

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10248 HOUSE JUDICIARY

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## Treatment Standards

The DWI/Drug Court Program has contracted with Life Choices as the treatment provider. After a defendant has transferred into the program, he/she is immediately referred to the treatment provider. An appointment is made for an assessment using the Addiction Severity Index (ASI). The ASI is a tool used to help design an appropriate treatment plan based upon individual needs. Treatment options or referrals are available for specific types of defendants such as mental health, pre-natal, HIV, etc.

Each treatment plan will consist of a minimum of two counseling sessions, either in a group or individual setting. Defendants are also responsible for submitting to random drug/breath testing at least twice per week via an assigned code, and required to complete a series of 16 acupuncture sessions usually within the first four weeks of the program. The treatment provider evaluates each defendant's financial situation and uses a sliding fee scale to determine the amount a defendant will pay into the program on a bi-monthly basis. The average co-payment amount is \$30.00 per month.

## Courtroom Procedures

The role of the DWI/Drug Court team is a non-adversarial approach to managing defendants in the program. The "team" consists of the Judge, Probation Officer(s), and Treatment Provider. The team is in constant communication regarding defendants' performance in the program. The DWI/Drug Court sessions are held every other week in order for the Judge to review each defendant's progress. A DWI/Drug Court staffing is held prior to each court session to discuss new defendants, graduates, or any problems. When a problem is discussed, the team will find an appropriate sanction or solution for the defendant. When Court is in session, the Judge will call a defendant's name. The defendant, probation officer, and treatment provider will stand before the Judge to report his/her progress. Depending on the case, the Judge will praise, encourage, or sanction a defendant. A defendant is free to leave after reporting to the Judge. Defendants who were sanctioned with incarceration are immediately taken into custody by the Sheriff's Department.

## Data Collection and Program Evaluation

The DWI/Drug Court Program collects data from each defendant in several ways for the purposes of statistical analysis regarding the program's population and effectiveness. Data collection consists in form of screening, intake, activities, arrest, and exit. The screening information is collected at initial interview to establish if a defendant meets the program's criteria. The intake information is collected when a defendant is transferred into the program. The intake collects basic demographic information including, race, gender, drug of choice, etc. The arrest/citation form collects information regarding any re-arrest or related citation received during the program, as well as, two years after program exit. The exit information is collected when a defendant leaves the program for any reason. The exit form collects employment information, time in program, and case disposition, i.e. graduated, absconded, terminated, etc.

The DWI/Drug Court Program has contracted with the University of New Mexico, Institute for Social Research (ISR), to perform the process and outcome evaluation of the program which is an in-depth analysis of the program's effectiveness. ISR will also determine what populations perform well in the program and will recommend program change if needed. In order for ISR to perform the process and outcome evaluation, the information collected, via the database, will be transferred to SPSS, a statistical program, for analysis. ISR will also perform a comparison study. The populations for comparison will be the defendants and persons who have been screened for the program, but were rejected for various reasons. To study each population, each person must agree to participate. All persons are asked to participate. If a person agrees, each must sign a consent form. ISR will contact those persons and ask for a brief interview.

### Substance abuse and mental health suitability standards

**Purpose:** To establish clinically appropriate guidelines for the admission of defendants into the drug court program.

**Policy:** Defendants admitted to the Life Choices drug court program shall be initially screened by the probation department and then assessed in compliance with the policy of Behavioral Care Options, Inc. utilizing the Addiction Severity Index. At the time of the assessment it will be determined if the defendant meets the standards for admission as outlined below:

Substance Abuse-Defendants shall meet the following standards:

1. DSM-IV Criteria for Psychoactive Substance Abuse; or, DSM-IV Criteria for Psychoactive Substance Dependence.
2. Clinically manageable in an outpatient program.
3. If the defendant meets criteria for withdrawal, shall be manageable with outpatient detoxification and a referral made for such services.
4. If the defendant meets criteria for withdrawal and is determined to need medical managed inpatient detoxification, the admission shall be deferred until such time as detoxification is complete.

Mental Health-Defendants shall meet the following standards:

1. Is not actively psychotic or displaying symptoms indicative of such, i.e., hallucinations, severe paranoia, suicidal or homicidal ideation.
2. The defendant is able to comply with the program requirements.
3. The defendant is compliant with medication management as prescribed (if applicable) and is willing to maintain compliance during the course of the program.
4. If recommended, the defendant is willing to participate in a psychological, psychiatric, and /or mental health evaluation, and to follow the recommendations of such evaluation.



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

*William J. Carter*

Signature of Camera Operator

10/14/2003

Date

**HB**

**3**



# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
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TOURISM, MEMBER

website: <http://www.akrepublicans.org/Rokeberg.htm>



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## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### SPONSOR STATEMENT House Bill 3 DEPOSITS TO THE PERMANENT FUND

**Title:** An Act relating to deposits to the Alaska permanent fund from mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing payments received by the state from mineral leases, and bonuses received by the state from mineral leases, and limiting deposits from those sources to the 25 percent required under art IX, sec. 15, Constitution of the State of Alaska; and providing for an effective date.

This legislation returns the percentage of all mineral lease royalties and bonuses deposited into the Permanent Fund to the constitutionally mandated 25 per cent.

HB 3 proposes changes to a statute -- not the Constitution. Article IX, Section 15 of Alaska's Constitution states that "at least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the state shall be placed in a permanent fund." In 1980, the Legislature recognized excess revenues existed (GF revenues for FY 81 totaled \$4.07 billion) and wisely decided to raise the amount of royalties and bonuses deposited into the Permanent Fund to 50 percent. This surplus situation with state revenues no longer exists today.

It is time for the State to redirect the extra 25% to the General Fund. Passage of this bill would generate an estimated \$29 million (average) per year over the next thirteen years, and \$35.9 million in FY 2002 at an estimate \$24.28 per barrel average.

As the Prudhoe Bay and Kuparuk fields - which currently contribute to the General Fund at a 25 percent rate - diminish, we need to replace that production with the new, smaller satellite fields (for example, Alpine, and North Star) contributing at the same 25 percent rate not at a larger 50 percent rate.

While we can and should continue to make budget reductions, we would be foolish to ignore this source of General Fund revenue in solving our budget problem, as well as planning for the future development of Alaska's resources. Prudent fiscal management requires this statutory change. HB 3 is a small step in the right direction.

I strongly urge you to support this much needed, fiscally-prudent legislation.

ED1:02/12/01

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 3  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title: Deposit to the Permanent Fund BRU: Revenue Operations  
Component: Tax Division

Sponsor: Representative Rokeberg  
Requester: House State Affairs Component Number: 2476

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>40,000.0</b>	<b>43,700.0</b>	<b>40,200.0</b>	<b>38,600.0</b>	<b>27,200.0</b>	<b>24,900.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would amend AS 37.13.010(1) and (2) to reduce deposits to the Permanent Fund from 50% to 25% from all state mineral lease royalties, rentals and bonuses (including the state's share of such revenues from federal leases) from leases issued after Dec. 1, 1979.

The estimates in this fiscal note are based on oil price and production assumptions used in the Department of Revenue Fall 2000 forecast. The actual revenue effect to the general fund will be sensitive to future oil prices and production. Estimates of the effect of this statutory change suggest that the revenue increase to the state general fund will range between \$25 million and \$45 million per year assuming oil prices average \$15 to \$25 per barrel.

The increase in revenue to the general fund under this bill will mean an equal decrease in deposits to the Permanent Fund.

Prepared by: Charles Logson, Chief Economist Phone 907 269 1019  
Division: Tax Division Date/Time 3/3/01 11:00 AM  
Approved by: Larry Persily, Deputy Commissioner Date 03/05/2001  
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

# LEGISLATIVE RESEARCH REPORT

JANUARY 18, 2001



REPORT NUMBER 01.066

## ESTIMATED IMPACT ON THE GENERAL AND PERMANENT FUNDS IF PERMANENT FUND CONTRIBUTIONS WERE AT 25% OF MINERAL INCOME

PREPARED FOR REPRESENTATIVE NORMAN ROKEBERG

BY MARIA GLADZISZEWSKI, MANAGER

Alaska Statute 37.13.010 specifies that 25 percent of income from mineral leases issued before December 1, 1979, must be deposited into the permanent fund.<sup>1</sup> For leases issued after December 1, 1979, required permanent fund contributions are 50 percent of income. You asked us to calculate the effect on the permanent fund and general fund if required deposits to the permanent fund were 25 percent of income from all mineral leases.<sup>2</sup>

Over the past few years, we have sent you several tables showing actual contributions to the permanent fund from mineral revenues in past years as well as projected revenues from oil and gas royalties for future years. Again this year you asked for an update of material sent to you previously.

Table 1 provides projected future contributions and includes assumptions regarding oil prices and production. Charles Logsdon, petroleum economist at the Alaska Department of Revenue, provided the predictions using data from the department's fall 2000 forecast. As you can see from Table 1, the department's fall 2000 forecasting model predicts that if all deposits to the

<sup>1</sup> This report discusses what happens to state mineral revenues once they are collected. Changes to AS 37.13.010 affect not the amount of revenue collected overall, but how much revenue is deposited into the permanent fund as opposed to the general fund. Deposits to the permanent fund under AS 37.13.010 derive mostly from petroleum (primarily oil royalties), but they also include some revenue from other minerals (mostly coal).

<sup>2</sup> The majority of mineral income deposited into the permanent fund comes from leases issued before December 1, 1979, and is, therefore, already deposited at the 25 percent rate. Alaska Statute 37.13.010 specifies that the following incomes from leases issued after December 1, 1979, are subject to 50 percent deposits: mineral lease rentals, royalties, royalty sale proceeds, net profit shares, and federal mineral revenue sharing payments. Bonuses received by the state from mineral leases issued after February 15, 1980, are also subject to 50 percent deposits.

permanent fund were at 25 percent of income, additional deposits to the General Fund would average about \$29 million annually over the next 13 years.

The Department of Revenue estimates contributions based on production forecasts on a field-by-field basis. As the table indicates, the model predicts oil prices at over \$30 per barrel for FY2001 with decreases thereafter. The oil prices assumed on the spreadsheet can be changed to roughly estimate the revenue impact on the Permanent and General Funds as oil prices vary.<sup>3</sup>

It should be noted that the small amount of mineral rent deposited into the state treasury, primarily from coal leases, is not included in the department's forecasting model. Future revenue from currently undiscovered sources of oil are also not included in these projections. **The additional general fund revenues predicted in Table 1, therefore, underestimate deposits to the extent that mineral rents and revenues from as yet undiscovered fields are not included in the figures.**

Table 2 presents actual contributions to the Permanent Fund from mineral royalties for the years 1990 through 2000. To enable you to look in one place for both past actual deposits and future predictions, Table 2 also repeats (from Table 1) the projected estimated gains to the General Fund for the years 2001 through 2013.

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I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

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<sup>3</sup> Although possible, the Department of Revenue notes that the daily production numbers on the spreadsheet cannot be as easily changed. Changes to production figures depend on what fields are assumed to change from the baseline and would have to be re-estimated by the Department.

**TABLE 1**  
**Projected Contributions to the Permanent and General Funds**  
**If All Oil & Gas Leases Contributed to the Permanent Fund at 25 Percent of Income, FY 2001 - FY 2013**

Fiscal Year	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
	ANS West Coast Price	TAPS, Marine, Other Allowable Costs	Royalty Wellhead Price	Daily Production	Annual Value of Production for Royalties	Average Royalty Rate	North Slope Current Gross Royalties	Current Average Permanent Fund Contribution Rate	Current			If Permanent Fund Contributions @ 25%			
									Contribution to the Permanent Fund from North Slope Oil Royalties	Contribution to the General Fund from North Slope Oil Royalties	Contribution to the General Fund from North Slope Oil Bonuses	Contribution to the Permanent Fund from North Slope Oil Royalties	Contribution to the General Fund from North Slope Oil Royalties	Estimated Gain to the General Fund from Oil Royalties	Estimated Gain to the General Fund from Royalties & Bonuses
	Dollars		Millions of Barrels/Day	Millions of Dollars	Percent	Millions of Dollars	Percent	Millions of Dollars							
A-B		C*D*365	E*F		G*H	G-I	G*25%		G-L	M-J	N+(.5*K)				
2001	\$30.17	\$5.39	\$24.78	1.001	\$9,051.3	13%	\$1,143.5	27%	\$312.6	\$830.9	\$2.2	\$285.9	\$857.6	\$26.7	\$30.2
2002	\$24.28	\$5.59	\$18.68	1.047	\$7,136.6	13%	\$897.2	29%	\$260.2	\$636.9	\$7.1	\$224.3	\$672.9	\$35.9	\$39.5
2003	\$22.06	\$5.46	\$16.60	1.061	\$6,424.6	13%	\$817.6	30%	\$244.6	\$573.1	\$4.0	\$204.4	\$613.2	\$40.2	\$43.8
2004	\$21.06	\$5.57	\$15.50	1.048	\$5,944.1	13%	\$751.5	30%	\$224.5	\$527.1	\$4.0	\$187.9	\$563.7	\$36.6	\$40.3
2005	\$20.38	\$5.66	\$14.72	1.065	\$5,722.4	12%	\$705.3	30%	\$211.5	\$493.8	\$4.0	\$176.3	\$529.0	\$35.1	\$38.9
2006	\$17.25	\$5.80	\$11.45	1.045	\$4,364.7	12%	\$526.4	30%	\$156.3	\$370.0	\$4.0	\$131.6	\$394.8	\$24.7	\$28.6
2007	\$17.25	\$5.93	\$11.32	1.015	\$4,194.2	12%	\$506.4	29%	\$149.3	\$357.1	\$4.0	\$126.6	\$379.8	\$22.7	\$26.7
2008	\$17.25	\$6.18	\$11.07	0.982	\$3,981.7	12%	\$483.0	29%	\$141.1	\$341.9	\$4.0	\$120.8	\$362.3	\$20.4	\$24.4
2009	\$17.25	\$6.41	\$10.84	0.949	\$3,757.6	12%	\$456.9	29%	\$131.6	\$325.3	\$4.0	\$114.2	\$342.7	\$17.3	\$21.4
2010	\$17.25	\$6.63	\$10.62	0.905	\$3,508.8	12%	\$427.7	29%	\$122.3	\$305.5	\$4.0	\$106.9	\$320.8	\$15.3	\$19.5
2011	\$17.25	\$7.09	\$10.16	0.841	\$3,120.5	12%	\$380.4	28%	\$107.7	\$272.6	\$4.0	\$95.1	\$285.3	\$12.6	\$16.8
2012	\$17.25	\$6.98	\$10.27	0.788	\$2,952.3	12%	\$360.2	28%	\$101.4	\$258.8	\$4.0	\$90.0	\$270.1	\$11.3	\$15.6
2013	\$17.25	\$7.29	\$9.96	0.741	\$2,694.2	12%	\$328.9	28%	\$92.1	\$236.8	\$4.0	\$82.2	\$246.7	\$9.9	\$14.2

\$29.0

**NOTES:** Alaska Statute 37.13.010 specifies that 50 percent of income from mineral leases issued after December 1, 1979, must be deposited into the Permanent Fund. For leases issued before December 1, 1979, required Permanent Fund contributions are 25 percent of income. This table projects future deposits to the Permanent and General Funds if contributions to the Permanent Fund from all leases were at 25 percent of income. Projections are based on the Alaska Department of Revenue's fall 2000 revenue forecast. Figures include oil and gas royalties and bonuses but the relatively small amount of rent from minerals is not included.

**SOURCE:** Alaska Department of Revenue, Oil & Gas Audit Division (Charles Logsdon).

**TABLE 2**  
**Contributions to the Permanent and General Funds**  
**from Mineral Lease Income**  
(millions of dollars)

FISCAL YEAR	Current Deposits to the Permanent Fund From Mineral Leases			If PF Contributions @ 25%	
	Contributing at 25%	Contributing at 50%	TOTAL	Contributions to the Permanent Fund	Gain to the General Fund
1990 (a)	\$259.0	\$11.2	\$270.2	\$264.6	\$5.6
1991 (a)	\$431.0	\$16.7	\$447.7	\$439.3	\$8.4
1992 (a)	\$304.2	\$14.8	\$319.0	\$311.6	\$7.4
1993 (a)	\$269.6	\$13.2	\$282.8	\$276.2	\$6.6
1994 (a)	\$202.3	\$9.1	\$211.3	\$206.8	\$4.5
1995 (a)	\$267.8	\$10.6	\$278.4	\$273.1	\$5.3
1996 (a)	\$236.1	\$18.2	\$254.3	\$245.2	\$9.1
1997 (a)	\$281.2	\$39.4	\$320.7	\$300.9	\$19.7
1998 (a)	\$217.2	\$30.8	\$248.0	\$232.6	\$15.4
1999 (a)	\$136.6	\$21.4	\$158.0	\$147.3	\$10.7
2000 (a)	\$227.9	\$45.2	\$273.1	\$250.5	\$22.6
2001 (b)			\$312.6	\$285.9	\$26.7
2002 (b)			\$260.2	\$224.3	\$35.9
2003 (b)			\$244.6	\$204.4	\$40.2
2004 (b)			\$224.5	\$187.9	\$36.6
2005 (b)			\$211.5	\$176.3	\$35.1
2006 (b)			\$156.3	\$131.6	\$24.7
2007 (b)			\$149.3	\$126.6	\$22.7
2008 (b)			\$141.1	\$120.8	\$20.4
2009 (b)			\$131.6	\$114.2	\$17.3
2010 (b)			\$122.3	\$106.9	\$15.3
2011 (b)			\$107.7	\$95.1	\$12.6
2012 (b)			\$101.4	\$90.0	\$11.3
2013 (b)			\$92.1	\$82.2	\$9.9

**NOTES:**

(a) Actual deposits--data compiled from actual transfers to the Permanent Fund that were listed in the state's accounting system (AKSAS) and in the "Additional Due the Permanent Fund for Post Chapter 13 Leases" reports. **Included are all mineral royalties, rents, interest, and bonus bids.**

(b) Projected deposits--based on the Alaska Department of Revenue's fall 2000 revenue forecast (same data as presented in Table 1). **Included are oil and gas royalties and bonuses.**

**SOURCES:**

(a) Alaska Department of Natural Resources, SSD/FSS (Cathy Poulos).

(b) Alaska Department of Revenue, Oil & Gas Audit Division (Charles Logsdon).

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

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## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

February 12, 2001

Dear Colleague

HB 3 returns the percentage of all mineral lease royalties and bonuses deposited into the Permanent Fund to the constitutionally mandated 25 percent (please see the attached bill packet).

HB 3 would provide Alaska with a source of General Fund revenue while staying true to the purposes of the Permanent Fund and the intent of our constitution. As the table in your bill packet indicates, passing this bill would generate an extra \$29 million average per year, plus bonus revenues, over the next thirteen years.

This plan will not only help our present economic situation, it will also allow for prudent management of potential future mineral royalties. As the wealth of older fields such as Prudhoe and Kuparuk diminish, we must look at replacing them with newer fields such as Alpiro to ensure continued return to the corpus of the Permanent Fund. ["String of Pearls" replaces lift in Prudhoe.]

- This plan is only a tile in the mosaic of any plan to fill the fiscal gap.
- Alaska cannot save its way to prosperity.

It is time for the legislature to begin taking steps to help solve our budget problem, and to plan for the potential future development of Alaska's resources. HB 3 can help us succeed on both fronts and I would appreciate your support on this legislation. However, I do not want to move this legislation without sufficient votes for passage.

Some members have voiced concerns that this bill could be construed as a raid on the Permanent Fund. **It Is Not!** It is a statutory change that recognizes the fiscal reality of our state without raising taxes. Therefore, please get back to me if you need additional information or if I have your support.

Thanks for your consideration,

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

Norman Rokeberg  
State Representative  
House District 11

Attachments

PS: Look at the attached revenue impacts.



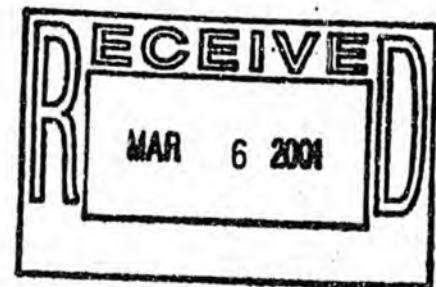
**Alaska Permanent Fund Corporation**  
P.O. Box 25500 Juneau, Alaska 99802-5500  
(907) 485-2047

**MEMORANDUM**

**DATE:** March 6, 2001  
**TO:** Representative Norman Rokeberg  
**FROM:** Jim Kelly, Director of Communications *JK*  
**SUBJECT:** Impact of HB 3 on Oil Contributions and Per Capita Dividends (REVISED)

You have asked about the impact of House Bill 3 on future oil contributions and per capita dividends. Based on our financial analysis (see attached), the impact on oil contributions will total \$333 million between 2001-2011. The impact on per capita dividends will total \$90 over the same 11 years. Please let me know if you have any additional questions.

cc: Executive Director  
Board of Trustees  
Governor's Legislative Liaison  
DOR Deputy Commissioner



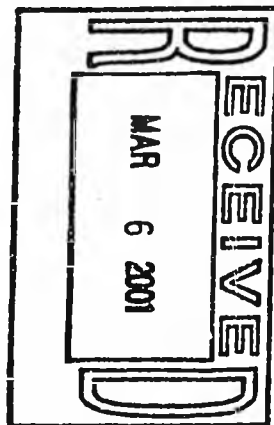
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## Analysis of HB 3 Alaska Permanent Fund Corporation

Based on December 2000 APFC Financial Projections  
(\$ in millions)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTALS
Oil contributions Status Quo	343	291	271	249	235	179	171	162	162	142	128	2,325
Oil Contributions (HB 3)	313	250	226	209	196	150	144	138	131	123	112	1,992
Difference (HB 3 - Status Quo)	30	42	44	41	39	29	27	24	21	19	16	333
Per Capita Dividends Status Quo	\$1,930	\$1,910	\$1,820	\$1,750	\$1,760	\$1,890	\$1,960	\$2,040	\$2,120	\$2,200	\$2,260	\$21,660
Per Capita Dividends (HB 3)	\$1,930	\$1,910	\$1,820	\$1,750	\$1,760	\$1,880	\$1,950	\$2,030	\$2,100	\$2,180	\$2,260	\$21,590
Difference (HB 3 - Status Quo)	\$0	\$0	\$0	\$0	\$0	\$10	\$10	\$10	\$20	\$20	\$20	\$90



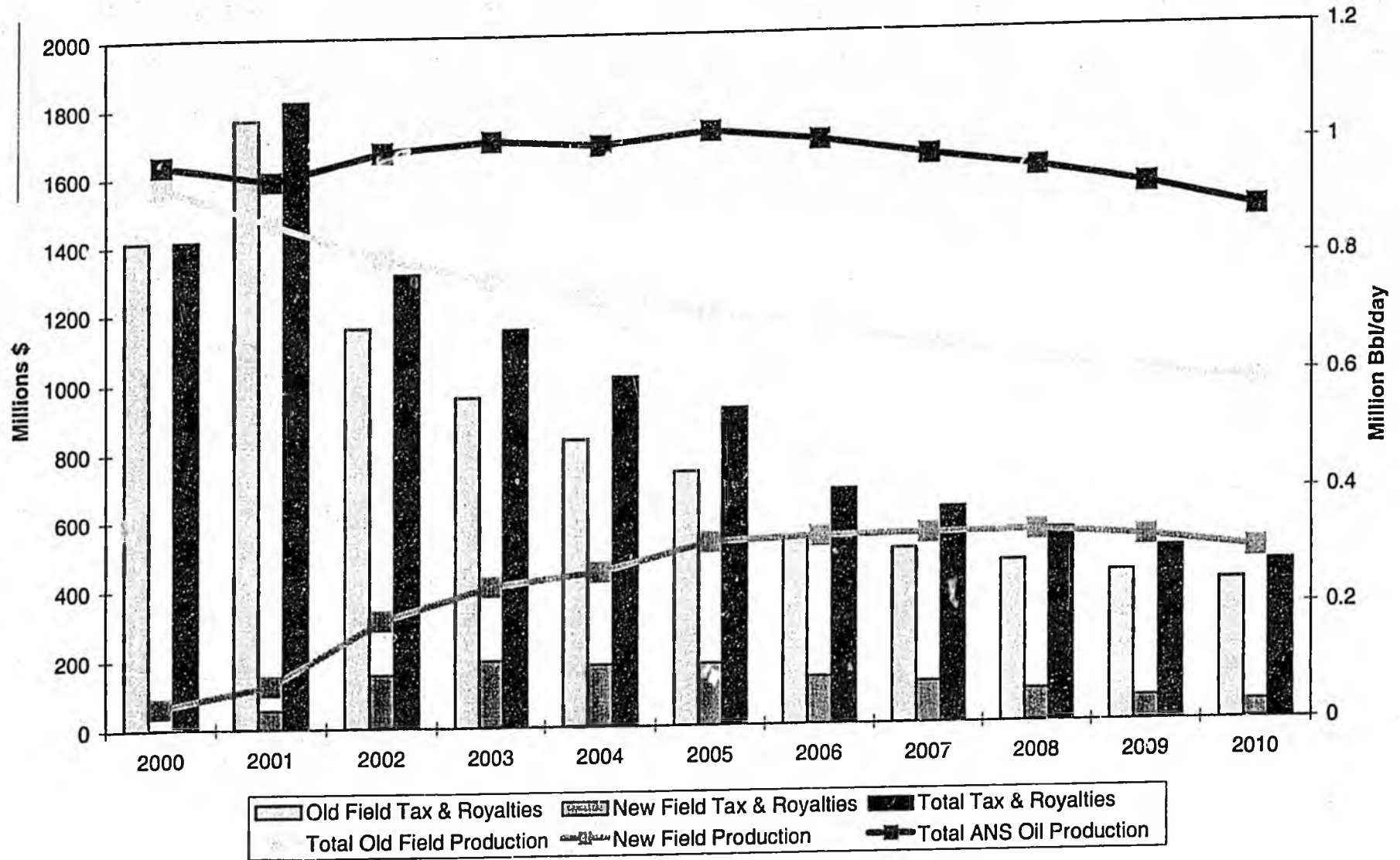
To: Representative Norm Rokeberg  
From: Chuck Logsdon 269 1019  
Date: March 8, 2001  
Subject: HB 3

The charts in this workbook hopefully shed more light on the revenue impact of HB 3 on the General Fund

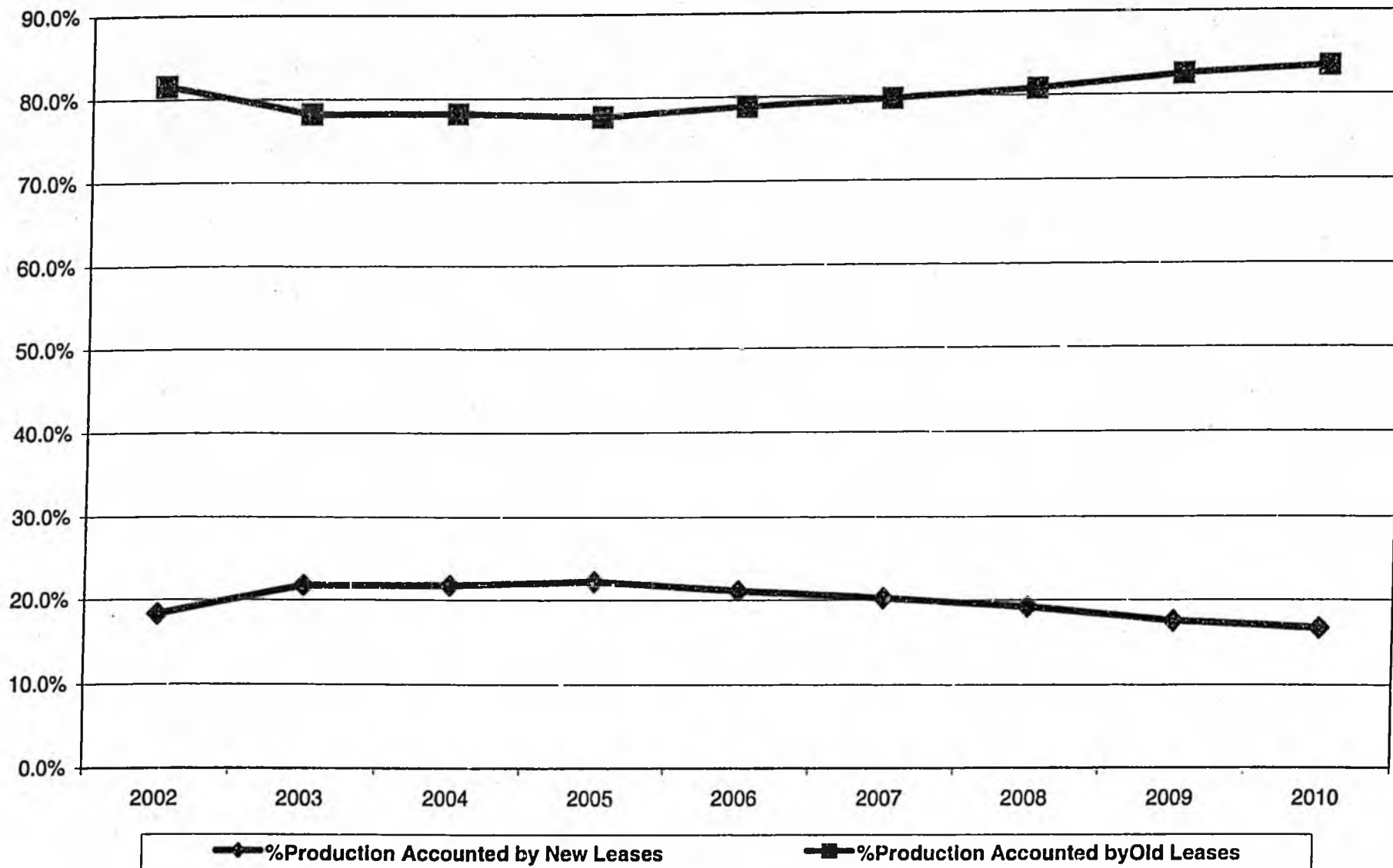
Basically I would summarize as follows:

1. Your percentage calculation method is right on, however, old leases still have most of the remaining reserves.
2. As the first chart in this workbook demonstrates, older fields will continue to dominate production and although some of these old fields contain new leases, the impact of HB 3 begins to decline after 2006 or so.
3. Another factor is that although production from new leases will grow as Alpine and Northstar come on line a good chunk of the new production will come from production in satellite fields that are mostly old leases within existing unitized production.
4. Also, as we discussed, current exploration activity that will lead to new production is focused in NPRA with a 50% passthrough and attendant spending issues.
5. Finally, with respect to ANWR, once again the passthrough may be watered down to 50%. And even with leasing in 2004 we would not expect production to commence until at least 2008 (recall that Alpine was discovered in late Fall 1995)
6. At this point the biggest impact of HB 3 is very much associated with Alpine and Northstar startup and eventually they will begin to deplete. Any other major new lease oil is probably 5 to 10 years off or longer.

### ANS Oil Production, Severance Tax, and Gross Royalties by Old Field & New Field



**Alaska North Slope Oil Production from Old (25% to PF) and New (50% to PF) Leases**



**Royalties to the General Fund with and without HB3 Based on the Department of Revenue  
Fall 2000 Forecast Assumptions**

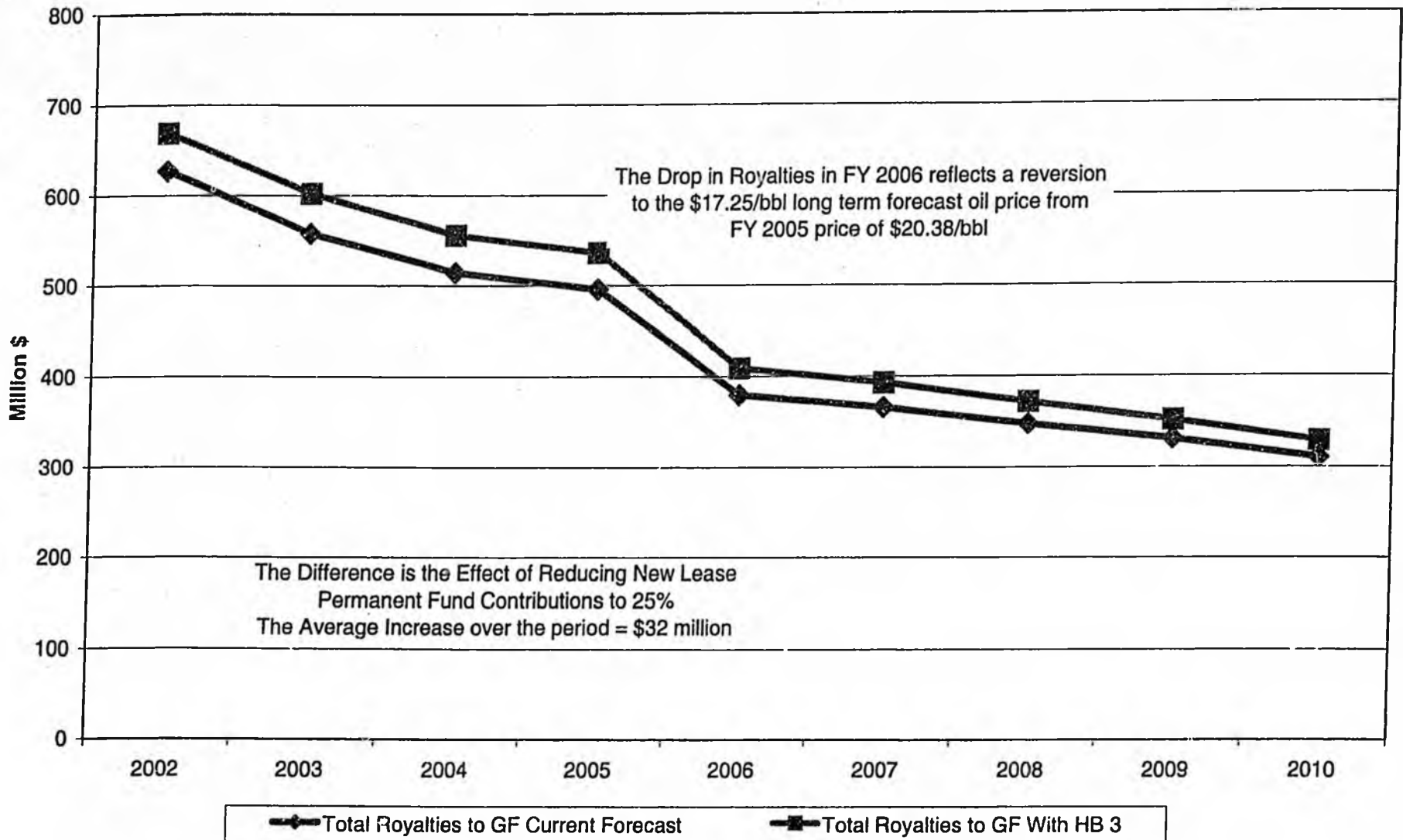


Illustration of the Impact of HB 3 on General Fund Cash Flow--Old Fields and New Fields

Fiscal Year	PF&School Contrib Factor	New Field added	Old Lease Field	Production	%Production Accounted by New Leases
2002	0.703103324	0.041896676	0.25	1.0465414	18.4%
2003	0.694508904	0.050491096	0.25	1.0606472	21.8%
2004	0.69450984	0.05049016	0.25	1.048123	21.8%
2005	0.693317175	0.051682825	0.25	1.0651355	22.2%
2006	0.696129383	0.048870617	0.25	1.044703	21.1%
2007	0.698334516	0.046665484	0.25	1.015462	20.3%
2008	0.701018528	0.043981472	0.25	0.9824487	19.2%
2009	0.705226978	0.039773022	0.25	0.9493457	17.6%
2010	0.707366276	0.037633724	0.25	0.9049174	16.7%
2011	0.709910131	0.035089869	0.25	0.8412912	15.7%
2012	0.711660382	0.033319618	0.25	0.7875885	15.0%
2013	0.713084528	0.031915472	0.25	0.7408647	14.5%
2014	0.714088504	0.030911496	0.25	0.6997715	14.1%
2015	0.715066902	0.029933098	0.25	0.6747432	13.7%
2016	0.715799615	0.029200385	0.25	0.6404166	13.4%
2017	0.716524084	0.028475916	0.25	0.6090952	13.1%
2018	0.717192771	0.027807229	0.25	0.5806707	12.9%
2019	0.717897908	0.027102092	0.25	0.553975	12.6%
2020	0.718606646	0.026393354	0.25	0.5289799	12.3%

2002  
2003  
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2016  
2017  
2018  
2019  
2020

%Production Accounted by Old Leases	NPRA	Forecast		Market Price		Market Price	
		Market Price	Forecast Price Wellhead	Market Price Scenario #1	Wellhead #1	Scenario #2	Wellhead #2
81.6%		24.28	18.68	25.00	19.41	18	12.41
78.2%		22.06	16.60	25.00	19.54	18	12.54
78.2%		21.06	15.50	25.00	19.43	18	12.43
77.8%		20.38	14.72	25.00	19.34	18	12.34
78.9%	0.035	17.25	11.45	25.00	19.20	18	12.20
79.7%	0.046	17.25	11.32	25.00	19.07	18	12.07
80.8%	0.081	17.25	11.07	25.00	18.82	18	11.82
82.4%	0.092	17.25	10.84	25.00	18.59	18	11.59
83.3%	0.127	17.25	10.62	25.00	18.37	18	11.37
84.3%	0.138	17.25	10.16	25.00	17.91	18	10.91
85.0%	0.133	17.25	10.27	25.00	18.02	18	11.02
85.5%	0.129	17.25	9.96	25.00	17.71	18	10.71
85.9%	0.12	17.25	9.65	25.00	17.40	18	10.40
86.3%	0.112	17.25	9.38	25.00	17.13	18	10.13
86.6%	0.99	17.25	9.05	25.00	16.80	18	9.80
86.9%	0.877	17.25	8.68	25.00	16.43	18	9.43
87.1%	0.767	17.25	8.31	25.00	16.06	18	9.06
87.4%	0.68	17.25	7.91	25.00	15.66	18	8.66
87.7%	0.59	17.25	7.50	25.00	15.25	18	8.25

Total Royalties to GF Current Forecast	Total Royalties to GF With HB 3	NPRA Effect Current GF	NPRA Effect Current GF
---	---------------------------------------	---------------------------------	---------------------------------

627.21852	669.0537141	41.83519	
557.743411	602.3069772	44.56357	
514.618511	555.7356579	41.11715	
495.92648	536.4714357	40.54496	
379.802223	409.1935697	29.39135	
366.117736	393.2045401	27.0868	
347.950819	372.2627917	24.31197	
331.244095	352.2739192	21.02982	
310.253886	328.9532204	18.69933	
276.910393	292.5480078	15.63761	
262.639437	276.7809577	14.14152	
240.150245	252.5825156	12.43227	
220.035039	231.1005964	11.06556	
206.402113	216.4854571	10.08334	
189.182331	198.2213251	9.038994	
172.830216	180.9048226	8.074606	
157.823082	165.0425324	7.219451	
143.508648	149.9258948	6.417246	
130.064921	135.7469918	5.682071	

Avg 2002-2010 32.06446

PERMANENT FUND CONTRIBUTION RATES FOR NORTH SLOPE OIL FIELDS  
ALASKA DEPT. OF REVENUE FALL 1999 FORECAST

25% Contributing Oil Fields	FY 2000 est. Prod. Millions Bbl/Day	Permanent Fund Average Contribution	Greater than 25% Contributing Oil Fields	FY 2000 est. Prod. Millions Bbl/Day	Permanent Fund Average Contribution
PRUDHOE	0.5640	0.25	SAMBUCA	0.0000	0.3125
PBU SATELLITE	0.0008	0.25	MIDNIGHT SUN	0.0048	0.3125
WEST SAK	0.0038	0.25	PBU SCHRADER	0.0000	0.5000
KUP SATELLITE	0.0000	0.25	KUPARUK	0.2220	0.2514
SCHRADER BLUFF	0.0059	0.25	TABASCO	0.0105	0.3125
LISBURNE	0.0070	0.25	TARN	0.0216	0.4065
NIAKUK	0.0270	0.25	MILNE POINT	0.0477	0.3088
EST BEACH/NORTH PRUDHOE	0.0020	0.25	SAG RIVER	0.0001	0.3890
KNOWN ONSHORE	0.0000	0.25	ENDICOTT/SAGDELTA	0.0470	0.2895
CRU SATELLITE	0.0000	0.25	EIDER	0.0013	0.3125
			BADAMI	0.0013	0.5000
			PT MCINTYRE	0.0930	0.2982
			N PBAY STATE	0.0000	0.3125
			ALPINE	0.0000	0.3250
			NORTH STAR	0.0000	0.5000
			LIBERTY	0.0000	0.5000
			KNOWN OFFSHORE	0.0000	0.3890
			NPRA	0.0000	0.5000
			ANWR	0.0000	0.5000
Estimated Total Production (Million Bbl/day)	0.6106			0.4493	

permto25%

Rates by Field

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March 26, 2001

Representative Norman Rokeberg  
Alaska State Legislature  
Juneau, Alaska

Re: HB 3 - Deposits to the Permanent Fund

Dear Representative Rokeberg:

The Alaska State Chamber of Commerce supports House Bill 3, reducing the percentage of state mineral lease rentals, royalties, and royalty sale proceeds to be deposited in the Alaska Permanent Fund from the 50% level set in statute by a previous legislature, to the constitutionally established level of 25%.

The statute requiring that 50% of the mineral lease and royalty income be deposited to the fund was enacted at a time when Alaska's oil revenues were greatly in excess of Alaska's annual budgetary needs. The Permanent Fund was in its infancy, and although the constitution required that 25% of such funds were to go to the Permanent Fund, the goal was to deposit as much excess annual revenue as possible into Alaska's savings account for a future time when oil revenues would be diminished.

Oil revenues are now significantly diminished from the time when the decision was made to double the constitutionally required amount of mineral lease and royalty revenues deposit. The State is now looking for new sources of revenue with which to maintain funding for the programs and services Alaskans have come to expect from state government. With passage of HB 3, 25% of the mineral lease and royalty revenues will become a revenue source, subject to legislative appropriation, for meeting Alaska's fiscal needs.

Sincerely,

A handwritten signature in cursive script that reads "Pamela La Bolle".

Pamela La Bolle  
President

**HB**

**4**

**(File 1)**

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## MEMORANDUM

February 28, 2001

**SUBJECT:** CSHB 4(TRA) (Work Order No. 22-LS0046\S)

**TO:** Representative Vic Kohring, Chair  
House Transportation Committee  
Attn: Sharon

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

I wanted to bring an issue to your attention regarding CSHB 4(TRA). In sec. 27, AS 28.35.030(b)(1) is amended to repeal certain minimum sentences for repeat offenders. I believe that given the changes to AS 28.35.030(n) in sec. 31 of the bill, the material repealed on page 17, lines 14 - 29 should be reinserted. In short, there may be repeat offenders who would not be subject to punishment under AS 28.35.030(n), and who should therefore be subject to punishment under the existing misdemeanor provisions of AS 28.35.030(b)(1)(C) - (F).

Also, defining "controlled substance" to include "inhalants" in all of AS 28 is likely to confuse or mislead people because inhalants are not controlled substances, though they may be intoxicating. It would be better to amend the appropriate statutes to include inhalants.

Please contact me if you have further questions.

MFF:glc  
01-205.glc

MAR 21 2001

**HOUSE BILL 4 AND YOU  
THE HIGHLIGHTS OF A LITTLE BILL  
OMNIBUS DRUNK DRIVING AMENDMENTS**

- Lower BAC to .08
- Changes DWI to DUI  
If want to make sure that inhalants are covered, need to leave at DWI; otherwise would have to add reference and bill would grow. Mike is doing amendments both ways.
- Provides a diversion program, with jail time (amendment), for .08 to .0999
- Phases in a ten-year "look back" provision

➤ Increased sentences and fines:

<u>Offense</u>	<u>Current Fine/Jail</u>	<u>Proposed Fine/Jail</u>
Misdemeanor:		
1 <sup>st</sup>	not more than \$250/72 hours	\$1500/72 hours
2 <sup>nd</sup>	not more than \$500/20 days	\$3,000+/30 days or 20 days in jail and 80 hours community service
3 <sup>rd</sup>	not more than \$1,000/60 days+	not less than \$4,000/60 days+
4 <sup>th</sup>	not more than \$2,000/120 days+	not less than \$5,000/120 days+
5 <sup>th</sup>	not more than \$3,000/240 days+	not less than \$6,000/240 days +
6 <sup>th</sup>	not more than \$4,000/360 days+	not less than \$7,000/360 days+

**Felony: 3<sup>rd</sup> DWI within 5 years  
Class C Felony**

Previous twice	not less than \$5,000/120 days	not less than \$10,000/240 days
Previous three	not less than \$5,000/240 days	not less than \$10,000/480 days
Previous four+	not less than \$5,000/ 360 days	not less than \$10,000/2 years

- **Mandates treatment while incarcerated**
- **DUI manslaughter, 7 years first felony conviction**
- **"reasonable grounds" to "probable grounds" as per court case**
- **Reinstatement fees for driver's license, DUI and refusal within the last ten year: \$200 if revoked once; \$500 if revoked two or more times**
- **Enabler statute: Class A misdemeanor, revoke driver's license 30 days, \$1000 minimum fine, alcoholism program if more than once.**
- **Revokes registration for any vehicle of person convicted of felony DUI; surrender of registration plates**
- **Permits judge, prosecutor, defendant, agency involved in treatment to obtain past treatment records**
- **Mandates payment of up to \$2,000 to state for treatment**
- **Mandates payment of up to \$2,000 to state for incarceration costs**
- **Lowers impairment from .05 to .04**
- **Establishes Alaska Repeat Offender Status System**

#### **MAJOR POLICY DECISIONS**

- 2<sup>nd</sup> m. demeanor offense: impoundment - would cause DPS fiscal note to increase**
- 2<sup>nd</sup> misdemeanor offense: forfeiture**
- 3<sup>rd</sup> offense - forfeiture - civil vs. criminal forfeiture**

**Civil forfeiture - 22 pages and sets forth procedure. Probably increase Law fiscal note**

- **Treatment of offenders differently in different parts of the state, municipal v. state law**
- **PFDs**

**Current felons and misdemeanants twice convicted PFDs go into pool for violent crimes compensation, Council on Domestic Violence and Sexual Assault grants, Department of Corrections for incarceration and probation programs. Do we want to now take PFDs from first and second offenders drunk drivers' PFD and put into pool and then add ASAP and treatment to pool? Or do we want to take first and second offender drunk drivers' PFDs and direct to ASAP and treatment programs?**

**Subject: HB4****Date:** Mon, 26 Mar 2001 10:15:48 -0800**From:** "buddy4" <buddy4@alaska.net>

**To:** <Representative\_Norman\_Rokeberg@legis.state.ak.us>,  
 <Representative\_Scott\_Ogan@legis.state.ak.us>,  
 <Representative\_Jeannette\_James@legis.state.ak.us>,  
 <Representative\_Keven\_Meyer@legis.state.ak.us>,  
 <Representative\_Albert\_Kookesh@legis.state.ak.us>,  
 <Representative\_John\_Coghill@legis.state.ak.us>,  
 <Representative\_Ethan\_Berkowitz@legis.state.ak.us>



Please print this and distribute to all members

Judiciary Committee,

The section from **HB 4** refers to the provision that exempts people with a .08BAC to a .10BAC from jail if there are no extenuating circumstances. **THIS IS NOT ACCEPTABLE.** Since .08 BAC is legally impaired, the sanction should be the same as it is with .10 BAC. As 21 states have lowered the percent of intoxication to drive, jail is still part of the sanction. It is not ok to drink to impairment and get on the roads with my family and me. Why are so many policy makers afraid to look at alcohol honestly and accept that some people cannot control their drinking, that we cannot predict who those people will be BUT we have a responsibility to protect the public from these people on the public roads. I'm tired of hearing that it costs too much to implement. Pass an increased excise tax to cover the costs.

Community service has never impressed a seasoned drinker and we are not funding a compliance program adequately ASAP that insures that these people comply with the sanctions. You only have one chance to make a first impression with a problem drinker. There isn't a man, woman, or child in America that doesn't know Not to drink and drive EXCEPT problem drinkers who don't care. Send a message that the public comes first!

Joan Diamond, 5700 Rabbit Creek Rd, Anchorage 99516

**Sec. 27. AS 28.35.030(b) is amended to read:**

**except** that 12 if 13 (i) there were no aggravating circumstances 14 associated with the acts upon which the conviction is based and, as 15 determined by a chemical test taken within four hours after the 16 alleged offense was committed, there is 0.08 percent but not more 17 than 0.1 percent by weight of alcohol in the person's blood or 80 18 milligrams but not more than 100 milligrams of alcohol per 100 19 milliliters of blood, or when there is 0.08 grams but not more than 20 0.10 grams of alcohol per 210 liters of the person's breath, the 21 **court shall suspend the execution of the sentence of imprisonment** 22 upon the condition that the person successfully completes one year 23 of probation during which the person does not commit an alcohol- 24 related offense or a traffic offense, the person successfully 25 completes the program requirements imposed under (h) of this 26 section, the person pays the cost of treatment required under (h) of 27 this section, the person performs three days of community service, 28 and the person pays the fine imposed by the court under this 29 subparagraph; upon determination by the court that the person 30 has satisfied the terms of prolation, the court shall discharge the 31 defendant; however, if the court determines that the terms of

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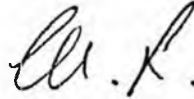
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Juneau, Alaska 99801-1182  
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## MEMORANDUM

January 15, 2001

**SUBJECT:** Driving while intoxicated (HB 4)

**TO:** Representative Norman Rokeberg  
Attn: Janet

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

You asked for an explanation as to why the phrase "reasonable grounds" was changed to "probable cause" in sections 12, 16, 17, 28, 29, and 30 of HB 4. These changes occurred as a result of a request made by you in a memo dated November 6, 2000, that AS 28.35.031 be amended to reflect the decision by the Alaska Court of Appeals in Leslie v. State, 711 P.2d 575 (Alaska App. 1986). In that case the court construed the phrase "reasonable grounds" to be the equivalent of "probable cause" in AS 28.35.031. In order to be consistent in the terms used, we also changed all other sections in title 28 in which the same language appeared.

Please contact me if you have further questions.

MFF:lmb:glc  
01-017.lmb

**Subject: Rough Estimate of New Revenue Under HB 4**

**Date: Wed, 14 Mar 2001 10:11:05 -0900**

**From: Doug Wooliver <dwooliver@courts.state.ak.us>**

**To: "Janet\_Seitz@legis.state.ak.us" <Janet\_Seitz@legis.state.ak.us>**

Janet, as you requested, we have tried to come up with a projection of revenues that would be generated with the proposed changes to AS28. As we discussed yesterday, our computer system is not suited for gathering this type of information. Although our fiscal operations staff spent several hours on this project, they want to emphasize that the revenue projections are very rough and based on less than complete information. Nevertheless, we will give you what we have.

This information was collected from the data generated through RUG (a computer system that tracks some case related information). This database does not contain all of the fine information, some of which is on paper records. That said, here's the process they used.

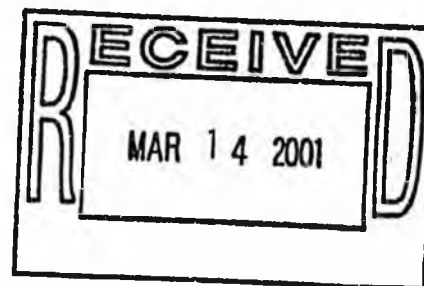
- 1) Downloaded and analyzed charges information found in RUG
- 2) Reviewed fines information entered in RUG
- 3) Reviewed suspended fines information
- 4) Arrived at "net fines receivable"
- 5) Assumed a collection rate of 35% as there is no collection effort apart from PFD process and law dept.
- 6) Applied new "fine rates" to existing charges information
- 7) Added projected new charges information (est. 330 felonies, 1000 misdemeanors) to arrive at estimated revenue related to increased caseload. Factored in fine suspension information and a 35% collection rate.

Based on these estimates and assumptions our fiscal staff estimates that the increased fines reflected in HB 4 will result in an increase of at least \$300,000 in revenue.

The methodology employed was sound. The accuracy of the data is not. In summary, our comfort level with these numbers is not high.

Despite the weakness of our numbers, I hope this information is at least somewhat helpful. It is possible that one of the executive branch agencies will have a more accurate revenue projection. I am sorry we cannot be of more help.

Doug



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Anchorage Daily News

## **Driver who killed boys pleads**

**HEARING: Mothers, grandparents of two youths watch as man pleads no contest.**

**By Molly Brown**  
**Anchorage Daily News**

*(Published March 20, 2001)*

The mothers and grandmother of two boys killed last summer by a drunken driver held up pictures of their sons and grandsons in Anchorage Superior Court on Monday as Robert Richardson pleaded no contest to second-degree murder and first-degree assault.

For the first time, grandparents David and Patsy Glasen looked at the driver of a pickup that crossed the center line and slammed into their car on Portage Glacier Road. The crash sent the Glasens to the hospital with serious injuries. And also for the first time, Patty Kramer, mother of Kenneth Kramer, 11, and Sue Johnson, mother of Kevin Blake, 15, put a face to the man who killed their sons.

Richardson, 36, barely looked up.

He was originally charged with driving while intoxicated, two counts of manslaughter and first-degree assault.

On July 12 Richardson drove his red Ford F-150 pickup down Portage road. He ran off the road; a tow truck pulled his vehicle out of hood-deep water. About 20 minutes later he hit the Glasens and their grandchildren. After the accident, Richardson told an officer he had drunk about a six-pack of beer, according to charging documents. His blood-alcohol level was 0.175, nearly twice the .10 legal driving limit. Richardson thought he was near Wasilla, charging documents said.

Blake and Kramer and their grandparents were on their way to Whittier to go fishing. Blake was driving with a learner's permit, his grandfather at his side. Kramer sat behind Blake in the back seat, next to his grandmother.

Both boys died instantly.

"My mom and dad always say how they wish it was them who had died," Johnson said as tears rolled down her face. "I really miss him so much."

Johnson flew to Anchorage from Tatitlek with her two daughters for Monday's short hearing, and the Glasens flew in from Cordova. Kramer and her son drove into town from Palmer. Kramer today planned to go to Cordova, where her son and his father are buried side by side. Today Kenneth Kramer should have turned 12.

"This whole thing," Kramer said. "Just don't drink and drive."

"This whole thing is so preventable," Johnson said. "Somebody has got to do something."

They held up pictures so no one would forget. They also displayed bumper stickers that urged people to remember the two boys before they drink and drive. The bumper stickers are plastered on cars and walls in the Mat-Su area, Valdez, Cordova and as far away as Michigan, Johnson said.

"Maybe they will see it and stop and go: 'Man, I am not going to drive. I'm going to take a cab,' " Johnson said.

David Glasen has written letters to state legislators, urging stricter DWI punishments and education programs for youngsters. Glasen endured a broken hip and leg in the crash and was released from the hospital in October. He goes to therapy three times a week and walks with a cane.

"No matter what the sentence is for Mr. Richardson, it's not going to bring my grandsons back," he said. "This was preventable."

Richardson's sentencing is scheduled for June 26. He faces 10 to 99 years in prison for the murder charge and at least five years for assault.

Reporter Molly Brown can be reached at [mbrown@adn.com](mailto:mbrown@adn.com) or 257-4343.

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Anchorage Daily News

## **Driver who hit woman on trail pleads no contest DWI: Elderly accident victim underwent 15 surgeries.**

By Molly Brown  
Anchorage Daily News

*(Published March 14, 2001)*

The accused drunken driver who steered his pickup down a South Anchorage bike trail and struck an elderly woman out walking her dog last summer pleaded no contest on Tuesday to first-degree assault and leaving the scene of an accident.

Alfred Meyer, a twice-convicted drunken driver, had also been charged with DWI and driving without a license. His blood-alcohol level was 0.22, prosecutors said, more than twice the legal driving limit. Under a plea agreement, those misdemeanor charges will be dismissed at a sentencing hearing in June, said assistant district attorney Bob Linton.

Tuesday's hearing lasted about 10 minutes. Meyer, 37 and free on bail, was remanded into custody as his friends and family members tearfully watched. Donna Dobson watched, too, sitting for the first time in the same room as the man who changed her life.

Dobson, her husband, Bobby, and their toy poodle, Tiny, were walking on a pathway near O'Malley Road and the Old Seward Highway the evening of June 24. She was still recovering from knee surgery, and supported herself with the help of a cane and her husband. As they approached a bend in the trail, a 1989 Chevrolet pickup with Meyer at the wheel rounded the curve. Dobson's husband tried to push her out of the way, but the truck hit her.

Dobson, 70, was knocked out of her shoes, and landed face first in weeds and water 20 feet away, according to charging documents. The pickup also landed in the pond. Meyer and a passenger refused to help and left the scene as Hobson's husband pulled his wife from the water, police said. Meyer was arrested a short time later outside a nearby store.

Hobson spent five weeks at the hospital and underwent 15 surgeries. She suffered two broken hips, a broken leg, a punctured lung, a broken pelvis, broken tailbone and broken ribs, according to family members.

On Tuesday, she walked with a cane but said she was happy to have survived.

"It's nice to be alive and walking," she said.

The cane is necessary for balance when she leaves home. She said she can no longer take long walks on the trail.

She expressed sympathy for Meyer's friends and family who have to say goodbye to their husband, father and friend, but said she hopes Meyer's jail time will get his attention.

"He could have killed me," she said.

Meyer could be sentenced to prison for five to 20 years on the felony assault charge, and up to 10 years for leaving the scene.

Dobson and her husband filed a civil suit against Meyer and Amtal Corp., an Alaska company that owns Muffler City. Meyer is president of Amtal and manager of Muffler City, according to a complaint filed in court. Meyer was driving a company truck when he hit Dobson.

Meyer's was one of four high-profile cases involving suspected drunken drivers last summer.

Jessie Withrow, a college student, died in July after being struck by a pickup while riding her bicycle on a sidewalk at Minnesota Drive and West Northern Lights Boulevard. Russell D. Carlson, 39, was charged with second-degree murder, DWI and driving with a revoked license in that case. He has seven previous DWIs and is scheduled for trial in May, according to the District Attorney's office.

Days later, two other young women were hospitalized after colliding with a pickup heading the wrong way on East Northern Lights Boulevard. Albert T. Bowman, who has five previous DWIs, pleaded no contest to injuring the two women and will be sentenced later this year.

In mid-July, Robert Richardson killed two young boys and injured their grandparents when he drove his pickup into a car, according to charging documents. He is scheduled to change his plea next week, according to court records.

Reporter Molly Brown can be reached at [mbrown@adn.com](mailto:mbrown@adn.com) or 257-4343.

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# Two-time offender indicted in DWI accident

By MOLLY BROWN  
Daily News reporter

An Anchorage man with two prior convictions of drunken driving was indicted Friday on charges of first-degree assault, leaving the scene of an accident and driving while intoxicated, according to the district attorney's office.

Alfred Meyer, 36, is accused of driving a truck down a bike trail on June 24, hitting 69-year-old

Donna Hobson and throwing her 20 feet into a pond, where she landed face down.

Witnesses told police that the truck was moving at a speed of 30 to 40 mph. It skidded, in an attempt to avoid hitting Hobson, and spun into the same pond.

Meyer was driving a 1989 Chevrolet pickup owned by Muffler City, where he worked as a general manager.

Hobson's husband asked Meyer

and the passenger with him to help his wife, but the two men refused, Anchorage police said. Bob Hobson ran to call for help, and the two men were gone when he returned.

Police eventually tracked Meyer to the Sports Authority parking lot and described him as extremely intoxicated based on the smell of alcohol.

Hobson spent five weeks in the hospital and underwent 15 surg-

eries on her lower left leg. She suffered two broken hips, a broken leg, a punctured lung, a broken pelvis, a broken tailbone and broken ribs, according to family members.

Meyer, whose blood-alcohol level was not available, was convicted of DWI in 1990 and 1991.

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□ Reporter Molly Brown can be reached at [mbrown@adn.com](mailto:mbrown@adn.com).

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QDN 2 Sept 2000

**ALASKA NETWORK ON  
DOMESTIC VIOLENCE AND SEXUAL ASSAULT**  
130 Seward, Rm 209      Juneau, Alaska 99801

**fax cover sheet**

Date: 3/16/01  
 Number of pages including cover: 4

<b>TO:</b>	<b>FAX Number:</b>
Rep. Rokberg, Judiciary Committee	465-8040

From: Lauree Hugonin  
 Executive Director

**MEMO:**

Comment on PFD Felon find question  
 posed during Committee today to DDC

LH

Telephone replies may be directed to (907) 585-3650.  
 Fax replies may be directed to (907) 463-4493.  
 If you receive this transmission in error, please notify us immediately.  
 Thank you

**ALASKA NETWORK ON  
DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

130 Seward, Rm 209  
Juneau, Alaska 99801

(907) 586-3650 ph  
(907) 463-4493 fx

To: Representative Rokeberg  
From: Lauree Hugonin *LH*  
Date: 3/16/01  
Re: PFD Felon/Misdemeanant Funds

I understand that the Judiciary Committee had a question concerning the distribution of the pfd felon/misdemeanant funds.

According to AS 43.23.028 (4) an individual is not eligible for a dividend when (A) during the qualifying year the individual was convicted of a felony; (B) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction of a (i) felony; or (ii) misdemeanor if the individual has been convicted of two or more prior crimes.

The funds can be distributed to the violent crimes compensation board for payments to crime victims; the council on domestic violence and sexual assault for grants for the operation of domestic violence and sexual assault programs; or to the department of corrections for incarceration and probation programs.

There is not a percentage allocation in the statute nor is there a prescribed formula or way to disperse the funds between the three groups. After the amount has been determined by the permanent fund dividend division of the department of revenue, OMB allocates the funds in the governor's budget and the co-chairs of the Senate and House Finance Committee allocates the funds to the budget subcommittees for Public Safety and Corrections. Sometimes the legislative allocations meet the Governor's request and sometimes the legislature reallocates the funds between the three organizations.

I've supplied the memo from the permanent fund dividend division upon which OMB and the legislature has relied for FY02 allocations.

Senator Halford's SB105 would add the office of victims rights to the list of organizations which could receive the pfd felon funds and the bill also enlarges the pool of felons/misdemeanants from whom the pfd would be taken.

I hope this information is useful and would be happy to answer any questions.

Feb-20-01 12:57P REP. ETHAN BERKOWITZ  
Feb-20-01 09:32 FROM-PFD DIVISION19074652137  
9074652096 T-790 P.02/03 F-285

P. 01

**MEMORANDUM****STATE OF ALASKA  
DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION****TO:** Annalee McConnell, Director  
Office of Management and Budget**DATE:** December 4, 2000**FILE:** djm/mac/calc/00/idea memo**THRU:** Wilson L. Condon  
Commissioner**TELEPHONE:** (907) 465-2323**SUBJECT:** FY2002 Dividend Fund  
Amount Available  
For Appropriation  
To Public Safety  
And Corrections**FROM:**   
Nanci A. Jones, Director

Here is our determination of the amount that would have been paid in FY2001 as permanent fund dividends to individuals who were ineligible for dividends because of criminal activity in calendar year 1999. The law makes ineligible anyone who, during the dividend qualifying year, was sentenced for a felony conviction or was incarcerated either as the result of a felony conviction, or a misdemeanor conviction if the individual had two prior convictions.

The Department of Corrections provided a list of 7,307 individuals who fit these criteria. We have determined, based on their most recent PFD applications, that 4,578 would have been eligible in FY2001. Thus, the total amount that would have been paid is:

<u>Number</u>		<u>PFD</u>		<u>Total</u>
		<u>Amount</u>		<u>Amount</u>
4,578	x	\$1,963.86	=	\$8,990.551

Under AS 43.23.028(a)(6), this is the total amount that can be appropriated for FY2002 from the Dividend Fund to the Department of Public Safety, Crime Victim Compensation Fund and the Council on Domestic Violence and Sexual Assault as well as the Department of Corrections without triggering disclosure. Any additional amount appropriated from the dividend fund will be disclosed on the 2001 dividend warrant and direct deposit advice stub as required by AS 43.23.028(a)(3).

The number of individuals who would have been eligible was computed by starting with the felon lists provided by the Departments of Corrections and Public Safety in 2000. We first excluded those individuals who were later determined not to have been incarcerated in 1999. We then estimated how many were likely to have been eligible had they not been incarcerated. We did this by matching the lists against the 1988 through 2000 PFD masterfile. To insure that ineligible nonresidents were not included in the computation, we excluded from the list:

1. those whose most recent 1988-1999 application before statutory-ineligibility had been denied for another reason; or
2. those who had not filed for any year in 1988-1999.

Enclosure: Detailed summary of felon file eligibility for dividend appropriations.

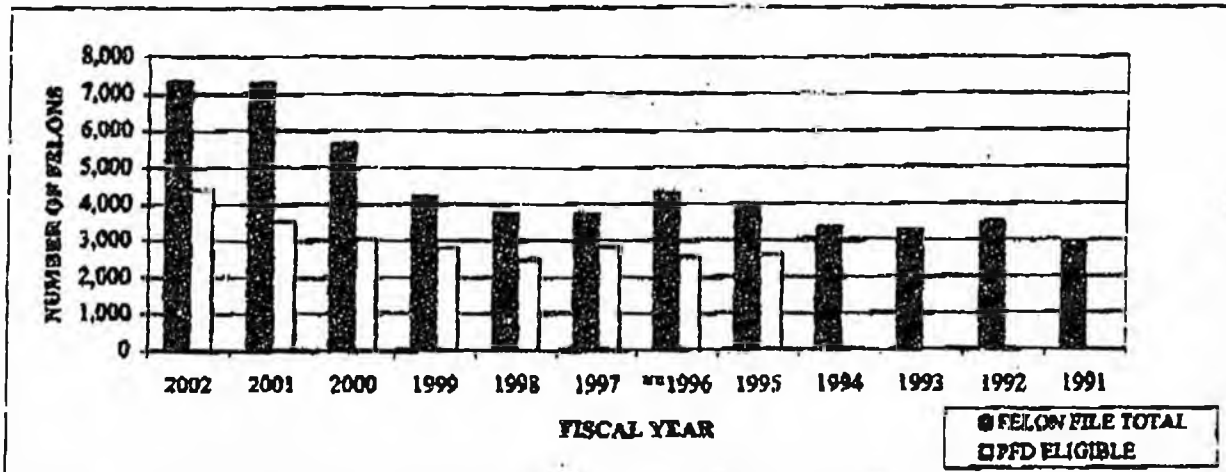
**DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
 FELON FILE ELIGIBILITY FOR DIVIDEND APPROPRIATION TO PUBLIC SAFETY AND CORRECTIONS  
 INCEPTION TO DATE**

FISCAL YEAR	DIVIDEND YEAR	FELON FILE TOTAL	PFD ELIGIBLE	PERCENT ELIGIBLE	CALENDAR YEAR INCARCERATED	APPROPRIATION MAXIMUM	APPROPRIATION % INCREASE
2002	2000	7,307	4,578	63%	1999	8,990,851	0.180
2001	1999	7,273	4,416	61%	1998	7,815,613	0.463
2000	1998	6,849	3,492	62%	1997	5,380,753	0.362
1999	1997	4,207	3,048	72%	1996	3,951,654	0.245
1998	1996	3,728	2,907	78%	1995	3,173,619	0.502
1997	1995	3,753	2,462	66%	1994	2,438,119	-0.128
**1996	1994	4,319	2,848	66%	1993	2,800,179	0.157
1995	1993	3,886	2,549	66%	1992	2,419,224	0.004
1994	1992	3,342	2,630	79%	1991	2,408,859	0.000
1993	1991	3,255	-	-	1990	-	-
1992	1990	3,478	-	-	1989	-	-
1991	1989	2,914	-	-	1988	-	-

**NOTES**

\* program model was not in place - tape match was not publicized.

\*\* In FY 1996, the number of felons was overstated. The correction was made in FY 1997.



The felon eligibility file for dividend appropriation maximums for fiscal years 1991 through 1999 are from felons who were incarcerated as a result of a conviction of a felony.

Starting in fiscal year 2000, the file includes felons who were incarcerated, convicted and sentenced, and individuals who were incarcerated as a result of a conviction of a misdemeanor if these individuals have been convicted of two or more prior crimes.

dw14  
 chdw10301.xls  
 ebrower  
 3/15/01

Currently (3/15/01) Incarcerated Inmates Charged with A DWI Offense  
 DWI Offenses included: DWI - Under the Influence, MOA - Driving Under the Influence

Offense Summary	In-State Inst	Out-of-State Inst	CRCs	Offsite Superv	Totals
Felony DWI	4	0	4	3	11
Felony DWI + At Least 1 Felony	98	21	15	5	139
Felony DWI + At Least 1 Misd	35	4	11	0	50
<i>Totals Felony DWIs</i>	<i>137</i>	<i>25</i>	<i>30</i>	<i>8</i>	<i>200</i>
Misd DWI	12	0	30	6	48
Misd DWI + At Least 1 Felony	94	12	15	3	124
Misd DWI + At Least 1 Misd	71	3	49	9	132
<i>Totals Misd DWIs</i>	<i>177</i>	<i>15</i>	<i>94</i>	<i>18</i>	<i>304</i>
<b>Grand Totals</b>	<b>314</b>	<b>40</b>	<b>124</b>	<b>26</b>	<b>504</b>

*DWI - 10000000*

probdemo  
lzdwi800.xls  
lzaugg  
8/24/00

**Individuals Currently (8/24/00) Listed as Under Supervision**

**Primary Offense: Felony DWI/OMVI - Alcohol**

Office	# Individuals	
ANCHORAGE	216	5
FAIRBANKS	46	2
JUNEAU	13	
KENAI	21	2
PALMER	68	12
<b>Grand Count</b>	<b>364</b>	

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

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SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
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## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### SPONSOR STATEMENT

#### CSHB 4 (TRA)

**An Act relating to offenses involving operating a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage or controlled substance; relating to court records of a conviction involving a violation of the Alaska Uniform Vehicle Code or an other law, regulation, or ordinance regulating the driving of vehicles; relating to implied consent to take a chemical test; relating to registration of motor vehicles; relating to presumptions arising from the amount of alcohol in a person's breath or blood; relating to the definition of 'controlled substance' for purposes of the Alaska Uniform Vehicle Code; and providing for an effective date**

**All reasonable and responsible Alaskans can agree that driving drunk is inappropriate behavior. Drunk drivers can and do kill, maim, cause untold grief, pain, and cost fellow Alaskans money. Why should an Alaskan be afraid to drive a vehicle on Alaska's roads? The drunk driver needs to be separated from his or her vehicle and if the drunk won't separate themselves from that vehicle then it is up to the State to provide public safety for the rest of its citizens by accomplishing just that.**

**Over the past year, Alaska has seen the devastating results of poor decisions made by repeat offender drunk drivers. Even with all the educational promotion (don't drink and drive; use it, lose it; use a designated driver), the message is still not getting across to repeat offenders and many young people. It is unfortunate that most of the time these individuals are not caught and, when they are, it is apparent that some of them are not getting the message: DO NOT DRINK AND DRIVE.**

**CSHB 4 (TRA) would increase fines and jail time for repeat offender drunk drivers. It would lower the blood alcohol content limit from .10 to .08. It mandates that the offender get treatment, pay for treatment (or a part of it), and get treatment while in jail -- no more sitting around and watching television while you serve your three days or whatever.**

**The cost to implement the provisions of CSHB 4 (TRA) is going to be high. But can we balance the cost to the state to that of a human being. What does the life of a loved one cost? What does the treatment of an injured person cost? These offenders also drive around without a license and are uninsured so there is little to**

remote possibility that the injured Alaskan citizen will ever get reimbursed or receive non-state assistance with their costs. One of the main issues facing the legislature in this instance is the people's wish to maintain budget discipline -- a stand that I have been proud to maintain over the years. BUT in this instance, it is time to pay for the safety of our families. The fiscal impact will be great. If it saves one life, or saves one Alaskan from injury -- isn't it worth it?

Sections 37, 44, and 45 are intended to address opinions in several appellate court cases.

Drunk driving cases confront the police with a wide variety of situations, and they should have the tools needed to obtain necessary physical evidence of intoxication. In some cases, time becomes of the essence due to the delays (often caused by complications at the scene of an accident or the conduct of the drivers) in getting drivers to a location where a breath test can be administered. When this happens, or if the breath testing equipment is not functioning, these and other exigent circumstances should allow police to obtain a blood test. In other instances, the police may wish to present the matter to a judge for a warrant.

In *Sosa v. State*, 4 P.3d 951 (Alaska 2000), the Alaska Supreme Court held that the implied consent statutes provide the exclusive means for obtaining evidence of a driver's intoxication. The court reasoned that because AS 28.35.035 permits blood tests only under two specified circumstances (where a crash results in a fatality or serious injury, and where a defendant is unconscious or otherwise incapable of refusal) the statutes, by implication, prohibit blood tests under any other circumstances. Accordingly, in *Sosa* itself the Supreme Court held that the fact that their Intoximeter was broken did not justify the Bethel police in obtaining a warrant for defendant Juan Sosa's blood. The warrant was invalid, and the evidence obtained as a result of the warrant had to be suppressed.

Section 37 adds a new section to AS 28.35.031, providing that the implied consent statute was not intended to prevent the police search warrants. This makes it clear that the legislature has adopted the view expressed by Justice Compton in his dissenting opinion in *Pena v. State*, 684 P. 2d 684, 868 (Alaska 1984). Justice Compton said: "There simply is nothing in the [implied consent] statutes to indicate that the legislature contemplated restricting searches pursuant to warrant, which derive from the statutory authority of the court, rather than the power of an officer to search an individual at the time of arrest."

Section 45 adds a new section to AS 28.35.035, authorizing the police to obtain a blood sample where exigent circumstances prevent the police mentioned by the Alaska Court of Appeals in *Bass v. Municipality of Anchorage v. State*, 692 P.2d 961, 961 (Alaska App. 1984). In *Bass* the court justified its very narrow construction of AS 28.35.035 by saying: "Certainly it would have been easy for the legislature to say that the police could forcibly take a blood sample where there were exigent circumstances which prevented the police from administering a breath test."

**The concept of searches made under exigent circumstances is well-established. Because physical evidence of intoxication disappears rapidly with the passage of time, it is the intent of this section that, if the state can prove the police were unable to take a breath sample within a reasonable period of time, they would be allowed to draw blood.**

**These provisions thus allow the police to obtain blood test evidence of intoxication using the implied-consent procedure in Section 45 when time is of the essence, the testing equipment is not functioning, or there are other exigent circumstances. Section 37 provides an alternative so the police can, in their discretion, use the traditional method of obtaining a search warrant to obtain evidence.**

**Please support this legislation and let's separate the drunk from the vehicle!**

**ED 2:02/28/01**

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

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## Representative Norman Rokeberg

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### SECTIONAL ANALYSIS CSHB 4 (TRA)

**An Act relating to offenses involving operating a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage or controlled substance; relating to court records of a conviction involving a violation of the Alaska Uniform Vehicle Code or another law, regulation, or ordinance regulating the driving of vehicles; relating to implied consent to take a chemical test; relating to registration of motor vehicles; relating to presumption arising from the amount of alcohol in a person's breath or blood; and providing for an effective date.**

Prepared by Representative Norman Rokeberg

- Section 1:** Finding and intent section.
- Section 2:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 3:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 4:** Adds new subsection setting forth that the presumptive sentence for manslaughter as a result of driving while under the influence of an alcoholic beverage or controlled substance is seven years.
- Section 5:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 6:** Requires the department of administration to refuse to register a vehicle if the applicant does not have a valid driver's license due to suspension or revocation or fails to register the vehicle using the applicant's first, middle, and last name or a business name.

- Section 7:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 8:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 9:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 10:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for purposes of the commercial motor vehicle implied consent law.
- Section 11:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 12:** Provides for minimum periods of driver's license revocation after a person has been convicted of D.U.I. or convicted of refusing to take a breath test after being arrested for D.U.I.
- Section 13:** Requires that the court shall furnish the Division of Motor Vehicles with information on a driving conviction by the end of the following business day.
- Section 14:** Technical amendment relating to the authority of the court to grant limited driver's license privileges following a conviction for D.U.I.
- Section 15:** Creates a provision that allows a person with a revoked driver's license to obtain limited driver's license privileges following a conviction for D.U.I. or refusal to take a breath test. Mandates that any such license shall require that the vehicle be equipped with an ignition interlock device during the period of such limited license.
- Section 16:** Requires a person who loses their driver's license for D.U.I. or refusal to take a breath test to meet the alcoholism screening, evaluation, referral, and program requirements under AS 28.35.030(h) imposed under AS 28.15.1819(a)(5) or (8) in order to have license reissued.

- Section 17:** Doubles driver's license reinstatement fees for those convicted of D.U.I.
- Section 18:** Creates a new crime relating to knowingly allowing a person who has been convicted of felony D.U.I. to drive a vehicle you own or control. Defines the crime as a class A misdemeanor and provides minimum penalties.
- Section 19:** Technical amendments relating to driving with a canceled, suspended, or revoked driver's license, or in violation of a license limitation.
- Section 20:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 21:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for purposes of the commercial motor vehicle implied consent law. Also changes references to "driving while intoxicated" to "driving while under the influence of an alcoholic beverage or controlled substance."
- Section 22:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for the purposes of the commercial motor vehicle implied consent law.
- Section 23:** Changes a reference to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Also changes references to "intoxicating liquor" to "alcoholic beverage".
- Section 24:** Changes a reference to "intoxicating liquor" to "alcoholic beverage".
- Section 25:** Changes references from driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 26:** Changes references to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Adds "an alcoholic beverage" to list of items that constitutes crime of driving while "under the influence of an alcoholic beverage or controlled substance". Reduces the legal limit for being intoxicated from 0.10 to 0.08 percent of alcohol in a person's blood.

- Section 27:** Changes references to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Changes the penalties for D.U.I.
- Section 28:** Changes law to establish that treatment providers must provide the judge, prosecutor, defendant, and an agency involved in the defendant's treatment with information and reports concerning the defendant's past and present assessment, treatment, and progress. Such information may only be used in connection with court proceedings involving the defendant or the defendant's treatment and is otherwise confidential.
- Section 29:** Amends law to provide that Department of Health and Social Services shall establish standard for clinically appropriate treatment programs required under AS 28.35.030(h). Increases the limit imposed on cost of imprisonment required to be paid by a person convicted of D.U.I. Specifies that, as much as possible, treatment shall occur while incarcerated. Establishes that "cost of treatment" does not include costs incurred as a result of treatment not required under this subsection.
- Section 30:** Increases the limit imposed on the cost of imprisonment required to be paid by a person convicted of D.U.I. Specifies that imprisonment for a person convicted of D.U.I. cannot be served at a residential treatment facility or a hospital.
- Section 31:** Changes references to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Phases in a 10-year look back period and establishes that a person is guilty of a class C felony if convicted a third time since January 1, 1996, and within 10 years preceding the date of the offense. Increases the penalties for a conviction under this section, including jail time, fine, loss of driver's license, and forfeiture of the vehicle, watercraft or aircraft used in the offense. Revokes vehicle registration for all vehicles owned by the person convicted. Permits a co-owner to register the vehicle in that person's name.
- Section 32:** Changes references to driving " while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."

- Section 33:** Adds provisions relating to restoration of a driver's license following a D.U.I conviction and relating to failure to satisfy alcoholism treatment requirements. Establish procedure for surrender of registration plate for any vehicle registered or co-registered in convicted person's name.
- Section 34:** Makes technical amendments relating to implied consent law. Changes references to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for the purposes of the implied consent law.
- Section 35:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for the purposes of administering a breath test under the implied consent law.
- Section 36:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for purposes of administering a breath or blood test under the implied consent law when there is a motor vehicle accident that causes death or serious physical injury.
- Section 37:** Adds new section providing that the implied consent statute was not intended to prevent the police search warrants.
- Section 38:** Changes references to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 39:** Changes reference to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 40:** Changes reference to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 41:** Changes references to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance." Also changes certain presumptions applicable to civil or criminal action involving a person alleged to have driven while under the influence of an alcoholic beverage or controlled substance.

- Section 42:** Requires the police to inform a person undergoing a chemical test for intoxication of their right to have an independent chemical test and requires the department to make reasonable and good-faith efforts to assist the person to obtain an independent test.
- Section 43:** Changes reference to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 44:** Conforming amendment to Section 45.
- Section 45:** Adds new section authorizing the police to obtain a blood sample where exigent circumstances prevent the police from administering a breath test.
- Section 46:** Requires the state to seek forfeiture of motor vehicle used in committing a D.U.I. or breath test offense. Changes reference to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 47:** Adds new provision requiring registration of felony repeat D.U.I. offenders.
- Section 48:** Adds definition of 'controlled substance' to include inhalants for purposes of D.U.I. laws.
- Section 49:** Changes reference to driving "while intoxicated" to driving "while under the influence of an alcoholic beverage or controlled substance."
- Section 50:** Applicability section.
- Section 51:** Section 47 effective date is July 1, 2002.
- Section 52:** With exception of Section 47, all other sections take effect July 1, 2001.

Full report: <http://www.ci.anchorage.ak.us/mayor>

# Final Report of the DUI Prevention Task Force



Municipality of Anchorage

October 30, 2000

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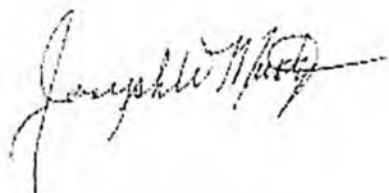
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October 30, 2000

## Statement of Intent

The intent of this DUI Task Force has been to fashion realistic recommendations that fulfill its mandate to advise the Mayor and the Assembly on appropriate action necessary to prevent and deter drunken driving in Anchorage. The Task Force addressed many potentially effective suggestions regarding drunken driving prevention and deterrence. Some proved polarizing, complex, and not subject to immediate implementation. Research, testimony, and debate eventually produced consensus as to the recommendations. While the majority of the recommendations were the product of pure consensus, certain elements within the report met with objections by one or two members. As a whole, however, the entire Task Force endorses the report.

It is our intent to provide you simple, not simplistic, guidance in dealing with the problem of drunken driving in Anchorage. You will find no footnotes and few data quotes to complicate the recommendations. As chairmen, we can assure you that the Task Force has done its homework. The Task Force was appointed as a reflection of the community, and the consensus reached in this report should be a good measure of how the recommendations will be embraced by the citizens of Anchorage.



Joe Murdy  
Co-Chairman



Bob Bailey  
Co-Chairman

## Executive Summary

A special citizen's task force on DUI (Driving Under the Influence) was proposed by Mayor George Wuerch and created by a resolution of the Anchorage Assembly on July 18, 2000. The Task Force was created to advise the Mayor and the Assembly on appropriate legislative action necessary to prevent and deter drunken driving in Anchorage. The Task Force consisted of twenty original members, two ex-officio members, two alternates, and one replacement member.

Original Task Force members were co-chairmen Bob Bailey and Joe Murdy, Charlotte Phelps, Marti Greeson, Obed Nelson, Gail Schubert, Judge Elaine Andrews, Jewel Jones, Denise Henderson, Ron Perkins, Jack Amon, John Richard, Janet Seitz, Paul Reid, Curtis Thayer, Rob Heun, Jasmyne Thea Faulk, Bob Young, Bill Chadwick, and Leslie Ridle. Ex-officio members were Chief Duane Udland and Municipal Attorney Bill Greene. Alternate members were Karen Rogina and Denise Trutanic. Judge Andrews eventually withdrew from the task force and was replaced by Wendy Lyford. Assistant Municipal Prosecutor Carmen Clarkweeks provided valuable legal interpretations of state and municipal law.

The Task Force had an organizational meeting in July 2000, and began work sessions in August 2000. Ten full Task Force meetings were held, including one meeting dedicated solely to public testimony in which twenty-two citizens testified. Those testifying were James Gay, Cheryl Mann, Gary T. Spezialy, Dennis Kalpakoff, Joseph Young, Shannon McBride, Rep Norm Rokeberg, Michelle Villard, John Wood, Dan Coffey, Pat Knowles, Jim Messick, Nelson Page, Bill Herman, Don Grasse, Kelly Gillilan-Gibson, Barbara Bennett, Ken Smith, Janet McCabe, Cliff Lamb, Mike Krukar and Philip Petree. One meeting was devoted to an overview of DUI Courts as the Task Force was interested in this concept and its potential. All full Task Force meetings were electronically recorded.

The Task Force's charter outlined the following issues to address:

- State and/or municipal legislation to prevent and deter drunken driving, particularly those previously convicted of driving under the influence of alcohol;
- Enforcement of existing laws and ordinances;
- Other government programs;
- Other organizations, both public and private, that can be of assistance.

The Task Force created three subcommittees to carry out its work in the following areas:

- Current Laws Subcommittee - examined current laws on the books, addressed issues of enforcement and sentencing without additional legislation;
- Courts Subcommittee - examined alternative legal venues for prosecuting offenders, such as DWI and Drug Courts;
- Alternative Solutions Subcommittee - examined what additional can be done to address the problem of drinking and driving, and considered sentencing alternatives.

The subcommittees held several meetings and then presented reports to the full Task Force. The subcommittee reports can be found in the Addendum to this report. These reports generated a composite list of twenty-five subcommittee recommendations that functioned as discussion points for the full task force. The Task Force used a consensus model to develop final recommendations from the discussion points. The final recommendations contained in this Final Report are not presented in any particular order indicating priority.

## Summary of Task Force Recommendations

The Task Force addressed the broad spectrum of legislative modifications, enforcement issues, potential government programs, and other types of public and private organizations within the scope of the charter statement and reached consensus on the following recommendations:

### State and Municipal Legislative Recommendations

- Change the legal designation from DWI (Driving While Intoxicated) to DUI (Driving Under the Influence)
- Update present statutes to reflect subsequent court decisions
- Make third and subsequent DUIs felonies by eliminating "look back" provisions
- Identify enhancements for charging and sentencing considerations
- Graduate Blood Alcohol Concentration (BAC) levels and penalties from .08, and consider modifying AS 28.35.032, Refusal To Submit To A Chemical Test, to reflect the graduated penalty implications
- Require a valid driver's license and proof of insurance to register a vehicle
- Adopt a mandatory impoundment and forfeiture procedure at the state level
- Explore the feasibility of a centralized clearinghouse for licenses and investigate the expanded options provided by technological advances for tracking licenses whose holders have convictions for certain alcohol related offenses
- Require mandatory alcohol awareness training and a victim's panel as a prerequisite for obtaining a valid resident driver's license
- Provide parameters for monitored, certifiable residential treatment in sentencing when enhancement factors are present
- Offer screening, mandatory alcohol education, and mandatory alcohol assessment during incarceration for DUI
- Provide for monitored alcohol treatment and ensure certifiable minimum standards in all DUI treatment programs
- Adopt Alaska Criminal Justice Assessment Commission recommendation #15 that the state should encourage the expansion of the Department of Health and Social Services Alcohol Safety Action Program (ASAP) through legislation and funding
- Recognize that halfway houses are not appropriate for repeat offenders and analyze halfway house administration
- Adopt Alaska Criminal Justice Assessment Commission recommendation #8 which relates to underage drinkers
- Make AS 04.16.050, Possession, Control, or Consumption by Persons Under 21 a misdemeanor and provide for alcohol treatment or counseling, peer options such as Youth Court, and parental/guardian notification
- Repeal AMC 10.50.015(H), Solicit the Purchase, Attempt to Purchase, or Possess Intoxicating Liquor, and require these offenses be charged under a revised AS 04.16.050

- Establish and fund a DUI Court
- Make AS 28.05.095, Use of Seat Belts and Child Safety Devices Required, a primary law

#### **Enforcement Recommendations**

- Encourage focused enforcement of youthful offenders
- Encourage the state to enforce and prosecute AS 28.35.280, Minor Operating a Vehicle After Consuming
- Establish a Report Every Drunk Driver Immediately (REDDI) program in Anchorage
- Expand "Drunk Busters" program, and initiate year round saturation patrols
- Streamline drunken driver arrest processing procedures
- Initiate safety checkpoints when deemed appropriate by law enforcement
- Implement ignition interlock devices as a condition of probation for DUI offenders after their driving privileges have been reinstated

#### **Other Government Programs**

- Increase alcohol server mandatory training from every three years to every two years
- Establish media awareness campaigns that target the "uncaught offender"
- Establish mandatory alcohol education and awareness programs in schools
- Study alternative forms of transportation between Girdwood and Anchorage
- Establish an umbrella group to facilitate continued coordination, compilation and exchange of data, and exchange of materials between interested groups and organizations

#### **Public/Private Organizations**

- Establish a Responsible Hospitality Institute Chapter in Anchorage

# LEGISLATIVE RESEARCH REPORT

NOVEMBER 28, 2000



REPORT NUMBER 01.023

## FEDERAL HIGHWAY FUNDING AND STATE DWI LAWS

PREPARED FOR REPRESENTATIVE NORMAN ROKEBERG

BY PATRICIA YOUNG, LEGISLATIVE ANALYST

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You asked for an explanation of the connection between federal highway dollars and a state's drinking and driving laws. Specifically, you asked whether Alaska has foregone federal funding opportunities as a result of not having enacted certain provisions regarding open containers and repeat offenders. If so, you wished to know how long the state has foregone such revenue and the amount of funding that has been "lost." Additionally, you asked for an explanation of the funding consequences of the recent federal requirement concerning a blood alcohol concentration standard of 0.08 percent.

For purposes of this report, we focus on measures relating to driving while intoxicated (DWI) addressed by Congress in the Transportation Equity Act for the 21<sup>st</sup> Century, the current federal authorization for surface transportation programs. After a brief summary, we address each provision, and its impact on transportation and highway safety funding in Alaska, individually. We consolidate the data in Table One.

## SUMMARY

In order to encourage states to adopt and enforce specific anti-drunk driving laws, Congress authorized two incentive grant programs and two transfer provisions as part of the Transportation Equity Act for the 21st Century (TEA-21) in 1998.<sup>1</sup> These provisions are in effect from federal fiscal year 1998 through 2003. More recently, President Clinton signed into law a sanction provision to take effect in federal fiscal year 2004, for states that fail to adopt and enforce a 0.08 percent blood alcohol concentration (BAC) standard by that time.

Under the two incentive programs authorized by TEA-21, grant funds are available to states that have enacted specific drunk driving countermeasures (Section 410) and to states that have enacted a 0.08 percent BAC standard (Section 163). The countermeasures incentive under Section 410—with different eligibility criteria—was available under ISTEA, the predecessor of TEA-21. Alaska qualified for funding under the ISTEA version of the program, and because of a delayed effective date, received approximately \$200,500 during 1998. With the change in requirements, however, the state no longer qualifies, and as a result, "lost" approximately \$127,000 in 1999. Section 410 is a broad program with numerous eligibility requirements and several variables in the funding formula. According to Mary Moran, director of the state's highway safety program, qualification demands more staff resources than are presently available. Thus, even if the state were to qualify, she would not apply with the program's current staffing level.

Potential funding under the Section 163 incentive program is significantly more substantial than that available under Section 410. Because Alaska has not implemented the 0.08 BAC standard needed to qualify for funding under this section, since 1998, the state has foregone approximately \$2.3 million that could have been used for any transportation project eligible for federal assistance. The state will continue to "lose" approximately \$700,000 to \$800,000 during each year through 2003 unless lawmakers choose to lower the BAC from 0.10 percent to 0.08.

The transfer provisions require states to implement specific provisions regarding open containers (Section 154) and minimum penalties for repeat offenders (Section 164) by October of 2000. Because Alaska's laws do not conform precisely to the federal requirements of either provision, 1.5 percent of the state's highway construction funds will be transferred to the highway safety program for each of the provisions during FY 2001—a combined total of approximately \$5.2 million. Another 1.5 percent for each provision will be transferred for fiscal year 2002 if the state has not complied with the federal requirements; the transferred amounts double to three percent for each provision during fiscal year 2003 and each year thereafter that the state has not complied.

Lastly, beginning with federal fiscal year 2004, the U.S. Department of Transportation will begin to withhold a percentage of the highway funds apportioned to states that continue to resist implementing the 0.08 BAC standard for *per se* DWI (Section 163[a]). According to federal estimates, if Alaska has not implemented such a standard by FY 2004, the state will lose 2

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<sup>1</sup> The Transportation Equity Act for the 21st Century (TEA-21), enacted June 9, 1998, as Public Law 105-178, authorized federal surface transportation programs for the six-year period of 1998-2003. The Act reauthorized existing National Highway Traffic Safety Administration programs, including the DWI countermeasures incentive grant program under Section 410. Additionally, TEA-21 created the incentive grant program for 0.08 BAC under Section 163. The TEA-21 conferees also agreed upon two provisions for transfer of a portion of a state's highway construction funds to its highway safety program if the state fails to establish and enforce minimum penalties for repeat drunk driving (Section 164) and for open containers in the passenger compartment of a vehicle (Section 154). These two initiatives, omitted from the conference report, were restored to TEA-21 by the TEA-21 Restoration Act, on July 22, 1998, as Public Law 105-206.

percent, or approximately \$3.6 million of its 2004 funding. The annual penalty would rise by an additional 2 percent each year to an estimated \$14.3 million by FY 2007. States that implement the standard before the end of FY 2007, however, will recover the withheld funding.

## INCENTIVE GRANT—ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES (SECTION 410)

As part of the Transportation Equity Act for the 21<sup>st</sup> Century, Congress authorized approximately \$220 million for grants under Section 410, to encourage states to adopt and implement programs to reduce traffic safety problems resulting from individuals driving under the influence of alcohol.<sup>2</sup> The program includes two basic grant options. States may qualify for both basic grants, and those that qualify for either can also apply for supplemental grants.

The Section 410 program was in place under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Congress reauthorized the program with TEA-21 but amended the eligibility requirements and delayed the effective date until FY 1999. According to Mary Moran, director of the Alaska Highway Safety Office, the amendments, to a large extent, reversed the eligibility requirements for the basic and the supplemental grants. As a result, although Alaska qualified under ISTEA, the state no longer does so.

Prior to the eligibility change, Alaska qualified for basic grant funding because criteria such as videotaping of drunk drivers by police, an on-going DWI-prevention program, and the use of passive alcohol sensors (breath tests) by police were in place. Because the shift did not become effective until 1999, Alaska received approximately \$200,500 during 1998. Since the shift, however, those criteria pertain to the supplemental grants, rather than to the basic ones. Because a state must qualify for a basic grant to apply for a supplemental grant, Alaska is currently ineligible for all Section 410 funding. Had Alaska qualified, the state would have received approximately \$127,000 in 1999 to support anti-drunk driving programs. Because of the high number of variables involved in Section 410 funding, Ms. Moran is unable to estimate the amount that Alaska "lost" in 2000. Specific details of the current Section 410 program follow.<sup>3</sup>

Section 410 Eligibility. States have two options for qualifying for the basic Section 410 grant funding. States that qualify for a basic grant may apply for supplemental grants:

Basic Grant A—implement at least 5 of the following 7 criteria:

- ◆ Administrative license revocation;
- ◆ A program to prevent drivers under age 21 from obtaining alcoholic beverages;
- ◆ A program for intensive impaired driving law enforcement;

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<sup>2</sup> 23 USC 410, Alcohol-Impaired Driving Countermeasures.

<sup>3</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Alcohol-Impaired Driving Countermeasures Incentive Grants," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_410.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_410.htm) (accessed 10/10/2000).

- ◆ A graduated licensing law with nighttime driving restrictions and zero tolerance;
- ◆ A program to target drivers with high BAC;
- ◆ Young adult drinking programs to reduce impaired driving by individuals age 21 through 34;
- ◆ An effective system for increasing the rate for BAC of drivers in fatal accidents—beginning in FY2001, the testing rate must be above the national average.

Basic Grant B—demonstrate both of the following:

- ◆ A reduction in the percentage of fatally injured drivers with 0.10 BAC or greater, in each of the last 3 years; and
- ◆ A percentage of fatally injured drivers with 0.10 BAC or greater that is lower than the national average for each of the last 3 years.

Supplemental Grants—implement any of the following:

- ◆ Videotaping of drunk drivers by police;
- ◆ A self-sustaining impaired driving prevention program;
- ◆ Laws to reduce driving with suspended license;
- ◆ Use of passive alcohol sensors by police;
- ◆ Effective system for tracking information on drunk drivers;
- ◆ Other innovative programs.

Distribution of Funds: Beginning in FY 1999, qualifying states receive up to 25% of their FY 1997 Section 402 apportionment for each basic grant; supplemental grants may not exceed 10% of funding made available for Section 410.

Program Administration: The federal share for Section 410 shall not exceed 75% in the 1<sup>st</sup> and 2<sup>nd</sup> years in which a state receives a grant, 50% in the 3<sup>rd</sup> and 4<sup>th</sup> years, and 25% in the 5<sup>th</sup> and 6<sup>th</sup> years. States may use Section 410 grant funds only to implement and enforce impaired driving programs.

At present, Alaska meets at least two of the seven program criteria for basic grant A. The state must meet at least five in order to qualify for funding. According to Ms. Moran, Alaska's eligibility in regard to some criteria is debatable: the state might qualify, for example, in regard to programs for reducing alcohol-impaired driving by young adults. Similarly, the state might qualify in regard to the rate of BAC testing of drivers involved in fatal crashes if the rate is above the national

average.<sup>4</sup> Alaska's DWI countermeasures scheme does not qualify in regard to the following basic grant A criteria:

*Administrative license revocation.* Alaska qualified in regard to this criterion until state lawmakers reduced the duration of license revocation for minors driving after consuming alcohol from 90 days, one year, and three years for first, second, and third or subsequent revocations to 30 days, 60 days, 90 days, and one year for first, second, third, and fourth or subsequent revocations, respectively.<sup>5</sup> Although other provisions still qualify, the revocation scheme as a whole now does not.

*Graduated licensing law with nighttime restrictions and zero tolerance.* Although the state has a graduated licensing system in place and an absolute zero tolerance law (rather than the federally required 0.02 BAC), Alaska's system does not satisfy the federal requirements in the following ways:

- ◆ Program eligibility requires that all occupants must be properly restrained. Alaska law refers only to proper restraint of children under the age of 16.<sup>6</sup>
- ◆ Program eligibility requires that, absent a state-approved exception, a person authorized to drive under a learner's permit or an intermediate driver's license may not drive during some period of the night unless a licensed driver who is 21 years of age or older is in the vehicle. Alaska law has no nighttime restriction.<sup>7</sup>
- ◆ Program eligibility requires that holders of learner's permits and intermediate licenses must remain crash and conviction free. In addition to the revocation provisions noted above, Alaska law addresses license revocation for minors between the ages of 13 and 17 who are convicted of or adjudicated as delinquent for misconduct involving a controlled substance, or for offenses involving the illegal use or possession of a firearm.<sup>8</sup>

*Program targeting drivers with high BAC* (a system of graduated sanctions for DWI offenders with higher than average BAC).

In regard to basic grant B, according to Ms. Moran, the state is close to qualifying for both criteria. She notes, however, that applying for and monitoring either of the Section 410 grant possibilities require a substantial amount of effort. Even if the state could qualify today, she concludes, she would not apply because she lacks sufficient staff to handle the paperwork.

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<sup>4</sup> Testing the BAC of all drivers involved in crashes that result in fatalities—regardless of whether the drivers survive—would provide highly useful data, according to Ms. Moran.

<sup>5</sup> AS 28.15.183(d), Administrative Revocation of License to Drive; changed by Chapter 88, SLA 1999.

<sup>6</sup> AS 28.05.095, Use of Seat Belt and Child Safety Devices Required.

<sup>7</sup> AS 28.15.051-055, Instruction Permits and Provisional Driver's License.

<sup>8</sup> AS 28.15.185, Court Revocation of a Minor's License to Drive.

## INCENTIVE GRANT—0.08 BAC (SECTION 163)

Along with the reauthorization of Section 410 funding, Congress authorized a new incentive program under Section 163.<sup>9</sup> Section 163 provides a total of \$500 million in incentive grant funds for states that enact and enforce laws providing that any person with a BAC of 0.08 percent or greater while operating a motor vehicle will be deemed to have committed a *per se* offense of driving while intoxicated. These funds may be used for highway safety or highway construction—any project eligible for assistance under Title 23 U.S.C. No matching state dollars are required. Program particulars follow.<sup>10</sup>

*Section 163 Eligibility:* Any state that has in effect and is enforcing a 0.08 BAC law, before the end of the fiscal year, is eligible to receive incentive funds for that fiscal year. To be eligible, a state's law must meet six basic elements:

- ◆ It must apply to all drivers;
- ◆ It must set a BAC level of no more than 0.08;
- ◆ It must establish driving at 0.08 BAC as an offense that is illegal *per se*;
- ◆ It must provide for primary enforcement of the law (rather than requiring probable cause that another violation has been committed before allowing enforcement of the 0.08 BAC law);
- ◆ It must apply to the criminal code and, in states with administrative license revocation (ALR) laws, to the ALR law as well; and
- ◆ It must be deemed to be equivalent to the state's standard DWI offense.

*Distribution of Funds:* Available funding each year is apportioned among all eligible states. According to the Section 402 formula—

- ◆ 75 % based on the ratio of the state's population in the latest federal census to the total population in all states.
- ◆ 25 % based on the ratio of the public road miles in the state to the total public road miles in all states.

The apportionment to each state is no less than one-half of one percent.

*Program Administration:* The federal share of a project funded under Section 163 is 100 percent. States may use Section 163 grant funds for any project eligible for federal funding under Title 23.

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<sup>9</sup> 23 USC 163, Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons.

<sup>10</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_163.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_163.htm) (accessed 10/10/2000).

Because Alaska's BAC standard is 0.10 percent, Alaska has not qualified for Section 163 incentive funding. Had Alaska lawmakers lowered the BAC limit to 0.08 and had that law been in effect before the end of 1998, Alaska would have received approximately \$762,500 for that year. Had the state qualified in 1999 or 2000, the funding received would have been approximately the same. As Ms. Moran notes, although federal authorization for the program has increased slightly each year, the number of states that qualify has also increased. Nevertheless, at this point, the state has foregone roughly \$2.3 million in funding that could have been used for any project eligible for assistance under Title 23. If the state certifies with the U.S. Department of Transportation before the end of September, 2001, that Alaska has enacted and is enforcing a conforming law, Alaska could receive an estimated \$700,000 to \$800,000 a year in Section 163 funds for federal fiscal years 2001 through 2003.<sup>11</sup>

### TRANSFER PROGRAMS—OPEN CONTAINER (SECTIONS 154) AND REPEAT OFFENDER (SECTION 164)

In addition to the incentive funding programs, Congress authorized two new programs in which a percentage of a state's highway construction funds (National Highway System Surface Transportation Program, and Interstate Maintenance) will be transferred to its highway safety program if that state has not enacted or does not enforce specific provisions to counter alcohol-impaired driving by October 1, 2000.<sup>12</sup> These programs have identical funding consequences. The penalty for each is transfer of 1.5 percent of a state's construction funds for FY 2001 and 2002, and 3 percent for each year thereafter. The funds transferred to the safety program must be used for alcohol-impaired driving countermeasures, for DWI law enforcement, or for hazard elimination programs. Projects funded with the transferred funds do not require state matching funds.

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#### SECTION 154—OPEN CONTAINER REQUIREMENTS

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For the purposes of Section 154, a state must have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle on a public highway or the right-of-way of a public highway in the state.<sup>13</sup>

U.S. Department of Transportation officials deem Alaska's open container law as nonconforming because of ambiguous wording in regard to motor cycles. The problematic portion of AS 28.35.029 reads as follows:

(b) . . . a person may transport an open bottle, can or other receptacle containing an alcoholic beverage

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<sup>11</sup> Mary Moran, director, Alaska Highway Safety Office, (907) 465-4374.

<sup>12</sup> 23 USC 154, Open Container Requirements; and 23 USC 164, Minimum Penalties for Repeat Offenders for DWI or DUI.

<sup>13</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Open Container Requirements," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/fac:sheets/n\\_154.htm](http://www.fhwa.dot.gov/tea21/fac:sheets/n_154.htm) (accessed 10/25/2000).

(1) in the trunk of a motor vehicle;

(2) on a motor driven cycle, or behind the last upright seat in a motor home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or other receptacle is enclosed within another container . . . .

State officials have attempted to persuade federal officials that the provision was intended to mean—and is enforced as meaning—that a person may transport an open bottle on a motor cycle only if it is enclosed within another container. Federal officials maintain, however, that the provision could be interpreted to mean that a person may transport an open bottle on a motor cycle. Under this view, the phrase "if the open bottle . . . is enclosed . ." could have been intended—and could be interpreted—to refer to "motor home, station wagon, hatchback, or similar trunkless vehicle" without also referring to "motor cycle." As a result, federal officials conclude that Alaska law does not meet Section 154 requirements.

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### SECTION 164—MINIMUM PENALTIES FOR REPEAT DWI OFFENDERS

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To meet the requirements of Section 164, a state must have in effect a law that provides, as a minimum penalty, that an individual convicted of a second or subsequent DWI offense shall be subject to the following penalties.<sup>14</sup>

- ◆ License suspension for not less than one year;
- ◆ Impoundment or immobilization of each of the individual's motor vehicles, or installation of an ignition interlock system on each of the individual's motor vehicles;
- ◆ Assessment of the individual's degree of alcohol abuse and treatment as appropriate; and
- ◆ Receiving, for a 2<sup>nd</sup> offense, assignment of not less than 30 days community service, or not less than 5 days imprisonment; and for a 3<sup>rd</sup> or subsequent offense, an assignment of not less than 60 days of community service, or not less than 10 days imprisonment.

Alaska's statutory provisions meet Section 164 requirements except in regard to impoundment and immobilization of a repeat offender's vehicles and the installation of ignition interlock devices. Alaska law provides that the state may order the forfeiture of a vehicle involved in a DWI offense, but forfeiture is not mandatory, and it applies only in third or subsequent offences. Further, the sanction applies only to the vehicle used in the offense, rather than to all vehicles owned by the offender.<sup>15</sup> As with vehicle forfeiture, the installation of ignition interlock devices is authorized but not mandatory and would not be required in all vehicles owned by an offender. Additionally, installation of such devices applies only in cases wherein the offender receives probation.<sup>16</sup>

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<sup>14</sup> Federal Highway Administration, "TEA-21 Fact Sheet: Minimum Penalties for Repeat Offenders for DWI or DUI," September 14, 1998; available at [http://www.fhwa.dot.gov/tea21/factsheets/n\\_164.htm](http://www.fhwa.dot.gov/tea21/factsheets/n_164.htm) (accessed 10/10/2000).

<sup>15</sup> AS 28.35.036, Forfeiture of Vehicle or Aircraft.

<sup>16</sup> AS 12.55.102, Alcohol Related Offenses.

As noted earlier, in order to avoid transfer of highway construction funds, states must have met the requirements by October 1, 2000, the beginning of federal fiscal year 2001. As a result of not meeting the requirements for Sections 154 and 164, a total of approximately \$5.2 million in funds that would have gone for highway construction in Alaska will be transferred to the state's safety program. The same percentage will be transferred for fiscal year 2002 if the state has not complied with the federal provisions; the transferred amounts double to three percent for fiscal years 2003 and each year thereafter that the state has not complied.

**SANCTION--0.08 BAC [SECTION 163(A)]**

As you know, on October 23, 2000, President Clinton signed into law a national standard for drunk driving. The act requires states to implement laws providing that any person driving with a blood alcohol concentration of 0.08 percent or greater is deemed to have committed a *per se* offense of driving while intoxicated. Currently, 31 states, including Alaska, define *per se* drunken driving at 0.10 percent BAC.

Under the act, states have until October 1, 2003, to pass a 0.08 BAC *per se* law. Those that do not will face the withholding of 2 percent of their highway construction funds in federal fiscal year 2004, with the penalty increasing by an additional 2 percent each year for a total of 8 percent in FY 2007. States that implement the standard by 2007 will recoup the withheld funding. Based on estimated FY 2003 apportionments, the U.S. Department of Transportation foresees the possibility of up to approximately \$36 million withheld from Alaska by the end of FY 2007 if the state does not pass a conforming BAC law.

We consolidate data and information on each of the TEA-21 alcohol-related programs—incentives, transfers, and sanctions—in Table One, "Federal Highway Funding and Alcohol Related Program."

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I hope this information is useful to you. Please do not hesitate to contact us if you have questions or need additional information.

**Table One: Federal Highway Funding and Alcohol-Related Programs**

(dollars in thousands)

Programs	Fiscal Year						Comments
	1998	1999	2000	2001	2002	2003	
Section 410 DWI Countermeasures Incentive Grants	200 <sup>(a)</sup>	127 <sup>(b)</sup>	no estimate	no estimate	no estimate	no estimate	Congress amended eligibility requirements beginning in FY 1999; as a result, Alaska no longer qualifies. The federal share decreases from 75% in the 1st and 2nd years a state receives a Section 410 grant, to 50% in the 3rd and 4th years, and 25% in the 5th and 6th years. States may use Section 410 grant funds only to implement and enforce impaired driving programs.
Section 163 0.08 BAC Incentive Grants	762 <sup>(b)</sup>	762 <sup>(b)</sup>	762 <sup>(b)</sup>	700-800 <sup>(c)</sup>	700-800 <sup>(c)</sup>	700-800 <sup>(c)</sup>	As a result of not having a 0.08 BAC law in effect, Alaska has forgone approximately \$2.3 million in Section 163 grant funds between FY 1998 and FY 2000. A similar amount could be gained or forgone through FY 2003. States may use Section 163 funds for any project eligible for federal assistance under Title 23.
Section 154 Open Container Transfer	not applicable	not applicable	not applicable	2,581 <sup>(d)</sup>	2,581 <sup>(e)</sup>	5,162 <sup>(e)</sup>	Federal officials deem Alaska's open container law to be nonconforming because of ambiguous wording. On October 1, 2000, therefore, an amount equal to 1.5% of the funds apportioned to Alaska for NHS, STP, and IM is to be transferred to the Highway Safety Program. As similar amount will be transferred if the state's law does not conform at the beginning of federal FY 2002; the transferred amount increases to 3% for FY 2003 and thereafter. Section 154 transferred funds must be used for DWI countermeasures, enforcement of DWI and related laws, or for hazard elimination.
Section 164 Repeat Offender Transfer	not applicable	not applicable	not applicable	2,581 <sup>(d)</sup>	2,581 <sup>(e)</sup>	5,162 <sup>(e)</sup>	Alaska's minimum penalties for repeat DWI offenders does not comply with federal requirements because forfeiture of vehicles or the installation of ignition interlock devices is not mandatory and because such provisions do not apply to all vehicles owned by the offender. Transfer of funds is identical to that under Section 154--1.5% of NHS, STP, and IM funding for states out of compliance in FY 2001 and FY 2002; 3% thereafter. Section 164 transferred funds must be used for alcohol-impaired driving countermeasures or enforcement of DWI and related laws.
Section 163(a) Sanction	Fiscal Year						Comments
	2004	2005	2006	2007	2008	2009	
	3,581 <sup>(f)</sup>	7,162 <sup>(f)</sup>	10,743 <sup>(f)</sup>	14,324 <sup>(f)</sup>	14,324 <sup>(f)</sup>	14,324 <sup>(f)</sup>	States that have not complied with the 0.08 BAC standard by October 1, 2003, will have 2% of their federal apportionment withheld. The withheld amount will increase by 2% each year until reaching 8% for FY 2007 and thereafter. States that implement a conforming law before the end of FY 2007 will recoup the withheld funds.

**Notes and Sources:**

- (a) Funding Alaska received. National Highway Safety Administration, "FY 1998 Section 410 Grant"; available at [http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/410\\$.98.html](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/410$.98.html) (accessed 11/17/2000).
- (b) Funding Alaska did not receive. Estimate provided by Mary Moran, director, Alaska Highway Safety Office, (907) 465-4374.
- (c) Funding Alaska could receive if laws conforming to federal requirements are enacted and enforced. Estimate provided by Mary Moran.
- (d) Funding already transferred from highway construction (National Highway System, Surface Transportation Program, and Interstate Maintenance) to the Alaska Highway Safety Office. Federal Highway Administration, "Transfers Pursuant to 23 USC 154 (Open Container Requirements)"; available at <http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/154.html> and <http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/164.html> (accessed 11/26/2000).
- (e) Funding that will be transferred from highway construction to the Alaska Highway Safety Office unless laws conforming to federal requirements are enacted and enforced. Estimates provided by Mary Moran.
- (f) Funding that will be withheld from Alaska's highway apportionment if the state does not have a 0.08 BAC law in force by October 1, 2003; based on estimated FY 2003 apportionment, after distribution of minimum guarantee funds, and calculating penalties of 2% in FY 2004, and an additional 2% each year up to 8% in FY 2007 and thereafter. Withheld funding can be recouped if the state passes a conforming law by the end of FY 2007. Federal Highway Administration, "Annual Core Apportionments and Potential Penalties Under Sec. 163(a) for FY 2004 and Thereafter"; available at [http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/08\\$.SANCTION.html](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/08$.SANCTION.html) (accessed 11/9/2000).

Post-it* Fax Note	7671	Date	# of pages 5
To	Dennis Roshard	From	Tam Cook
Co./Dept.	DOTPF	Co.	LAA-legal
Phone #		Phone #	465-2450
Fax #	586-8365	Fax #	

106TH CONGRESS  
2D SESSION

# H. R. 5394

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

October 5, 2000

Mr. WOLF introduced the following bill, which was referred to the Committee on Appropriations

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## A BILL

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the following sums are appropriated, out of any
- 4 money in the Treasury not otherwise appropriated, for the
- 5 Department of Transportation and related agencies for
- 6 the fiscal year ending September 30, 2001, and for other
- 7 purposes, namely:

2

1 TITLE I  
2 DEPARTMENT OF TRANSPORTATION  
3 OFFICE OF THE SECRETARY  
4 SALARIES AND EXPENSES

5 For necessary expenses of the Office of the Secretary,  
6 \$63,245,000: *Provided*, That not more than 52 percent  
7 of the funds made available under this heading shall be  
8 obligated and not more than 224 full time equivalent staff  
9 years funded through the end of the second quarter of fis-  
10 cal year 2001: *Provided further*, That funds in excess of  
11 52 percent and 224 full time equivalent staff years shall  
12 be available only if the Secretary transmits a request to  
13 the House and Senate Committees on Appropriations for  
14 these additional funds: *Provided further*, That not to ex-  
15 ceed \$60,000 for allocation within the Department for of-  
16 ficial reception and representation expenses as the Sec-  
17 retary may determine: *Provided further*, That not more  
18 than \$15,000 of the official reception and representation  
19 funds shall be available for obligation prior to January 20,  
20 2001.

21 OFFICE OF CIVIL RIGHTS

22 For necessary expenses of the Office of Civil Rights,  
23 \$8,140,000.

83

1 That all information submitted in such reports shall be  
2 current as of the last day of the preceding quarter.

3       SEC. 351. Notwithstanding any other provision of  
4 law, beginning in fiscal year 2004, the Secretary shall  
5 withhold 2 percent of the amount required to be appor-  
6 tioned for Federal-aid highways to any State under each  
7 of paragraphs (1), (3), and (4) of section 104(b) of title  
8 23, United States Code, if a State has not enacted and  
9 is not enforcing a provision described in section 163(a)  
10 of chapter 1 of title 23, United States Code, in fiscal year  
11 2005, the Secretary shall withhold 4 percent of the  
12 amount required to be apportioned for Federal-aid high-  
13 ways to any State under each of paragraphs (1), (3), and  
14 (4) of section 104(b) of title 23, United States Code, if  
15 a State has not enacted and is not enforcing a provision  
16 described in section 163(a) of title 23, United States Code;  
17 in fiscal year 2006, the Secretary shall withhold 6 percent  
18 of the amount required to be apportioned for Federal-aid  
19 highways to any State under each of paragraphs (1), (3),  
20 and (4) of section 104(b) of title 23, United States Code,  
21 if a State has not enacted and is not enforcing a provision  
22 described in section 163(a) of title 23, United States Code;  
23 and beginning in fiscal year 2007, and in each fiscal year  
24 thereafter, the Secretary shall withhold 8 percent of the  
25 amount required to be apportioned for Federal-aid high-

*Oct. 2003*

1 ways to any State under each of paragraphs (1), (3), and  
2 (4) of section 104(b) of title 23, United States Code, if  
3 a State has not enacted and is not enforcing a provision  
4 described in section 163(a) of title 23, United States Code.  
5 If within four years from the date the apportionment for  
6 any State is reduced in accordance with this section the  
7 Secretary determines that such State has enacted and is  
8 enforcing a provision described in section 163(a) of chap-  
9 ter 1 of title 23, United States Code, the apportionment  
10 of such State shall be increased by an amount equal to  
11 such reduction. If at the end of such four-year period, any  
12 State has not enacted and is not enforcing a provision de-  
13 scribed in section 163(a) of title 23, United States Code,  
14 any amounts so withheld shall lapse.

15       Sec. 352. (a) IN GENERAL.—Notwithstanding any  
16 other provision of law, including the Surplus Property Act  
17 of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622  
18 et seq.), the Secretary of Transportation (or the appro-  
19 priate Federal officer) may waive, without charge, any of  
20 the terms contained in any deed of conveyance described  
21 in subsection (b) that restrict the use of any land de-  
22 scribed in such a deed that, as of the date of enactment  
23 of this Act, is not being used for the operation of an air-  
24 port or for air traffic. A waiver made under the preceding

HIGHWAYS FEDERAL-AID HIGHWAYS

23 USCS § 164

obligated at the end of...  
ds withheld under subsec...  
under paragraph (1), the...  
hall lapse...  
June 9, 1998, P. L. 105-

ES  
"paragraphs (1), (3),  
104(b)"

a national scenic byways...  
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Scenic Byways or All-...  
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State scenic byway or, in...  
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make grants and provide...  
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designations as a State

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rpretive facility...  
area for the purpose of...  
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including interpretive...  
gram...  
any project that would

not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

(e) Savings clause. The Secretary shall not withhold any grant or impose any requirement on a State as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter [23 USCS §§ 101 et seq.]

(f) Federal share. The Federal share of the cost of carrying out a project under this section shall be 100 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

(Added June 9, 1998, P. L. 105-178, Title I, Subtitle B, § 1219(a), 112 Stat. 219.)

§ 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

(a) General authority. The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

(b) Grants. For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

- (1) the amount authorized to carry out this section for the fiscal year; by
- (2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(c) Use of grants. A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

(d) Federal share. The Federal share of the cost of a project funded under this section shall be 100 percent.

(e) Authorization of appropriations. (1) In general. There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$55,000,000 for fiscal year 1998, \$65,000,000 for fiscal year 1999, \$80,000,000 for fiscal year 2000, \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, and \$110,000,000 for fiscal year 2003.

(2) Availability of funds. Notwithstanding section 118(b)(2), the funds authorized by this subsection shall remain available until expended.

(Added June 9, 1998, P. L. 105-178, Title I, Subtitle D, § 1404(a), 112 Stat. 240.)

§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

(a) Definitions. In this section, the following definitions apply:

(1) Alcohol concentration. The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) Driving while intoxicated; driving under the influence. The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(3) License suspension. The term "license suspension" means the suspension of all driving privileges.

(4) Motor vehicle. The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) Repeat intoxicated driver law. The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

- (A) receive a driver's license suspension for not less than 1 year;
- (B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;
- (C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(D) receive—  
(i) in the case of the second offense—

## Responses to Statements Regarding .08 BAC Laws

Statement: Most state legislatures have looked at the research evidence and have concluded that .08 laws are not effective. In New Jersey, for example, a Task Force concluded that there is no evidence that .08 laws result in reductions in alcohol-related fatalities.

Response: The research with regard to the effectiveness of .08 BAC laws is consistent and persuasive. At least eight studies have indicated that these laws are associated with reductions in alcohol-related crashes, fatalities, and injuries, particularly in conjunction with administrative license revocation (ALR) laws.

The New Jersey Task Force reviewed only four early studies of the effects of .08 BAC laws and concluded that the results were "mixed." Since that time, four additional comprehensive studies have been conducted. Together with the four original studies, these studies provide consistent and even more persuasive evidence of the effectiveness of .08 BAC laws, both alone and in conjunction with other laws and activities.

A 1999 GAO review of seven of these eight studies concluded that there are "*strong indications that .08 BAC laws in combination with other drunk driving laws ... can save lives*" (p2). GAO also stated that "*.. we and DOT reach essentially the same conclusion regarding the effectiveness of .08 BAC laws, both by themselves and in combination with other measures*" (p24).

While the studies of effectiveness have been persuasive, effectiveness is not the primary basis for supporting a .08 BAC law. **The primary reasons for supporting such a law are that, at .08 BAC, virtually everyone is impaired in important skills related to driving and their risk of being involved in a fatal crash is greatly increased.** Several states have recognized this. In New Mexico, for example, a State Task Force carefully reviewed only the evidence of impairment and crash risk at .08 BAC. Following this review, New Mexico chose to enact a .08 BAC law.

Statement: The Government Accounting Office (GAO) has recently conducted a critical review of the .08 studies and has concluded that these laws are not effective in reducing alcohol-related fatalities.

Response: This statement is not correct! The GAO report stated that there are "*strong indications that .08 BAC laws in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives*" (p2).

Statement: The GAO study concluded that "the evidence does not conclusively establish that

.08 laws, by themselves, result in reductions in the number and severity of alcohol-related crashes.

Response: No research is ever conclusive in an "unequivocal" sense. Neither are laws ever implemented "by themselves." The combination of strong laws, highly visible enforcement, and strong public information is the key to reducing alcohol-related fatalities. NHTSA has maintained that the evidence of the effectiveness of .08 BAC laws is consistent and persuasive, particularly in conjunction with the administrative license revocation (ALR) laws, already enacted in 40 states.

The GAO report confirms this relationship and further states that "*although we characterize the strength of the study results differently, we and DOT reach essentially the same conclusion regarding the effectiveness of .08 BAC laws, both by themselves and in combination with other measures*" (p24).

Statement: We keep hearing that enactment of .08 BAC laws in all states would result in 500 lives being saved every year. The GAO report looked at the study that made this estimate and found it to be groundless.

Response: At the time of the GAO study, two studies had independently formulated estimates of lives saved. A Boston University study estimated that 500-600 additional lives would be saved if all states adopted .08 BAC laws. An NHTSA (50-state) study used a more detailed analysis and estimated that 590 lives would be saved -- a very similar estimate. While GAO criticized the Boston University Study for not describing how it arrived at its estimate, GAO did not criticize the elaborate and detailed methodology of the NHTSA 50-state study.

Further, a new Boston University study was recently published. This study evaluated the effectiveness of .08 BAC laws enacted in six states in 1993 and 1994 and concluded that, overall, these states experienced a 5-6 percent greater decline in measures of alcohol-related crashes, compared with six nearby states that did not lower their BAC limits. This study estimated that, if all states adopted a .08 BAC law, 400-500 fewer fatalities would occur annually.

Advocates of .08 BAC laws have used the mid-point of these three estimates and have projected that, if all states were to adopt .08 BAC laws, an additional 500 lives would be saved each year. This estimate of 500 lives saved is well within the confidence boundaries of all of the estimates made to date.

Statement: .08 BAC laws make criminals out of normal social drinkers.

Response: Impairment and crash risk are the issues - not how many drinks it may take to get to .08 BAC. Scores of studies have been conducted which indicate that, at .08 BAC virtually everyone is impaired in important skills related to driving and that, at that level, the risk of being involved in a fatal crash is many times greater than at .00 BAC.

Statement: ".08 BAC legislation will not affect problem drinker drivers who have high BAC levels."

Response: The research shows that .08 laws not only reduce the incidence of impaired driving at lower BACs, they also reduce the incidence of impaired driving at higher BACs (i.e., over .10). A .08 law serves as a general deterrent to drinking and driving. It sends a message that the state is getting tougher on impaired driving, and it makes many people think twice about getting behind the wheel after they've had too much to drink. A .08 BAC law is a key component of an overall program to reduce impaired driving. While problem drinkers do account for a significant part of the problem, most fatally injured drinking drivers (70-80%) have no prior alcohol-related offenses.

A comprehensive anti-DWI program must use all available laws and programs to reduce fatalities.

Statement: ".08 is just the first step toward even lower BACs and eventually another attempt at prohibition."

Response: The notion that safety organizations seek a return to prohibition is unfounded. Although there is strong research evidence that driving-related skills begin to deteriorate below .08 BAC, most safety advocates have adopted .08 BAC as a reasonable and acceptable compromise that will save lives, prevent injuries and reduce costs to society.

**US DEPARTMENT OF TRANSPORTATION  
 FEDERAL HIGHWAY ADMINISTRATION  
 ANNUAL CORE APPORTIONMENTS AND POTENTIAL PENALTIES UNDER SEC. 163(a)  
 FOR FY 2004 AND THEREAFTER\*  
 (Assuming Various Rates of Penalty)**

<u>State</u>	<u>IM / STP / NHS Total</u>	<u>.08 BAC adopted as Legal Standard</u>	<u>2% Penalty</u>	<u>4% Penalty</u>	<u>6% Penalty</u>	<u>8% Penalty</u>
<b>Alaska</b>	<b>179,048,339</b>	-	<b>3,580,967</b>	<b>7,161,934</b>	<b>10,742,900</b>	<b>14,323,867</b>
Washington	297,631,829	X	0	0	0	0
Oregon	221,819,579	X	0	0	0	0
Idaho	140,668,319	X	0	0	0	0
Wyoming	156,383,521	-	3,127,670	6,255,341	9,383,011	12,510,682

- Based on estimated FY 2003 apportionments, after distribution of Minimum Guarantee funds

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Web posted Friday, April 21, 2000

## Two die in 2-car wreck

By McKIBBEN JACKINSKY  
Peninsula Clarion

A two-vehicle accident at Mile 37.5 of the Seward Highway, just north of the Sterling Highway cutoff, claimed the lives of two men and injured two others on Wednesday.

Killed were Martin John Richard, 50, and Ladd E. Macaulay, 57, both of Juneau.

Injured were Steven Gregory McGee, 49, also of Juneau, and Michael J. Glaser, 43, of Crown Point.

Alaska State Troopers reported that shortly after 4 p.m., **Glaser** was driving an older model Chevrolet crew cab southbound on the Seward Highway. The pickup crossed the center line, striking a northbound Toyota Camry head on.

The pickup then rolled on its side, trapping **Glaser**, the sole occupant.

The Toyota, a rental vehicle, hit the side of the surrounding mountain, trapping the three occupants, Richard, Macaulay and McGee.

Richard, who had been driving the Toyota, and Macaulay, the backseat passenger, were pronounced dead at the scene.

McGee and **Glaser** were transported to Central Peninsula General Hospital.

Richard had served as director of Alaska's Division of Investments since 1986 and was a 21-year state employee. He was married to Barbara J. "Jill" Richard, a nurse. The two had no children.

Macaulay was a loan officer with the Division of Investments and previously served as director of the Douglas Island Pink and Chum fish hatchery in the Juneau area.