

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11346 SENATE STATE AFFAIRS

Chapter 60. Ferry Terminal Facilities.

Sec. 19.60.010. — 19.60.070. [Renumbered as AS 19.65.030(a) — (g).]

Chapter 65. Alaska Marine Highway System.

Article

- 1. Comprehensive Plan, Vessels, and Facilities (§§ 19.65.011 — 19.65.035)
- 2. Alaska Marine Highway System Fund and Budget (§§ 19.65.050 — 19.65.100)

Article 1. Comprehensive Plan, Vessels, and Facilities.

Section

- 11. Comprehensive long-range plan
- 20. Naming of vessel or facility
- 30. Acquisition and maintenance of ferry terminal facilities

Section

- 35. Transportation of members of the Alaska organized militia

Cross references. — For provisions concerning animals on state ferries, see AS 03.53.010.

Sec. 19.65.010. Duty station or port change for employees of the Alaska marine highway system. [Repealed, § 52 ch 59 SLA 1982.]

Sec. 19.65.011. Comprehensive long-range plan. The Department of Transportation and Public Facilities shall prepare a comprehensive long-range plan for the development and improvement of the Alaska marine highway system and shall revise and update the plan at least every five years. The department shall submit the comprehensive long-range plan and revisions and updates of the plan to the legislature. (§ 1 ch 94 SLA 1992)

Sec. 19.65.020. Naming of vessel or facility. (a) A vessel or facility of the Alaska marine highway system constructed or acquired by the Department of Transportation and Public Facilities under this chapter may be given a name only by law.

- (b) A maritime vessel shall bear the name of an Alaska glacier.
- (c) A vessel used principally on the inland waterways of the state shall bear the name of a historical vessel which used the rivers of the state.
- (d) The new maritime vessel to be delivered to the Alaska marine highway system in 1998 is named the Motor Vessel Kennicott.

(e) The Motor Vessel Fairweather and the Motor Vessel Chenega are authorized names for state ferries first operating as part of the Alaska marine highway system on or after August 8, 2002. The commissioner of transportation and public facilities shall select between the names for the one most appropriate to the route served by the ferry and shall publicly announce the selection. (§ 2 ch 4 SLA 1981; am § 1 ch 19 SLA 2002)

Revisor's notes. — In 1996, "this chapter" was substituted for "AS 19.60 — AS 19.65" to reflect the 1996 renumbering of AS 19.60. Subsection (d) was enacted in 1997 as uncodified law in § 1, ch. 1, SLA 1997 and codified in 2002. Subsection (e) was enacted as AS 35.40.150 and renumbered in 2002.

Sec. 19.65.025. Vessel design and construction. [Repealed, § 43 ch 128 SLA 1992.]

Sec. 19.65.030. Acquisition and maintenance of ferry terminal facilities. (a) The department shall construct, purchase, or lease ferry terminal facilities

locations it sele
own power, on e
Construction an
Procurement C
(b) The depa
(c) The depa
facilities by the
department ma
under a permit
(d) A person i
department as t
the department
ment considers
(e) A ferry te
department.
(f) A ferry ter
not affected by t
(g) In this sec
(1) "departme
(2) "ferry" me
propelled vehicle
1986; am § 37 c

Revisor's notes. Formerly AS 19.60.010 numbered in 1996, substituted for "section" was substituted and (g).

Applied in Cole v 621 F. Supp. 3 (D. Al

Collateral referen §§ 1-5, 24-30. 36A C.J.S., Ferries Carrier's certificat

Sec. 19.65.035 the extent that sp shall provide free member of the A Defense Force wh (§ 2 ch 25 SLA 2

Effective dates. — which enacted this se 2000.

Article 2. A

Section

- 50. Legislative findin
- 60. Alaska marine h
- 70. Revenue account

All ferries in Alaska are named after glaciers.
I picked Lituya Glacier. It is in Glacier Bay
National Monument. It was named in 1917 by
J.B. Mertle, Jr.

A glacier is a big river of ice that slides down
a mountain. It carries rocks and trees down.
When glaciers calve into the water, they
become icebergs.

I chose "Lituya" because it was where the
biggest tsunami hit. It happened on July 1, 1958,
after an 8.0 earthquake hit. It caused a large
landslide in the bay. I think that we should name
the new ferry "Lituya" because that was where
the biggest wave hit.

Josiah Milne
2nd Grade - Moran

SB

224

SENATE COMMITTEE REPORT

DATE: 2/25/04

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/28/04

State Affairs Committee considered **SENATE BILL NO. 224**

SB 224 LOWER DWI FOR MINORS TO .02

"An Act relating to lowering the legal level of intoxication for operating a motor vehicle, aircraft, or watercraft to .02 percent or the equivalent for persons under 21 years of age; relating to implied consent for purposes of determining consumption of alcohol; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 224 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
DPS	4/27/04		✓		
H&SS	4/28/04		✓		
ACS	4/21/04			✓	
DOA	4/29/04		✓		
DOA	4/25/04			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John A. Conduff</i>	✓			
<i>Scott L. ...</i>			✓	
<i>Julia ...</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224CS(STA)-DHSS-DJJ-04-28-04

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title LOWERING B.A.C. TO .02 OR THE EQUIVALENT FOR MINORS

RDU Juvenile Justice

Component Probation Services

Sponsor COWDERY

Requester SENATE (STA)

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 CS SB 224 (STA) is consistent with federal law and requirements and will not result in additional costs to the Division of Juvenile Justice.

Prepared by: Jana Heard
 Division: Juvenile Justice
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1385
 Date/Time 03/17/2004
 Date 04/28/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224CS-ACS-TC-4-28-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Minor operating a vehicle after BRU Alaska Court System
consuming alcohol Component Trial Courts
 Sponsor Senator Cowdery
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Committee Substitute for SB 224(STA) increases the fines and provides for mandatory community work service for the offenses of (1) minor operating a vehicle after consuming alcohol, (2) minor's refusal to submit to a chemical test and (3) driving during the 24 hours after being cited for alcohol or breath test offenses. Although these offenses remain infractions, the mandatory community work service triggers the right to appointed council and a jury trial. Because of these additional rights, passage of CSSB 224(STA) will impact the court system. At this time, however, the extent of that impact is too speculative to support a fiscal note.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 4/28/04 12:03 PM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 4/28/2004
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB224CS-DPS-ASTD-4-27-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Minors operating veh. after consuming alcohol RDU Alaska State Troopers
Component AST Detachments
Sponsor Sen. Cowdery
Requester (S) State Affairs Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation will enhance the penalties for minors operating a vehicle after having consumed alcohol, refusal of a breath test, or operating a vehicle within 24 hours after being cited for minor operating a vehicle after consuming alcohol. The offenses under AS 28.35.280, AS 28.35.285, and AS 28.35.290 respectively, will remain infractions. Under current statute, a fine of not more than \$1000 can be assessed. With the proposed legislation, mandatory minimum fines will be established. The amount of the fine will be increased for each subsequent offense.

It is not anticipated that this legislation will have a fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Allen Storey Phone 907-269-4532
Division: Alaska State Troopers Date/Time 4/27/04 4:41 PM
Approved by: Commissioner William Tandeske Date 4/27/2004
Agency: Department of Public Safety

AMENDMENT 1

CSSB 224 23-LS1037X

*Adopted w/o
08-7*

Page 4, line 2

(2) has been previously convicted **once** under this section, AS 28.35.280, or

Page 4, line 11

(3) has been previously convicted **two or more times** under this section, AS 28.35.290, or

23-LS1037X
Luckhaupt
4/21/04

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to a minor operating a vehicle after consuming alcohol, to a minor**
2 **refusing to submit to chemical tests, and to driving during the 24 hours after being cited**
3 **for one of those offenses; and providing for an effective date."**

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

5 *** Section 1. AS 28.35.280(d) is repealed and reenacted to read:**

6 (d) The offense of a minor operating a vehicle after consuming alcohol is an
7 infraction and if the minor

8 (1) has not been previously convicted under this section,
9 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

10 (A) fine of \$500; and

11 (B) period of community work service of not less than 20 hours
12 nor more than 40 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol if opportunities are available for that type of work service in the

1 community; if such opportunities are not available, the court shall make other
2 provisions for the work service;

3 (2) has been previously convicted once under this section,
4 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

5 (A) fine of \$1,000; and

6 (B) period of community work service of not less than 40 hours
7 nor more than 60 hours; the community work service under this subparagraph
8 must be related to education about or prevention or treatment of misuse of
9 alcohol if opportunities are available for that type of work service in the
10 community; if such opportunities are not available, the court shall make other
11 provisions for the work service;

12 (3) has been previously convicted two or more times under this
13 section, AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

14 (A) fine of \$1,500; and

15 (B) period of community work service of not less than 60 hours
16 nor more than 80 hours; the community work service under this subparagraph
17 must be related to education about or prevention or treatment of misuse of
18 alcohol if opportunities are available for that type of work service in the
19 community; if such opportunities are not available, the court shall make other
20 provisions for the work service.

21 * **Sec. 2.** AS 28.35.285(d) is repealed and reenacted to read:

22 (d) Refusal to submit to a chemical test or tests of the person's breath
23 requested under AS 28.35.280 is an infraction and if the minor

24 (1) has not been previously convicted under this section,
25 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

26 (A) fine of \$500; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) has been previously convicted once under this section,
3 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

4 (A) fine of \$1,000; and

5 (B) period of community work service of not less than 40 hours
6 nor more than 60 hours; the community work service under this subparagraph
7 must be related to education about or prevention or treatment of misuse of
8 alcohol if opportunities are available for that type of work service in the
9 community; if such opportunities are not available, the court shall make other
10 provisions for the work service.

11 (3) has been previously convicted two or more times under this
12 section, AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

13 (A) fine of \$1,500; and

14 (B) period of community work service of not less than 60 hours
15 nor more than 80 hours; the community work service under this subparagraph
16 must be related to education about or prevention or treatment of misuse of
17 alcohol if opportunities are available for that type of work service i the
18 community; if such opportunities are not available, the court shall make other
19 provisions for the work service.

20 * Sec. 3. AS 28.35.290(b) is repealed and reenacted to read:

21 (b) Operating a motor vehicle during the 24 hours after being cited for minor
22 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
23 chemical test is, an infraction and if the minor

24 (1) has not been previously convicted under this section,
25 AS 28.35.230, or 28.35.285, upon conviction, the court shall impose a

26 (A) fine of \$500; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) has been previously convicted under this section, AS 28.35.280, or
3 28.35.285, upon conviction, the court shall impose a

4 (A) fine of \$1,000; and

5 (B) period of community work service of not less than 40 hours
6 nor more than 60 hours; the community work service under this subparagraph
7 must be related to education about or prevention or treatment of misuse of
8 alcohol if opportunities are available for that type of work service in the
9 community; if such opportunities are not available, the court shall make other
10 provisions for the work service;

11 (3) has been previously convicted under this section, AS 28.35.280, or
12 28.35.285, upon conviction, the court shall impose a

13 (A) fine of \$1,500; and

14 (B) period of community work service of not less than 60 hours
15 nor more than 80 hours; the community work service under this subparagraph
16 must be related to education about or prevention or treatment of misuse of
17 alcohol if opportunities are available for that type of work service in the
18 community; if such opportunities are not available, the court shall make other
19 provisions for the work service.

20 * Sec. 4. Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.

21 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 APPLICABILITY. The changes made to AS 28.35.280, 28.35.285, and 28.35.290 by
24 this Act apply to offenses committed on or after the effective date of this Act. References to
25 prior convictions under AS 28.35.280, 28.35.285, and 28.35.290, as amended by this Act,
26 apply to convictions occurring before, on, or after the effective date of this Act.

27 * Sec. 6. This Act takes effect July 1, 2004.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 224
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "...minor operating a vehicle after RDU Division of Motor Vehicles
consuming alcohol..." Component Motor Vehicles
 Sponsor Sen. Cowdery
 Requester (S) Finance Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 DMV does not anticipate an increase in workload. The number of arrests will remain relatively constant unless law enforcement increases their staffing dramatically. DMV has a system in place for handling these cases and an additional criminal charge will not substantially change the workload.

Prepared by: Duane Bannock Phone 269 5008
 Division: Motor Vehicles Date/Time 4/29/04 7:08 AM
 Approved by: Kevin Jardell, Deputy Commissioner Date 4/29/2004
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB 224 ()
 () Publish Date: 4/21/2004 Version X

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to a minor operating a vehicle BRU Legal and Advocacy Services
after consuming alcohol... Component Office of Public Advocacy
 Sponsor Senator Cowdery
 Requester (S) State Affairs Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						*
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

This bill will have a fiscal impact on the operations of the Office of Public Advocacy, though the impact will be indeterminate. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See Auliye v. State, 57 P3d 711 (Alaska App. 2002); Booth v. State, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned public counsel for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties.

Prepared by: Joshua P. Fink, Director
 Division Office of Public Advocacy
 Approved by: Kevin Jardell, Deputy Commissioner
 Agency Administration

Phone (907) 269-3500
 Date/Time 4/28/04 12:00 AM
 Date 4/29/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB224(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to lowering the legal BRU Legal and Advocacy Services
level of intoxication Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester (S) State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	97.4	97.4	97.4	97.4	97.4	97.4
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	23.1	23.1	23.1	23.1	23.1	23.1
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	134.7	128.7	128.7	128.7	128.7	128.7

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	134.7	128.7	128.7	128.7	128.7	128.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	134.7	128.7	128.7	128.7	128.7	128.7

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill will have a fiscal impact on the operations of the Public Defender Agency. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See *Auliya v. State*, 57 P3d 711 (Alaska App. 2002); *Booth v. State*, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned to the Agency for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties. Since most of these offenses occur in Anchorage or Palmer, the Agency will need one full time attorney in one of these locations to handle this increased caseload.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time 4/28/04 12:00 AM
 Approved by: Kevin Jardell, Deputy Commissioner Date _____
 Agency Administration

23-LS1037V
Luckhaupt
4/19/04

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to a minor operating a vehicle after consuming alcohol, to a minor**
2 **refusing to submit to chemical tests, and to driving during the 24 hours after being cited**
3 **for one of those offenses; and providing for an effective date."**

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

5 *** Section 1.** AS 28.35.280(d) is repealed and reenacted to read:

6 (d) The offense of a minor operating a vehicle after consuming alcohol is
7 (1) if the minor has not been previously convicted under this section,
8 AS 28.35.285, or 28.35.290, an infraction, and, upon conviction, the court shall
9 impose a

- 10 (A) fine of not more than \$1,000; and
- 11 (B) period of community work service of not less than 20 hours
12 nor more than 40 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol if opportunities are available for that type of work service in the

1 community; if such opportunities are not available, the court shall make other
2 provisions for the work service;

3 (2) if the minor has been previously convicted under this section,
4 AS 28.35.285, or 28.35.290, a class B misdemeanor punishable as provided in
5 AS 12.55, and, upon conviction, the court may impose a term of imprisonment and
6 shall impose a

7 (A) fine of not more than \$2,000; and

8 (B) period of community work service of not less than 40 hours
9 nor more than 60 hours; the community work service under this subparagraph
10 must be related to education about or prevention or treatment of misuse of
11 alcohol if opportunities are available for that type of work service in the
12 community; if such opportunities are not available, the court shall make other
13 provisions for the work service.

14 * **Sec. 2.** AS 28.35.280 is amended by adding a new subsection to read:

15 (f) Notwithstanding another provision of law, the commissioner of
16 corrections, when designating a correctional facility under AS 33.30.061 for a minor
17 sentenced to a term of imprisonment under this section, shall order the minor to serve
18 the term in an institution operated or used by the commissioner of health and social
19 services for the commitment of juveniles under AS 47.

20 * **Sec. 3.** AS 28.35.285(d) is repealed and reenacted to read:

21 (d) Refusal to submit to a chemical test or tests of the person's breath
22 requested under AS 28.35.280 is

23 (1) if the minor has not been previously convicted under this section,
24 AS 28.35.280, or 28.35.290, an infraction, and, upon conviction, the court shall
25 impose a

26 (A) fine of not more than \$1,000; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) if the minor has been previously convicted under this section,
3 AS 28.35.280, or 28.35.290, a class B misdemeanor punishable as provided in
4 AS 12.55, and, upon conviction, the court may impose a term of imprisonment and
5 shall impose a

6 (A) fine of not more than \$2,000; and

7 (B) period of community work service of not less than 40 hours
8 nor more than 60 hours; the community work service under this subparagraph
9 must be related to education about or prevention or treatment of misuse of
10 alcohol if opportunities are available for that type of work service in the
11 community; if such opportunities are not available, the court shall make other
12 provisions for the work service.

13 * Sec. 4. AS 28.35.285 is amended by adding a new subsection to read:

14 (e) Notwithstanding another provision of law, the commissioner of
15 corrections, when designating a correctional facility under AS 33.30.061 for a minor
16 sentenced to a term of imprisonment under this section, shall order the minor to serve
17 the term in an institution operated or used by the commissioner of health and social
18 services for the commitment of juveniles under AS 47.

19 * Sec. 5. AS 28.35.290(b) is repealed and reenacted to read:

20 (b) Operating a motor vehicle during the 24 hours after being cited for minor
21 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
22 chemical test is,

23 (1) if the minor has not been previously convicted under this section,
24 AS 28.35.280, or 28.35.285, an infraction, and, upon conviction, the court shall
25 impose a

26 (A) fine of not more than \$1,000; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) if the minor has been previously convicted under this section,
3 AS 28.35.280, or 28.35.285, a class B misdemeanor punishable as provided in
4 AS 12.55, and, upon conviction, the court may impose a term of imprisonment and
5 shall impose a

6 (A) fine of not more than \$2,000; and

7 (B) period of community work service of not less than 40 hours
8 nor more than 60 hours; the community work service under this subparagraph
9 must be related to education about or prevention or treatment of misuse of
10 alcohol if opportunities are available for that type of work service in the
11 community; if such opportunities are not available, the court shall make other
12 provisions for the work service.

13 * Sec. 6. AS 28.35.290 is amended by adding a new subsection to read:

14 (d) Notwithstanding another provision of law, the commissioner of
15 corrections, when designating a correctional facility under AS 33.30.061 for a minor
16 sentenced to a term of imprisonment under this section, shall order the minor to serve
17 the term in an institution operated or used by the commissioner of health and social
18 services for the commitment of juveniles under AS 47.

19 * Sec. 7. Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.

20 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 APPLICABILITY. The changes made to AS 28.35.280, 28.35.285, and 28.35.290 by
23 this Act apply to offenses committed on or after the effective date of this Act. References to
24 prior convictions under AS 28.35.280, 28.35.285, and 28.35.290, as amended by this Act,
25 apply to convictions occurring on or after the effective date of this Act.

26 * Sec. 9. This Act takes effect July 1, 2004.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to lowering the legal BRU Legal and Advocacy Services
level of intoxication Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester (S) State Affairs Component No. 1831

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

OPERATING EXPENDITURES	FY 2006	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	97.4	97.4	97.4	97.4	97.4	97.4
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	23.1	23.1	23.1	23.1	23.1	23.1
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	134.7	128.7	128.7	128.7	128.7	128.7

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	134.7	128.7	128.7	128.7	128.7	128.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	134.7	128.7	128.7	128.7	128.7	128.7

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill will have a fiscal impact on the operations of the Public Defender Agency. Amending the minor operating a vehicle after consuming alcohol offense to make it a jailable offense and further increasing the penalties will increase the caseload and workload of the Agency. More cases involving juveniles charged with this offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned to the Agency for these offenses. The workload on these cases will also increase beyond what a minor consuming charge would normally generate, because of the more severe penalties, and the fact that the low level of alcohol content of .02 determined by a chemical test will likely be challenged for its reliability. Since most of these offenses occur in Anchorage or Palmer, the Agency will need one full time attorney in one of these locations to handle this increased caseload.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time 4/8/04 12:00 AM
 Approved by: Kevin Jardell, Assistant Commissioner Date _____
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: _____

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title LOWERING B.A.C. TO .02 OR THE
EQUIVALENT FOR MINORS

RDU Juvenile Justice

Component Probation Services

Sponsor COWDERY

Requester SENATE (STA)

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	100.0	100.0	100.0	100.0	100.0	100.0
Miscellaneous						
TOTAL OPERATING	100.0	100.0	100.0	100.0	100.0	100.0

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

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	100.0	100.0	100.0	100.0	100.0	100.0
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

Estimate of any current year (FY2004) cost: _____

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Reclassifying all three offenses conflicts with the federal Juvenile Justice and Delinquency Prevention Act. Any sentences to a juvenile institution would have to be performed in an unlocked setting. Estimates based on Division of Motor Vehicles data for FY03 are that this legislation could result in the need for 3-5 non-secure shelters at an approximate cost of \$15,000 to \$25,000 each, depending on location, for an approximate total cost of \$100,000. Proposed legislation conflicts with efforts related to HB 487 and SB 340, both relating to the detention of juveniles. Proposed changes in HB 487 and SB 340 will put the state in compliance with the federal Juvenile Justice and Delinquency Act (JJDP) formula grant program.

Prepared by: Jana Heard

Phone 465-1385

Division: Juvenile Justice

Date/Time 03/17/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 03/18/2004

Agency: Department of Health and Social Services

23-LS1037\S
Luckhaupt
3/23/04

CS FOR SENATE BILL NO. 224()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATOR COWDERY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a minor operating a vehicle after consuming alcohol, to a minor**
2 **refusing to submit to chemical tests, and to driving during the 24 hours after being cited**
3 **for one of those offenses; and providing for an effective date."**

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

5 *** Section 1.** AS 28.35.280(d) is repealed and reenacted to read:

6 (d) The offense of a minor operating a vehicle after consuming alcohol is a
7 class B misdemeanor punishable as provided in AS 12.55. Upon conviction,

8 (1) if the minor has not been previously convicted under this section,
9 AS 28.35.285, or 28.35.290, the court may not impose a term of imprisonment but
10 shall impose a

11 (A) fine of not more than \$1,000; and

12 (B) period of community work service of not less than 20 hours
13 nor more than 40 hours; the community work service under this subparagraph
14 must be related to education about or prevention or treatment of misuse of

1 alcohol;

2 (2) if the minor has been previously convicted under this section,
3 AS 28.35.285, or 28.35.290, the court may impose a term of imprisonment and shall
4 impose a

5 (A) fine of not more than \$2,000; and

6 (B) period of community work service of not less than 40 hours
7 nor more than 60 hours; the community work service under this subparagraph
8 must be related to education about or prevention or treatment of misuse of
9 alcohol.

10 * **Sec. 2.** AS 28.35.285(d) is repealed and reenacted to read:

11 (d) Refusal to submit to a chemical test or tests of the person's breath
12 requested under AS 28.35.280 is a class B misdemeanor punishable as provided in
13 AS 12.55. Upon conviction,

14 (1) if the minor has not been previously convicted under this section,
15 AS 28.35.280, or 28.35.290, the court may not impose a term of imprisonment but
16 shall impose a

17 (A) fine of not more than \$1,000; and

18 (B) period of community work service of not less than 20 hours
19 nor more than 40 hours; the community work service under this subparagraph
20 must be related to education about or prevention or treatment of misuse of
21 alcohol;

22 (2) if the minor has been previously convicted under this section,
23 AS 28.35.280, or 28.35.290, the court may impose a term of imprisonment and shall
24 impose a

25 (A) fine of not more than \$2,000; and

26 (B) period of community work service of not less than 40 hours
27 nor more than 60 hours; the community work service under this subparagraph
28 must be related to education about or prevention or treatment of misuse of
29 alcohol.

30 * **Sec. 3.** AS 28.35.290(b) is repealed and reenacted to read:

31 (b) Operating a motor vehicle during the 24 hours after being cited for minor

1 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
2 chemical test is a class B misdemeanor punishable as provided in AS 12.55. Upon
3 conviction,

4 (1) if the minor has not been previously convicted under this section,
5 AS 28.35.280, or 28.35.285, the court may not impose a term of imprisonment but
6 shall impose a

7 (A) fine of not more than \$1,000; and

8 (B) period of community work service of not less than 20 hours
9 nor more than 40 hours; the community work service under this subparagraph
10 must be related to education about or prevention or treatment of misuse of
11 alcohol;

12 (2) if the minor has been previously convicted under this section,
13 AS 28.35.280, or 28.35.285, the court may impose a term of imprisonment and shall
14 impose a

15 (A) fine of not more than \$2,000; and

16 (B) period of community work service of not less than 40 hours
17 nor more than 60 hours; the community work service under this subparagraph
18 must be related to education about or prevention or treatment of misuse of
19 alcohol.

20 * **Sec. 4.** Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.

21 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **APPLICABILITY.** The changes made to AS 28.35.280, 28.35.285, and 28.35.290 by
24 this Act apply to offenses committed on or after the effective date of this Act. References to
25 prior convictions under AS 28.35.280, 28.35.285, and 28.35.290, as amended by this Act,
26 apply to convictions occurring before, on, or after the effective date of this Act.

27 * **Sec. 6.** This Act takes effect July 1, 2004.

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a minor operating a vehicle after consuming alcohol, to a minor
2 refusing to submit to chemical tests, and to driving during the 24 hours after being cited
3 for one of those offenses; and providing for an effective date."

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

5 * Section 1. AS 28.35.280(d) is repealed and reenacted to read:

6 (d) The offense of a minor operating a vehicle after consuming alcohol is a
7 class B misdemeanor punishable as provided in AS 12.55. Upon conviction, the court
8 may impose a term of imprisonment and the court shall,

9 (1) if the minor has not been previously convicted, impose a

10 (A) fine of not more than \$1,000; and

11 (B) period of community work service of not less than 20 hours
12 nor more than 40 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol;

1 (2) if the minor has been previously convicted under this section,
2 impose a

3 (A) fine of not more than \$2,000; and

4 (B) period of community work service of not less than 40 hours
5 nor more than 60 hours; the community work service under this subparagraph
6 must be related to education about or prevention or treatment of misuse of
7 alcohol.

8 * Sec. 2. AS 28.35.285(d) is repealed and reenacted to read:

9 (d) Refusal to submit to a chemical test or tests of the person's breath
10 requested under AS 28.35.280 is a class B misdemeanor punishable as provided in
11 AS 12.55. Upon conviction, the court may impose a term of imprisonment and the
12 court shall,

13 (1) if the minor has not been previously convicted, impose a

14 (A) fine of not more than \$1,000; and

15 (B) period of community work service of not less than 20 hours
16 nor more than 40 hours; the community work service under this subparagraph
17 must be related to education about or prevention or treatment of misuse of
18 alcohol;

19 (2) if the minor has been previously convicted under this section,
20 impose a

21 (A) fine of not more than \$2,000; and

22 (B) period of community work service of not less than 40 hours
23 nor more than 60 hours; the community work service under this subparagraph
24 must be related to education about or prevention or treatment of misuse of
25 alcohol.

26 * Sec. 3. AS 28.35.290(b) is repealed and reenacted to read:

27 (b) Operating a motor vehicle during the 24 hours after being cited for minor
28 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
29 chemical test is a class B misdemeanor punishable as provided in AS 12.55. Upon
30 conviction, the court may impose a term of imprisonment and the court shall,

31 (1) if the minor has not been previously convicted, impose a

1
2
3
4
5
6
7
8
9
10
11
12
13
14

(A) fine of not more than \$1,000; and
(B) period of community work service of not less than 20 hours
nor more than 40 hours; the community work service under this subparagraph
must be related to education about or prevention or treatment of misuse of
alcohol;
(2) if the minor has been previously convicted under this section,
impose a
(A) fine of not more than \$2,000; and
(B) period of community work service of not less than 40 hours
nor more than 60 hours; the community work service under this subparagraph
must be related to education about or prevention or treatment of misuse of
alcohol.

- * Sec. 4. Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.
- * Sec. 5. This Act takes effect July 1, 2004.

ALASKA STATE LEGISLATURE
SENATE DISTRICT 0

Interim:
716 West 4th Ave.
Anchorage, AK 99501
Phone: 907-269-0222
Fax: 907-269-0223
Toll Free: 1-888-269-3879



Session:
State Capitol Building
Juneau, AK 99801
Phone: 907-465-3879
Fax: 907-465-2069
Toll Free: 1-888-269-3879

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

SPONSOR STATEMENT CSSB224

“An Act relating to a minor operating a vehicle after consuming alcohol, to a minor refusing to submit to chemical tests, and to driving during the 24 hours after being cited for one of those offenses; and providing for an effective date.”

The purpose of CSSB224 is to change Alaska's law to allow for stiffer penalties to apply when a person under the legal drinking age drives after consuming any amount of alcohol.

Under current Alaska law, a person under 21 who drives with a BAC of below .08 will receive a charge of minor consuming and/or minor operating a vehicle after consuming, both of which are infractions. Typically, infractions can be given for minor matters such as jaywalking.

SB224 makes it a Class B Misdemeanor for minors not complying with zero tolerance laws and increases those penalties for repeat offenders. A minor with no prior convictions will receive a fine up to \$1000.00 and/or community service. Someone coming in with a prior conviction faces fines up to \$2000.00, a minimum of 40 hours of community service. Because the offense is a Class B Misdemeanor, the minor may receive up to 90 days in jail.

If 21 is of age to legally drink alcohol, why should it be acceptable for any person under the legal drinking age to drink and drive? Drivers between the ages of 15 and 20 years old make up roughly 7% of the total driving population. That 7% constitutes 14% of the alcohol related fatalities. Zero Tolerance laws can act as a deterrent and dramatically help change this deadly pattern of behavior.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224-ACS-TC-3-4-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Lower DUI for Minors to .02 BRU Alaska Court System
 Component Trial Courts
 Sponsor Senator Cowdery
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	16.6	16.6	16.6	16.6	16.6	16.6
Travel						
Contractual	17.3	17.3	17.3	17.3	17.3	17.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	33.9	33.9	33.9	33.9	33.9	33.9

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	33.9	33.9	33.9	33.9	33.9	33.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	33.9	33.9	33.9	33.9	33.9	33.9

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	2	2	2	2	2	2

ANALYSIS: (Attach a separate page if necessary)
 Senate Bill 224 lowers to .02 the BAC level sufficient to charge a person under the age of 21 with the crime of DUI. According to information provided by the Division of Motor Vehicles, in 2003 232 persons under the age of 21 with BAC levels below .08 had their licenses suspended for the offense of minor operating a vehicle after consuming alcohol. This note assumes that, had SB 224 been the law at that time, approximately 200 of those offenses would have charged as DUIs. The Alaska State Troopers, the Public Defender Agency and the Office of Public Advocacy have all raised concerns about the number of these cases that would be challenged due to concerns about the accuracy of BAC tests at such low levels. Additional concerns have been raised about litigation over probable cause issues. Given those concerns, this fiscal note conservatively assumes a 5% trial rate for 200 new DUI cases a year. The note covers juror fees and judicial and clerical time.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 3/4/04 8:20 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 3/4/2004
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: SB 224
 (S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "Act Lowering the Limits for DUI for those under 21 years of age....." RDU Administration & Operations
 Component: Institution Director's Office
 Sponsor Senator Cowdery
 Requester _____ Component No. 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*
Grants & Claims	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES	*	*	*	*	*	*
-----------------------------	---	---	---	---	---	---

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: *(Attach a separate page if necessary)*
 This legislation if passed would amend AS 28.35.030 making it a criminal offense to drive under the influence if the person is under 21 years of age, and has a blood alcohol content of .02 or more.

 The fiscal impact to the Department of Corrections is indeterminate at this time for several reasons:

 Based on data provided to the Department of Public Safety by DMV, there were approximately 82 individuals who may have been subjected to the provisions of this bill had it been law in 2003. It is not known how many of those 82 individuals would have been convicted and sentenced as adults.

Prepared by: Jerry D. Burnett, Director Phone (907) 465-3339
 Division: Administrative Services Date/Time 2/24/04 10:04 AM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date 2/24/2004
 Agency: Department of Corrections

ANALYSIS CONTINUATION

DMV's data also reports that there were about 144 other individuals contacted by law enforcement officers, but the officer determined that there was insufficient probable cause to arrest them and obtain a blood alcohol sample. It could be assumed that some of these persons would have had a blood alcohol level of .02 to .079.

The number of convictions is unknown therefore the fiscal impact to the Department of Corrections is indeterminate.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 224
(S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to lowering the legal level c RDU CRIMINAL
intoxication for operating a motor vehicle, aircraft, or watercraft to .02 Component Criminal Justice Litigation
Sponsor Senator Cowdery
Requester Senate Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill changes the Driver's License Act by including as an offense of operating a vehicle or aircraft while under the influence of an alcoholic beverage, inhalant or controlled substance, a person with a blood alcohol content of .02 who is less than 21 years of age.

Passage of this legislation will have a fiscal impact on the Department of Law as it will, if enforced, result in a much larger number of DUI charges filed. How many of those will be referred to the state for prosecution is not determinable. It is also likely to result in more legal challenges to driver's license revocations, but we are similarly unable to quantify the impact.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/23/04 4:48 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/23/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 224
(S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Act Lowering the Limits for DUI for those under RDU Alaska State Troopers
21 years of age Component AST Detachments
Sponsor Sen. Cowdery
Requester Senate Transportation Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 224, if passed, will amend AS 28.35.030 to make it a criminal offense to drive under the influence if the person is under 21 years of age, and has a blood alcohol content of .02 or more.

The fiscal impact to the Department of Public Safety is indeterminable for several reasons.

Based on data provided by DMV, there were about 82 individuals who may have been subjected to the provisions of this bill had it been law in 2003. It is not known how many of those 82 individuals would have been handled by the Alaska State Troopers.

(see page 2)

Prepared by: Lt Al Storey Phone 269-4532
Division: Alaska State Troopers Date/Time 2/20/04 9:30 AM
Approved by: Commissioner William Tandeske Date 2/20/2004
Agency: Department of Public Safety

FISCAL NOTE #2

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. SB 224

ANALYSIS CONTINUATION

DMV's data also reports that there were about 144 other individuals contacted by law enforcement officers, but the officer determined that there was insufficient probable cause to arrest them and obtain a blood alcohol sample. It could be assumed that some of these persons would have had a blood alcohol level of .02 to .079. Processing the increased number of suspects in accordance with this proposed bill would be time consuming for law enforcement officers.

As written, SB 224 will be challenged repeatedly in the adjudication process. This is especially true for the lower blood alcohol levels. The defense will target the accuracy of the blood alcohol measuring instruments, the probable cause that led to the contact, and the process that the officer used to determine the individual was under the influence prior to asking for a breath sample. All of this will cost additional court time in order to make the officers available for testimony. It will require additional testimony from the Crime Lab technicians regarding the accuracy of the instruments used to measure blood alcohol.

The amount of time that will be required to achieve a conviction, and the time needed to handle arrestees under the age of 18 (juveniles), is unknown. Therefore, the fiscal impact to the Department of Public Safety is indeterminate.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 224
 (S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to lowering the legal BRU Legal and Advocacy Services
level of intoxication Component Office of Public Advocacy
 Sponsor Senator Cowdery
 Requester (S) Transportation Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	48.7	48.7	48.7	48.7	48.7	48.7
Travel	2.4	2.4	2.4	2.4	2.4	2.4
Contractual	11.5*	11.5*	11.5*	11.5*	11.5*	11.5*
Supplies	1.4	1.4	1.4	1.4	1.4	1.4
Equipment	3.4	0.4	0.4	0.4	0.4	0.4
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	67.4*	64.4*	64.4*	64.4*	64.4*	64.4*

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	67.4*	64.4*	64.4*	64.4*	64.4*	64.4*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	67.4*	64.4*	64.4*	64.4*	64.4*	64.4*

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The Office of Public Advocacy will be fiscally impacted by this legislation. Expanding the crime of DUI to include persons under 21 whose blood or breath alcohol level is more than .02, instead of over .08, will increase the caseload and workload of OPA staff, and increase contractual costs for areas not served by OPA staff attorneys and conflict counsel. More cases involving juveniles charged with this offense will be assigned to OPA. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content, leaving 232 cases where the minor was under .08. Moreover, experience in the field has shown that many officers only cite minors for minor consuming rather than driving after consuming. All of the aforementioned cases would henceforth be prosecuted as DUI and the defendant would be entitled to counsel. As a result, it is conservatively anticipated that there will be between 400-600 new DUI cases a year, a good portion of which will come to OPA. Because of the more severe penalties, and the fact that the reliability of the Intoximeter as such low levels is highly questionable, these cases will be fully litigated (evidentiary hearings and trials). OPA will need an additional 1/2 time position, and contract costs will increase, though the amount is indeterminate.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division: Office of Public Advocacy Date/Time 2/24/04 12:00 AM
 Approved by: Mike Miller, Commissioner Date _____
 Agency: Administration

SB

227

OK
w/me.

CS FOR SENATE BILL NO. 227()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

Offered:

Referred:

Sponsor(s): SENATOR GARY STEVENS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal initiative and referendum elections."**

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

3 *** Section 1.** AS 29.26.170(a) is amended to read:

4 (a) Unless substantially the same measure is adopted, when a petition seeks an
5 initiative vote, the clerk shall submit the matter to the voters at the next regular
6 election or, if already scheduled, special election occurring not [NO] sooner than 60
7 [45] days after certification of the petition. If no [REGULAR] election is scheduled
8 to occur [OCCURS] within 75 days after the certification of a petition and the
9 governing body determines it is in the best interest of the municipality, the
10 governing body may by ordinance order [SHALL HOLD] a special election to be
11 held within 75 days, but not sooner than 45 days after certification.

12 *** Sec. 2.** AS 29.26.170(b) is amended to read:

13 (b) If the governing body adopts substantially the same measure, the petition
14 is void, and the matter initiated may not be placed before the voters.

15 *** Sec. 3.** AS 29.26.180(a) is amended to read:

1 (a) Unless the ordinance or resolution is repealed, when a petition seeks a
2 referendum vote, the clerk shall submit the matter to the voters at the next regular
3 election or, if already scheduled, special election occurring not [NO] sooner than 60
4 [45] days after certification of the petition. If no election is scheduled to occur
5 [OCCURS] within 75 days after [OF] certification of a petition and the governing
6 body determines it is in the best interest of the municipality, the governing body
7 may by ordinance order [SHALL HOLD] a special election to be held within 75
8 days, but not sooner than 45 days after certification.

SENATE COMMITTEE REPORT

DATE: 2/19/04

FURTHER:

DATE TURNED
IN TO OFFICE: 2/27/04

State Affairs Committee considered **SENATE BILL NO. 227**

SB 227 MUNI INITIATIVE AND REFERENDUM ELECTIONS

"An Act relating to municipal initiative and referendum elections."

and recommends:

- be replaced with _____ CS SB 227 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
<u>DCED</u>	<u>2/18/04</u>		✓		<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>			✓	
<u>[Signature]</u>			✓	
CHAIR: <u>[Signature]</u>	✓			

ALASKA STATE LEGISLATURE



SESSION ADDRESS
Alaska State Capitol
Juneau, AK 99801-1182
(907) 465-4925
Fax (907) 465-3517

INTERIM ADDRESS
112 Mill Bay Road
Kodiak, AK 99615
(907) 486-4925
Fax (907) 486-5264

Senator Gary Stevens

Sponsor Statement SB 227

Senate Bill 227: "An Act relating to municipal initiative and referendum elections."

SB 227 was introduced specifically to help local governments avoid costly special initiative elections and referendums brought forward by voters. In many cases, these measures are not so pressing in nature that they could not wait for the regular municipal election.

Special Elections are costly and generally result in a lower voter turnout than the regular election. Recently, the Fairbanks North Star Borough had over 46 petitions filed in a period of 4 months. Although these petitions resulted in only one special election (at a cost of \$35,000), there was a potential for many more special elections at great cost to the municipality.

This bill could result in cost savings to municipalities who could choose to wait until the next regular election, typically in October, to consider an issue. This legislation would give the municipal governing body the option of calling a special election if the Council or Assembly wished to have the initiative and referendum considered in a more timely manner.

This bill is supported by the Alaska Municipal League and the Kenai Peninsula Borough. I ask for your support of this important measure.

LEGAL SERVICES

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

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

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

MEMORANDUM

May 16, 2003

SUBJECT: Sectional summary (SB 227)

TO: Senator Gary Stevens
Attn: Doug Letch

FROM: Tamara Brandt Cook
Director

TBC

Section 1. Requires a matter proposed by municipal initiative petition to be submitted to the voters at the next regular (municipal) election that occurs no sooner than 60 days after certification of the petition. Eliminates current provision for holding a special election on an initiative proposal.

Section 2. Technical change.

Section 3. Requires a referendum proposal to be submitted to the voters at the next election that occurs no sooner than 60 days after certification of the petition. Eliminates current provision for holding a special election on a referendum proposal.

TBC:med
03-551.med

ALASKA ASSOCIATION OF MUNICIPAL CLERKS

RESOLUTION NO. 2004-01

**A RESOLUTION OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS
SUPPORTING SB 227 AND HB 322 RELATING TO MUNICIPAL INITIATIVE
AND REFERENDUM ELECTIONS**

WHEREAS, municipal clerks in the State of Alaska strongly support the right of its citizens to petition the government through the initiative and referendum process; and

WHEREAS, AS 29.26.270 and 29.26.280 mandate that a municipality to conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

WHEREAS, there is no such requirement that mandates a special election for initiative and referendum questions submitted to the state for state elections; and

WHEREAS, special elections are costly, consume staff time for extended periods, and often result in a much lower turnout than the municipality's regular election; and

WHEREAS, it is often difficult to obtain election officials for multiple elections; and

WHEREAS, many municipalities are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

WHEREAS, in recognition of these factors, Senator Gary Stevens and Representative Paul Seaton have sponsored SB 227 and HB 322 respectively to eliminate the mandate that a municipality call a special election after certification of an initiative or a referendum petition; and

WHEREAS, nothing in these bills eliminates the local government option to call a special election if one is deemed necessary or advisable by the governing body;

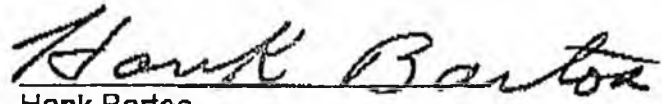
NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS (AAMC):

SECTION 1. That AAMC supports the passage of SB 227 and HB 322 and urges the State Legislature to expeditiously move these bills through their respective houses.

SECTION 2. That a copy of this resolution shall be mailed to each member of the Alaska Senate and the Alaska House of Representatives.

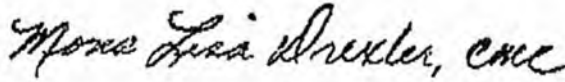
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

PASSED AND APPROVED THIS 12th DAY OF FEBRUARY 2004.



Hank Bartos
Presiding Officer

ATTEST:



Mona Lisa Drexler, CMC
Municipal Borough Clerk

Ayes: Hutchison, Sattley, Rex, Henry, Williams, Beck, Frank, Aldridge, Cummings, Bartos
Noes: None

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

By: FNSB Assembly
Introduced: 02/12/04
Adopted: 02/12/04

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2004-15

A RESOLUTION SUPPORTING HB 322, "AN ACT REQUIRING A MUNICIPAL INITIATIVE OR MUNICIPAL REFERENDUM TO BE SUBMITTED TO THE VOTERS AT THE NEXT REGULAR ELECTION OCCURRING NOT SOONER THAN 60 DAYS AFTER CERTIFICATION OF THE INITIATIVE OR REFERENDUM PETITION" AND SB 227, "AN ACT RELATING TO MUNICIPAL INITIATIVE AND REFERENDUM ELECTIONS".

WHEREAS, AS 29.26.270 and 29.26.280 mandate that a municipality conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

WHEREAS, special elections are costly, consume staff time for extended periods, and result in a much lower turnout than the municipality's regular election; and

WHEREAS, it is difficult to obtain election officials and polling locations for special elections; and

WHEREAS, many municipality's are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

WHEREAS, HB 322 and SB 227 do not effect the right of the local governing body to call a special election if necessary.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough supports the passage of HB 322 and SB 227 and urges the State Legislature to expeditiously move these bills through their respective bodies.

BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the Honorable Governor Murkowski and the Alaska State Legislature.



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

January 12, 2004

Representative Paul Seaton
State Capitol
Room 428
Juneau, AK 99801

Re: H.B. 322

Dear Representative Seaton,

I am writing on behalf of the Alaska Municipal League (AML) to express support for H.B. 322.

As noted in the 2004 AML Policy Statement, "the League supports changes to Title 29.26 to require that an initiative vote be held at the next regularly scheduled election instead of requiring a costly special election."

Thank you for the opportunity to comment on this important legislation. Please let me know if you have any questions or need further information.

With best regards,

Kevin Ritchie
Executive Director

**KENAI PENINSULA BO**

144 N. BINKLEY • SOLDOTNA, ALASKA •
 BUSINESS (907) 262-8608 FAX (907)
 EMAIL: assemblyclerk@borough.kenai.ak.us

Postnet	Date	# of pages
Fax Note R7873	1/15/04	2
To	Doug	
Fax#		
From	Linda S. Murphy	
Phone#		

LINDA MURPHY, MMC
 BOROUGH CLERK

April 29, 2003

The Honorable Gary Stevens
 Alaska State Senate
 State Capitol, Room 417
 Juneau, AK 99801-1182

RE: Requested Changes to Title 29 (Municipal Initiative and Referendum Elections)

Dear Senator Stevens:

It was a pleasure to meet with you in Juneau last week. As I discussed with you at that time, I am hopeful that you will sponsor legislation for the 2004 session that will eliminate the requirement that municipalities call a special election to consider an initiative or referendum brought forward by the voters. As you know, special elections are costly and generally result in a lower voter turnout than the regular election. In addition, most measures brought forward using the initiative or referendum process are not so pressing in nature that they could not wait for the regular municipal election. Of course, nothing in the change I am suggesting would prohibit the governing body from calling a special election if the Council or Assembly wished to have the matter considered in a more timely manner.

This amendment is supported by the Alaska Municipal League and is included in its 2003 policy statement. I have enclosed that portion of the policy statement for your information. I have also enclosed some language I drafted to make the requisite changes to AS 29.26.170 and AS 29.26.180.

You can expect support for this legislation from members of the Fairbanks North Star Borough delegation. Last year, the FNSB had a total of 46 petitions filed over a period of 4 months. Although these petitions resulted in only one special election (at a cost of \$35,000), there was the potential for many more at great cost to the municipality.

I will be asking Representative Seaton to sponsor a companion bill in the Senate. It is my hope that this bill can be prefiled in both houses this winter and move expeditiously through the legislature.

Thank you once again for your assistance.

Sincerely,

Linda S. Murphy, MMC
 Borough Clerk

Enclosures



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

February 10, 2004

Senator Gary Stevens
State Capitol
Juneau, AK 99801

Re: Support for SB 227

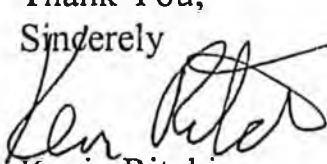
Dear Senator Stevens,

Thank you for introducing SB 227. This bill primarily removes the unfunded state mandate that municipalities hold special elections, and allows municipalities, with citizen input, to make their own decision regarding the scheduling of an election.

In times of great fiscal stress, allowing communities and citizens to save money by making local decisions on local issues is much appreciated.

The concept of the bill is strongly supported in the 2004 AML Policy Statement. The bill was also discussed again fully and endorsed by the AML Local Government Legislative Subcommittee on February 9, 2004.

Thank You,
Sincerely



Kevin Ritchie
Executive Director

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 227
 (S) Publish Date: 2/19/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Muni Initiative & Referendum Elections RDU Comm Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Senator Gary Stevens
 Requester Senate Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation relates to municipal initiatives and referendum elections.

This legislation has no impact on the operations of this division.

Prepared by: Gene Kane, Director Phone (907) 269-4580
 Division Community Advocacy Date/Time 2/18/04 8:45 AM
 Approved by: Edgar Blatchford, Commissioner Date 2/18/2004
 Agency Department of Community & Economic Development

SB

231

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 5/21/03

FURTHER: Finance

Date of 5-Day Notice: 3/25/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/2/04

State Affairs Committee considered SENATE BILL NO. 231

SB 231 DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

"An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 231 _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
 new title

House Bill:

- same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOR	3/29/04	✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John J. Conaway</i>	✓			
<i>Bert H. Stedman</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

LEGAL SERVICES

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

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


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

MEMORANDUM

April 2, 2004

SUBJECT: CSSB 231(STA) relating to unclaimed property
(Work Order No. 23-GS1151\D)

TO: Senator Gary Stevens
Chair, State Affairs Committee
Attn: Katrina

FROM:  Theresa L. Bannister
Legislative Counsel

This memo accompanies the committee substitute described above. At your request the proposed language was not changed, except for a correction, two commas in sec. 34.45.200(d), one spelling change in the definition of "mineral", one stylistic and grammatical change in the definition of "mineral proceeds", and replacing "this chapter with "34.45.110 - 34.45.780" throughout the bill.

1. Definition. The new definition of "last known address" does not work where it occurs throughout the chapter. It appears in nine sections of the chapter. As an example, please look at AS 34.45.120, and, in particular, at paragraph (4) of that section. If the new definition was designed for a particular section, you could retain the current definition and define the term only for that particular section.

2. Conforming amendment. AS 34.45.320(d) contains a reference to "ownership interest under AS 34.45.200." AS 34.45.200 has been rewritten and now uses "equity interest." I recommend that AS 34.45.320(d) be amended to use the new term. AS 34.45.330(c) also uses the term "ownership interest," but it may be acceptable there.

TLB:med
04-364.med

Enclosure

.....

facsimile transmittal

To: Leg. Legal

Fax: 2029

From: Katrina Matheny, Sen. Gary Stevens
Office

Date: 4/2/2004

Re: State Affairs CS

Pages: 11

CC:

Urgent

For Review

Please Comment

Please Reply

Please Recycle

.....

Can I please get a Senate State Affairs CS that mirrors this work draft. This version was passed by the committee with no changes. Thanks.

.....

CS FOR SENATE BILL NO. 231 (STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 5/21/03

Referred:

Sponsor: HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to unclaimed property; and providing for an effective date."

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

3 * Section 1. AS 34.45.110(a) is amended to read:

4 (a) Except as otherwise provided in AS 34.45.120 - 34.45.780, all intangible
5 property, including income or increment derived from the property, less lawful
6 charges, that is held, issued, or owing in the ordinary course of a holder's business and
7 has remained unclaimed by the owner for more than three [FIVE] years after
8 becoming payable or distributable is presumed abandoned.

9 * Sec. 2. AS 34.45.150(a) is amended to read:

10 (a) Other than money payable on an instrument that is subject to
11 AS 34.45.140, money payable on a check, draft, or similar instrument on which a
12 banking or financial organization is directly liable, including a cashier's check and a
13 certified check, that has been outstanding for more than five [SEVEN] years after it
14 was payable or after its issuance if payable on demand, is presumed abandoned. This
15 presumption does not apply if the owner, within the preceding five [SEVEN] years,

1 has communicated in writing with the banking or financial organization concerning
2 the instrument or has otherwise indicated an interest as evidenced by a memorandum
3 or other record, on file, prepared by an employee of the organization.

4 * Sec. 3. AS 34.45.160(a) is amended to read:

5 (a) A demand, savings, or matured time deposit with a banking or financial
6 organization, including a deposit that is automatically renewable, and money paid
7 toward the purchase of a share, a mutual investment certificate, or other intangible
8 property interest in a banking or financial organization is presumed abandoned unless
9 the owner, within the preceding five [SEVEN] years, has

10 (1) in the case of a deposit, increased or decreased its amount or
11 presented the passbook or other similar evidence of the deposit for the crediting of
12 interest;

13 (2) communicated in writing with the banking or financial organization
14 concerning the property; or

15 (3) otherwise indicated an interest in the property as evidenced by a
16 memorandum or other record, on file, prepared by an employee of the banking or
17 financial organization [;

18 (4) OWNED OTHER PROPERTY TO WHICH (1), (2), OR (3) OF
19 THIS SUBSECTION APPLIES AND THE BANKING OR FINANCIAL
20 ORGANIZATION HAS COMMUNICATED IN WRITING WITH THE OWNER
21 WITH REGARD TO THE PROPERTY THAT WOULD OTHERWISE BE
22 PRESUMED ABANDONED UNDER THIS SUBSECTION AT THE ADDRESS TO
23 WHICH COMMUNICATIONS REGARDING THE OTHER PROPERTY ARE
24 REGULARLY SENT; OR

25 (5) HAD ANOTHER RELATIONSHIP WITH THE BANKING OR
26 FINANCIAL ORGANIZATION CONCERNING WHICH THE OWNER HAS

27 (A) COMMUNICATED IN WRITING WITH THE
28 BANKING OR FINANCIAL ORGANIZATION OR OTHERWISE
29 INDICATED AN INTEREST AS EVIDENCED BY A MEMORANDUM OR
30 OTHER RECORD, ON FILE, PREPARED BY AN EMPLOYEE OF THE
31 BANKING OR FINANCIAL ORGANIZATION; AND

1 (B) THE BANKING OR FINANCIAL ORGANIZATION
2 COMMUNICATES IN WRITING WITH THE OWNER WITH REGARD TO
3 THE PROPERTY THAT WOULD OTHERWISE BY ABANDONED
4 UNDER THIS SUBSECTION AT THE ADDRESS TO WHICH
5 COMMUNICATIONS REGARDING THE OTHER RELATIONSHIP
6 REGULARLY ARE SENT].

7 * Sec. 4. AS 34.45.170(a) is amended to read:

8 (a) Money held or owing under a life or endowment insurance policy or
9 annuity contract that has matured or terminated is presumed abandoned if unclaimed
10 for more than three [FIVE] years after the money became due and payable as
11 established from the records of the insurance company holding or owing the money.
12 [HOWEVER, PROPERTY DESCRIBED IN (c)(2) OF THIS SECTION IS
13 PRESUMED ABANDONED IF UNCLAIMED FOR MORE THAN TWO YEARS.]

14 * Sec. 5. AS 34.45 is amended by adding a new section to read:

15 **Sec. 34.45.175. Certain property distributed in insurance company**
16 **reorganizations.** (a) Property distributed in the course of a demutualization,
17 rehabilitation, or related reorganization of an insurance company is presumed
18 abandoned two years after the date of the demutualization, rehabilitation, or related
19 reorganization if, at the time of the demutualization, rehabilitation, or related
20 reorganization, the last known address of the owner on the books and records of the
21 holder is known to be incorrect, or a distribution or statement is returned by the post
22 office as undeliverable, and the owner has not

23 (1) communicated in writing with the holder or its agent regarding the
24 property; or

25 (2) otherwise communicated with the holder regarding the property as
26 evidenced by a memorandum on file with the holder or its agent.

27 (b) The conditions raising a presumption of abandonment for property
28 distributable in the course of a demutualization, rehabilitation, or related
29 reorganization of a mutual insurance company that is not subject to (a) of this section
30 are as otherwise provided in this chapter.

31 * Sec. 6. AS 34.45.200 is repealed and reenacted to read:

1 **Sec. 34.45.200. Stock and other intangible interests in business**
2 **associations or financial organizations.** (a) Stock or other equity interest in a
3 business association or financial organization is presumed abandoned five years after
4 the earliest of

5 (1) the date of the most recent dividend, stock split, or other
6 distribution unclaimed by the owner;

7 (2) the date that a statement of account or other notification or
8 communication concerning the stock or other equity interest was returned as
9 undeliverable; or

10 (3) the date that the holder of the stock or other equity interest
11 discontinued mailings, notifications, or communications to the owner.

12 (b) Unmatured or unredeemed debt of a business association or financial
13 organization, other than a bearer bond or an original issue discount bond, is presumed
14 abandoned five years after the date of the most recent interest payment unclaimed by
15 the owner.

16 (c) Matured or redeemed debt, including bearer bonds and original issue
17 discount bonds, is presumed abandoned five years after the date of maturity or
18 redemption.

19 (d) At the time property is presumed abandoned under this section, any other
20 property right accrued or accruing to the owner as a result of the property interest, and
21 not previously presumed abandoned, is also presumed abandoned.

22 (e) A distribution of net margins by a cooperative incorporated under
23 AS 10.25 is presumed abandoned if the distribution remains unclaimed by the owner
24 for more than one year after the date authorized for the distribution. The distribution
25 presumed abandoned under this subsection reverts to the cooperative if the cooperative
26 has, at least six months before the proposed date that the distribution reverts to the
27 cooperative, both

28 (1) mailed a notice of the proposed reversion to the last known address
29 of the owner as shown on the cooperative records; and

30 (2) published notice of the proposed reversion in the manner provided
31 by law or court rule for service of a summons by publications.

1 * **Sec. 7.** AS 34.45.220(a) is amended to read:

2 (a) Intangible property and income or increment derived from the intangible
3 property held in a fiduciary capacity for the benefit of another person is presumed
4 abandoned unless the owner, within three [FIVE] years after it has become payable or
5 distributable, has increased or decreased the principal, accepted payment of principal
6 or income, communicated concerning the property, or otherwise indicated an interest
7 as evidenced by a memorandum or other record, on file, prepared by the fiduciary.

8 * **Sec. 8.** AS 34.45.240(a) is amended to read:

9 (a) A gift certificate or a credit memo, issued in the ordinary course of an
10 issuer's business, that remains unclaimed by the owner for more than three [FIVE]
11 years after becoming payable or distributable is presumed abandoned.

12 * **Sec. 9.** AS 34.45 is amended by adding a section to article 3 to read:

13 **Sec. 34.45.270. Burden of proof as to property evidenced by record of**
14 **check, draft, or similar instrument.** A record of the issuance of a check, draft, or
15 similar instrument is prima facie evidence of an obligation. In claiming property from
16 a holder who is also the issuer, the department's burden of proof as to the existence
17 and amount of the property and its abandonment is satisfied by showing issuance of
18 the instrument and passage of the requisite period of abandonment. Defenses of
19 payment, satisfaction, discharge, and want of consideration are affirmative defenses
20 that must be established by the holder.

21 * **Sec. 10.** AS 34.45.280(f) is repealed and reenacted to read:

22 (f) The requirements of this section apply to the holder of intangible property
23 with a total aggregate value greater than \$750 that is presumed abandoned under
24 AS 34.45.110 - 34.45.780 during the year preceding June 30 of each year. For
25 purposes of determining total aggregate value under this subsection, the holder shall
26 include all intangible property from prior years that was not reported under this
27 chapter.

28 * **Sec. 11.** AS 34.45.290 is repealed and reenacted to read:

29 **Sec. 34.45.290. Requests for reports and examination of records.** (a) The
30 department may require a person who has not filed a report under AS 34.45.280 or a
31 person who the department believes has filed an inaccurate, incomplete, or false

1 report, to file a verified report in a form specified by the department. The report must
2 state whether the person is holding property reportable under this chapter, describe
3 property not previously reported or as to which the department has made inquiry, and
4 specifically identify and state the amounts of the property that may be in issue.

5 (b) The department, at reasonable times and upon reasonable notice, may
6 examine the records of any person to determine whether the person has complied with
7 this chapter. The department may conduct the examination even if the person believes
8 it is not in possession of any property that must be reported, paid, or delivered under
9 this chapter. The department may contract with any other person to conduct the
10 examination on behalf of the department.

11 (c) The department at reasonable times may examine the records of an agent,
12 including a dividend disbursing agent or transfer agent, of a business association or
13 financial organization that is the holder of property presumed abandoned if the
14 department has given the notice required by (b) of this section to both the association
15 or organization and the agent at least 90 days before the examination.

16 (d) Documents and working papers obtained or compiled by the department,
17 or the department's agents, employees, contractors, or designated representatives, in
18 the course of conducting an examination under this chapter are confidential and are
19 not public records, but the documents and papers may be

20 (1) used by the department in the course of an action to collect
21 unclaimed property or otherwise enforce this chapter;

22 (2) used in joint examinations conducted with or under an agreement
23 with another state, the federal government, or any other governmental subdivision,
24 agency, or instrumentality;

25 (3) produced under subpoena or court order; or

26 (4) disclosed to the unclaimed property office of another state for that
27 state's use in circumstances equivalent to those described in this subsection, if the
28 other state is bound to keep the documents and papers confidential.

29 (e) If an examination of the records of a person results in the disclosure of
30 property reportable under this chapter, the department may assess the cost of the
31 examination against the holder at the rate of \$200 a day for each examiner, or a greater

1 amount that is reasonable and was incurred, but the assessment may not exceed the
2 value of the property found to be reportable under this chapter. The cost of an
3 examination made under (c) of this section may be assessed only against the business
4 association or financial organization.

5 (f) If a holder does not maintain the records required by AS 34.45.300 and the
6 records of the holder available for the periods subject to this chapter are insufficient to
7 permit the preparation of a report, the department may require the holder to report and
8 pay to the department the amount the department reasonably estimates, on the basis of
9 any available records of the holder or by any other reasonable method of estimation,
10 should have been but was not reported.

11 * **Sec. 12.** AS 34.45.300(a) is repealed and reenacted to read:

12 (a) Except as otherwise provided in (b) of this section, a holder required to file
13 a report under AS 34.45.280 shall maintain the records containing the information
14 required to be included in the report for 10 years after the holder files the report,
15 unless a shorter period is provided by regulations adopted by the department.

16 * **Sec. 13.** AS 34.45.310 is repealed and reenacted to read:

17 **Sec. 34.45.310. Notice and publication of lists of unclaimed property.** (a)

18 The department shall notify apparent owners of unclaimed property under this chapter
19 in the manner and method set out in (b) of this section. In deciding whether to use an
20 additional method specified in (b)(2) of this section, and which of those methods to
21 use, the department shall employ the most cost-effective method available within its
22 appropriations.

23 (b) The department

24 (1) shall notify all apparent owners of the unclaimed property in
25 accordance with this section by means of posting on the department's website on the
26 Internet;

27 (2) may use any of the following to provide additional notice to the
28 apparent owners:

29 (A) publication in a newspaper of general circulation in the
30 area of the state in which the last known address of a person to be named in the
31 notice is located, or if the address is unknown, in the area in which the holder

1 has its principal place of business in the state;

2 (B) individual contact by regular or electronic mail, or by
3 telephone, if the department has current contact information on file under this
4 chapter;

5 (C) any other manner and method that the department considers
6 effective for providing notice and publication under this chapter.

7 (c) In its notice and publication under (b) of this section, the department shall
8 provide the names of the apparent owners of the property and information regarding
9 recovery of the unclaimed property

10 (d) The department is not required to publish in the notice an item of less than
11 \$100 in value.

12 (e) This section does not apply to money payable on traveler's checks, money
13 orders, and other written instruments presumed abandoned under AS 34.45.140.

14 * Sec. 14. AS 34.45.760(10) is amended to read:

15 (10) "intangible property"

16 (A) includes

17 (i) money, checks, drafts, warrants, deposits, interest,
18 dividends, and income;

19 (ii) credit balances, customer overpayments, gift
20 certificates, security deposits, refunds, credit memos, unpaid wages,
21 and unidentified remittances;

22 (iii) stocks and other intangible ownership interests in
23 business associations or financial organizations;

24 (iv) money deposited to redeem stocks, bonds, coupons,
25 and other securities, or to make distributions;

26 (v) amounts due and payable under the terms of
27 insurance policies; [AND]

28 (vi) amounts distributable from a trust or custodial fund
29 established under a plan to provide health, welfare, pension, vacation,
30 severance, retirement, death, stock purchase, profit-sharing, employee
31 savings, supplemental unemployment insurance, or similar benefits;

1 and

2 **(vii) amounts due and payable as mineral proceeds;**

3 (B) does not include

4 (i) unused airline tickets;

5 (ii) shares of stock issued by a corporation organized
6 under 43 U.S.C. 1601 - 1629a (Alaska Native Claims Settlement Act)
7 or unclaimed dividends payable on the shares of stock; or

8 (iii) overpaid contributions by employers to the
9 unemployment compensation fund under AS 23.20.130;

10 * Sec. 15. AS 34.45.760(11) is repealed and reenacted to read:

11 (11) "last known address" means

12 (A) if the address is sufficient to direct the delivery of mail or
13 receipt of a communication by the means known to the holder, a description of
14 the location of the apparent owner's residence or business;

15 (B) if the address is not sufficient as described in (A) of this
16 paragraph, a description indicating that the apparent owner was located within
17 this state;

18 * Sec. 16. AS 34.45.760 is amended by adding new paragraphs to read:

19 (18) "gift certificate" means an obligation of a business association
20 arising from a transaction between the business association and a consumer to provide
21 goods or services at a future date; "gift certificate" includes a gift certificate, stored
22 value card, gift card, on-line gift account, or other representation or evidence of the
23 obligation of a business association;

24 (19) "mineral" means gas; oil; other gaseous, liquid, and solid
25 hydrocarbons; oil shale; cement material; sand and gravel; road material; building
26 stone; chemical raw material; gemstone; fissionable and non fissionable ores; colloidal
27 and other clay; steam and other geothermal resource; or any other substance defined as
28 mineral by other state law;

29 (20) "mineral proceeds" means amounts payable for the extraction,
30 production, or sale of minerals, or, upon the abandonment of those payments, all
31 payments that become payable after the abandonment; "mineral proceeds" includes

1 amounts payable for the following:

2 (A) for the acquisition and retention of a mineral lease,
3 including bonuses, royalties, compensatory royalties, shut-in royalties,
4 minimum royalties, and delay rentals;

5 (B) for the extraction, production, or sale of minerals, including
6 net revenue interests, royalties, overriding royalties, extraction payments, and
7 production payments;

8 (C) under an agreement or option, including a joint operating
9 agreement, unit agreement, pooling agreement, and farm-out agreement.

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

12 APPLICABILITY. The changes made by this Act apply to property that meets either
13 of the following:

14 (1) property that, on the effective date of this Act, already was subject to a
15 statutory provision amended by this Act;

16 (2) property that, on or after the effective date of this Act, becomes subject to
17 a statutory provision amended by this Act.

18 * Sec. 18. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB231
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Decrease Time to Report Unclaimed Property RDU Revenue Programs & Services
 Component Treasury Management
 Sponsor Senate Rules
 Requester Governor Component No. 121

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	50.0					
Travel						
Contractual	10.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	60.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	1,000.0	1,500.0	500.0			
-------------------------------	----------------	----------------	--------------	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	60.0					
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	60.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0.75					

ANALYSIS: (Attach a separate page if necessary)
 This bill amends AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally those properties presumed abandoned after five years will, under this bill, be presumed abandoned after three years. Those properties presumed abandoned after seven years will be presumed abandoned after five years. The first couple of years will see a strong increase in property reported due to the changes in dormancy requiring additional personal and contractual services. Subsequent years should not see major impacts.
 Abandoned property transferred to the state averages around \$2.5 million per year. Changing the abandonment time by two years could increase revenue to the general fund for a few years for a total of \$1 to \$3 million. This bill will have no effect on revenue in subsequent years.

Prepared by: Betty Martin, State Comptroller Phone 465-2352
 Division Treasury Date/Time 3/29/04 7:58 AM
 Approved by: Steve Porter, Deputy Commissioner Date 3/29/2004
 Agency Department of Revenue

Comparison Original Bill to Committee Substitute

SB 231 to CS SB 231 (SA)

The main purpose for the CS is to bring Alaska's unclaimed property law more in conformity with the most current Uniform Unclaimed Property Act, which has been adopted by 13 states to date. The original bill addressed time periods for presumption of abandoned and did not address other Uniform Act language.

The CS deletes Section 2 AS 34.45.140(b) which had a proposed time period change from seven years to five years for money payable on a money order or similar written instrument. The CS revises Section 3 by deleting subsections (4) and (5) of AS 34.45.160(a). This change ensures that all property of an owner covered by the section, whether known or unknown by the owner, will fall under the protection of the Act. The CS revises Section 4 AS 34.45.170 (a) by deleting the second sentence. The first sentence covers the property referred to in the second sentence.

The CS adds a new section. AS 34.45.175 which deals with demutualization proceeds. This type of property interest was not addressed in the prior Uniform Acts and is a relatively new type of property.

The original bill made changes to AS 34.45.200(a), (b), (c) and (e) in Sections 6 – 9. However, the CS repeals and readopts AS 34.45.200 so that it more closely mirrors the Uniform Unclaimed Property Act dealing with stock and other intangible interests in business associations and financial organizations.

AS 34.45.270 which deals with burden of proof. is added for conformity to the Uniform Act.

Other statutes which are affected by the CS are AS 34.45.280(f) making the reporting requirement only applicable to holders of abandoned intangible property which has a total accumulative value in excess of \$750, AS 34.45.290 changes requests for reports and examination of records, AS 34.45.300(a) changes the retention of records, and AS 34.45.310 changes the notice and publication requirements. The CS makes changes to definitions listed under AS 34.45.760.

All other sections of the bills remain the same except for the effective date section which now provides that the Act becomes effectively immediately in accordance with AS 01.10.070(c).



**Reasons for Proposed Unclaimed Property Legislative Changes
CS SB 231 (SA)**

1. This change to section AS 34.45.110(a) will make the general abandoned period for property not defined in other parts of the Act three years instead of five years.
2. This change will make section AS 34.45.150(a) consistent with the Uniform Unclaimed Property Act. Time period for money payable on a negotiable instrument is changed from seven years to five years.
3. The change will make section AS 34.45.160(a) consistent with the Uniform Unclaimed Property Act. Ensures all property regardless of known or unknown by the owner will fall under the protection of the Act.
4. This change will make section AS 34.45.170(a) consistent with the Uniform Unclaimed Property Act. When life endowment and annuity contracts do not mature by actual proof of death, but the insured or annuitant has reached the limiting age of mortality, they should be reported consistent with other forms of life and endowment insurance.
5. Adds a new section AS 34.45.175 for distributions in insurance company reorganizations. Mutual companies are owned by their policyholders. In order to create capital or enhance financial strength mutual companies demutualize and convert to a stock form of ownership. Policyholders are entitled to receive compensation in the form of cash or stock.

Mutual companies do not have reoccurring contact with fully paid policyholders. Contact only occurs when a policyholder's estate files a claim for benefits.

Alaska's current statutes do not take into consideration the fact that virtually all policyholders were lost as of the date of the demutualization and have in fact been lost for decades prior.

6. Deleting AS 34.45.200 (b) allows companies to report unclaimed property based on inactivity or lack of owner contact. Alaska's current language requires the company to make seven distributions before property is considered unclaimed. E.g. a company may issue stock splits every two or three years. In that case, it could take fourteen to twenty-one years before it would become reportable as unclaimed property.
7. This change will make section AS 34.45.220(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.
8. This change will make section AS 34.45.240(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 231
 (S) Publish Date: 5/21/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Unclaimed Property Time Periods BRU Revenue Operations
 Component Treasury Division
 Sponsor House Rules
 Requester Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()		2,000.0	2,000.0			
-------------------------------	--	----------------	----------------	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally those properties presumed abandoned after five years will, under this bill, be presumed abandoned after three years. Those properties presumed abandoned after seven years will be presumed abandoned after five years.

Abandoned property transferred to the state averages around \$2 million per year. Changing the abandonment time two years could increase revenue to the general fund for one to two years for a total of \$4 million. This bill will have no effect on revenue in subsequent years.

Prepared by: Betty Martin, State Comptroller Phone 465-2352
 Division Treasury Date/Time 5/20/03 12:07 PM
 Approved by: Steve Porter, Deputy Commissioner Date 5/20/2003
 Agency Department of Revenue

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 20, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would amend AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the custody of the state.

Alaska's current unclaimed property statutes are based on the 1981 version of the Uniform Unclaimed Property Act adopted by the National Conference of Commissioners on Uniform State Laws. That Act, and Alaska's Act, are intended to prevent people from losing their right to property that is justifiably theirs by requiring that unclaimed property be transferred to the state to act as custodian once the property is presumed abandoned. In 1995, the uniform law commissioners revised their Act to streamline the process by which states deal with unclaimed property and to better protect property owners.

One of the changes proposed in the 1995 revision is a general shortening of the time periods after which most unclaimed property is presumed to be abandoned and must be transferred to the custody of the state. Shortening the time period benefits both the state and the owner of the unclaimed property. As the custodian for the unclaimed property, the property is available to the state as a source of revenue, pending the rightful owner's claim. The rightful owner benefits by having the property transferred at an earlier date to a perpetual custodian with the stability to assure that the property will be there when the owner comes forward to claim it.

I urge your early and favorable consideration of the bill.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

SB

232

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 5/21/03

FURTHER: Finance

Date of 5-Day Notice: 2/5/04
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2/11/04

State Affairs Committee considered SENATE BILL NO. 232

SB 232 RETIREMENT: TEACHERS/JUDGES/PUB EMPLOYEES

"An Act relating to federal requirements for governmental plan and other qualifications for the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 232 (STA)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
<u>Various</u>	<u>2/9/04</u>		<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>John A. Conley</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Robert H. ...</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHAIR: <u>[Signature]</u>			<input checked="" type="checkbox"/>	

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 232
 () Publish Date: _____

Revision Date/Time (Note if correction): 2-9-04 11:41 a.m. Dept. Affected: Various
 Title An Act relating to federal requirements for governmental plan RDU various
and other qualifications for TRS, PERS, and JRS Component various
 Sponsor Rules Committee
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	-	-	-	-	-	-
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 This bill is required to place into law those changes to the statutes of Public Employees', Teachers', and Judicial Retirement Systems that are required as a result of a review by the Internal Revenue Service. These changes must be implemented so that the plans remain qualified under the Internal Revenue Code.

 AS 24.08.036 FISCAL NOTES ON BILLS AFFECTING STATE RETIREMENT SYSTEMS, requires an additional analysis of the long term and short term costs to the state if a bill is adopted, as well as the impact of the bill on the actuarial soundness of the funds. This bill, in the form submitted on the date above indicated will not increase costs to the state if it is adopted in the form submitted. Any modification to the legislation from the form here submitted requires an updated analysis.

Prepared by: Melanie Millhorn Phone 907-465-4408
 Division: Retirement and Benefits Date/Time 2/9/04 11:47 AM
 Approved by: Mike Miller, Commissioner Date 2/9/04
 Agency: Administration



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

AUG 13 2003

RECEIVED

AUG 19 2003

Div. of Ret. & Benefits

State of Alaska
PO Box 110203
Juneau, AK 99811-0203

Attn: Melanie A. Millhorn, Director
Public Employees' Retirement System of Alaska

Legend:

State	= State of Alaska
Department B	= Alaska Department of Public Safety
Plan X	= Public Employees' Retirement System of Alaska
Group C Employees	= Employees of the State of Alaska and its political subdivisions, public corporations and public organizations, and employees of other employers whose participation in the Public Employees' Retirement System of Alaska is authorized by Statute D
Statute D	= Alaska Statutes Title 39. Chapter 35. Sections 39.35.010 et seq.
Act E	= The Alaskan Native Claims Settlement Act of 1971, 43 U.S.C. Sections 1601 et seq.
Code F	= Alaska Administrative Code
Manual G	= Village Public Safety Officer Field Manual
Program H	= Village Public Safety Officer Program
Community Officers	= Village Public Safety Officers
Number J	= Eighty-five

K Corporations

= Aleutian Pribilof Islands Association,
 Association of Village Council Presidents,
 Bristol Bay Native Association,
 Chugachmiut,
 Kodiak Area Native Association,
 Kawerak,
 Tanana Chiefs Conference,
 Maniilaq Manpower,
 Central Council Tlingit Haida Indian Tribes of
 Alaska

Dear Ms. Millhorn:

This is in response to correspondence dated October 16, 2001, as supplemented by additional correspondence dated February 1, 2002, March 15, 2002, May 16, 2002, November 1, 2002, November 15, 2002, November 27, 2002, December 6, 2002, March 31, 2003 and May 6, 2003, from your authorized representative, in which you request a ruling on whether the status of Plan X as a governmental plan under §414(d) of the Internal Revenue Code ("the Code") will be adversely affected by the inclusion of Community Officers.

The following facts and representations have been submitted:

Pursuant to Statute D, the State created Plan X (also referred to herein as "the System") in 1961 as a defined benefit pension and retirement system to provide retirement and other benefits for Group C Employees. Plan X is intended to meet the qualification requirements of Code §401(a) to the extent that section applies to a governmental plan within the meaning of §414(d) of the Code.

Effective January 1, 1987, all participating employees are required to contribute a percentage of their compensation to Plan X. No option to receive this amount in cash has ever been permitted. Statute D also allows the State to pick up and pay the mandatory contributions to Plan X pursuant to §414(h) of the Code. As of January 1, 1987, the State has treated the employee contributions in a manner consistent with §414(h)(2).

In 1985, the State established Program H within Department B pursuant to State Statute. Program H was established to assist local governments and villages in protecting life and property in rural areas of the State and to provide probation and parole supervision services. Program H, however, was not designed to be a village or community police force. Under Program H the role of a Community

Officer is more than just law enforcement, and the vast majority of requests for the services of a Community Officer are for non-criminal matters. The Community Officer provides (1) support in the rendering of emergency medical services, (2) search and rescue support, (3) fire safety and prevention support (4) water and boating safety, and (5) minor law enforcement service to a community, primarily the handling of misdemeanor infractions of the State's criminal code. Community Officers are not obligated to respond to or participate in any type of armed conflict. In accordance with Code F, Community Officers are prohibited under the state funding grants from carrying firearms in the regular course of their duties, except in an emergency.

Community Officers are employed by certain K Corporations established pursuant to Act E. All K Corporations (which may be nonprofit or for profit) employing Community Officers intended to be covered by this ruling are organized under state law as nonprofit corporations and have been in existence prior to the establishment of Program H. Under Act E, Native Indians of the State own the stock in the K Corporations. The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. The involvement of K Corporations in Program H is separable from the other activities and functions of the K Corporations.

Program H is funded through grants issued by Department B. Department B and the K Corporations enter into a written grant agreement detailing the Program responsibilities and duties. Program H sets forth detailed policies and procedures that must be followed in order for a grant to be approved and maintained. In addition, several key personnel positions are required by the Program H enabling legislation to ensure that Program H operates as intended and in accordance with State Statutes. The written agreement between Department B and a K Corporation must also name the K Corporation as the employer, for all purposes, of a Community Officer.

State Troopers are Department B employees. A State Trooper is responsible for making periodic visits to a village or community in which a Community Officer has been assigned, acting as a mentor and as a liaison between the Department and the community or Community Officer, providing on-the-job training to the Community Officer, reviewing the Community Officer's log book, monitoring the Community Officer for compliance with applicable rules and providing the K Corporation with an evaluation of the Community Officer's performance. State Troopers, however, do not supervise the daily activities of Community Officers. The State Trooper is responsible for providing state law enforcement services to a village or community to which a Community Officer is assigned. The

Community Officer is not a police officer, and ultimate responsibility for criminal law enforcement lies with the State Trooper, particularly in regard to crimes more serious in nature than mere misdemeanor violations.

State Trooper superiors participate in the review of certain Program H documentation required to be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program. The K Corporation Coordinator is an employee of the K Corporation who has responsibility for evaluating the performance of Community Officers, as well as allocating and distributing the funds supplied by a grant.

The K Corporation may not use grant money to employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation. According to relevant provisions of Code F, the village or community, in its agreement with the K Corporation, sets out the job description for the Community Officer, specifying duties that the community expects the officer to perform. The community also names a local supervisor to assume the daily control of the Community Officer's work and to act as a liaison between the Community Officer and the community. The party responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer. All non-criminal activity (the majority of the work) conducted by the Community Officer is at the direction and priority of the village councils. Currently there are approximately the Number J of villages or communities to which a Community Officer has been assigned.

The written agreement between the K Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation. In the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position and the position from the village or community, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State represents that Department B has control over Program H by virtue of the fact the K Corporations and the Community Officers are subject to regulations, policies and procedures that are found in the Program H authorizing legislation, the grant agreement, Code F and Manual G. The State maintains that these rules, policies and procedures that the K Corporations and Community Officers must adhere to are enforceable by Department B by (1) controlling the

grant of authority and funding, (2) monitoring of Community Officers by the State Trooper, and (3) the requirement by authorizing legislation of a State Trooper, K Corporation Coordinator, and a Program H Coordinator to ensure that the program operates as intended.

The State proposes to permit the K Corporations to adopt the System as the retirement benefit plan for persons employed as Community Officers. Based on the foregoing facts and representations, you requested the following rulings:

1. That the adoption of the System by certain K Corporations with respect to Community Officer employees only, will not adversely affect the System's status as a governmental plan within the meaning of Code §414(d).
2. That the mandatory employee contributions paid to the System by the State on behalf of the Community Officer employees, will qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

Section 414(h)(2) of the Code provides that, in the case of any plan established by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, where the contributions of employing units are designated as employee contributions but where any employing unit picks up the contributions, the contributions so picked up will be treated as employer contributions.

Section 414(d) of the Code provides that a governmental plan means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Revenue Ruling 89-49, 1989-1 C.B. 117, provides that a plan will not be considered a governmental plan merely because the sponsoring organization has a relationship with a governmental unit or some quasi-governmental power. It holds that one of the most important factors to be considered in determining whether an organization is an agency or instrumentality of the United States or any state or political subdivision thereof is the degree of control that the federal or state government has over the organization's everyday operations. Other factors listed in Revenue Ruling 89-49 include: (1) whether there is specific legislation creating the organization; (2) the source of funds for the organization; (3) the manner in which the organization's trustees or operating board are selected; and (4) whether the applicable governmental unit considers the

employees of the organization to be employees of the applicable governmental unit. Although all of the above factors are considered in determining whether an organization is an agency of a government, the mere satisfaction of one or all of the factors is not necessarily determinative.

In the instant case, applying the principles set forth in Revenue Ruling 89-49, we find the degree of control exercised by the State over the daily operations of the Community Officers to be minimal, with control in the hands of the K Corporation and the village or community to which a Community Officer is assigned.

As represented, a Community Officer is subject to monitoring by a State Trooper, an employee of Department B. The State Trooper's superior participates in the review of certain Program H documentation that must be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program.

The State has not demonstrated that the aforementioned Departmental positions control or supervise the daily activities of Community Officers. The monitoring provided by the State Trooper consists of periodic visits with Community Officers, mentoring and other administrative duties. There has been no representation that the Program H Coordinator is involved with the daily activities of a Community Officer. In addition, Manual G, a Department B field manual for Community Officers, states that the K Corporation Coordinator, an employee of the K Corporation, is responsible for evaluating the performance of Community Officers. The Manual further provides that in completing the evaluation, the "community representative" responsible for the Community Officer's supervision, the individual Community Officer and the assigned State Trooper are contacted for comment.

Further, the K Corporation may not employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation setting forth the duties that the village or community expects the Community Officer to perform. In Code F, the term "village" is defined to mean a community with a population of less than 1,000 individuals. The community representative responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer.

Considering the other factors set forth in Rev. Rul. 89-49, the enabling legislation for Program H did not establish the K Corporations or specify that the K Corporations would be the vehicle or medium to implement Program H. The K Corporations were already in place throughout the State when Program H was established.

Funding for Program H is provided entirely by Department B through grants to the K Corporations. The State maintains that it controls the K Corporations due to the fact that Department B, in its discretion, may terminate a grant if the K Corporation or a participating village or community is not complying with all the Program policies and procedures. However, the State's argument that it controls the K Corporations and the Program, through funding, is diminished by the fact that the K Corporation Coordinator, a K Corporation employee, has responsibility for the allocation and distribution of funds supplied by the state grant. The K Corporations formally employ the Community Officers, enter into contracts specifying the terms of Program H and pay officers' salaries with the funds granted by the State. Although Program H is supported by State funds, we do not find this factor to be determinative of agency or instrumentality status in this case because the K Corporations possess the authority to allocate the funds. No funded Community Officer position can be assigned to a requesting village or community unless the K Corporation, not the State, enters into a written agreement with the village or community.

The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. Pursuant to Act E, the management of the K Corporation is vested in a board of directors, all of whom shall be stockholders over the age of eighteen (the stockholders of the K Corporations are Native Indians of the State). Due to the fact that the State does not participate in the selection process, the board of directors is not controlled by the State. Thus, the State does not possess the requisite degree of control over the K Corporation decision-making process in the day to day implementation of Program H (i.e., through lack of control over key personnel such as the K Corporation Coordinator).

Finally, Community Officers are not employees of the State or a political subdivision thereof. State Statute requires that Department B and the K Corporation enter into an agreement in which, among other requirements, there must be a provision that names the K Corporation as the employer, for all purposes, of a Community Officer. The K Corporation may not use grant money to employ a Community Officer to serve in a particular village or community unless the village or community, through its governing body, enters into a written agreement with the K Corporation. The written agreement between the K

Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation, and that in the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State has represented that the villages or communities to which a Community Officer has been assigned, as incorporated municipalities or unincorporated villages, are political subdivisions of the State. Although we find that the village or community may exert a significant degree of supervision over the daily activities of a Community Officer, we must conclude that the Community Officer is an employee of the K Corporation and that the K Corporation exerts the ultimate degree of control over a Community Officer's employment.

Thus, we conclude that the K Corporation(s) is not an agency or instrumentality of the State or a political subdivision thereof. Accordingly, as for the first ruling requested, we find that the inclusion in Plan X of Community Officers, who are employees of a K Corporation which does not qualify as an agency or instrumentality of the State or a political subdivision of the State, will adversely affect the status of Plan X as a governmental plan under §414(d) of the Code.

Similarly, because we have determined in accordance with Revenue Ruling 89-49, that a K Corporation does not qualify as an agency or instrumentality of the State or a political subdivision thereof, it is concluded with respect to ruling request two that the applicability of the provisions of §414(h)(2) of the Code to Plan X will be adversely affected by including as members therein the Community Officer employees of the K Corporations, and that the mandatory contributions of such employees to Plan X which may be assumed and paid by the State will not qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

This ruling is directed only to the taxpayer that requested it. Section 6110(k) of the Code provides that it may not be used or cited by others as precedent.