title claims, with no statute of limitations on how soon they must be filed, increases. This will result in more litigation, as many claims now subject to the statute of limitations, would remain alive. The department cannot quantify how much new litigation would result, and must submit an indeterminate fiscal note.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner, Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date 2/13/98  
 Date 2/13/98

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

**HB**

**13**



# ALASKA STATE LEGISLATURE

## Senate Community & Regional Affairs Committee

State Capitol

Juneau, AK 99801-1182

(907) 465-4989

### COMMITTEE PACKET

#### HB 13, Marine Safety Training & Education

1. Sponsor Statement
2. Bill
3. Fiscal Note Analysis
4. Letters of Support and Documentation



**REPRESENTATIVE ALAN AUSTERMAN** Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

**SPONSOR STATEMENT**

**CSHB 13(FSH)**

**"An Act relating to marine safety training and education programs."**

Safety training is required by the Commercial Fishing Vessel Safety Act of 1988 to communities throughout Alaska. The Act, which took effect in 1991, requires a minimum in safety training and equipment for commercial fishing vessels.

Although the AMSEA organization is no longer specified in this legislation. It is anticipated that they will receive the funds provided by this bill as they are the only statewide marine safety organization and have an exemplary reputation.

The Alaska Marine Safety Education Association (AMSEA) has been operating in the State of Alaska for 12 years. The primary purpose of this organization is to reduce the loss of life and injury in the Alaskan marine environment by providing education through a statewide network of qualified marine safety instructors.

AMSEA also helps Alaskans by training marine safety instructors, some of whom teach drill instructor courses. Other marine safety instructors also train the Alaska boating and fishing public, including many children and adults, in marine safety. Of the 7300 people AMSEA trained in 1995, 2000 were from the commercial fishing industry, 3700 were Alaskan children, and the remaining 1600 were from all walks of life.

The Fishermen's Fund (AS 23.35.060) was created before statehood. One hundred percent of the fishermen's fund is funded by commercial fishing license fees. Sixty percent of license fees are dedicated to this fund. Since commercial fishermen are often the beneficiaries of the required marine safety training, it is appropriate to allow part of the interest on the fund to be used to fund marine safety programs.

It is estimated that the Fishermen's Fund generates approximately \$450,000 in interest a year. By way of this legislation, I am requesting up to approximately \$225,000 a year to maintain a minimum of water and boating safety in our state.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 13

Title: Marine Safety Training & Education

Dept. Affected: Revenue

BRU: Revenue Operations

Sponsor: Rep. Alan Austerman

Components: Treasury

Requestor: \_\_\_\_\_

Serial # 121

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------	------------	------------	------------	------------	------------	------------

<b>REVENUE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------	------------	------------	------------	------------	------------	------------

**FUNDING: (THOUSANDS OF DOLLARS)**

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**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)**

see attached analysis

Prepared by: House Finance Committee

Date: 3/5/97

Approved by: *Mark Hanley*

Phone: 465-4797

Co-Chair Mark Hanley

*Gene Therriault*

Phone: \_\_\_\_\_

Co-Chair Gene Therriault

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Marine Safety Training and Education BRU: Revenue Operations  
 Sponsor: Rep. Ivan Austerman Component: Treasury  
 Requestor: (H) STA COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	239.0	239.0	239.0	239.0	239.0	239.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>239.0</b>	<b>239.0</b>	<b>239.0</b>	<b>239.0</b>	<b>239.0</b>	<b>239.0</b>

Estimate of any current year (FY97) cost \$ 0.00

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:**  
 Earnings on the Fisherman's Fund currently are left with the General Fund and do not belong to the fund. This bill would allow for appropriating upto one-half of the interest that currently goes to the General Fund to be used for marine safety and education programs. Treasury will incur no additional costs if this bill is passed. While we have shown the funding source above as General Fund, it is unclear which agency would reflect the expenditure of the money as the bill does not address the administration of the programs.

**ASSUMPTIONS:**  
 Current balance is approx \$9 million. If we assume the balance of the fund stays stable and use 5.32% (the 12/30/96 480 T-bill rate) as our interest rate assumption, the fund will earn approx \$478,000 interest per year. One-half of this amount would then be \$239,000.

Prepared by: Betty Martin, Comptroller Phone: 465-2350  
 Division: Treasury Date: 2/19/97  
 Approved by Commissioner: Ross Kinney, Deputy Commissioner Date: 2/19/97  
 Agency: Department of Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office



# Alaska Marine Safety Education Association

P.O. Box 2592, Sitka, Alaska 99835 PH (907) 747-3287 FAX (907) 747-1406

August 4, 1995

Alan Austerman  
P.O. Box 2368  
Kodiak, Ak. 99615

Dear Representative Austerman:

I am writing this letter to you in regards to funding for AMSEA's statewide training and education efforts in marine safety. Our financial situation now is critical. This summer, our budget (which comes solely from federal sources) has been cut by 75% from an already very minimal staff and low overhead program.

Through AMSEA's efforts in FY 95, over 7,500 people in trained in marine safety. Over of those trained are children, and over 1,000 were commercial fishermen, who are required to take USCG approved training in conducting emergency on board drills and survival. The AMSEA network of community based marine safety instructors has been responsible for training over 2,800 commercial fishermen in this requirement over the last 4 years. This has resulted in training being brought into over 60 Alaskan fishing ports. As a recent study has indicated (Perkins study enclosed), this training has been at least partly responsible for the 50% reduction in commercial fishing fatalities over the last 3 years in Alaska.

Alaska is the only state in the nation without a safe boating program, yet Alaska has the highest drowning rate in the nation (12x the national average). AMSEA has tried to fill in this education gap for the last 10 years, but without some state support at this point, AMSEA's efforts will be reduced to near zero.

AMSEA recognizes that fiscal belt tightening needs to occur at both the state and federal level. However, there is a source of fishermen contributed revenues that could be used to support AMSEA's work. The Fishermen's Fund was established in the early 1950's to help defray minor medical costs suffered by fishermen on the job. This fund is totally contributed to by fishermen. Income to this fund has greatly increased over the past few years and expenses keep decreasing. Although this is a grandfathered dedicated fund, the interest it is now earning goes into state general operating revenues. At this time there is over 7.2 million dollars in this Fund. AMSEA cannot and does not wish to tap into this dedicated fund's principal itself, but thinks it would make common sense to use just 50% or so of the \$300,000 in interest the Fund generates annually and put this back into injury prevention in fisheries and marine users.

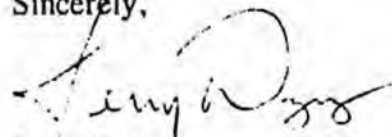
AMSEA is seeking your support for this funding in the next legislative session. We have the support from a number of fishing groups on this issue. Sitka's Representative, Ben Grussendorf is interested in working with you and Carl Moses this summer to pave the way for introducing a bill in the next legislature and working this through the budgetary process.

We hope that we can gain your support for this important work. AMSEA has worked for over

10 years to build expertise in marine safety relevant to the Alaska working, recreational and subsistence environment. It would be grossly inefficient to lose this expertise and then have to recreate it all again at a future date because the need was still great.

Please feel free to contact this office or Rep. Grussendorf if you need any other information on this matter at this time. Thank you in advance for your support.

Sincerely,



Jerry Dzugan  
Director/Training Coordinator

c.c. Rep. Ben Grussendorf  
Rep. Carl Moses

enc: Perkins study  
AMSEA Accomplishments  
Proposal for long term funding base for AMSEA  
Port list of AMSEA outreach delivered Drill Instructor courses  
AMSEA brochure

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

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

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

February 1, 1996

**SUBJECT:** Fishermen's Fund (CSHB 366(HES))

**TO:** Representative Alan Austerman  
Attn: Amy Daugherty

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether CSHB 366(HES) alters or impairs the present dedication of certain revenues to the fishermen's fund (AS 23.35.060).

The answer is no.

The fishermen's fund is composed of 60 percent of money received by the state from commercial fishermen's licenses and money appropriated to the fund by the legislature. AS 23.35.060. The dedication of commercial fishermen's license fees is valid under art. IX, sec. 7 of the Constitution of the State of Alaska because the dedication existed at the time the constitution was ratified by the voters of the Territory of Alaska.<sup>1</sup> Dedicated funds in existence at the time of ratification are allowed to continue. The Attorney General on numerous occasions has stated that such grandfathered dedicated funds may be destroyed if the purpose or terms of the dedication are altered. 1959 Alaska Att'y Gen. Op. No. 7; 1959 Alaska Att'y Gen. Op. No. 14; 1985 Inf. Alaska Att'y Gen. Op. (366-071-85) October 31; among several others.

---

<sup>1</sup> Article IX, sec. 7, Constitution of the State of Alaska states (emphasis added):  
**SECTION 7. DEDICATED FUNDS.** The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Representative Alan A. Eberman

February 1, 1996

Page 2

CSHB 366(HES) does not alter the purpose or the terms of the dedication of certain revenue to the fishermen's fund. The bill provides that interest earned on the principal of the fishermen's fund may be appropriated by the legislature for marine safety training and education programs. The interest earned on the principal of the fund is not dedicated to the fund. The interest is deposited into the general fund and is available for appropriation by the legislature for any public purpose. See, 1982 Alaska Att'y Gen. Op. No.13, at 14 - 18, November 30; 1985 Inf. Alaska Att'y Gen. Op. (366-071-85) October 31. The bill does not alter this arrangement in the least. All the bill does is to state that the legislature may appropriate some of this interest to certain programs if the legislature so decides.

Thus the bill does not alter or impair the current dedication of commercial fishermen's license fees to the fishermen's fund or the use of those fees to provide benefits to injured fishermen.

If I may be of further assistance, please advise.

GU:glc

96-077.glc

**COMMISSION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

December 28, 1994

**SUBJECT:** Fisherman's fund (AS 23.35)(Work Order No. 9-LS0362)

**TO:** Representative Ben Grussendorf  
Attn: Katherine

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

You have asked if the fisherman's fund (AS 23.30.060) could be used to fund a program to teach safety to commercial fishermen. As explained in this memo, I believe that using the fund to teach safety could only be done if this purpose was added as a statutory purpose of the fund.

The existing benefits provided by the fund, those under AS 23.35.070 - 23.35.140, are all intended to treat fishermen who become disabled. There are no funds provided for prevention of injuries, or safety training. It could certainly be argued that prevention of accidents is directly related to the general purpose of the fund, but without statutory authority this type of expenditure would be beyond the scope of the benefits provided under existing law.

I should also point out that if the legislature alters the fund this would raise dedicated fund issues. As a fund in existence at statehood, the fisherman's fund is exempt from the prohibition against dedicated funds contained in Article IX, section 7, of the Alaska Constitution. However, the Attorney General has taken the position that no change to a grandfathered fund is permitted without destroying the legal dedication and making the fund subject to the dedicated fund clause. In short, you could modify the purpose of the fisherman's fund to permit funding for a safety program but by doing so you run the risk of destroying the dedicated fund exemption presently enjoyed by the fund.

If you have further questions on this matter please contact me.

MFF:lmb  
95-063.lmb

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Finance



P.O.Box 113200  
Juneau, AK 99811-3200  
(907) 465-3795  
FAX (907) 463-4885

MEMORANDUM

DATE: January 16, 1996  
TO: Representative Alan Austerman  
ATTN: Amy Daugherty  
FROM: Jetta Whittaker *Jetta*  
Fiscal Analyst  
SUBJECT: Fishermen's Fund Statistics

You asked for some general information on the Fishermen's Fund to accompany House Bill 366. I was able to determine the following from the Governor's budget detail book and conversations with the Departments of Labor and Revenue:

The Disabled Fisherman's Fund provides for assistance with the costs of occupational injuries and illness for Alaska's licensed commercial fishermen who are injured or become ill due to commercial fishing activities on shore or in Alaska waters. The fund consists of crewmember license and permit fees collected by the Department of Fish and Game and the Commercial Fisheries Entry Commission. Sixty percent of these license and permit fees are dedicated to the Disabled Fishermen's Fund. From crewmember licenses, which are \$30 and \$90 for residents and non-residents, respectively, the Fund collected \$994,800 in FY95. From permits issued, at \$30 and \$90 again, the Fund collected another \$396,100, for a total of \$1,390,000 in FY95.

At the close of FY95, the Fund contained \$7,367,700. The total number of claims submitted for review in FY95 was 1,237. FY95 Actuals reflect that the total amount of claims paid was \$339,400, while FY95 Authorized amount for claims was \$1,063,300.

In FY97, the Governor requests \$1,039,400 for the grants line as payment of benefits to individuals, and estimates that 2,300 claims will be submitted. The increase in expected claims is due to an effort to increase awareness of the Fund via a broader distribution of Fishermen's Fund booklets and general information in FY97.

The Department of Labor has calculated that 64% of claims submitted resulted in payment in FY93, and estimated that the claim payment rate has increased a bit since then, due to improved database tracking. The remaining claims are rejected or pended for receipt of further information.

As you know, the interest earned by the Disabled Fishermen's Fund does not return to the Fund itself, but instead is deposited in the General Fund. The Treasury Management Division in the Department of Revenue does not separately track interest earned on funds that deposit earnings into the general fund, but has prepared a fiscal note to estimate the effects of HB366. The Division estimates that \$200,000 would be available for appropriation if half of the Fund's earnings are to be redirected from the General Fund.

I hope this information proves useful to you. Please call if you have any questions.



## Alaska Marine Safety Education Association

P.O. Box 2592, Sitka, Alaska 99835 PH (907) 747-3287 FAX (907) 747-1406

### AMSEA FUNDING FACT SHEET

1. The State of Alaska has never funded a statewide marine safety program. Federal funds that are available for state boating safety programs are unavailable to Alaska since we have no safe boating act.
2. The State of Alaska is the only state without a safe boating program.
3. The state of Alaska has the highest drowning rate in the nation.
4. It's commercial fishing fleet also has the highest fatality rate in the nation.
5. AMSEA has filled in the states' marine safety void for the last ten years through its port based instructor network which has been funded by several small federal grants. This void has been filled at no cost to the state.
6. In FY 1995, AMSEA's budget from federal sources was cut by 20%. Due to recent Congressional action, in FY 1996, AMSEA's budget will be cut by another 75%. This will result in a budget that will not sustain AMSEA's marine safety efforts at even a basic level.
7. It is past time for the State of Alaska to assume responsibility for one of the leading cause of unintentional death in the state.
8. The interest on Alaska's Fishermen's Fund is approximately \$350,000 a year. This interest has been put into the state's general fund every year.
9. The State of Alaska can be categorically responsible by "earmarking" 50% of the interest from the Fishermen's Fund to AMSEA in FY 1996 for AMSEA's proven effective injury prevention program.
10. The cost to society of a human life is estimated at one million dollars. This does not include the additional costs injuries and fatalities add to fishing businesses every year. Not to mention the pain and suffering associated with these losses.



## Alaska Marine Safety Education Association

P.O. Box 2592, Sitka, Alaska 99835 PH (907) 747-3287 FAX (907) 747-1406

### AMSEA ACCOMPLISHMENTS IN LAST 10 YEARS

- \* Trained over 40,000 members of the public in marine safety
- \* 20,000 of those trained were children in Coastal and Interior Alaska.
- \* Trained over 2,500 commercial fishermen in required Drill Instructor training in 57 Alaskan ports.
- \* Trained over 400 Marine Safety Instructors who train members of the public in 50 home ports.
- \* Surveys document that at least 40 lives have been saved as a result of AMSEA training.
- \* A recent study has found that AMSEA's training had been responsible in part for the 50% reduction in commercial fishing fatalities in the last several years.
- \* Brought marine safety training into numerous remote Alaskan schools statewide.
- \* Sends out over 1,300 Marine Safety Update publications to mariners in Alaska 4 times a year.
- \* Acts as a clearinghouse for marine safety information. AMSEA's curriculum is a standardized curriculum on marine safety relevant to the Alaskan environment.
- \* Maintains an inventory of marine safety videos, supplies and training equipment to loan.
- \* Has written and produced award winning marine safety publications, displays and videos.
- \* Coordinated marine safety training efforts with over 50 public and private agencies.
- \* Worked with the Coast Guard to problem solve marine safety equipment problems and regulations.
- \* Helped members of the public access marine safety equipment resources.

AMSEA's efforts in marine safety have been recognized by awards from the U.S. Department of Health and Human Services, National Safety Council, U.S. Marine Safety Association and the Alaska Safety Advisory Council, among other awards.

# Alaska Marine Safety Education Association

*Dedicated to Providing Quality  
Marine Safety Education*



## AMSEA Membership Information

Newsletter Subscription Only	\$15.00	Group	\$100.00
Individual	\$20.00	Sustaining	\$500.00

Name \_\_\_\_\_

Address \_\_\_\_\_

City, ZIP \_\_\_\_\_

Amount enclosed \$ \_\_\_\_\_



All members receive the quarterly newsletter, *Marine Safety Update*. Group and Sustaining members receive recognition in the publication. The membership year runs from January 1 through December 31. Those paying dues between October 1 and December 31 will be paid through the following year.

Send membership to: AMSEA, P.O. Box 2592, Sitka, Alaska 99835 (907) 747-3287

As a NON-PROFIT ORGANIZATION, AMSEA is funded by public grants and private donations. We are also supported by a dedicated group of volunteers and by a cooperative effort between a number of organizations concerned about marine safety and survival in Alaska. Support members include:

- United States Coast Guard  
17th District
- Alaska Department of Health  
and Social Services,  
Emergency Medical Services Section
- State of Alaska  
Department of Education  
Alaska Vocational Technical Center
- Alaska Department of Public Safety
- Northstar Survival, Inc.
- Southeast Alaska Regional  
Health Corporation
- Southeast Region Emergency  
Medical Services Council
- University of Alaska  
Marine Advisory Program
- Alaska Native Health Service

Alaska Marine Safety Education Association (AMSEA) provides training without discrimination because of race, color, age, sex, national origin, religious beliefs, or handicapping conditions.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

State Capitol  
Juneau, AK 99801-1182

Anchorage Evening News 9/27/86  
B9

### \* Safety training saves lives

Leroy Fox's survival following a fire aboard his commercial fishing vessel near Togiak recently was no accident. As news accounts correctly pointed out, he lived because of a federal law passed nearly a decade ago that required he have survival equipment on board.

But the law is not in itself the reason Leroy Fox is alive to tell his tale.

Fox's preparedness reflects a changing attitude among fishermen that puts safety above machismo in what will always be an inherently dangerous industry. Those attitude changes, while spurred by passage in 1988 of the Commercial Fishing Vessel Safety Act, are due in larger measure to the efforts of many people to provide safety information, education and training to fishermen.

Sea-safety training is offered by groups including the Alaska Marine Safety Education Association, the University of Alaska Sea Grant and Marine Advisory Programs, and the U.S. Coast Guard. In the past 10 years, members of these groups have personally trained thousands of fishermen to use survival equipment and deal with life-and-death situations at sea. People like Jerry Dzugan of AMSEA, Hank Pennington of the Marine Advisory Program, Lt. Cmdr (retired) Glenn Sicks of the U.S. Coast Guard and so many others deserve mention and credit. These dedicated people made it their business to change the way fishing is done in Alaska.

Although it was difficult to change deeply-rooted attitudes in Alaska's fishing culture, the effort has paid off. Safety is a priority in the industry, and as a result more fishermen return home from the sea to their families than ever before. Last year, Alaska saw the lowest number of fishing-related deaths since the law was passed.

— Ron Dearborn, director  
Alaska Sea Grant College Program

February 11, 1997

Representative Con Bunde  
Alaska State Legislature  
State Capitol (MS3100)  
Juneau, AK 99811-1182

Dear Representative Bunde,


I am writing in support of HB 13, designed to use some of the interest from the Fishermen's Fund to support the educational activities of the Alaska Marine Safety Education Association (AMSEA).

I am a constituent of yours. My family have held a commercial salmon permit in Bristol Bay since 1998. Before that, we fished on the Yukon River. Each year, we hire at least two crewmembers who are required by law to purchase a crewmember's license. Sixty percent of that money goes into the Fishermen's Fund, designed to pay medical costs of uninsured, injured fishermen up to \$2,500.

AMSEA proposes that a percentage of the interest on this fund be used to educate fishermen and crewmembers about safety and survival. I can think of no better use for this money. The majority of our crew are new to fishing when they are hired by us. The training that we have received from AMSEA has enabled us to set safety guidelines and teach these young people how to prepare and how to react on board fishing vessels. AMSEA's training is excellent, and is geared to adults and children, commercial and recreational boat users.

They are a small, but extremely effective group that makes a big difference. Please support this bill.

Sincerely,



Peter Crimp  
5100 E 142nd Ave.  
Anchorage, AK 99516



# UNIVERSITY OF ALASKA ANCHORAGE

211 West 7th Avenue  
Anchorage, Alaska 99501  
(907) 272-2704  
FAX: (907) 272-5269

North Pacific Fisheries  
OBSERVER TRAINING PROGRAM  
COLLEGE OF COMMUNITY AND  
CONTINUING EDUCATION

February 11, 1997

Senator Sean Parnell  
Alaska State Legislature  
State Capitol (MS3100)  
Juneau, AK 99811-1182

Dear Senator Parnell,

I am writing on behalf of the approximately 350 groundfish and shellfish observers working in Alaska's commercial fisheries, in support of HB 13. The bill directs a percentage of the annual interest from the Fishermen's fund toward the educational activities of the Alaska Marine Safety Education Association. The Fishermen's Fund is in support of this bill.

The Observer Training Center is a subset of the University of Alaska Anchorage. Annually, we train over 150 observers for either the National Marine Fisheries Service's groundfish program or the Alaska Department of Fish and Game's crab and scallop program. Following training, observers head out to sea for approximately 90 days, collecting biological information about target fisheries, bycatch, birds and marine mammals. Approximately 25% of the observers trained in Anchorage are Alaska residents.

Safety training encompasses a full day of our training and is critical to the well being of our observers, many of whom have never been to sea before. Both of our instructors have gone through AMSEA's safety instructor training program. AMSEA's curriculum materials, including videos and handouts are used in all of our training classes.

Without reservation, I can say that AMSEA's training and materials are top notch. Their program has been instrumental in ensuring the safety of observers. AMSEA's staff is approachable and flexible; their materials are affordable and are clearly in touch with Alaska's commercial fishing industry.

I urge you to support AMSEA in face of their financial cuts from Congress. They are undoubtedly one of the most valuable programs to the State's commercial fishing industry.

Sincerely,  
A handwritten signature in black ink, appearing to read "Paula Cullenberg".

Paula Cullenberg, Director  
North Pacific Fisheries Observer Training Center

APR-19-1995 10:17 FROM S.E. REGION EMS COUNCIL TO 19074654956 P.04

**AMSEA Proposed Budget**

**Secured FY 96 Funding  
NIOSH**

**Requested Funding  
State of Alaska**

<b>Personnel</b>					
Director/Training Coordinator FTE	52,216.32		20,927.00		31,289.32
Administrative Assistant FTE	38,582.58		15,426.00		23,137.56
Training Assistant PTE	21,330.27		0.00		21,330.27
Trainers PTE-seasonal	7,890.85		0.00		7,890.85
		120,000.00		36,352.00	
<b>Travel</b>					
Travel/accomodation/food	10,000.00		0.00		10,000.00
		10,000.00		0.00	
<b>Facility</b>					
telephone	3,500.00		0.00		3,500.00
postage	2,750.00		0.00		2,750.00
rent	3,750.00		0.00		3,750.00
		10,000.00		0.00	
<b>Supplies</b>					
office	2,000.00		0.00		2,000.00
training	4,000.00		0.00		4,000.00
		6,000.00		0.00	
<b>Equipment</b>	3,000.00		0.00		3,000.00
		3,000.00		0.00	
<b>Other</b>					
audit	4,000.00		0.00		4,000.00
freight	1,000.00		0.00		1,000.00
insurance	4,000.00		0.00		4,000.00
printing	1,000.00		0.00		1,000.00
		10,000.00		0.00	
<b>Total</b>		159,000.00		36,352.00	
					122,648.00

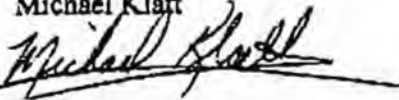
rev. 4-18-95

To: Representative Alan Austerman

As a safety and health professional, I am keenly aware of the importance of training to prevent drownings and cold water immersion, hypothermic-related deaths. Unfortunately, our State has the highest work and non-work-related drowning rates in the nation. A recent study by the Alaska Area Native Health Service showed that all the commercial fishermen, who had received marine safety training from the Alaska Marine Safety Education Association and who were involved in a vessel sinking/capsizing or man-overboard event, survived, while many others perished. Therefore, I strongly encouraged that members of the House Finance Committee and the House as a whole pass HB 366. Please share this with members of the House Finance Committee.

Thank you for your consideration.

Michael Klatt



Public Health Advisor  
Alaska Field Station  
Division of Safety Research  
National Institute for Occupational Safety and Health (NIOSH)

&

Chairman  
Alaska Federal Safety and Health Council

&

Co-chair  
Interagency Working Group for the Prevention of Occupational Injuries in Alaska

3151 Rosalind Loop  
Anchorage, AK 99507  
271-2382 (w)  
349-3419 (h)

**HB**

**35**




**REPRESENTATIVE ALAN AUSTERMAN** Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

MEMORANDUM

**DATE:** February 27, 1997

**TO:** Senator Jerry Mackie, Chair  
Senate Community & Regional Affairs Committee

**FROM:** Representative Alan Austerman, Chair  
House Special Committee on Fisheries 

**SUBJ:** Request for Scheduling - House Bill 35

---

I respectfully request the Senate Community & Regional Affairs Committee, schedule a hearing for House Bill 35 at your earliest convenience.

This bill would extend the termination date of the Alaska Regional Economic Assistance Program.

Additionally, I would appreciate the community of Kodiak to be included for participation in this scheduled hearing through the LIO teleconference network.

Please contact Cliff Stone of my staff at 6588 as needed.

Thank you for your consideration.

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: An Act extending the termination date of BRU: Community and Economic Development  
the Alaska regional economic assistance Component: Community and Economic Development  
 Sponsor: Rep. Austerman  
 Requestor: House C&RA COMPONENT SERIAL NO. 2151

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 03	FY 04
PERSONAL SERVICES	46.4	46.4	46.4	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	620.0	620.0	620.0	0.0	0.0	0.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>666.4</b>	<b>666.4</b>	<b>666.4</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (I/A)	666.4	666.4	666.4	0.0	0.0	0.0
<b>TOTAL</b>	<b>666.4</b>	<b>666.4</b>	<b>666.4</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	1.0	1.0	1.0	0.0	0.0	0.0
TEMPORARY						

Estimate of current (FY97) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This bill continues the Alaska Regional Development Organization (ARDOR) program for three more years (FY 98-00). Interagency receipts from the Alaska Industrial Development and Export Authority will fund the program in FY98 and until the ARDOR program sunsets as provided in the bill. There are 12 ARDORs covering most regions of the State. The Amounts above are presented for information purposes only - they reflect amounts requested in the FY 98 Governor's budget request.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-1708

Division: Division of Administrative Services Date: 1/30/97

Approved by Commissioner: *Michael Durbin* Date: 1/30/97

Agency: Community & Regional Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office



**SPONSOR STATEMENT - HB 35**

In 1988 the Alaska Regional Development Organizations program was created in statute. Commonly referred to as ARDOR's, they are private, nonprofit corporations formed by local initiative to promote private sector economic development within their designated regions.

The statutory authority for the program, previously AS 44.33.026, is now found in AS 44.47.900. The program was transferred by Executive Order 93, from the Department of Commerce and Economic Development to the Department of Community & Regional Affairs and is under the administrative oversight of the Division of Municipal & Regional Assistance.

The ARDOR program has led to the formation of 11 regional development organizations such as the Southwest Alaska Municipal Conference, the Southeast Conference, the Lower Kuskokwim Economic Development Council and the Anchorage Economic Development Corporation. Nearly two hundred representatives of local political, social and economic interests, who serve on ARDOR boards of directors, are working together to lead their regions to greater economic self-sufficiency.

The ARDOR grants, while not particularly large, are not tied to specific projects and so may be used for operating expenses and to leverage dollars from other sources. These are the hardest kind of dollars to find and are, therefore, extremely valuable to the organizations. Millions of additional dollars have been leveraged from federal, private and other funding sources.

ARDOR's are achieving significant success in sustainable development through the establishment of production and marketing cooperatives, improved access to capital, development and marketing of tourism destinations, technical assistance and training for local businesses and entrepreneurs, support to value added production and proactive involvement in locally initiated economic development projects.

Another important benefit afforded ARDOR's by statute is the ability of state agencies to enter into contracts, with them being exempt from a competitive procurement process. This has proven beneficial to ARDOR's, who are able to provide greater local expertise in service delivery or project implementation, and to state agencies who through the ARDOR's, are able to deliver services or projects more efficiently and with less administrative burden.

Sound economic development relies heavily on solid partnerships between the public and private sectors. The ARDOR's were conceived to facilitate this kind of partnering and to bring a regional perspective to the discussion of economic development issues.

The original legislation had a sunset clause that ended the program in 1993, but was extended until the end of fiscal year 1997. I believe it is in the best interest of the State of Alaska to continue the ARDOR program to insure the ongoing economic viability of Alaska's various regions.

## Article 9A. Regional Economic Assistance Program.

### Section

900. Alaska regional economic assistance program

---

**Effective dates.** — Section 8, E.O. No. 93, makes this article effective July 1, 1996.

---

**Sec. 44.47.900. Alaska regional economic assistance program.** (a) The department shall

(1) encourage the formation of regional development organizations by providing assistance in forming organizations to interested individuals, including information on how to qualify and apply for regional development grants and federal funding under 4 U.S.C. 3121 — 3246 (Public Works and Economic Development Act of 1965), as amended;

(2) assist an interested individual in establishing boundaries for a proposed organization to ensure that the region

(A) is of sufficient geographic size and contains a large enough population to form an economically viable unit with shared interests, resources, traditions, and goals;

(B) contains at least one municipality that serves as a regional center; and

(C) contains the entire area of each municipality included in the region;

(3) gather information about regional economic issues, international trade, and tourism from organizations;

(4) serve as liaison between organizations and other state agencies and encourage other agencies to make resources available to help accomplish goals of the organization;

(5) assist each organization to

(A) provide services designed to encourage economic development to local communities and businesses;

(B) collect and distribute economic information relevant to the region;

(C) participate in state marketing campaigns and join state trade missions that are relevant to the region; and

(D) develop and implement strategies to attract new industry, expand international trade opportunities, and encourage tourism within the region.

(b) Subject to (c) of this section, the department may make regional development grants to organizations for projects the department determines will be of value in encouraging economic development. During a fiscal year the department may make no more than 15 grants and may only make grants to one organization from a particular region. An organization that is designated an economic development district under 4 U.S.C. 3171 qualifies for grants under this subsection. The department shall by regulation adopt procedures for applying for regional development grants, including application deadlines. The department may by regulation establish additional grant eligibility requirements.

(c) To qualify for a grant, a regional development organization must match the grant by providing an amount of money from nonstate sources. The department shall establish by regulation a formula that determines the amount of the match required under this subsection based upon the capability of each organization to generate money from nonstate sources. The amount of match required may not exceed the amount of grant money and may not be less than 20 percent of the grant. The total amount of grant money provided to an organization during a fiscal year may not exceed \$100,000.

(d) There is established in the department the regional development fund consisting of appropriations to the fund. Money from the fund may be used only for regional development grants.

(e) In this section, "regional development organization" or "organization" means nonprofit organization or nonprofit corporation formed to encourage economic development within a particular region of the state that includes the entire area of each municipality within that region and that has a board of directors that represents the region's economic, political, and social interests. (E.O. No. 93 § 4 (1996))

**Repeal of section.** — Under § 3, ch. 94, SLA 1988, as amended by § 1, ch. 35, SLA 1992 and § 6, E.O. 93, this section is repealed effective July 1, 1997.

**Cross references.** — For transitional provisions relating to the 1996 transfer of responsibility for the

Alaska regional economic assistance program from the Department of Commerce and Economic Development to the Department of Community and Regional Affairs, see § 7, E.O. 93, in the Executive Order pamphlet.

## Article 10. General Provisions

### Section

980. Regulations  
998. Definitions

**Sec. 44.47.980. Regulations.** The department may adopt regulations in accordance with AS 44.02 (Administrative Procedure Act) to carry out the purposes of this chapter (§ 2 ch 200 SLA 1972)

**Revisor's notes.** — Formerly AS 44.47.160. Renumbered in 1980.

**Sec. 44.47.998. Definitions.** In this chapter

- (1) "commissioner" means the commissioner of community and regional affairs;
- (2) "community" means home rule cities and boroughs, cities and boroughs of any class, and unorganized boroughs and villages that are social units;
- (3) "department" means the Department of Community and Regional Affairs;
- (4) "region" means an area larger than a community, or including all or part of more than one community, but sufficiently integrated that it may be treated as a unit for administration of particular services. (§ 2 ch 200 SLA 1972)

**Revisor's notes.** — Formerly AS 44.47.170. Renumbered in 1980.

## Chapter 50. Notaries Public.

### Section

10. Appointment and commission  
20. Qualifications  
30. Term of office  
40. Fees  
50. Duties  
70. Presence and identification required  
80. Seal  
90. Protest of bill or note  
100. Return of papers to lieutenant governor  
110. Application of Administrative Procedure Act to revocation of notary commission

### Section

120. Bond  
130. Filing oath and bond  
140. Disposition of bond  
150. Copy of bond as evidence  
160. Misconduct or neglect  
170. State employees as notaries  
180. Postmasters as notaries  
190. Savings clause

**Revisor's notes.** — In 1971 "lieutenant governor" was substituted for "secretary of state" in this chapter to conform with the 1970 amendment to the state constitution.

**Cross references.** — For provisions governing oaths, acknowledgments and related matters, see § 09.63.

1/17

# ALASKA REGIONAL DEVELOPMENT ORGANIZATIONS

## **ANCHORAGE ECONOMIC DEVELOPMENT CORPORATION**

Designation Date: April 11, 1989  
Max Lowe, Chairman  
Patricia DeMarco, President  
550 West 7th Avenue, Suite 1400  
Anchorage, AK 99501  
Phone: 258-3700 Fax: 258-6646  
*AEDC @ alaska.net*

## **ARCTIC DEVELOPMENT COUNCIL**

Designation Date: March 1, 1991  
David Baker, President  
Don Schindler, Executive Director  
P.O. Box 1353  
Barrow, AK 99723  
Phone: 552-4146 Fax: 552-2683

## **COPPER VALLEY ECONOMIC DEVELOPMENT COUNCIL**

Designation Date: November 1, 1990  
Carol Neeley, President  
Donna Tollman, Executive Director  
P.O. Box 9  
Ciennallen, AK 99588  
Phone: 822-5001 Fax: 822-5009

## **KENAI PENINSULA BOROUGH ECONOMIC DEVELOPMENT DISTRICT**

Designation Date: February 22, 1989  
James Elson, Chairman  
Stan Steadman, Executive Director  
P.O. Box 3029  
Kenai, AK 99611  
Phone: 283-3335 Fax: 283-3913

## **LOWER KUSKOKWIM ECONOMIC DEVELOPMENT COUNCIL**

Designation Date: September 17, 1991  
Andrew Guy, Chairman  
Carl Berger, Executive Director  
P.O. Box 2021  
Bethel, AK 99559  
Phone: 543-5967 Fax: 543-2255

## **LOWER YUKON ECONOMIC DEVELOPMENT COUNCIL**

Designation Date: November 1, 1991  
Larry Lujan, President  
Susan Anderson, Executive Director  
P.O. Box 2021  
Anchorage, AK 99524  
Phone: 271-2424 Fax: 271-3951

## **MAT-SU RESOURCE CONSERVATION AND DEVELOPMENT, INC.**

Designation Date: November 1, 1993  
Ted Smith, President  
Douglas Smith, Executive Director  
351 West Parks Highway, Suite 100  
Wasilla, AK 99654  
Phone: 373-1062 Fax: 373-1064

## **NORTHWEST ARCTIC BOROUGH ECONOMIC DEVELOPMENT COMMISSION**

Designation Date: June 28, 1989  
Charlie Curtis, Chairman  
Jeff Hadley, Executive Director  
P.O. Box 1110  
Kotzebue, AK 99752  
Phone: 442-2500 Fax: 442-2027

## **PRINCE WILLIAM SOUND ECONOMIC DEVELOPMENT COUNCIL**

Designation Date: November 1, 1991  
Jackie Robb, President  
~~Paul Reelma~~ Executive Director  
P.O. Box 2353  
Valdez, AK 99686  
Phone: 835-3775 Fax: 835-5770  
*James Winchester*

## **SOUTHEAST CONFERENCE**

Designation Date: April 14, 1989  
J. Allan MacKinnon, President  
Berne Miller, Executive Director  
124 West Fifth Street  
Juneau, AK 99801  
Phone: 463-3445 Fax: 463-4425

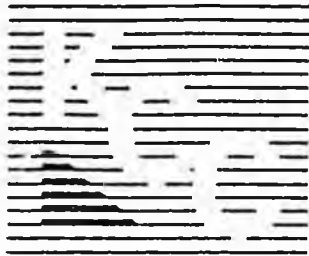
## **SOUTHWEST ALASKA MUNICIPAL CONFERENCE**

Designation Date: April 6, 1989  
Alice Ruby, President  
Mary Stadum, Executive Director  
3300 Arctic Boulevard, Suite 203  
Anchorage, AK 99503  
Phone: 562-7380 Fax: 562-0438

# FY 96 Alaska Regional Development Organization Funding Sources to Date - March 1996

- Anchorage Economic Development Corporation
- Arctic Development Council
- Copper Valley Economic Development Council
- Kenai Peninsula Borough Economic Development District
- Lower Kuskokwim Economic Development Council
- Lower Yukon Economic Development Council
- Mat-Su Resource Conservation and Development, Inc
- Northwest Arctic Borough Economic Development Commission
- Prince William Sound Economic Development Council
- Southeast Conference
- Southwest Alaska Municipal Conference
- Funding Source Totals

Federal Funds																				
Commerce - EDA				108.9										65.0						173.9
Agriculture - USFS								17.5												17.5
Agriculture - FUS								487.0												487.0
Agriculture - VECS									12.8	7.0	10.0	136.4							15.1	191.5
Agriculture - BECD										2.5	97.3									99.8
Other								18.0			21.7			15.0						54.7
<b>State Funds</b>																				
DGED - ARDGR				55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	55.0	605.0
DCED - Other																				3.5
DCRA								60.0												60.0
MSHS																				37.9
Local Government				370.0										10.0	155.7					535.7
Membership Fees																			8	35.2
Local Communities								150.0	50.0		2.0	3.0								205.0
Private Sector				300.0	33.0				.4		3.5									9.0
Fees for Services				255.0	868.0				470.4	7.2	83.0									1,489.6
Private Sector Grants									27.5											40.0
In-Kind Contributions				100.0					.2	5.0					60.0					9.0
Interest Income				10.0					.4	23.0	1.1	1.2								2.0
Other				2.0					93.5	4.0										48.0
<b>BUDGET TOTALS</b>				1,092.0	974.0	753.0	909.5	85.3	270.2	207.2	285.7	1,585.3	183.1	239.7	5,585.0					



**KODIAK  
CHAMBER  
OF COMMERCE**

File  
HB 35

A

P.O. Box 1485, Kodiak, Alaska 99615

(907) 486-5557

FAX: (907) 486-76

February 17, 1997

Honorable Tony Knowles  
Governor  
State of Alaska  
P.O. Box 110001  
Juneau, Alaska 99811-0001

RECEIVED

FEB 21 1997

Ans'd.....

Dear Governor Knowles,

Enclosed please find Kodiak Chamber of Commerce resolution 97-02-01 in support of continuation of the Alaska Regional Development Organizations (ARDOR'S) program. This resolution was passed and approved by the Board of Directors of the Kodiak Chamber of Commerce at its regular Board meeting on January 27, 1997. The Board firmly believes in this cooperative regional economic development model. It has been a successful program in providing an arena where regions can work on issues of common interest.

As a member of the Southwest Alaska Municipal Conference (SWAMC), we have first hand knowledge of the power of regional collaboration and cooperation on issues facing our region. We have participated with SWAMC on a number of projects including support for the Taiwanese delegation that visited southwest Alaska this past summer.

We support the passage of HB 35 which extends the sunset clause on the ARDOR program. The Board of Directors urges you to add your support to the continuation of the ARDOR program and the positive work that has come from the regional ARDOR'S.

Your careful attention and thoughtful consideration of this request for support is genuinely appreciated.

Yours in economic prosperity,

*Tom Merriman*  
Tom Merriman VSC  
Vice President

cc: Senator Jerry Mackie, Chair, Community and Regional Affairs Committee  
Senator Gary Wilken, Vice Chair, Community and Regional Affairs Committee  
Senator Drue Pearce, Co-Chair, Finance Committee  
Senator Bert Sharp, Co-Chair, Finance Committee  
Representative Alan Austerman  
Representative Ivan Ivan, Chair, Community and Regional Affairs Committee  
Representative Mark Hanley, Co-Chair, Finance Committee  
Representative Gene Therriault, Co-Chair, Finance Committee

Dedicated to Kodiak's Future

**SOUTHWEST ALASKA**  
MUNICIPAL  
CONFERENCE

3300 Arctic Boulevard, Suite 203  
Anchorage, Alaska 99503  
Phone (907) 562-7380  
Fax (907) 562-0438

RESOLUTION 97-06

**A RESOLUTION URGING FULL SUPPORT FOR HOUSE BILL 35,  
EXTENDING THE TERMINATION DATE OF THE  
ALASKA REGIONAL ECONOMIC ASSISTANCE PROGRAM**

WHEREAS, among the most successful strategies for sustainable economic development are those that support the greatest participation at the local and regional levels; and

WHEREAS, the Alaska Regional Development Organizations (ARDORs) were established by state statute for the express purpose of fostering local economic development capacity and implementing locally-conceived economic development strategies; and


WHEREAS, since the inception of the ARDOR program, significant achievements have been realized by the ARDORs which lay the foundation for greater local leadership and responsibility for economic development; and

WHEREAS, as an ARDOR, the Southwest Alaska Municipal Conference has assisted Southwest communities in (1) stabilizing their economies through supporting fisheries policies, such as the CDQ program, (2) fostering economic development through tourism and small business development and training, (3) supporting and helping to expand the Alaska Marine Highway Service and intra-regional transportation in Southwest Alaska, and (4) helping communities address solid waste management and other environmental issues; and

WHEREAS, House Bill 35 will extend the termination date of the ARDOR program from July 1, 1997 until July 1, 2000.

**NOW, THEREFORE BE IT RESOLVED** by the Southwest Alaska Municipal Conference that the Alaska State Legislature is urged to support and pass House Bill 35, extending the termination date of the ARDOR program to July 1, 2000.

PASSED AND APPROVED BY THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE THIS  
1st DAY OF FEBRUARY, 1997.

  
\_\_\_\_\_  
Alice J. Ruby, President

  
\_\_\_\_\_  
Mary S. Stadum, Executive Director



3300 Arctic Boulevard, Suite 203  
Anchorage, Alaska 99503  
Phone (907) 562-7380  
Fax (907) 562-0438

**RESOLUTION 96-20**

**A RESOLUTION URGING FULL SUPPORT FOR THE ALASKA REGIONAL DEVELOPMENT ORGANIZATION (ARDOR) PROGRAM**

- WHEREAS,** it is well-recognized by both the public and private sectors that among Alaska's greatest challenges is the expansion and diversification of its undeveloped economy; and
- WHEREAS,** among the most successful strategies for sustainable economic development are those that support the greatest participation at the local and regional levels; and
- WHEREAS,** the Alaska Regional Development Organizations (ARDORs) were established by state statute for the express purpose of fostering local economic development capacity and implementing locally-conceived economic development strategies; and
- WHEREAS,** since the inception of the ARDOR program significant achievements have been realized by the ARDORs which lay the foundation for greater local leadership and responsibility for economic development; and
- WHEREAS,** as an ARDOR, the Southwest Alaska Municipal Conference (SWAMC) provides the structure for a membership organization that speaks with a collective voice on issues important to Southwest Alaska communities; and
- WHEREAS,** SWAMC helps promote economic opportunities to improve the quality of life and influences long-term, responsible development;
- WHEREAS,** SWAMC has assisted Southwest Alaska communities in (1) stabilizing their economies through supporting fisheries policies, such as the CDQ program, (2) fostering economic development through tourism and small business development and training, (3) supporting and helping to expand the Alaska Marine Highway Service and intra-regional transportation in Southwest Alaska, and (4) helping communities address solid waste management and other environmental issues; and
- WHEREAS,** the ARDOR program will sunset July 1, 1997 unless reauthorized by the Legislature.

**NOW, THEREFORE, BE IT RESOLVED** by the Southwest Alaska Municipal Conference that the Knowles Administration and the Alaska State Legislature are urged to fully support legislation authorizing the continuation of, and funding for, the ARDOR program for an additional five years.



FEBRUARY 4, 1997

REP. IVAN M. IVAN  
ALASKA STATE LEGISLATURE  
JUNEAU, ALASKA FAX: 465-4589

DEAR REP. IVAN:

HB 35: ARDOR REAUTHORIZATION  
HEARING, WEDS. FEB 5, 1997

I UNDERSTAND THAT THE HOUSE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS, WHICH YOU CHAIR, WILL BE HOLDING HEARINGS TOMORROW ON HB 35, WHICH SEEKS TO REAUTHORIZE OUR PROGRAM FOR AN ADDITIONAL THREE YEARS.

I WILL BE IN EEK, MAKING A PRESENTATION ON SMALL BUSINESS AT THE HIGH SCHOOL AND WORKING WITH THE TRIBAL ADMINISTRATOR TO FINALIZE A PROPOSAL FOR FUNDING THAT IS DUE NEXT WEEK, SO WILL PROBABLY BE UNABLE TO PARTICIPATE IN YOUR HEARING FROM THERE.

AS THE VICE CHAIRMAN OF THE LOWER KUSKOKWIM ECONOMIC DEVELOPMENT COUNCIL, I'M SURE YOU ARE AWARE OF THE CONTINUING NEED FOR ECONOMIC ASSISTANCE THROUGHOUT OUR REGION. WITHOUT THE ARDORS, THERE WOULD BE LITTLE TO NO LOCAL ASSISTANCE AVAILABLE FOR PEOPLE NEEDING ASSISTANCE TO START A BUSINESS OR EXPAND AN EXISTING ONE, SECURE NEEDED FINANCING, LEARN OF APPLICABLE REGULATIONS, AND THE MANY OTHER SERVICES NOW PROVIDED BY ARDORS.

YOUR SUPPORT IS REQUESTED, TO EXTEND THE OPERATIONS OF ARDORS FOR THE NEXT THREE YEARS, THROUGH FY 2000.

VERY TRULY,

A handwritten signature in cursive script that reads 'Carl Berger'.

CARL BERGER, EXECUTIVE DIRECTOR  
LOWER KUSKOKWIM ECONOMIC DEVELOPMENT COUNCIL

---

Lower Kuskokwim Economic Development Council  
PO Box 2022  
Bethel, AK 99559  
Phone: (907) 543-5967  
FAX: (907) 543-2235

# SOUTHEAST CONFERENCE

An Alaska Regional Development Organization and USDA Resource Conservation and Development Council

February 3, 1997

Representative Albert Kookesh  
State Capital  
Juneau, AK 99801

Dear Representative Kookesh:

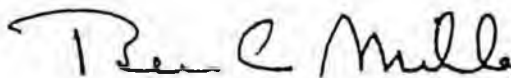
House Bill 35, an Act Extending the Alaska Regional Economic Assistance Program, is scheduled to be heard before the House Community and Regional Affairs Committee this Wednesday. When enacted, the Bill will extend the life of the Alaska Regional Development Program to the end of this century.

Attached you will find a copy of Southeast Conference Resolution 97-6 urging reauthorization of the ARDOR Program. This Resolution was adopted unanimously by Conference members during their Annual Meeting in Juneau last September. For more information about Southeast Conference and its activities as the ARDOR for Southeast Alaska, please see the Conference's *Regional Development Strategy and Area Plan* and *Annual Report for Membership Year 1996* sent you with our last letter.

I regret I will be unable to attend the Committee's hearing. I must be in Ketchikan to join with federal, state, and local representatives who are meeting to consider the kind of partnership to put together to aid southern Southeast Alaska's recovery from the recent and impending downturn in the timber industry. Should you have an urgent need for more information, I can be reached through the Cape Fox Hotel.

Thanks you for your interest.

Sincerely,



Berne C. Miller  
Executive Director

Attachment

# SOUTHEAST CONFERENCE

An Alaska Regional Development Organization and USDA Resource Conservation and Development Council

## A RESOLUTION URGING REAUTHORIZATION OF THE ALASKA REGIONAL DEVELOPMENT ORGANIZATION (ARDOR) PROGRAM

(Resolution 97-6)

- WHEREAS one of the most serious challenges facing Alaskans today is expansion, diversification, and stabilization of the State's economy; and
- WHEREAS among the most successful approaches to economic expansion, diversification, and stabilization is one that encourages and facilitates a high level of participation at local and community levels; and
- WHEREAS the Alaska Regional Development Organization (ARDOR) Program was established to create and sustain regional development capacity by fostering effective public-private partnerships to implement locally conceived and executed economic and community development projects; and
- WHEREAS the ARDOR Program will "sunset" in 1997 unless reauthorized by the Legislature; and
- WHEREAS ARDORs statewide have laid a solid foundation for greater responsibility and leadership in economic and community development at the regional level; and
- WHEREAS Southeast Conference has assisted the people and communities of Southeast Alaska by: 1) supporting and helping improve and expand marine and land transportation infrastructure; 2) helping communities address solid waste management, household hazardous waste disposal, and other environmental needs; and 3) helping communities plan and execute development efforts responsive to local needs and priorities.

### NOW THEREFORE BE IT RESOLVED THAT:

Southeast Conference urges the Administration and Legislature to fully support the ARDOR Program through appropriate administrative policies and appropriation of funds adequate to sustain the ARDORs' mission of building local capacity and developing sustainable economies.

Southeast Conference urges the Administration and Legislature to reauthorize the ARDOR Program during the next legislative session.

This Resolution be sent to the Governor, the Legislature, the Department of Community and Regional Affairs, the Department Commerce and Economic development, and the Alaska Industrial Development and Export Authority.

ADOPTED BY SOUTHEAST CONFERENCE ON SEPTEMBER 26, 1996.

Witness:

  
John Tronrud - President Southeast Conference

Attest:

  
Berne C. Miller - Executive Director

## ALASKA STATE CHAMBER OF COMMERCE RESOLUTION

### *SUPPORTING THE CONTINUATION OF THE ALASKA REGIONAL ECONOMIC DEVELOPMENT ORGANIZATION PROGRAM*

WHEREAS, the Alaska state legislature created the Alaska Regional Economic Development Organization (ARDOR) program in 1988; and

WHEREAS, the legislation created a program that encouraged the formation of regional development organizations such as the Southeast Conference, the Southwest Alaska Municipal Conference, and others around the State of Alaska to address the economic problems of those regions; and

WHEREAS, the ARDOR'S are private nonprofit corporations formed by local initiative for the purpose of promoting private sector economic development within their designated regions; and

WHEREAS, the ARDOR'S represent an economically viable unit with shared interests, resources traditions and goals; and

WHEREAS, those ARDOR'S have successfully coordinated private and public resources to support economic development in their regions; and

WHEREAS, they have provided the State with information on regional economic issues, tourism and opportunities for international trade; and

WHEREAS, they have provided assistance in local economic diversification and development efforts during a time of turmoil and troubles in those local regions; and

WHEREAS, the ARDOR'S serve as a liaison between local governments and businesses in the region and the State of Alaska on issues of a common nature; and

WHEREAS, those organizations have been successful in their economic development mission; and

WHEREAS, the original legislation had a sunset clause that ended the program in 1993; and

WHEREAS, that repeal was extended until the end of fiscal year 1997; so

NOW WHEREFORE BE IT RESOLVED BY THE Alaska State Chamber of Commerce that it is in the best interest of the State of Alaska to continue the ARDOR program and to insure the ongoing economic viability of Alaska's various regions; and

FURTHER BE IT RESOLVED BY the Board of Directors of the Alaska State Chamber of Commerce we support this issue as being of statewide importance in the process of adopting our legislative priorities for the 1997 legislative session.

Passed and approved by the Board of Directors of the Alaska State Chamber of Commerce this 6th day of December, 1996.