

11644 HOUSE STATE AFFAIRS

# STAGE II EVALUATION JURY WORKSHEET

LEAD DESIGNER:

A/E TEAM:

JURY MEMBER:

Value	Critical Element	1	2	3	Score
<b>40</b>	<b>TEAM DESIGN PERFORMANCE</b>				
15	Projects demonstrate success in addressing all issues of community context, design image, functional issues, and sustainable design.				
10	Project examples are similar in complexity to project.				
10	Commitment of Lead Designer.				
5	Proposed A/E Team has experience working together successfully				
<b>20</b>	<b>SITE EVALUATION &amp; DESIGN INTENT</b>				
20	Concepts demonstrate an understanding of the values and vision of the Capitol project.				
<b>30</b>	<b>TEAM ORGANIZATION AND MANAGEMENT PLAN</b>				
10	Plan clearly identifies key roles and lines of communication. It presents the means to integrate client and community input.				
10	Plan explains steps to ensure cost and quality control, as well as identifies all review stages.				
10	Plan identifies the physical location of major design and production work, the coordination plan for consultant work, and for work produced in remote offices.				
<b>10</b>	<b>PROFESSIONAL QUALIFICATIONS</b>				
10	The A/E Team Project Manager and Lead Designer have the qualifications, experience, and commitment to organize all efforts required for this project.				
<b>TOTAL SCORE</b>					

(1) Does not meet expectations (2) Meets expectations (3) Exceeds expectations

Use back of form to provide additional Comments.



## STAGE III EVALUATION CRITERIA

### **VISION STATEMENT AND DESIGN IMAGE (30%)**

A State Capitol must reflect the dignity and permanence of the State through its massing, shape and materials. It should enhance the City and Borough of Juneau, serving as an inspiration for architecture within the area. It should lend civic pride, strength, and vitality suitable to the State Capitol. Attention should also be given to the expression and integration of the fine arts enhancement for the project.

- A/E Teams should demonstrate their understanding of the Vision Statement and how they chose to respond to the desired attributes.
- A/E Teams should show that they understand how to create a building that addresses symbolic issues and the design methodology to be used for such an undertaking.

### **STATE CAPITOL FUNCTIONALITY (30%)**

The design must accommodate each of the functions and space types specified in the Competition Space Program. With ever-increasing technology, the State Capitol must function efficiently and respond to critical program parameters. Specific care must be taken with regard to security, plan organization, adjacencies, and spatial issues.

- A/E Teams should demonstrate their understanding of how to adapt internal systems, such as security and technological systems and changes in governing procedures and methodologies, in ways that do not degrade the architecture as those systems, procedures, and methodologies change and develop over time.
- A/E Teams should demonstrate their strict adherence to Competition Space Program and budget parameters.

### **STATE AND COMMUNITY CONTEXT (20%)**

The Capitol, symbolizing the State of Alaska, should be an integral part of the urban fabric of Juneau.

- A/E Teams should demonstrate a familiarization with the local context and their ability to design within that context, while creating an appropriate structure to reflect the greater Alaska context.
- A/E Teams should also recognize that the new Capitol building will be an integral part of an evolving capital campus, providing both functional space as well as linkages to current state government facilities.

### **CITIZEN IDEAS (10%)**

The new State Capitol will represent all Alaskans. In order to accomplish this paramount task, Alaskans are invited to submit their ideas for the State Capitol. Citizen Ideas for the State Capitol will be solicited throughout Stages I and II of the Competition and will be provided to the A/E Teams.

- A/E Teams should demonstrate an understanding of Alaskans' desires for the Capitol and the Team's response to the submitted Citizen Ideas.

### **SUSTAINABLE DESIGN (10%)**

The building should be able to sustain itself over time by protecting Alaska's natural resources through its design and construction. It should protect the environment while also providing the flexibility to change and develop the building as Alaska grows. The Capitol needs to be at the forefront of sensitivity to the environment and set an example for other public and private sector buildings.

- The Teams should address the issue of sustainable design as it pertains to this project. Areas to be specifically addressed include energy efficiency, indoor air quality, environmental safety, material choice and recycling, water use/conservation, and construction waste management.



# ★ STAGE III EVALUATION JURY WORKSHEET

A/E TEAM (circle appropriate indication):    A    B    C    D  
JURY MEMBER:

**RESPONSE TO EVALUATION CRITERIA:**

---

Vision Statement and Design Image (30%)

---

Facility Functionality (30%)

---

State and Community Context (20%)

---

Citizen Ideas (10%)

---

Sustainable Design (10%)

---

TOTAL SCORE

---



## CONTACT

All Competition inquiries and communication from people participating in the Competition must be sent to the Competition Advisor/Manager:

Donald J. Stastny FAIA FAICP  
(503) 222-5533 phone  
(503) 227-5019 fax  
designcompetition@alaskacapitol.org

General information and communication from people not participating in the Competition may be sent to:

City and Borough of Juneau  
(907) 586-0201 phone  
(907) 586-4522 fax  
info@alaskacapitol.org

Media and press inquiries should be directed to:

Bruce Botel<sup>4</sup> o, Chair, Capitol Planning Commission  
Maria Gladyszewski, Staff  
(907) 586-5240 phone  
info@alaskacapitol.org



PRINT THIS

Powered by Clickability

## New capital up for dibs in Alaska

By John Fitter, USA TODAY

It's a safe bet no lawmakers in the Lower 48 have commutes to their capitals like Alaska state Rep. John Coghill's.



Juneau's isolation has many Alaskans calling for a new state capital.

By Seanna O'Sullivan, AP

The North Pole Republican — not *the* North Pole but the town outside Fairbanks — makes a 600-mile, two-day January road trip through sparsely populated wilds, including a piece of Canada's Yukon. It's bitter cold, the highway is icy, survival gear is a must, and he never drives through remote villages without topping off the gas tank of his 1982 Cadillac.

"At 40-below, if you had a flat tire and had to idle for an hour, you just don't want any problems," Coghill, 54, says.

Because no roads go in or out of Juneau, the capital, Coghill's journey ends with a four-hour ferry ride. Legislators who choose to fly to Juneau complain about exasperating delays, even overnight diversions to Seattle, because of Juneau's chronically socked-in airport. Fog-prone and ringed by mountains, the city has one of the USA's trickiest airports to fly into.

Average Alaskans are more isolated from the seat of their government than any other Americans. Little wonder that campaigns to move the capital have roiled state politics almost since the day Alaska joined the union in 1959. Alaskans have voted no fewer than eight times on measures to relocate, or pay to relocate, their capital.

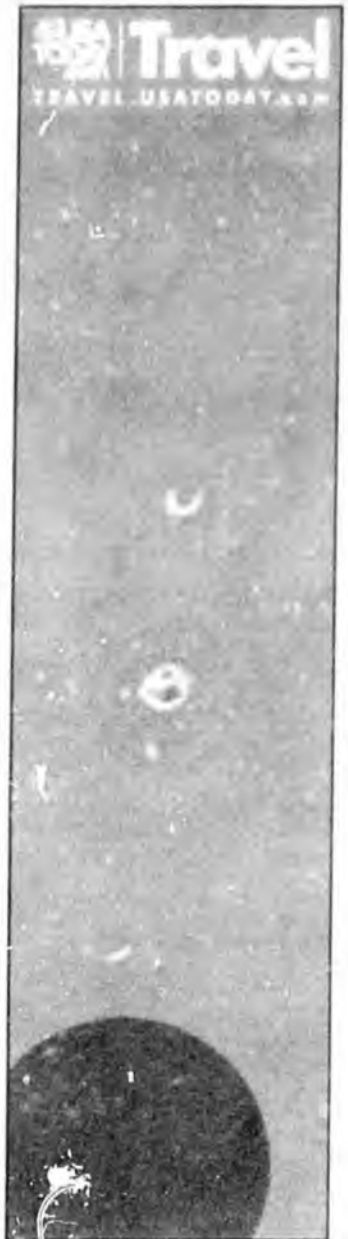
Talk of a move pierces the frigid air again this winter, but not for the usual reasons. Juneau Mayor Bruce Bothelo is pushing a plan to build a new Capitol to replace what everyone agrees is an outdated, cramped, arguably unsafe and decidedly unstately relic from Alaska's territorial era.

The city bought a 4.5-acre hilltop site and gave it to the state, then spent \$250,000 on a national design competition. Bothelo will announce a winner Wednesday and a goal of dedicating a new \$100 million Capitol on the golden anniversary of statehood, Jan. 3, 2009.

### Weighing the cost

Many Alaskans are asking if the state is to spend \$100 million, shouldn't the capital be moved closer to where most of the population

Advertisement





lives, the "rail belt" between Anchorage and Fairbank..?

"It's clear to me we need a new capital," says Rep. Norm Rokeberg, R-Anchorage. But Botelho's plan "is almost non-doable politically," he says.

Rokeberg's build-it-and-they-will-come bill would empower Alaska's five population centers — Anchorage, Fairbanks, Juneau, Matanuska-Susitna Borough and the Kenai Peninsula — to bid on landing the capital.

Two other legislators have filed bills requiring voter approval to use state money for a new Capitol building.

The last state capital to move was in 1910, when Oklahomans shifted theirs from Guthrie to Oklahoma City. At the time, Juneau was a booming gold-rush town and Alaska's commercial hub. Anchorage and the Alaska interior didn't grow until after World War II. Today, at least three-fourths of the state's 655,000 residents live in or near Anchorage.

After statehood, voters rejected moving the capital in 1960 and 1962. They approved it in 1974 but in 1978 turned down the \$966 million price tag. In 1982, a \$2.2 billion plan for a new capital near Anchorage in Willow, then a town of fewer than 200, failed. Cost worries killed yet another bid in 1994.

An idea backed by Alaska's elder statesman, two-time governor Walter Hickel, to move legislative sessions to Matanuska-Susitna but keep the rest of government in Juneau, failed 2-1 at the polls in 2002.

"It's so hard for guys from the villages to fly in," Hickel, 85, says. "They all come through Anchorage anyway."

Under Botelho's plan, Juneau would build the Capitol. The state would rent it for \$6.5 million a year for 30 years to pay off \$100 million in bonds. Then the state would take ownership of the building.

**Proposed highway link**

Gov. Frank Murkowski opposes a move. Botelho thinks the governor will support a new Juneau Capitol and bring legislators along. His spokeswoman, Becky Hultberg, says he won't weigh in until he sees the winning design.

Murkowski also backs a proposed 68-mile highway from Juneau to Skagway that would complete overland access to the capital. Environmental studies are underway, but federal funding for part of the \$285 million cost is uncertain.

Even if constituents could drive all the way, would they during legislative sessions that coincide with the state's worst weather?

A persistent knock on Juneau is that the time and expense of getting there shuts average Alaskans and small groups out of a legislative process dominated by insiders and well-heeled special interests.

Citizens can participate and keep abreast through teleconferencing, cable TV and the Internet. Alaska Airlines offers up to 35% "constituent discounts" on fares during the legislative session.

Juneau's critics, however, say that's not the same. "No question Juneau insulates the Legislature from public contact, limits that interactivity, and the process becomes more internalized," Rokeberg says.

Steve Lindbeck, associate editor of the *Anchorage Daily News*, calls it "a hot-house environment that tends to favor large power structures."

Botelho points out that Alaska, more than double the size of Texas, "is so big, wherever the capital is it's going to be far from somebody." He says Alaskans historically have opposed concentrating government power and commercial power in one location — in Anchorage, in other words.

"I think it's true there's an insider's game, but I'd suggest that that's true in virtually any capital in the country," he says.

Political betting is that the capital — and Capitol — debates won't be resolved this year, just as they haven't been in the past 50. State finances, dependent on oil royalties, are shaky in an era of production declines in the vast North Slope fields.

Government — state, borough and city — is half the city of 31,000's workforce. The No. 2 employer, tourism, accounts for a fifth of the local economy.

"People don't want to hurt the town," Alaska pollster Dave Dittman says. "And Juneau has done a good job of milking that sentiment, even though it would probably get along just fine."

• [REPRINTS & PERMISSIONS](#)

**Find this article at:**

[http://www.usatoday.com/news/nation/2005-02-13-juneau\\_x.htm](http://www.usatoday.com/news/nation/2005-02-13-juneau_x.htm)

Check the box to include the list of links referenced in the article.

	Teachers - Click here for drug prevention resources	
---	--	---

**HB**

**28**

**Representative Carl E. Moses, House District 37  
(907) 465-4451 – Adam Berg, Staff**

**SPONSOR STATEMENT / SECTIONAL ANALYSIS**

**HB28 – Municipal Dividend Program**

The establishment of a Municipal Dividend program would aid municipalities with state appropriations allocated for unrestricted use by local governments in their greatest time of need. The sponsor intends to empower local officials by allowing them to decide how to best spend that money. Uncertain state funding has affected local governments ability to plan and budget properly, and more recently, to absorb the brunt of many state budget cuts.

This plan would provide approximately \$160 million annually to municipalities by accessing surplus earnings of the Permanent Fund. The distribution to municipalities would be made only after Permanent Fund Dividends and inflation proofing are provided for. Based on annual Permanent Fund earnings, if the amount appropriated were not sufficient to fully fund municipal dividends, the amount to each municipality would be reduced on a pro-rata basis.

Alaska's municipalities and local decision makers deliver the most direct and knowledgeable service, much of which is of a critical nature. Under HB28, the amount going to each municipality would be determined by population and a per head allocation. Population criteria would be the number of local PFD recipients and the allocations would be \$250 per head, with a minimum to any municipality of \$40,000 annually.

**BILL SECTION 1:** Establishes the Municipal Dividend Fund. The amount of a Municipal Dividend is set at \$250 per eligible PFD recipient in each municipality. Borough populations are determined by subtracting the population of all cities within a borough from the borough's total population, thereby allowing boroughs to apply funding to their unincorporated communities. It sets a minimum dividend payment of \$40,000 to a municipality. There is a formula specified in the event the amount appropriated to the fund is insufficient to fully fund Municipal Dividends.

**BILL SECTION 2:** Assures that the transfer of money from the earnings reserve account to the Municipal Dividend Fund happens only after Permanent Fund Dividends have been accounted for and inflation proofing has taken place. It also assures that the lesser amount of either the dollars needed to fully fund the program or the balance of the earnings reserve account be transferred.

**BILL SECTION 3:** Sets the effective date at June 30, 2005.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 28  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Municipal Dividend Program RDU Comm Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Moses  
 Requester House Community & Regional Affairs Component No. 2703

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

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation establishes in the department a municipal dividend fund consisting of money transferred to the fund under AS 37.13.145(e) to be used to pay a municipal dividend that equals \$250 for each resident of the municipality. It would not create a fiscal impact on the operations of the department.

Prepared by: Michael Black, Director  
 Division: Community Advocacy  
 Approved by: Edgar Blatchford, Commissioner  
 Agency: Commerce, Community, and Economic Development

Phone 907 269 4578  
 Date/Time 3/25/05 1:25 PM  
 Date 3/25/2005



**Alaska Permanent Fund Corporation**

**Bill Analysis - HB 28**

**Financial projection comparison of the Alaska Permanent Fund under current statutes versus HB 28, Municipal Dividend Program.**

All \$ values in millions except the per person dividend

<b>Current Statutes</b>	<b>FY05</b>	<b>FY06</b>	<b>FY07</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY05-FY15 Totals</b>
Total market value end of year (after payouts)	29,316	31,169	32,923	34,541	36,180	37,942	39,777	41,682	43,659	45,710	47,836	47,836
Total lump sum dividend appropriation	607	691	886	1,082	1,170	1,168	1,229	1,290	1,352	1,417	1,484	12,376
Per person dividend under current statute	\$ 950	\$ 1,010	\$ 1,380	\$ 1,680	\$ 1,800	\$ 1,780	\$ 1,860	\$ 1,930	\$ 2,000	\$ 2,070	\$ 2,150	\$ 18,680

<b>Current Statutes &amp; Municipal Dividend</b>	<b>FY05</b>	<b>FY06</b>	<b>FY07</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY05-FY15 Totals</b>
Total market value end of year (after payouts)	29,105	30,855	32,433	33,864	35,302	36,853	38,465	40,134	41,863	43,653	45,505	45,505
Total lump sum dividend appropriation	607	691	884	1,077	1,161	1,154	1,209	1,263	1,318	1,375	1,434	12,172
Per person dividend under current statute	\$ 950	\$ 1,080	\$ 1,380	\$ 1,680	\$ 1,790	\$ 1,760	\$ 1,820	\$ 1,890	\$ 1,950	\$ 2,010	\$ 2,080	\$ 18,390
Additional lump sum payout - Municipal Dividend*	151	152	154	156	158	159	161	163	165	166	168	1,753

**Assumptions:**

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

\*Municipal dividend calculated in lump sum, using projected number of permanent fund dividend applicants.

**HB 28 Municipal Dividend Estimates**

**Distribution Formula: Municipal Population X \$250 With a Minimum Entitlement of \$40,000**

**Borough Populations: Borough Areawide Population Less City Populations in Borough**

<b>Municipalities</b>	<b>2004 Population</b>	<b>Population X \$250</b>	<b>Minimum Entitlement Add-On</b>	<b>Municipal Dividend Payment</b>
Adak	69	\$17,250	\$22,750	\$40,000
Akhiok	56	\$14,000	\$26,000	\$40,000
Akiak	367	\$91,750	\$0	\$91,750
Akutan	771	\$192,750	\$0	\$192,750
Alakanuk	667	\$166,750	\$0	\$166,750
Aleknagik	219	\$54,750	\$0	\$54,750
Aleutians East Borough	76	\$19,000	\$21,000	\$40,000
Allakaket	90	\$22,500	\$17,500	\$40,000
Ambler	274	\$68,500	\$0	\$68,500
Anaktuvuk Pass	300	\$75,000	\$0	\$75,000
Anchorage	277,498	\$69,374,500	\$0	\$69,374,500
Anderson	344	\$86,000	\$0	\$86,000
Angoon	481	\$120,250	\$0	\$120,250
Aniak	532	\$133,000	\$0	\$133,000
Anvik	101	\$25,250	\$14,750	\$40,000
Atka	92	\$23,000	\$17,000	\$40,000
Atkasuk	247	\$61,750	\$0	\$61,750
Barrow	4,351	\$1,087,750	\$0	\$1,087,750
Bethel	5,888	\$1,472,000	\$0	\$1,472,000
Bettles	31	\$7,750	\$32,250	\$40,000
Brevig Mission	319	\$79,750	\$0	\$79,750
Bristol Bay Borough	1,096	\$274,000	\$0	\$274,000
Buckland	437	\$109,250	\$0	\$109,250
Cheformak	439	\$109,750	\$0	\$109,750
Chevak	899	\$224,750	\$0	\$224,750
Chignik	92	\$23,000	\$17,000	\$40,000
Chuathbaluk	105	\$26,250	\$13,750	\$40,000
Clark's Point	62	\$15,500	\$24,500	\$40,000
Coffman Cove	177	\$44,250	\$0	\$44,250
Cold Bay	89	\$22,250	\$17,750	\$40,000
Cordova	2,298	\$574,500	\$0	\$574,500
Craig	1,127	\$281,750	\$0	\$281,750
Deering	145	\$36,250	\$3,750	\$40,000
Delta Junction	984	\$246,000	\$0	\$246,000
Denali Borough	1,498	\$374,500	\$0	\$374,500
Dillingham	2,422	\$605,500	\$0	\$605,500
Diomedes	141	\$35,250	\$4,750	\$40,000
Eagle	115	\$28,750	\$11,250	\$40,000
Eek	292	\$73,000	\$0	\$73,000
Egegik	76	\$19,000	\$21,000	\$40,000

**HB 28 Municipal Dividend Estimates**

**Distribution Formula: Municipal Population X \$250 With a Minimum Entitlement of \$40,000**

**Borough Populations: Borough Areawide Population Less City Populations in Borough**

<b>Municipalities</b>	<b>2004 Population</b>	<b>Population X \$250</b>	<b>Minimum Entitlement Add-On</b>	<b>Municipal Dividend Payment</b>
Ekwook	127	\$31,750	\$8,250	\$40,000
Elim	318	\$79,500	\$0	\$79,500
Emmonak	762	\$190,500	\$0	\$190,500
Fairbanks	29,954	\$7,488,500	\$0	\$7,488,500
Fairbanks North Star Borough	53,493	\$13,373,250	\$0	\$13,373,250
False Pass	62	\$15,500	\$24,500	\$40,000
Fort Yukon	594	\$148,500	\$0	\$148,500
Galena	717	\$179,250	\$0	\$179,250
Gambell	648	\$162,000	\$0	\$162,000
Golovin	160	\$40,000	\$0	\$40,000
Goodnews Bay	236	\$59,000	\$0	\$59,000
Grayling	182	\$45,500	\$0	\$45,500
Gustavus	473	\$118,250	\$0	\$118,250
Haines Borough	2,245	\$561,250	\$0	\$561,250
Holy Cross	206	\$51,500	\$0	\$51,500
Homer	5,332	\$1,333,000	\$0	\$1,333,000
Hoonah	841	\$210,250	\$0	\$210,250
Hooper Bay	1,124	\$281,000	\$0	\$281,000
Houston	1,368	\$342,000	\$0	\$342,000
Hughes	72	\$18,000	\$22,000	\$40,000
Huslia	269	\$67,250	\$0	\$67,250
Hydaburg	349	\$87,250	\$0	\$87,250
Juneau	30,966	\$7,741,500	\$0	\$7,741,500
Kachemak	475	\$118,750	\$0	\$118,750
Kake	663	\$165,750	\$0	\$165,750
Kaktovik	284	\$71,000	\$0	\$71,000
Katag	211	\$52,750	\$0	\$52,750
Kasaan	60	\$15,000	\$25,000	\$40,000
Kenai	6,809	\$1,702,250	\$0	\$1,702,250
Kenai Peninsula Borough	31,794	\$7,948,500	\$0	\$7,948,500
Ketchikan	7,691	\$1,922,750	\$0	\$1,922,750
Ketchikan Gateway Borough	4,948	\$1,237,000	\$0	\$1,237,000
Kiana	394	\$98,500	\$0	\$98,500
King Cove	723	\$180,750	\$0	\$180,750
Kivalina	388	\$97,000	\$0	\$97,000
Klawock	848	\$212,000	\$0	\$212,000
Kobuk	128	\$32,000	\$8,000	\$40,000
Kodiak	6,199	\$1,549,750	\$0	\$1,549,750
Kodiak Island Borough	6,494	\$1,623,500	\$0	\$1,623,500
Kotlik	588	\$147,000	\$0	\$147,000

**HB 28 Municipal Dividend Estimates**

**Distribution Formula: Municipal Population X \$250 With a Minimum Entitlement of \$40,000**

**Borough Populations: Borough Areawide Population Less City Populations in Borough**

<b>Municipalities</b>	<b>2004 Population</b>	<b>Population X \$250</b>	<b>Minimum Entitlement Add-On</b>	<b>Municipal Dividend Payment</b>
Kotzebue	3,130	\$782,500	\$0	\$782,500
Koyuk	348	\$87,000	\$0	\$87,000
Koyukuk	109	\$27,250	\$12,750	\$40,000
Kupreanof	38	\$9,500	\$30,500	\$40,000
Kwethluk	695	\$173,750	\$0	\$173,750
Lake & Peninsula Borough	882	\$220,500	\$0	\$220,500
Larsen Bay	96	\$24,000	\$16,000	\$40,000
Lower Kalskag	262	\$65,500	\$0	\$65,500
Manokotak	405	\$101,250	\$0	\$101,250
Marshall	358	\$89,500	\$0	\$89,500
Matanuska-Susitna Borough	57,474	\$14,368,500	\$0	\$14,368,500
McGrath	367	\$91,750	\$0	\$91,750
Mekoryuk	198	\$49,500	\$0	\$49,500
Metlakatla	1,370	\$342,500	\$0	\$342,500
Mountain Village	769	\$192,250	\$0	\$192,250
Napakiak	360	\$90,000	\$0	\$90,000
Napaskiak	436	\$109,000	\$0	\$109,000
Nenana	394	\$98,500	\$0	\$98,500
New Stuyahok	477	\$119,250	\$0	\$119,250
Newhalen	183	\$45,750	\$0	\$45,750
Nightmute	232	\$58,000	\$0	\$58,000
Nikolai	121	\$30,250	\$9,750	\$40,000
Nome	3,473	\$868,250	\$0	\$868,250
Nondalton	205	\$51,250	\$0	\$51,250
Noorvik	609	\$152,250	\$0	\$152,250
North Pole	1,532	\$383,000	\$0	\$383,000
North Slope Borough	235	\$58,750	\$0	\$58,750
Northwest Arctic Borough	708	\$177,000	\$0	\$177,000
Nuiqsut	430	\$107,500	\$0	\$107,500
Nulato	320	\$80,000	\$0	\$80,000
Nunam Iqua	172	\$43,000	\$0	\$43,000
Nunapitchuk	527	\$131,750	\$0	\$131,750
Old Harbor	196	\$49,000	\$0	\$49,000
Ouzinkie	187	\$46,750	\$0	\$46,750
Palmer	5,197	\$1,299,250	\$0	\$1,299,250
Pelican	118	\$29,500	\$10,500	\$40,000
Petersburg	3,123	\$780,750	\$0	\$780,750
Pilot Point	75	\$18,750	\$21,250	\$40,000
Pilot Station	559	\$139,750	\$0	\$139,750
Platinum	39	\$9,750	\$30,250	\$40,000

**HB 28 Municipal Dividend Estimates**

**Distribution Formula: Municipal Population X \$250 With a Minimum Entitlement of \$40,000**

**Borough Populations: Borough Areawide Population Less City Populations in Borough**

<b>Municipalities</b>	<b>2004 Population</b>	<b>Population X \$250</b>	<b>Minimum Entitlement Add-On</b>	<b>Municipal Dividend Payment</b>
Point Hope	726	\$181,500	\$0	\$181,500
Port Alexander	69	\$17,250	\$22,750	\$40,000
Port Heiden	90	\$22,500	\$17,500	\$40,000
Port Lions	238	\$59,500	\$0	\$59,500
Quinhagak	612	\$153,000	\$0	\$153,000
Ruby	190	\$47,500	\$0	\$47,500
Russian Mission	331	\$82,750	\$0	\$82,750
Saint George	137	\$34,250	\$5,750	\$40,000
Saint Mary's	539	\$134,750	\$0	\$134,750
Saint Michael	409	\$102,250	\$0	\$102,250
Saint Paul	494	\$123,500	\$0	\$123,500
Sand Point	908	\$227,000	\$0	\$227,000
Savoonga	710	\$177,500	\$0	\$177,500
Saxman	391	\$97,750	\$0	\$97,750
Scammon Bay	486	\$121,500	\$0	\$121,500
Selawik	829	\$207,250	\$0	\$207,250
Seldovia	263	\$65,750	\$0	\$65,750
Seward	2,540	\$635,000	\$0	\$635,000
Shageiuk	132	\$33,000	\$7,000	\$40,000
Shaktoolik	209	\$52,250	\$0	\$52,250
Shishmaref	591	\$147,750	\$0	\$147,750
Shungnak	264	\$66,000	\$0	\$66,000
Sitka	8,805	\$2,201,250	\$0	\$2,201,250
Skagway	870	\$217,500	\$0	\$217,500
Soldotna	3,767	\$941,750	\$0	\$941,750
Stebbins	586	\$146,500	\$0	\$146,500
Tanana	304	\$76,000	\$0	\$76,000
Teller	241	\$60,250	\$0	\$60,250
Tenakee Springs	105	\$26,250	\$13,750	\$40,000
Thorne Bay	497	\$124,250	\$0	\$124,250
Togiak	805	\$201,250	\$0	\$201,250
Toksook Bay	561	\$140,250	\$0	\$140,250
Unalakleet	728	\$182,000	\$0	\$182,000
Unalaska	4,366	\$1,091,500	\$0	\$1,091,500
Upper Kalskag	263	\$65,750	\$0	\$65,750
Valdez	3,749	\$937,250	\$0	\$937,250
Wainwright	531	\$132,750	\$0	\$132,750
Wales	152	\$38,000	\$2,000	\$40,000
Wasilla	6,109	\$1,527,250	\$0	\$1,527,250
White Mountain	213	\$53,250	\$0	\$53,250

**HB 28 Municipal Dividend Estimates**

**Distribution Formula: Municipal Population X \$250 With a Minimum Entitlement of \$40,000**

**Borough Populations: Borough Areawide Population Less City Populations in Borough**

<b>Municipalities</b>	<b>2004 Population</b>	<b>Population X \$250</b>	<b>Minimum Entitlement Add-On</b>	<b>Municipal Dividend Payment</b>
Whittier	172	\$43,000	\$0	\$43,000
Wrangell	2,023	\$505,750	\$0	\$505,750
Yakutat	680	\$170,000	\$0	\$170,000
<b>Totals</b>	<b>637,556</b>	<b>\$159,389,000</b>	<b>\$552,500</b>	<b>\$159,941,500</b>

**CITY AND BOROUGH OF SITKA**

**RESOLUTION NO. 2004-11**

**A RESOLUTION OF THE CITY AND BOROUGH OF SITKA SUPPORTING HOUSE BILL 431 WHICH WOULD CREATE A MUNICIPAL DIVIDEND THAT WOULD BE PAID MUNICIPALITIES FROM THE EARNINGS OF THE PERMANENT FUND AFTER INFLATION PROOFING**

**WHEREAS**, the City and Borough of Sitka similar to other municipalities has been significantly impacted by the loss of funding provided for under Revenue Sharing and Safe Communities; and

**WHEREAS**, the City and Borough of Sitka is being forced to decrease services, programs, charitable contributions, and eliminate positions due this shortfall; and

**WHEREAS**, Representative Carl E. Moses has sponsored legislation that would create a Municipal Dividend Program; and

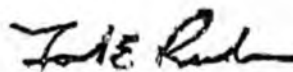
**WHEREAS**, the Municipal Dividend Program will assist municipalities in filling the gaps left in their budgets as a result of the elimination of funding for Revenue Sharing and Safe Communities; and

**WHEREAS**, the proposed Municipal Dividend Program would pay out \$250 for each person residing in Sitka. The population shall be determined annually by using the numbers of permanent fund dividend recipients or other reliable population data; and

**WHEREAS**, the Act would take effect June 20, 2004.

**THEREFORE, BE IT RESOLVED**, that the Assembly of the City and Borough of Sitka, Alaska by this resolution supports House Bill 431 providing for a municipal dividend program to assist municipalities with their budget shortfalls generated by the elimination of Revenue Sharing and Safe Communities funding.

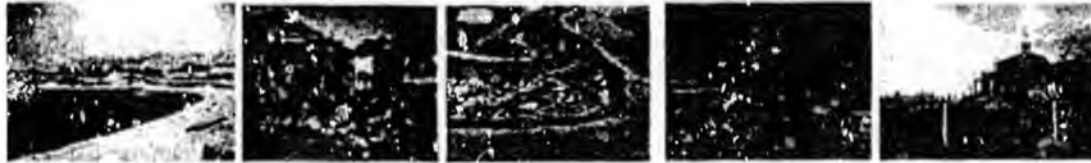
**PASSED, APPROVED AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska on this 24th day of February 2004.

  
\_\_\_\_\_  
Fred Reeder, Mayor

ATTEST:

  
Colleen Pellett, CMC  
Municipal Clerk

**January, 2005**  
**Local Government Issue Paper**  
**Alaska's Small Cities in Crisis**



In 2003, there were 94 cities with annual local government operating budgets under \$300,000 per year, and averaging \$164,000, to provide public services for an entire community (according to State figures, DCED). From 2003 to 2005, those 94 cities (out of a total of 146 cities in Alaska) lost an average of approximately 42% of the revenue required to provide basic public services. The crises are due to massive State cuts to cities at a time of skyrocketing local costs and economic downturns. In 2004, Alaska became one of two states that eliminated its local government revenue sharing programs. Most small rural cities operate in a cost effective manner with many part-time or volunteer positions. However, most of Alaska's small rural communities have very little local tax base due to cash poor subsistence economies.

<b>2003 Average Operating Budget for two thirds of AK Cities</b>	<b>\$164,000</b>
<b><u>Examples of Approximate 2003-04 Cuts/cost increases:</u></b>	<b><u>-\$69,000</u></b>
2003 State Cuts to Revenue Sharing/Match Grants	-\$10,000
2004 State Eliminates Revenue Sharing	-\$40,000
Fuel/electricity/goods rise due to oil prices	-\$7,000
Community insurance increases	-\$6,000
State mandated increases (PERS)	-\$4,000
New state inspection fees, service transfers, etc.	-\$2,000

**Growing Impacts of Loss of Revenue Sharing, etc.**

It is difficult to know the status of small rural communities. Few that fail have the administrative capacity to take steps to formally dissolve. They simply layoff their employees, cease being able to hold elections, cancel insurance for community facilities, stop providing services, etc. In some cases tribes or other organizations take over key government services.

As of last month, the following cities have either been unresponsive to contacts by the State, have not held local elections, entered into an agreement with a tribe to assume city responsibilities, or contacted the State regarding formal dissolution: **Akiok, Ambler, Chevak, Holy Cross, Hughes, Klana, Kivalina, Koyukuk, Lower Kalskag, Napaskiak, Nikolai, Platinum, Russian Mission, Scammon Bay.** Additionally, 10 cities or more have had their insurance canceled for lack of payment to date, and approximately 33 more cities are on month-to-month payment plans because they can't afford the premiums currently.

While it is too early to say how many cities have ceased operations, a great number are unquestionably in peril. The loss of public safety, transportation, and other key local services is having a huge negative impact on the people of Alaska.

**NORTHWEST ARCTIC BOROUGH****P.O. BOX 1110****KOTZEBUE, ALASKA 99752****(907) 442-2500 / FAX (907) 442-2930**

March 18, 2004

Representative Carl E. Moses  
716 W. 4<sup>th</sup> Avenue  
Anchorage, Alaska 99501-2133

Dear Representative Moses:

I would like to take this opportunity to express support for House Bill 431. This letter is a follow-up to a supportive e-mail I sent several weeks ago on this subject.

The elimination of Revenue Sharing and State Communities funding is going to make operation of our smaller local municipal governments nearly impossible after the end of this fiscal year. There is neither a sufficient population base in our villages nor an economic foundation in place that can generate sufficient revenue to fund even a city administrator in some cases.

The economy of rural Alaska is such that elimination of the longevity bonus has a very broad and drastic impact on our people. Elders in our region do not, for the most part, have any form of retirement income because they have never had the benefit of regular employment during their lives. That \$250 per month was largely utilized to pay bills such as monthly electricity and water and sewer. Loss of that income will mean that even fewer people in the villages will be able to pay their bills and the cities will have even more difficulty in making ends meet.

It is important for the legislature to realize that we already have many villages in the region with severe financial difficulties. Kivalina is in debt to the tune of \$150,000. Ambler is looking at having to raise water and sewer fees at a time when people are having difficulty paying the existing rates. Deering has cut a number of important service positions from its payroll and reduced the remaining staff to six hours per day. They are considering a 50% increase to residential water and sewer rates and a 67% increase for commercial rates. They are also looking at raising city sales tax from 3% to 4%. Selawik has reduced staff working hours by a full 50% and increased utility rates by 20% to cover a major budget shortfall in that community. Buckland has been operating with all personnel working just half time for the last year. Kiana has voted to merge the city and traditional Native governments so that both can operate with a common administrator and support and from a common facility. And Kotzebue, the borough's

largest city and hub, had to close the regional jail in the past year due to insufficient local resources and inadequate state funding support. The city is now looking at eliminating the local police department and placing that burden on the state troopers.

It is clear that city governments are not going to continue to operate to anyone's satisfaction in the year ahead without support. A community dividend is an excellent option to solving this funding crisis.

It appears that the only way to gain approval of a community dividend is by raising revenue. The use of some Permanent Fund earnings utilizing the POMV strategy is a good start, but that would have to be supplemented by other sources of revenue including a small state income tax, a school tax and other methods of taxation other than a statewide sales tax. Additional motor fuel tax would be a hardship to rural areas where the price of fuel is already extremely high. A higher fuel tax would drain rural utilities that already have difficulty meeting financial obligations.

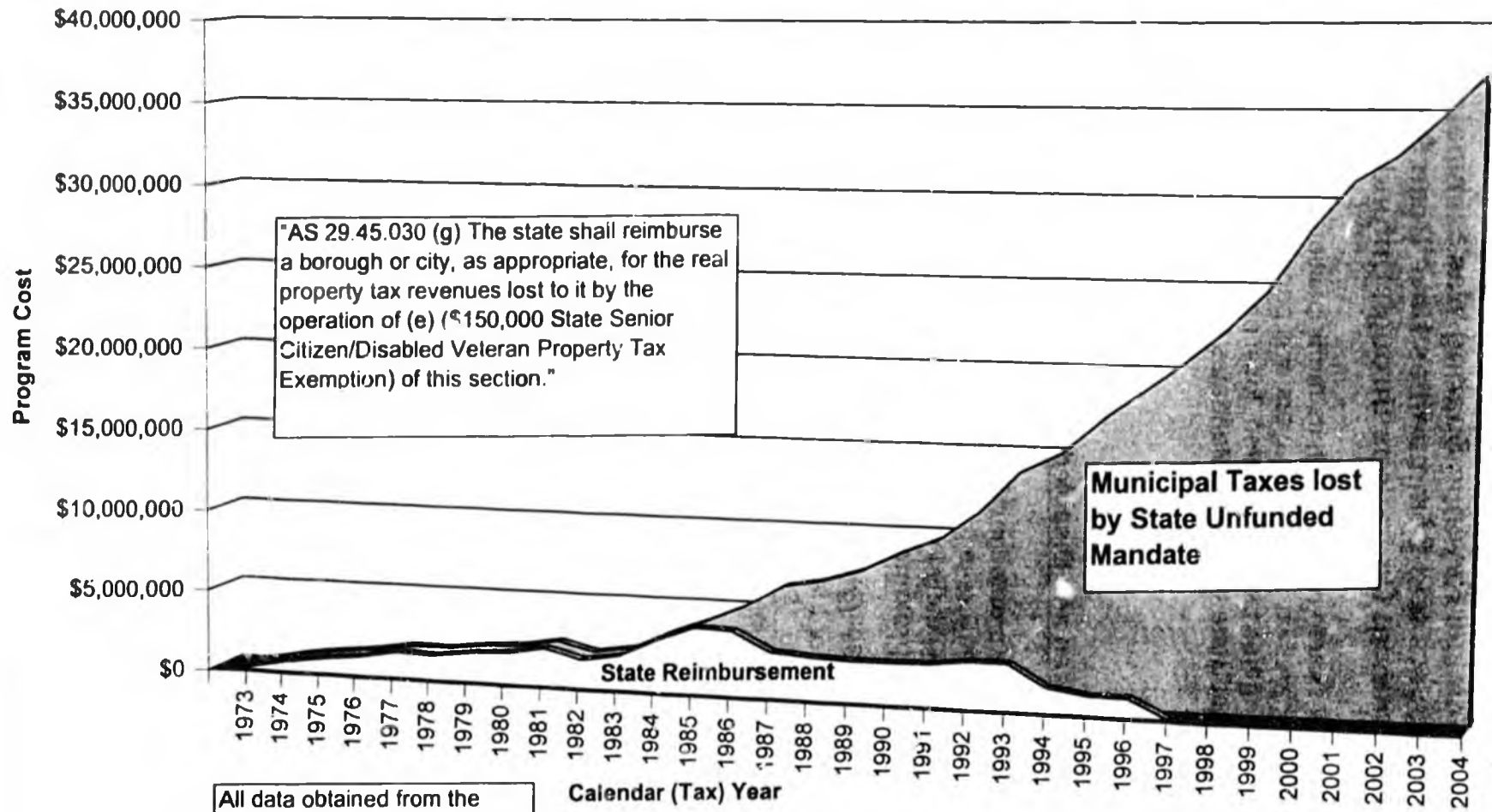
Thank you for your continuing support of municipal governments. We support HB 431 because without state assistance our governments will not be able to provide the most basic services to our residents. Again, the community dividend should be only a small part of an overall plan by the state to generate revenues necessary to assist with these local costs. We cannot have more cuts unless we are ready to help pay for services.

Sincerely,

*There have been  
wash stories in the  
paper budget for  
years.*

cc. Representati

### Senior Citizen/Disabled Veteran Property Tax Exemption Program History - 1973-2004



All data obtained from the  
Alaska State Assessor, 1/05

## **Since Municipal Revenue Sharing Was Eliminated Last Year, Local Taxpayers and Communities Have Been Subsidizing State Government Operations through Unfunded Mandates**

While the State shared revenue with its municipalities, the cost of State Unfunded Mandates on Local Taxpayers was partially offset. Now that Municipal Revenue Sharing has been eliminated, local property taxpayers absorb the cost of the two largest State Unfunded Mandates on communities:

### **State Senior Citizen and Disabled Veteran Property Tax Exemption**

This exemption was created in 1973 with a statutory promise (see below) to reimburse local taxpayers in the state budget. The State stopped reimbursing local taxpayers completely in 1997. In 2005 this unfunded mandate will **cost local taxpayers approximately \$40 million.**

*"AS 29.45.030 (g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) (\$150,000 State Senior Citizen/Disabled Veteran Property Tax Exemption) of this section."*

### **State Constitutional Exemption from Local Taxes for Local Public Services**

Through this mandated state tax exemption, local taxpayers must pay for fire protection, police protection, etc. for State lands and facilities in their community.

The Constitutionally mandated property tax exemption for State property is the largest local property tax exemption. The State, like any business, consumes local public services but exempts itself from local taxes. Local Public Services consumed by the State are now subsidized by additional taxes from all local taxpayers. This exemption roughly costs local taxpayers an **estimated \$67.4 million per year.**

The Federal Government and some states, like Connecticut, have implemented a "Payment-in Lieu of Taxes" or "PILT" program to avoid having local taxpayers subsidize local public services for state or federal facilities. The State of Alaska strongly endorses and supports the PILT program on the Federal level to offset the cost of providing services to federal lands and facilities.

## **State Budget Cuts Have Helped Push Local Taxes Most Alaskans Pay Higher Than in 35 Other States**

The Administration and Legislature can no longer afford to balance the State budget by cutting traditional support and programs for municipal governments. Municipal taxes (property and sales) are now higher than those paid by families in two thirds of the other states. **High sales and property taxes have negative impacts on local businesses and families.**

There has been a misconception in Legislature that municipalities have excess "tax authority" that State government can use to balance its own budget. This has been a major component of the state budget balancing strategy for many years.

This state budget balancing strategy has been implemented by reducing municipal revenue sharing programs while asking municipalities to assume additional costly state government responsibilities. The most recent example is the elimination of municipal revenue sharing which has been a key local tax stabilization program since 1969.

**History of Municipal Revenue Sharing:** One of the major issues of the Alaska statehood debate was whether Alaskans could afford government services given our high cost of living and small population. The answer was to give Alaska access to natural resource revenues to offset the high cost of providing government services in Alaska. Of course, the problem of the high cost of government applies to local government as well as state government.

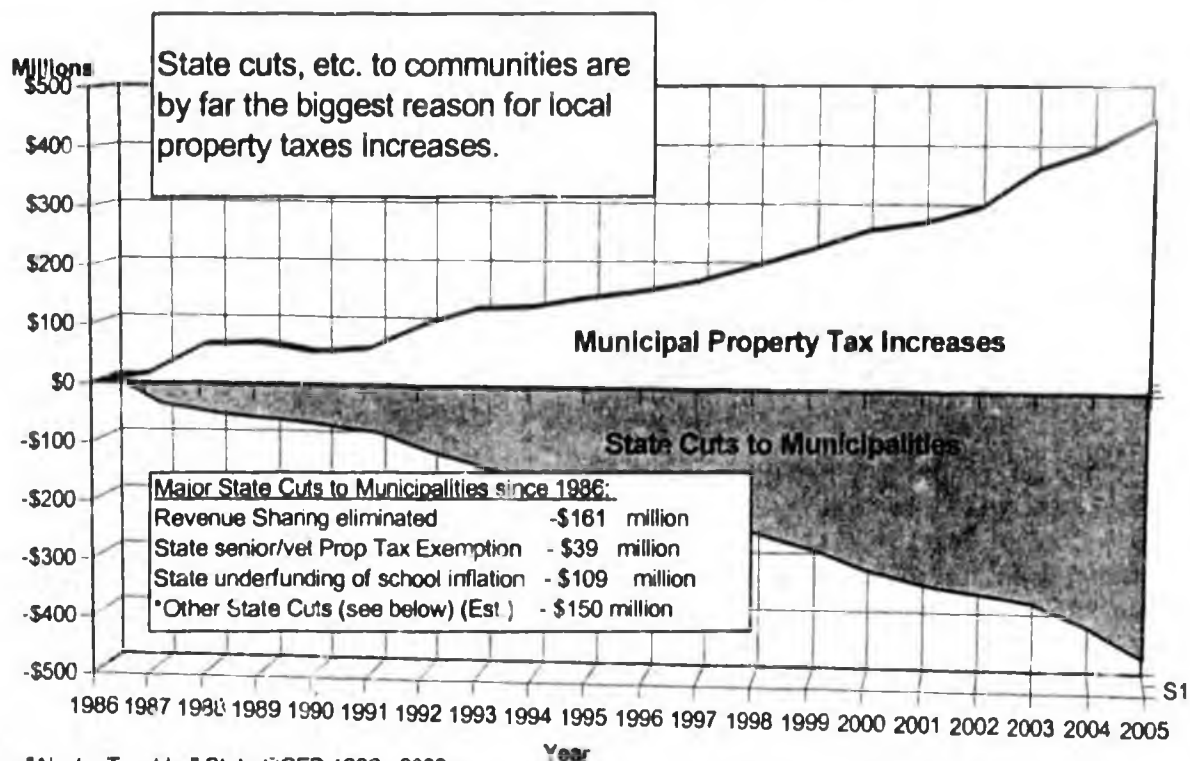
Since 1969 there has been a state and local government partnership, through the municipal revenue sharing program, to share natural resource revenues owned by all Alaskans. The thirty five year old municipal revenue sharing was eliminated this year while, for example, state mandated retirement program costs were increased by \$20 million for municipalities.

**Analysis:** The best comparison of family tax burdens is done annually by the District of Columbia - "*Tax Rates and Tax Burdens - A Nationwide Comparison*," 2002. This study is valuable because it is based on what a family actually pays at various family income levels, rather than including oil taxes, PFD's, etc. that incorrectly inflate per capita tax and spending comparisons for Alaska. The Study makes comparisons for families in the largest city in each of the 50 states and Washington, DC. Anchorage is the comparison city for Alaska. It is possible to extrapolate the comparison to other Alaskan municipalities using per capita tax comparisons from the "*Alaska Taxable, 2003*" - Alaska Department of Community and Economic Development. (The DC study is online at: <http://cfo.dc.gov/cfo> under "Tax Rates and Revenues")

Using comparisons from the DC study, **most Alaskan families and businesses now pay more in property tax than residents in 35 other states.** In Anchorage, the comparison city for the study, families pay more property tax than families in 35 other states. However, Anchorage families pay less total local tax than 31 other Alaskan cities. (Note: In Alaska, the primary local taxes are property and sales tax, while the primary municipal tax in most other states is the property tax.) According to the study, Anchorage residents pay more property tax alone than residents of 12 other states pay in local property tax plus state sales tax.)

## Local Government Issue Paper

### Why Your Property Taxes Go Up State Cuts to Municipalities vs Local Property Tax Increases 1986-2005



**Issue:** As the State continues to struggle to balance the State budget, it is critical to recognize that State and Local governments are literally two sides of the same coin. Any State budget cut or other action that impacts Local Government has a negative impact on local taxpayers who are also constituents of the State.

**Background:** States and local governments are partners. State Constitutions and State law define how municipalities (cities and boroughs) are created, what they can do, and what taxes they can use. One of the key responsibilities for any State government is to ensure that communities have adequate resources to provide basic public services to their citizens. Last year the State became one of a handful of states that eliminated their local government revenue sharing programs.

**Recommendation:** To most cost effectively ensure that all Alaskans have basic public services and affordable local taxes, the State must restore a local government revenue sharing program, or implement a "Community Dividend" (initiated by former Governor Hickel and supported by Governor Murkowski and the House of Representatives.)

# COMPARISON OF LOCAL TAXES NATIONWIDE and in AK

## Chapter II: Overall Tax Burdens For The Largest City In Each State

TABLE 1									
ESTIMATED BURDEN OF MAJOR TAXES FOR A FAMILY OF FOUR, 2003									
\$75,000									
RANK	CITY	ST	* TAXES *				BURDEN		
			INCOME	PROPERTY	SALES	AUTO	AMOUNT	PERCENT	
1	Bridgeport	CT	2,665	8,605	1	1,112	890	13,272	17.7%
2	Newark	NJ	1,041	8,581	2	971	296	10,989	14.5%
3	New York City	NY	5,020	3,928	3	1,265	277	10,490	14.0%
4	Philadelphia	PA	5,242	3,197	4	977	341	9,757	13.0%
5	Providence	RI	1,813	6,144	5	1,052	918	9,727	13.0%
6	Portland	OR	4,842	4,145	6	0	287	9,273	12.4%
7	Baltimore	MD	3,870	3,598	7	1,144	311	8,923	11.9%
8	Milwaukee	WI	2,993	3,948	8	1,096	403	8,439	11.3%
9	Atlanta	GA	2,521	4,029	9	1,328	383	8,261	11.0%
10	Detroit	MI	4,292	2,570		1,006	389	8,257	11.0%
11	Louisville	KY	4,826	1,713		1,047	367	7,954	10.6%
12	Boston	MA	3,318	3,448	10	597	516	7,878	10.5%
13	Chicago	IL	2,010	3,574	11	1,584	622	7,790	10.1%
14	Portland	ME	3,083	3,258		888	560	7,789	10.4%
15	WASHINGTON	DC	3,913	2,157		1,131	392	7,594	10.1%
16	Los Angeles	CA	1,345	4,426	12	1,180	536	7,488	10.0%
17	Columbus	OH	3,936	2,038		1,128	333	7,434	9.9%
18	Des Moines	IA	2,978	2,617		1,197	470	7,262	9.7%
19	Salt Lake City	UT	3,348	1,904		1,341	561	7,153	9.5%
20	Omaha	NE	2,517	2,823		1,309	489	7,138	9.5%
21	Charlotte	NC	3,314	2,021		1,207	519	7,061	9.4%
22	Boise	ID	3,298	2,176		1,170	399	7,043	9.4%
23	Minneapolis	MN	2,936	2,582		997	447	6,962	9.3%
24	Indianapolis	IN	2,788	2,856		1,073	209	6,925	9.2%
25	Burlington	VT	1,640	3,971	13	890	305	6,807	9.1%
26	Kansas City	MO	3,368	1,595		1,325	517	6,805	9.1%
27	New Orleans	LA	2,518	2,231		1,668	382	6,798	9.1%
28	Columbia	SC	2,986	2,214		968	601	6,766	9.0%
29	Little Rock	AR	2,953	1,648		1,529	464	6,594	8.8%
30	Oklahoma City	OK	3,178	1,538		1,533	345	6,593	8.8%
31	Virginia Beach	VA	2,901	1,918		1,136	456	6,411	8.5%
32	Honolulu	HI	3,399	1,781		824	388	6,393	8.5%
33	Albuquerque	NM	2,172	2,517		1,415	265	6,369	8.5%
34	Charleston	WV	3,232	1,395		1,141	577	6,344	8.5%
35	Jackson	MS	2,060	1,971		1,421	745	6,197	8.3%
36	Birmingham	AL	3,453	988		1,344	396	6,181	8.2%
37	Wilmington	DE	3,153	2,416		0	276	5,845	7.8%
38	Wichita	KS	2,556	1,309		1,221	597	5,683	7.6%
39	Billings	MT	3,118	1,864		0	628	5,610	7.5%
40	Denver	CO	2,354	1,362		1,215	604	5,535	7.4%
41	Fargo	ND	995	3,111	14	996	314	5,416	7.2%
42	Manchester	NH	0	4,399	15	461	398	5,259	7.0%
43	Seattle	WA	0	3,114	16	1,415	348	4,876	6.5%
44	Phoenix	AZ	1,454	1,248		1,652	429	4,782	6.4%
45	Memphis	TN	0	2,501		1,830	376	4,708	6.3%
46	Houston	TX	0	2,861		1,426	325	4,612	6.1%
47	Sioux Falls	SD	0	2,228		1,406	296	3,930	5.2%
48	Las Vegas	NV	0	2,225		1,026	551	3,802	5.1%
49	Jacksonville	FL	0	1,744		1,158	333	3,235	4.3%
50	Anchorage	AK	0	3,058	17	0	150	3,209	4.3%
51	Cheyenne	WY	0	1,108		1,340	451	2,899	3.9%
AVERAGE <sup>1/</sup>			\$2,845	\$2,836		\$1,194	\$440	\$6,832	9.1%
MEDIAN			\$2,901	\$2,501		\$1,144	\$398	\$6,805	9.1%

<sup>1/</sup> Based on cities actually levying tax.

\* Sales & Income tax are primarily a state tax in most states

Tax Rates and Tax Burdens in the District of Columbia: A Nationwide Comparison

ONLINE at: [HTTP://KFO.dc.gov](http://kfo.dc.gov)

Office of the Chief Financial Officer

## Revenue Sharing Fact Sheet

### Is Municipal Revenue Sharing Unique to Alaska?

No. All fifty states have general revenue sharing programs, even though they may have different names. For example, in some states, troopers are called state police, and their uniforms are different, but every state has some kind of "state troopers".

### Are Alaska's revenue sharing programs "unique" among other state's revenue sharing programs?

No, there are three major designs for revenue sharing programs in other states:

Reimbursement for taxes lost due to state property tax or other exemptions (used by 30 states excluding Alaska). Alaska example: State Mandated Senior Citizen Property Tax exemption (all funding recently eliminated by the State).

Per capita distribution (used by 30 states including Alaska)

Local Need Formula (used by 14 states including Alaska) Alaska example: This is the basis for allocation of our State Revenue Sharing program.

### Why do all states share revenue with their municipalities?

First, to ensure that poorer areas of a state receive basic services is a critical function of all state governments. This is especially true in Alaska.

Second, providing local tax relief.

### Was "Revenue Sharing" created as a giveaway to local taxpayers because of oil?

No, the State Revenue Sharing was established in 1969 when money was hard to come by because it was considered an important state function.

### Municipalities have been given the power to raise sales and property taxes, so why do they need revenue sharing programs?

Alaskan statehood was based upon natural resource revenues because it was judged that adequate public services (state and local) could not be supported by local taxes alone.

### What do urban and rural areas have in common?

A healthy economy in all parts of the state is necessary for the entire state to prosper. Alaska's economy is largely based upon services and, therefore, highly interdependent. Rural economies are based on a complex mix of natural resources, tourism, federal aid to military bases, tribes, etc., and other government support. Urban areas are the regional transportation, supply, communication, construction, education, and service hubs that service rural areas.

I think it's important for state government to help local communities that already have high sales or property taxes in place:

I THINK IT'S IMPORTANT FOR STATE GOVERNMENT TO HELP LOCAL COMMUNITIES....:		
	Count	%
Strongly agree	134	34.9%
Mildly agree	123	32.1%
Neutral	31	8.1%
Mildly disagree	58	15.0%
Strongly disagree	38	9.8%

Mean = 2.67

State government has been passing the buck to local communities for too long and that has to stop:

STATE GOVERNMENT HAS BEEN PASSING THE BUCK TO LOCAL COMMUNITIES....:		
	Count	%
Strongly agree	146	38.0%
Mildly agree	88	23.0%
Neutral	40	10.5%
Mildly disagree	71	18.6%
Strongly disagree	38	9.9%

Mean = 2.61

**Methodology:** A statistically valid statewide survey of 384 voters was completed 4/13/04 by Ivan Moore Research for the Alaska Municipal League. Respondents described themselves as:

- Republican 31.8%; Democrat 16.4%; No party/other party 51.9%
- Conservative 43.1%; moderate 39.4%; progressive 17.5%
- Married 72.1%; single 27.9%
- Vote in statewide elections: every time 77.2%; most times 19%; sometimes 3.8%

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

## Revenue Sharing Fact Sheet

### Is Municipal Revenue Sharing Unique to Alaska?

No. All fifty states have general revenue sharing programs, even though they may have different names. For example, in some states, troopers are called state police, and their uniforms are different, but every state has some kind of "state troopers".

### Are Alaska's revenue sharing programs "unique" among other state's revenue sharing programs?

No, there are three major designs for revenue sharing programs in other states:

Reimbursement for taxes lost due to state property tax or other exemptions (used by 30 states excluding Alaska). Alaska example: State Mandated Senior Citizen Property Tax exemption (all funding recently eliminated by the State).

Per capita distribution (used by 30 states including Alaska)

Local Need Formula (used by 14 states including Alaska) Alaska example: This is the basis for allocation of our State Revenue Sharing program.

### Why do all states share revenue with their municipalities?

First, to ensure that poorer areas of a state receive basic services is a critical function of all state governments. This is especially true in Alaska.

Second, providing local tax relief.

### Was "Revenue Sharing" created as a giveaway to local taxpayers because of oil?

No, the State Revenue Sharing was established in 1969 when money was hard to come by because it was considered an important state function.

### Municipalities have been given the power to raise sales and property taxes, so why do they need revenue sharing programs?

Alaskan statehood was based upon natural resource revenues because it was judged that adequate public services (state and local) could not be supported by local taxes alone.

### What do urban and rural areas have in common?

A healthy economy in all parts of the state is necessary for the entire state to prosper. Alaska's economy is largely based upon services and, therefore, highly interdependent. Rural economies are based on a complex mix of natural resources, tourism, federal aid to military bases, tribes, etc., and other government support. Urban areas are the regional transportation, supply, communication, construction, education, and service hubs that service rural areas.

## 3 out of 4 Alaskans want to "reinstate revenue sharing"

### Municipal Survey Results – Revenue Sharing Support April, 2004

**Summary:**

3 out of 4 Alaskans feel that the state should "reinstate revenue sharing", think "it's important for state government to help rural communities that lack a tax base to generate sufficient tax revenue to provide basic local public services", and think "it's important for state government to help local communities that already have high sales or property taxes in place." 2 out of 3 Alaskans feel that State government has been passing the buck to local communities for too long and that has to stop."

**Revenue Sharing Survey Questions:**

Since 1969, cities and boroughs in Alaska have received funding from the state in the form of municipal revenue sharing, primarily to ease fiscal problems facing local governments. These funds have since been cut by the state legislature and are proposed for elimination in this year's state budget. Do you think the state should share its resources in this way with local communities, or do you think local communities should pay their own way?

	SHOULD STATE SHARE ITS RESOURCES:	
	Count	%
State should share	285	74.3%
Cities should pay own way	72	18.6%
Don't know	27	7.0%

State revenue sharing should be reinstated:

	STATE REVENUE SHARING SHOULD BE REINSTATED:	
	Count	%
Strongly agree	182	47.5%
Mildly agree	111	28.9%
Neutral	31	8.0%
Mildly disagree	30	7.8%
Strongly disagree	30	7.8%

Mean = 3.01

I think it's important for state government to help rural communities that lack a tax base to generate sufficient tax revenue to provide basic local public services:

	I THINK IT'S IMPORTANT FOR STATE GOVERNMENT TO HELP RURAL COMMUNITIES...:	
	Count	%
Strongly agree	167	43.6%
Mildly agree	126	32.9%
Neutral	23	6.1%
Mildly disagree	29	7.5%
Strongly disagree	38	9.9%

Mean = 2.93

I think it's important for state government to help local communities that already have high sales or property taxes in place:

I THINK IT'S IMPORTANT FOR STATE GOVERNMENT TO HELP LOCAL COMMUNITIES....:		
	Count	%
Strongly agree	134	34.9%
Mildly agree	123	32.1%
Neutral	31	8.1%
Mildly disagree	58	15.0%
Strongly disagree	38	9.8%

Mean = 2.67

State government has been passing the buck to local communities for too long and that has to stop:

STATE GOVERNMENT HAS BEEN PASSING THE BUCK TO LOCAL COMMUNITIES....:		
	Count	%
Strongly agree	146	38.0%
Mildly agree	88	23.0%
Neutral	40	10.5%
Mildly disagree	71	18.6%
Strongly disagree	38	9.9%

Mean = 2.61

**Methodology:** A statistically valid statewide survey of 384 voters was completed 4/13/04 by Ivan Moore Research for the Alaska Municipal League. Respondents described themselves as:

- Republican 31.8%; Democrat 16.4%; No party/other party 51.9%
- Conservative 43.1%; moderate 39.4%; progressive 17.5%
- Married 72.1%; single 27.9%
- Vote in statewide elections: every time 77.2%; most times 19%; sometimes 3.8%

## Revenue Sharing from FY 1985 to FY 2005

Fiscal	Total ALL	% Cut ALL	
<u>Year</u>	<u>Rev Sharing</u>	<u>Rev Sharing</u>	
1985	\$141,656,800	0.0%	
1986	\$140,939,000	-0.5%	
1987	\$113,737,000	-19.7%	
1988	\$96,857,300	-31.6%	
1989	\$96,857,300	-31.6%	
1990	\$91,094,000	-35.7%	
1991	\$87,450,200	-38.3%	
1992	\$84,995,000	-40.0%	
1993	\$78,195,400	-44.8%	
1994	\$72,721,800	-48.7%	
1995	\$61,613,500	-55.8%	
1996	\$58,230,700	-58.9%	
1997	\$53,572,300	-62.2%	
1998	\$50,358,000	-64.5%	
1999	\$47,840,100	-66.6%	
2000	\$31,893,400	-77.7%	
2001	\$28,493,400	-79.9%	
2002	\$29,630,700	-79.1%	
2003	\$29,630,700	-79.1%	
2004	\$17,900,000	-87.4%	Federal Funds
2005	0	-100%	

Note: In addition, traditionally, Municipal Capital Matching Grants were funded at \$15 to \$20 million with a \$25,000 community minimum. Governor proposed 0 for FY 05.

# History of Municipal Revenue Sharing in Alaska

Excerpted from House Research Agency Request 87.073  
"History of Municipal Assistance and Revenue Sharing"

## Overview:

- Revenue Sharing started in 1969, long before oil revenue.
- Revenue Sharing was a bigger percent of the State budget in 1969 than it was last year.
- In 1979 the Legislature ended sharing the Gross Business Receipts Tax with municipalities in exchange for a promise to replace the revenue with equivalent "Municipal Assistance".

1969 to 1980 - State Revenue Sharing Program: SRS came into being on July 1, 1969 with the passage of HB 350 (Chapter 95, SLA 1969). Its five purposes were:

1. Help ease fiscal problems facing local governments.
2. Stabilize or reduce local property taxes.
3. Encourage local governments to provide adequate levels of public services.
4. Inject a measure of budget planning and stability into local governments.
5. Improve allocation of State funds by sharing them with local governments.

Approximately 75% of the funds were distributed on a per capita basis for services provided, and 25% based on other criteria (e.g. miles of road maintained). The categories and evolution of the program are shown in the table below:

## Comparison of State Revenue Sharing in FY 70 to FY 80

<u>Category of Service Provided</u>	<u>1970</u>	<u>1980</u>
Police	\$5.00 per capita	\$12.00 per capita
Fire Protection	\$2.50 per capita	\$7.50 per capita
Road Maintenance	\$1,000 per mile	\$1,500 per mile
Air/water Pollution	\$1.00 per capita	\$2.00 per capita
Land Use Planning	\$1.00 per capita	\$2.00 per capita
Ice Roads	NA	\$900 per mile
Parks and Recreation	NA	\$5.00 per capita
Transportation Facilities	NA	\$5.00 per capita
Health Services	NA	\$2.00 per capita
Hospital (per facility)	NA	\$25,000 to \$75,000
Health Facilities	NA	\$1,000/bed, \$4,000/facility
Hospital Construction	<u>NA</u>	<u>\$2,500 per bed</u>
TOTAL Revenue Sharing	\$2.0 million	\$26.9 million
TOTAL Per Capita Sharing	\$9.50 per capita	<b>\$35.50 per capita</b>

**1979 - "Municipal Assistance" Program created to replace municipal share of the Gross Business Receipts tax:** Until 1979, the State shared 20% of the Gross Business Tax Receipts generated in each municipality. When the State repealed its tax on January 1, 1979, **the State promised to replace the lost revenues to municipalities.** Revenues were distributed with a "hold harmless" amount (based on what each municipality received in 1978), plus a per capita distribution.

v **1980 - Revised State Revenue Sharing Programs:** HB 192 (Chapter 155, SLA 1980) repealed and replaced the "per capita" revenue sharing program primarily with an "equalization" revenue sharing program. Key elements of the new State Revenue Sharing Program are:

1. All "per capita" type categories were abolished except Roads, Fire Protection and Health Facilities. Road revenue sharing was increased to \$2500 per mile
2. A "minimum entitlement" was created to protect the smallest municipalities.
3. A cost of living differential was established.
4. The majority of funds were distributed under an "equalization" formula that takes into account: population; local tax base; and actual local tax effort.

**1997 - "Municipal Assistance" changed to "Safe Communities":** The Municipal Assistance Program did not direct how the money was to be used by municipal governments. The Safe Communities Program directs that revenues be allocated to various public safety and health services in priority order. However, a municipality may allocate the funding to other public services.

**2004 - All Revenue Sharing Programs proposed for elimination after years of reductions**

- Local property taxes have gone up 29% in the last six years largely due to revenue sharing cuts, underfunding education inflation, and state/federal mandates.
- Many small communities have ended or severely cut key municipal services including police, fire, road maintenance, etc.
- Many small communities are predicted to become dysfunctional as governments. Indications include:
  - According to the Division of Elections 11 communities did not hold elections last year.
  - According to the AML Joint Insurance Association approximately 30 municipalities were unable to pay for general insurance in 2003 until temporary state assistance was provided.
- The State of Alaska exempts itself from local taxes even though it uses local services the same as all other local business taxpayers. By avoiding local taxes paid by everyone else, approximately \$67.4 million estimated annual property tax is paid by local taxpayers to subsidize state operations in their communities .

**HB**

**34**

24-LS0240\R  
Luckhaupt  
1/26/06

CS FOR HOUSE BILL NO. 34( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES WEYHRAUCH, Hawker

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the confidentiality of court files and records relating to judgment set  
2 asides granted after suspended imposition of sentence."

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

4 \* Section 1. AS 12.55.085(e) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court  
6 may set aside the conviction and issue to the person a certificate to that effect. The  
7 person may petition the court for an order to make the court file and the record  
8 of the conviction, suspended imposition of sentence, and set aside confidential. In  
9 considering the petition, the court shall consider comments from the victim of the  
10 crime and the public. If the person has not been charged with a crime since the  
11 date of the set aside, the court may make the records and court file confidential.  
12 The court may assess the costs of the petition and hearing to the petitioner and  
13 shall require the petitioner to pay a fee for making the records and court file  
14 confidential. The fee shall be designed to reimburse the Department of Public

1        Safety and the clerk of court for the actual costs of making the records and court  
2        file confidential. Upon entry of the order, the person shall be considered not to  
3        have been convicted or received a suspended imposition of sentence or a set aside  
4        for that crime. Upon payment of the costs, if assessed, and the fee for making the  
5        records and court file confidential, the person may provide a certified copy of the  
6        order to the clerk of the court and to the Department of Public Safety.  
7        Thereafter, the court file, the record of the conviction, the suspended imposition  
8        of sentence, or a set aside, and other official records, including electronic records,  
9        are confidential.

10       \* Sec. 2. AS 12.62.160(b) is amended to read:

11                (b) Subject to the requirements of this section, and except as otherwise limited  
12                or prohibited by other provision of law, [OR] court rule, or an order making records  
13                confidential issued under AS 12.55.085(e), criminal justice information

14                        (1) may be provided to a person when, and only to the extent,  
15                        necessary to avoid imminent danger to life or extensive damage to property;

16                        (2) may be provided to a person to the extent required by applicable  
17                        court rules or under an order of a court of this state, another state, or the United States;

18                        (3) may be provided to a person if the information is commonly or  
19                        traditionally provided by criminal justice agencies in order to identify, locate, or  
20                        apprehend fugitives or wanted persons or to recover stolen property, or for public  
21                        reporting of recent arrests, charges, and other criminal justice activity;

22                        (4) may be provided to a criminal justice agency for a criminal justice  
23                        activity;

24                        (5) may be provided to a government agency when necessary for  
25                        enforcement of or for a purpose specifically authorized by state or federal law;

26                        (6) may be provided to a person specifically authorized by a state or  
27                        federal law to receive that information;

28                        (7) in aggregate form may be released to a qualified person, as  
29                        determined by the agency, for criminal justice research, subject to written conditions  
30                        that assure the security of the information and the privacy of individuals to whom the  
31                        information relates;

1 (8) may be provided to a person for any purpose, except that  
2 information may not be released if the information is nonconviction information or  
3 correctional treatment information;

4 (9) including information relating to a serious offense, may be  
5 provided to an interested person if the information is requested for the purpose of  
6 determining whether to grant a person supervisory or disciplinary power over a minor  
7 or dependent adult; and

8 (10) may be provided to the person who is the subject of the  
9 information.

10 \* **Sec. 3.** AS 12.62.180(b) is amended to read:

11 (b) A person may submit a written request to the head of the agency  
12 responsible for maintaining past conviction or current offender information, asking the  
13 agency to seal such information about the person that, beyond a reasonable doubt,  
14 resulted from mistaken identity or false accusation. The decision of the head of the  
15 agency is the final administrative decision on a [THE] request submitted under this  
16 subsection.

17 \* **Sec. 4.** AS 12.62.180(c) is amended to read:

18 (c) The person requesting that the information be sealed under (b) of this  
19 section may appeal an adverse decision of the agency to the court under applicable  
20 rules of procedure for appealing the decision of an administrative agency. The  
21 appellant bears the burden on appeal of showing that the agency decision was clearly  
22 mistaken. An appeal filed under this subsection may not collaterally attack a court  
23 judgment or a decision by prison, probation, or parole authorities, or any other action  
24 that is or could have been subject to appeal, post-conviction relief, or other  
25 administrative remedy.

26 \* **Sec. 5.** AS 12.62.180(d) is amended to read:

27 (d) A person about whom information is sealed under (b) of this section may  
28 deny the existence of the information and of an arrest, charge, conviction, or sentence  
29 shown in the information. Information that is sealed under this section may be  
30 provided to another person or agency only

31 (1) for record management purposes, including auditing;

- 1 (2) for criminal justice employment purposes;
- 2 (3) for review by the subject of the record;
- 3 (4) for research and statistical purposes;
- 4 (5) when necessary to prevent imminent harm to a person; or
- 5 (6) for a use authorized by statute or court order.

6 \* **Sec. 6.** AS 12.62.180 is amended by adding a new subsection to read:

7 (e) A person may submit a certified copy of an order making records  
8 confidential issued under AS 12.55.085(e) to the Department of Public Safety for  
9 maintaining criminal justice information. On receiving the certified copy of the order  
10 for making the information confidential, the Department of Public Safety shall make  
11 the information that relates to a conviction, a suspended imposition of sentence, or a  
12 set aside described in AS 12.55.085(e) confidential.

24-LS0240X  
Crawford  
4/27/05

CS FOR HOUSE BILL NO. 34( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES WEYHRAUCH, Hawker

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the expungement of records relating to judgment set asides granted  
2 after suspended imposition of sentence."

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

4 \* Section 1. AS 12.55.085(e) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court  
6 may set aside the conviction and issue to the person a certificate to that effect. The  
7 person may petition the court for an order of expungement. Not earlier than one  
8 year following the date of the set aside, if the person has not been charged with a  
9 crime since the date of the set aside, the court may issue the expungement order.  
10 Upon entry of such an order, the applicant shall be deemed not to have been  
11 convicted, or received a suspended imposition of sentence, or a set aside for that  
12 crime. Upon entry of such an order, the person may provide a certified copy of  
13 the order and payment for the cost of making the records confidential to the  
14 clerk of the court and to the Department of Public Safety. Thereafter, the record

1 of the conviction, the suspended imposition of sentence, or a set aside and other  
2 official records including electronic records are confidential. Nothing in this  
3 subsection affects or prevents the use of an offender's prior conviction, including  
4 an expunged conviction, in a later criminal prosecution. For all other purposes,  
5 including responding to questions on employment applications, an offender  
6 whose conviction has been expunged may state that the offender has never been  
7 convicted of the crime.

8 \* Sec. 2. AS 12.62.160(b) is amended to read:

9 (b) Subject to the requirements of this section, and except as otherwise limited  
10 or prohibited by other provision of law, [OR] court rule, or an expungement order  
11 issued under AS 12.55.085(e), criminal justice information

12 (1) may be provided to a person when, and only to the extent,  
13 necessary to avoid imminent danger to life or extensive damage to property;

14 (2) may be provided to a person to the extent required by applicable  
15 court rules or under an order of a court of this state, another state, or the United States;

16 (3) may be provided to a person if the information is commonly or  
17 traditionally provided by criminal justice agencies in order to identify, locate, or  
18 apprehend fugitives or wanted persons or to recover stolen property, or for public  
19 reporting of recent arrests, charges, and other criminal justice activity;

20 (4) may be provided to a criminal justice agency for a criminal justice  
21 activity;

22 (5) may be provided to a government agency when necessary for  
23 enforcement of or for a purpose specifically authorized by state or federal law;

24 (6) may be provided to a person specifically authorized by a state or  
25 federal law to receive that information;

26 (7) in aggregate form may be released to a qualified person, as  
27 determined by the agency, for criminal justice research, subject to written conditions  
28 that assure the security of the information and the privacy of individuals to whom the  
29 information relates;

30 (8) may be provided to a person for any purpose, except that  
31 information may not be released if the information is nonconviction information or

1 correctional treatment information;

2 (9) including information relating to a serious offense, may be  
3 provided to an interested person if the information is requested for the purpose of  
4 determining whether to grant a person supervisory or disciplinary power over a minor  
5 or dependent adult; and

6 (10) may be provided to the person who is the subject of the  
7 information.

8 \* Sec. 3. AS 12.62.180(b) is amended to read:

9 (b) A person may submit a written request to the head of the agency  
10 responsible for maintaining past conviction or current offender information, asking the  
11 agency to seal such information about the person that, beyond a reasonable doubt,  
12 resulted from mistaken identity or false accusation. The decision of the head of the  
13 agency is the final administrative decision on a [THE] request submitted under this  
14 subsection.

15 \* Sec. 4. AS 12.62.180(c) is amended to read:

16 (c) The person requesting that the information be sealed under (b) of this  
17 section may appeal an adverse decision of the agency to the court under applicable  
18 rules of procedure for appealing the decision of an administrative agency. The  
19 appellant bears the burden on appeal of showing that the agency decision was clearly  
20 mistaken. An appeal filed under this subsection may not collaterally attack a court  
21 judgment or a decision by prison, probation, or parole authorities, or any other action  
22 that is or could have been subject to appeal, post-conviction relief, or other  
23 administrative remedy.

24 \* Sec. 5. AS 12.62.180(d) is amended to read:

25 (d) A person about whom information is sealed under (b) of this section may  
26 deny the existence of the information and of an arrest, charge, conviction, or sentence  
27 shown in the information. Information that is sealed under this section may be  
28 provided to another person or agency only

- 29 (1) for record management purposes, including auditing;  
30 (2) for criminal justice employment purposes;  
31 (3) for review by the subject of the record;

- 1 (4) for research and statistical purposes;
- 2 (5) when necessary to prevent imminent harm to a person; or
- 3 (6) for a use authorized by statute or court order.

4 \* Sec. 6. AS 12.62.180 is amended by adding a new subsection to read:

5 (e) A person may submit a certified copy of an expungement order issued  
6 under AS 12.55.085(e) to the head of the agency responsible for maintaining criminal  
7 justice information. Upon receipt of the certified copy of the order and the fee, if any,  
8 for sealing the information, the head of the agency shall seal information that relates to  
9 a conviction, a suspended imposition of sentence, or a set aside described in  
10 AS 12.55.085(e) and that is the subject of the expungement order. At a minimum, the  
11 head of the agency shall seal the following information in response to the  
12 expungement order:

- 13 (1) current offender information, as defined in AS 12.62.900;
- 14 (2) nonconviction information, as defined in AS 12.62.900, other than  
15 information that the person was arrested in connection with the crime that is the  
16 subject of the expungement order; and
- 17 (3) past conviction information, as defined in AS 12.62.900.

24-LS0240\S  
Crawford  
4/22/05

**CS FOR HOUSE BILL NO. 34(STA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVES WEYHRAUCH, Hawker**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the expungement of records relating to judgment set asides granted  
2 after suspended imposition of sentence."

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

4 \* **Section 1.** AS 12.55.085(e) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court  
6 may set aside the conviction and issue to the person a certificate to that effect. The  
7 person may petition the court for an order of expungement. Not earlier than one  
8 year following the date of the set aside, if the person has not been charged with a  
9 crime since the date of the set aside, the court may issue the expungement order.  
10 Upon entry of such an order, the applicant shall be deemed not to have been  
11 convicted, or received a suspended imposition of sentence, or a set aside for that  
12 crime. Upon entry of such an order, the person may provide a certified copy of  
13 the order and payment for the cost of sealing the records to the clerk of the court  
14 and to the Department of Public Safety. Thereafter, the record of the conviction,

1 the suspended imposition of sentence, or a set aside and other official records  
2 including electronic records are sealed. For all purposes, including responding to  
3 questions on employment applications, an offender whose conviction has been  
4 expunged may state that the offender has never been convicted of the crime.

5 \* Sec. 2. AS 12.62.160(b) is amended to read:

6 (b) Subject to the requirements of this section, and except as otherwise limited  
7 or prohibited by other provision of law, [OR] court rule, or an expungement order  
8 issued under AS 12.55.085(e), criminal justice information

9 (1) may be provided to a person when, and only to the extent,  
10 necessary to avoid imminent danger to life or extensive damage to property;

11 (2) may be provided to a person to the extent required by applicable  
12 court rules or under an order of a court of this state, another state, or the United States;

13 (3) may be provided to a person if the information is commonly or  
14 traditionally provided by criminal justice agencies in order to identify, locate, or  
15 apprehend fugitives or wanted persons or to recover stolen property, or for public  
16 reporting of recent arrests, charges, and other criminal justice activity;

17 (4) may be provided to a criminal justice agency for a criminal justice  
18 activity;

19 (5) may be provided to a government agency when necessary for  
20 enforcement of or for a purpose specifically authorized by state or federal law;

21 (6) may be provided to a person specifically authorized by a state or  
22 federal law to receive that information;

23 (7) in aggregate form may be released to a qualified person, as  
24 determined by the agency, for criminal justice research, subject to written conditions  
25 that assure the security of the information and the privacy of individuals to whom the  
26 information relates;

27 (8) may be provided to a person for any purpose, except that  
28 information may not be released if the information is nonconviction information or  
29 correctional treatment information;

30 (9) including information relating to a serious offense, may be  
31 provided to an interested person if the information is requested for the purpose of

1 determining whether to grant a person supervisory or disciplinary power over a minor  
2 or dependent adult; and

3 (10) may be provided to the person who is the subject of the  
4 information.

5 \* **Sec. 3.** AS 12.62.180(b) is amended to read:

6 (b) A person may submit a written request to the head of the agency  
7 responsible for maintaining past conviction or current offender information, asking the  
8 agency to seal such information about the person that, beyond a reasonable doubt,  
9 resulted from mistaken identity or false accusation. The decision of the head of the  
10 agency is the final administrative decision on a [THE] request submitted under this  
11 subsection.

12 \* **Sec. 4.** AS 12.62.180(c) is amended to read:

13 (c) The person requesting that the information be sealed under (b) of this  
14 section may appeal an adverse decision of the agency to the court under applicable  
15 rules of procedure for appealing the decision of an administrative agency. The  
16 appellant bears the burden on appeal of showing that the agency decision was clearly  
17 mistaken. An appeal filed under this subsection may not collaterally attack a court  
18 judgment or a decision by prison, probation, or parole authorities, or any other action  
19 that is or could have been subject to appeal, post-conviction relief, or other  
20 administrative remedy.

21 \* **Sec. 5.** AS 12.62.180(d) is amended to read:

22 (d) A person about whom information is sealed under (b) of this section may  
23 deny the existence of the information and of an arrest, charge, conviction, or sentence  
24 shown in the information. Information that is sealed under this section may be  
25 provided to another person or agency only

26 (1) for record management purposes, including auditing;

27 (2) for criminal justice employment purposes;

28 (3) for review by the subject of the record;

29 (4) for research and statistical purposes;

30 (5) when necessary to prevent imminent harm to a person; or

31 (6) for a use authorized by statute or court order.

1 \* **Sec. 6.** AS 12.62.180 is amended by adding a new subsection to read:

2 (e) A person may submit a certified copy of an expungement order issued  
3 under AS 12.55.085(e) to the head of the agency responsible for maintaining criminal  
4 justice information. Upon receipt of the certified copy of the order and the fee, if any,  
5 for sealing the information, the head of the agency shall seal information that relates to  
6 a conviction, a suspended imposition of sentence, or a set aside described in  
7 AS 12.55.085(e) and that is the subject of the expungement order. At a minimum, the  
8 head of the agency shall seal the following information in response to the  
9 expungement order:

10 (1) current offender information, as defined in AS 12.62.900;

11 (2) nonconviction information, as defined in AS 12.62.900, other than  
12 information that the person was arrested in connection with the crime that is the  
13 subject of the expungement order; and

14 (3) past conviction information, as defined in AS 12.62.900.

# 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 22, 2005

**SUBJECT:** Expungement of Records -- CSHB 34(STA)  
(Work Order No. 24-LS0240L)

**TO:** Representative Paul Seaton  
Attn: Louie Flora

**FROM:** James P. Crawford   
Assistant Revisor

Accompanying this memo is the newest version of HB 34. At page 2, lines 2-4, the bill currently provides that the offender "may state that the offender has never been convicted of the crime." Do you want to add that the offender may also state that he or she has never received a suspended imposition of sentence or a set aside so that the category of authorized denials matches the categories of records that are being sealed?

Note two changes in the language of amendment no. 1, added to AS 12.55.085(e): First, I added the language "since the date of the set aside" after "person has not been charged with a crime" because that seemed to be the intent of the amendment. If I have misunderstood that intent, please let me know.

Second, the phrase "date of the set aside of the suspended imposition of sentence" has been shortened to "date of the set aside." I did this because it is not the suspended imposition of sentence ("SIS") that gets "set aside." Rather, it is the started-but-not-yet-completed process of conviction that gets set aside. Specifically, the court imposes a probation period on the person in connection with the court's order of suspension of imposition of sentence relating to that person.<sup>1</sup> Following this, the person's "good conduct" or "reform"<sup>2</sup> during the probationary/SIS period, if it occurs, leads the court to "discharge" the person<sup>3</sup> and to set aside the conviction process that, until that time, has been held in a sort of legal state of suspended animation. In sum, the SIS does not get set aside; it provides the person an opportunity to convince the court to order the incomplete conviction process be set aside.

---

<sup>1</sup> AS 12.55.080; 12.55.085(a).

<sup>2</sup> AS 12.55.085(d).

<sup>3</sup> AS 12.55.085(d) and (e).

To understand the significance of the fact that the process is held in stasis in the SIS arena, some explanation is in order. A "conviction," which is sometimes referred to in the cases as "judgment of conviction," consists of two key elements: the first element is a determination of guilt or responsibility; the second element is the imposition of sentence. In the words of the Alaska Court of Appeals:

We hold that a person has been "convicted of a felony" when the appropriate trier of fact has made a determination of guilt and sentence has been imposed.<sup>4</sup>

Note that the first element is also sometimes referred to as an "adjudication of guilt"<sup>5</sup> or as a "judgment."<sup>6</sup> Here, a caution is warranted: because some form of the word "judgment" may occasionally be used in connection with the term "conviction" (i.e., "judgment" of conviction) and also in connection with the first of two elements necessary to complete a "conviction" (i.e., a "judgment" in the sense of an "adjudication" of guilt or a "determination" of guilt), confusion can arise, so care in keeping these concepts separate is necessary.

With a SIS, the first element of the process (determination/adjudication/judgment of guilt) is present. However, the second element (imposition of sentence) is not. Imposition has been suspended -- hence, "suspended imposition of sentence." The result is that when SIS is imposed, the conviction process has not been completed, or perfected.

From a separation of powers doctrine standpoint, this is important. The nature of suspended imposition of sentence wipes the person's slate clean enough to resemble a pardon exercised by the governor under the executive's clemency power under art. III, sec. 21 of the constitution.

In light of this, if the conviction process relating to the person were completed (determination/adjudication/judgment of guilt + imposition sentence) AND the "slate-wiping-clean" effect of a SIS were imposed by a court with respect to the person, the result could be held to constitute an usurpation of the executive's clemency power granted

---

<sup>4</sup> Berg v. State, 711 P.2d 553, 554 (Alaska App. 1985) (emphasis added).

<sup>5</sup> For example, in Fonville v. McLaughlin, 270 A.2d 529 (Del. 1970), the Delaware Supreme Court construed the term "conviction" to refer to a "judgment of conviction consisting of the adjudication of guilt by plea or verdict followed by the imposition of sentence." Id. at 530 (citing Truchon v. Toomey, 116 Cal. App. 2d 736, 254 P.2d 638 (1953) and People v. Fabian, 192 N.Y. 443, 85 N.E. 672) (emphasis added).

<sup>6</sup> For example, in Kitsap v. Huff, 620 P.2d 986, (Wash. 1980), the Washington Supreme Court construed the term "conviction" to consist of the entry of "judgment and sentence." Id. at 989 (emphasis added).

Representative Paul Seaton

April 22, 2005

Page 3

in art. III, sec. 21, Constitution of the State of Alaska. As a consequence, it is important to steer clear of creating or maintaining the statutory impression that a completed conviction process is what is being set aside in the SIS context, as opposed to only the first of two elements of that process (which again is the determination/adjudication/judgment of guilt element).

Because expungements have a similar "slate-wiping-clean" effect as a SIS or a pardon, the same conclusion follows: it is important to avoid the impression that a completed conviction process is being set aside. For this reason, I think it would be prudent to change the term "conviction" in AS 12.55.085(e), found on page 1, line 6 of the draft, to "judgment," or at least to "adjudication of guilt" or "determination of guilt."

With regard to issues raised by the Department of Public Safety, I have taken a first cut at conforming the criminal justice information statutes in AS 12.62 with the changes in this bill. At this stage, the provisions of the bill dealing with AS 12.62 represent a "rough draft," and The Department of Public Safety may be able to suggest additions or refinements to what I have done. The committee should carefully review what I have stitched together to determine if I'm in the right ballpark. In particular, the committee should make sure that the minimum information to be sealed under proposed AS 12.62.180(e), which is expressed in terms of definitions found in AS 12.62.900, meets with the committee's intent.

JPC:med  
05-297.med

Enclosure

24-LS0249U

Luckhaupt  
4/18/05

CS FOR HOUSE BILL NO. 34( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES WEYHRAUCH, Hawker

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the expungement of records relating to judgment set asides granted  
2 after suspended imposition of sentence."

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

4 \* Section 1. AS 12.55.085(c) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court  
6 may set aside the conviction and issue to the person a certificate to that effect. The  
7 person may petition the court for an order of expungement. The court may issue  
8 the order if the person has proven by a preponderance of the evidence that the  
9 person is not likely to reoffend. Upon entry of such an order, the applicant shall  
10 be deemed not to have been ~~previously arrested, been adjudged, convicted, or~~  
11 received a suspended imposition of sentence, or a set aside <sup>for that crime</sup> Upon entry of such  
12 an order, the person may provide a certified copy of the order and payment for  
13 the cost of sealing the records to the clerk of the court and to the Department of  
14 Public Safety. Thereafter, the record of the ~~arrest, adjudication/~~ conviction,

1 suspended imposition of sentence or a set aside and other official records  
2 including electronic records are sealed. For all purposes, including responding to  
3 questions on employment applications, an offender whose conviction has been  
4 expunged may state that the offender has never been convicted of the crime.

*Seaton*

# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273

## MEMORANDUM

DATE: April 20, 2005  
TO: Members, House State Affairs Committee  
FROM: Rep. Bruce Weyhrauch *BW*  
SUBJECT: Amendments to HB 34 LS02401

At the State Affairs meeting on Saturday morning, Chair Seaton and Rep. Gruenberg called for a working group to redraft HB 34, legislation allowing for expungement of set asides under Alaska Law. That group met on Monday morning and their discussion resulted in Version "I," released on Tuesday afternoon. In advance of its next hearing, I asked Doug Wooliver to seek input from available judges in the court system so that the committee could consider their comments in a timely fashion. As a result of Mr. Wooliver's collaboration, we have worked out several amendments that I believe are necessary to keep the bill realistic, efficient and revenue neutral.

### **Amendment No. 1**

The original objective was to allow the judiciary a certain degree of discretion in issuing expungement orders; however, comments indicated the language was vague and failed to provide concrete statutory guidance. For example, how could a judge predict whether or not a person would likely reoffend? A solution was to substitute a timeline for issuing an expungement order similar to the set aside process.

### **Amendment No. 2**

Deleting records of arrest & adjudication from records that are sealed is cleaner and resolves any concern that miscellaneous records such as arraignment schedules should be included. HB 34 simply requires that a conviction record be sealed.

### **Amendment No. 3**

Unfortunately, both the Court System and the Dept. of Public Safety believe that making the option of expungement available to convictions prior to passage would likely result in a steep increase in court hearings. That has a price tag. In the interest of keeping this legislation revenue neutral, I have no alternative but to keep the scope of HB 34 forward reaching.

If you have any questions or need further information, I invite you to contact myself, or my aide, Linda Sylvester.

I appreciate your support.

Representative Bruce Weyhrauch@legis.state.ak.us  
[www.akrepublicans.org/weyhrauch/](http://www.akrepublicans.org/weyhrauch/)

AMENDMENT No. 2

BY: Rep. Weyhrauch

TO: HB 34 LS0240V

1 Page 1, Line 10,

2 DELETE: "arrest, adjudication"

~~3~~

*Amendment #3*

4 Page 1, Line 14,

5 DELETE: "arrest, adjudication"

6

~~7~~

8

*Amendment #4 Conceptual*

9

10

*Page 1, line 11*

11

*Between "set aside" and "."*

12

*insert "for that crime"*

13

14

15

16

17

18

19

AMENDMENT No. 1

*Adopted*

BY: Rep. Weyhrauch

TO: HB 34 LS0240V

1 Page 1, Line 7, Following, "expungement."

2 DELETE: "The court may issue the order if the person has proven by a preponderance of  
3 the evidence that the person is not likely to reoffend."

4

5

6 INSERT: "No sooner than one year following the date of the set aside of the suspended  
7 imposition of sentence, and if the person has not been charged with a crime, the court  
8 may issue the order of expungement."

9

10

11

12

13

14

15

14

15

16

17

AMENDMENT No. 2

BY: Rep. Weyhrauch

TO: HB 34 LS0240I

*# 2 conf adopted*

1 Page 1, Line 10,

2 DELETE: "arrest, adjudication"

*previously arrested, been adjudged.*

3

4 Page 1, Line 14,

5 DELETE: "arrest, adjudication"

*# 3 adopted*

6

7

8

9

10

*# 4 conceptual adpat.*

11

12

13

14

15

16

17

18

19

AMENDMENT No. 3

#  
75

BY: Rep. Weyhrauch

TO: HB 34 LS0240V

1 Page 2, Line 5,

2 INSERT: APPLICABILITY: The amendment to AS 12.55.085(e) made by sec. 1 of this

3 Act allowing the sealing of certain records only applies when a conviction, suspension of

4 imposition of sentence, and the set aside under AS 12.55.085 have all occurred after the

5 effective date of this ACT.

6

7

8

9

10

11

12

13

14

15

16

17

16

17

AMENDMENT No.

5 → W/ down  
(to subcommittee create  
separate sections)

BY: Rep. Weyhrauch

TO: HB 34 LS0240U

1 Page 2, Line 5,

2 INSERT: APPLICABILITY: The amendment to AS 12.55.085(e) made by sec. 1 of this  
3 Act allowing the sealing of certain records only applies when a conviction, suspension of  
4 imposition of sentence, and the set aside under AS 12.55.085 have all occurred after the  
5 effective date of this ACT.

6

7

8

9

10

11

12

13

14

15

16

17

16

17

~~Page 1~~

**Changes made to 24-LS02240\I**

**Dated 4/18/05**

(This language incorporates sponsor's amendments #1, #2 & #3)

**Section 1.** AS 12.55.085(e) is amended to read:

(e) Upon the discharge by the court without imposition of sentence, the court may set aside the conviction and issue to the person a certificate to that effect. **The person may petition the court for an order of expungement.**

**[THE COURT MAY ISSUE THE ORDER IF THE PERSON HAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT THE PERSON IS NOT LIKELY TO REOFFEND.] No sooner than one year following the date of the set aside of the suspended imposition of sentence, and if the person has not been charged with a crime, the court may issue the expungement order.**

Upon entry of such an order, the applicant shall be deemed not to have been previously [ARRESTED, BEEN ADJUDGED,] convicted, received a suspended imposition of sentence, or a set aside. Upon entry of such an order, the person may provide a certified copy of the order and payment for the cost of sealing the records to the clerk of the court and to the Department of Public Safety. Thereafter, the record of the [ARREST, ADJUDICATION,] conviction, suspended imposition of sentence or a set aside and other official records including electronic records are sealed.

For all purposes, including responding to questions on employment applications, an offender whose conviction has been expunged may state that the offender has never been convicted of the crime.

**INSERT: APPLICABILITY. The amendment to AS 12.55.085(e) made by sec. 1 of this Act allowing the sealing of certain records only applies when a conviction, suspension of imposition of sentence, and the set aside under AS 12.55.085 have all occurred after the effective date of this ACT.**

AMENDMENT No. 4

*6*  
*adaptes*

BY: Rep. Weyhrauch

TO: HB 34 LS0240\I

1 Page 1, Line 13, following "cost of"

2 DELETE: "sealing the records"

3 INSERT: "making the records confidential"

4

5

6 Page 2, Line 2, following "electronic records are"

7 DELETE: "sealed"

8 INSERT: "confidential. Nothing in this section affects or prevents the use of an

9 offenders prior conviction, including an expunged conviction, in a later criminal

10 prosecution."

11

16

17

Att: James Crawford

24-LS02401  
Luckhaupt  
4/18/05

CS FOR HOUSE BILL NO. 34( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES WEYHRAUCH, Hawker

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the expungement of records relating to judgment set asides granted  
2 after suspended imposition of sentence."

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

4 \* Section 1. AS 12.55.085(e) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court  
6 may set aside the conviction and issue to the person a certificate to that effect. The  
7 person may petition the court for an order of expungement. The court may issue  
8 the order if the person has proven by a preponderance of the evidence that the  
9 person is not likely to reoffend. Upon entry of such an order, the applicant shall  
10 be deemed not to have been ~~previously arrested, been adjudged, convicted, or~~  
11 received a suspended imposition of sentence, or a set aside <sup>for that crime</sup>. Upon entry of such  
12 an order, the person may provide a certified copy of the order and payment for  
13 the cost of sealing the records to the clerk of the court and to the Department of  
14 Public Safety. Thereafter, the record of the ~~arrest, adjudication, conviction,~~

Am #2  
10

Am #4  
11  
12

Am #3  
13  
14

1 suspended imposition of sentence or a set aside and other official records  
2 including electronic records are sealed. For all purposes, including responding to  
3 questions on employment applications, an offender whose conviction has been  
4 expunged may state that the offender has never been convicted of the crime.

Linda Sylvester



# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273

## Explanation of changes to HB 34 Version Y

(e) Upon the discharge by the court without imposition of sentence, the court may set aside the conviction and issue to the person a certificate that

- Provides that, under law, the person has not been convicted of a crime.
- The person may, within the 2 year period following the issuance of the certificate, petition the court for an order sealing the records of the arrest, the judgment, the suspended imposition of sentence, and the set aside.
- The court shall issue the order if the court finds that the person is not likely to reoffend.
- The order must state that the effect of the order under state law is that the person has not been arrested, been adjudged, convicted, or received a suspended imposition of sentence or a set aside unless the person re-offends.
- The person shall provide the order to the Dept. of Public Safety & the clerk of the court along with payment for the cost of sealing the record.
- The department & the clerk of the court shall seal all records pertaining to the arrest, judgment, suspended imposition of sentence, conviction, and set aside.
- The records sealed may be accessed only by law enforcement or court officers for the purposes of investigating crimes or assisting with criminal prosecutions.
- **APPLICABILITY:** This Act effects destruction of records of set asides that occur after the effective date of this Act.

24-LS0240\Y

Lackhaupt  
4/15/05

CS FOR HOUSE BILL NO. 34( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES WEYHRAUCH, Hawk

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the expungement of records relating to judgment set asides granted  
2 after suspended imposition of sentence."

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

4 \* Section 1. AS 12.55.085(e) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court  
6 may set aside the conviction and issue to the person a certificate [TO] that provides  
7 that, under state law, the person has not been convicted of a crime. The person  
8 may, within the two-year period following the issuance of the certificate, petition  
9 the court for an order sealing the records of the arrest, the judgment, the  
10 suspended imposition of sentence, and the set aside. The court shall issue the  
11 order if the court finds that the person is not likely to reoffend. The order must  
12 state that the effect of the order under state law is that the person has not been  
13 arrested, been adjudged, convicted, or received a suspended imposition of  
14 sentence or a set aside unless the person reoffends. The person shall provide the

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

order to the Department of Public Safety and the clerk of court along with payment for the cost of sealing the records. The department and the clerk of court shall seal all records pertaining to the arrest, judgment, suspended imposition of sentence, conviction, and set aside. The records sealed may be accessed only by law enforcement or court officers for the purpose of investigating crimes or assisting with criminal prosecutions [EFFECT].

\* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The amendment to AS 12.55.085(e) made by sec. 1 of this Act allowing the <sup>sealing</sup> ~~destruction~~ of certain records only applies when a judgment, suspension of imposition of sentence, and set aside under AS 12.55.085 have all occurred after the effective date of this Act.

① Need amend to remove state liability for disseminated information  
② applicability to past

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB34 (STA) "Y" version

Page 1, line 11, in subsection (e) after "person" insert "has proven by a preponderance of the evidence that the person"

+ Limitation on liability to state

+ Applicability to past periods

### ***Discussion Items for State Affairs Committee Substitute for HB 34***

*"The person may provide the certificate to the Dept. of Public Safety and to the clerk of court. The department and the clerk of court shall destroy all records relating to the conviction, the suspended imposition of sentence, and the set aside, including records maintained under AS 12.62"*

#### **Issue No. 1.**

The "Information Age" renders complete destruction of records impossible. Records exist as hard copies at various locations, in computer databases, and on software that is sold to vendors. Recognizing that it is physically impossible for the State of Alaska to physically destroy records that have been disseminated to the general public, HB 34 should be amended so that dissemination of a criminal record is prospective.

"The state is not liable for any disclosures made prior to receipt of the certificate (or expungement order)."

#### **Issue No. 2.**

There are valid policy concerns about making a criminal proceeding unavailable to the legal system in the event of future criminal activity by the offender.

**First Option:** Retain nonpublic records for use by criminal justice system, and render the public information "confidential" opposed to "sealing the record."

"Upon discharge by the court without imposition of sentence, the court may set aside the conviction and issue to the person a certificate to that effect. Once the person has provided the certificate to the Department of Public Safety and to the clerk of court, the fact that the offender has been adjudicated of an offence shall not be included in the offender's public record of criminal history. A nonpublic record of a disposition under this subsection shall be retained by the clerk of the court. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution."

**Second Option:** Require that the qualified offender make an application to the court for an order of expungement. The advantage this option provides for another level of judicial review to evaluate whether or not expunging a record for a particular offender is in the interest of justice. After an order of expungement is issued, nonpublic records are retained for use by criminal justice system, and render the public information "confidential" opposed to "sealing the record."

"Upon discharge by the court without imposition of sentence, the court may set aside the conviction and issue to the person a certificate to that effect. The person may petition the court and may issue an order of expungement. Upon entry of such an order, the applicant shall be deemed not to have been previously convicted, or arrested as the case may be,

**Discussion Items for State Affairs Committee Substitute for HB 34 cont'd.....**

and the court shall issue an order making the record of the conviction and other official records of the case, including records of the arrest whether or not the arrest resulted in a further criminal proceeding confidential. A nonpublic record of a disposition under this subsection shall be retained by the clerk of the court. Nothing in this section affects or prevents the use of an offender's prior conviction, including an expunged conviction, in a later criminal prosecution."

**Issue No. 3.**

Must an offender disclose expunged charges on employment applications and the like?

Ultimately, it is up to the individual how they respond to the question: "*have you ever been charged with a crime?*" Nevertheless, the intended effect of all state and federal expungement statutes is that the order restores the person to the status he occupied prior to the arrest and criminal proceedings. As such, a person who received an expungement order *is* entitled to answer "no." To avoid confusion, the bill should include language that clearly stating that.

The following is language used in the Federal First Offender Act:

"A person for whom an expugement order has been entered shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to state or acknowledge such arrests or criminal proceedings in response to an inquiry made of him for any purpose."

This language is from Washington Statute 9.94A.640:

"For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of the crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution."

**Issue No. 4.**

The petitioner should bear all costs incurred by the court system for expenses resulting from expungement proceedings.



# ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273

## Sponsor Statement

### HB 34

**This Act authorizes the expungement, or the physical elimination of a record of a conviction that has been set aside following a suspended imposition of sentence.**

Current statutes confer upon judges the power to suspend imposition of sentences (referred to as "SIS") when it is satisfied that the ends of justice and the best interest of both the public and the defendant will be served. Further, AS 12.55.085(e) gives the court the option *to set aside* that criminal conviction following the defendant's successful completion of the conditions of their suspended sentence. Clearly, this judicial tool is intended to liberate the deserving defendant from the lingering consequences of a criminal conviction.

Over the years, defendants and some judges mistakenly believed that the criminal conviction that had been set aside "went away" and the defendant was free of any of its consequences. However, in 1995, the Alaska Supreme Court ruled that the set aside statute didn't quite say that. In *Journey v. State*, the Court held that because Alaska's 1965 SIS statute omitted the term "expungement," the criminal information must remain in the individual's record. Without specific legislative authorization the conviction record remains and is readily available for the public, employers, credit agencies, and others to see.

HB 34 breathes life into Alaska's SIS statute by essentially completing the thought of the statutory intent. In other words, HB 34 writes into the law what many had assumed was already there: a criminal conviction set aside by the court may go away and the defendant can be free from its consequences. The record of that criminal conviction may be expunged.

This isn't a panacea for all Alaskans wayward in their youth. This is a very narrowly focused bill, and because of the applicability clause, SISs may only be expunged following passage of the bill. Additional language has been added as a disclaimer that the State of Alaska has no control over public records subject to expungement that have already been disseminated to the public.

---

As a practical matter, *expungement* refers to the deletion of the computerized criminal history information related to the set aside conviction.

Contact: Linda Sylvester  
465-3744

**HB 34 touches upon two sentencing statutes: AS 12.55.080 – Suspension of sentence and probation and AS 12.55.085(e) – Suspending imposition of sentence.**

### **AS 12.55.080. Suspension of Sentence and Probation.**

**Upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, a court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence or a portion thereof, and place the defendant on probation for a period and upon the terms and conditions as the court considers best.**

### **AS 12.55.085. Suspending Imposition of Sentence.**

**(a)** Except as provided in (f) of this section, if it appears that there are circumstances in mitigation of the punishment, or that the ends of justice will be served, the court may, in its discretion, suspend the imposition of sentence and may direct that the suspension continue for a period of time, not exceeding the maximum term of sentence that may be imposed or a period of one year, whichever is greater, and upon the terms and conditions that the court determines, and shall place the person on probation, under the charge and supervision of the probation officer of the court during the suspension.

**(b)** At any time during the probationary term of the person released on probation, a probation officer may, without warrant or other process, rearrest the person so placed in the officer's care and bring the person before the court, or the court may, in its discretion, issue a warrant for the rearrest of the person. The court may revoke and terminate the probation if the interests of justice require, and if the court, in its judgment, has reason to believe that the person placed upon probation is

**(1)** violating the conditions of probation;

**(2)** engaging in criminal practices; or

**(3)** violating an order of the court to participate in or comply with the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

**(c)** Upon the revocation and termination of the probation, the court may pronounce sentence at any time within the maximum probation period authorized by this section, subject to the limitation specified in AS 12.55.086(c).

**(d)** The court may at any time during the period of probation revoke or modify its order of suspension of imposition of sentence. It may at any time, when the ends of justice will be served, and when the good conduct and reform of the person held on probation warrant it, terminate the period of probation and discharge the person held. If the court has not revoked the order of probation and pronounced sentence, the defendant shall, at the end of the term of probation, be discharged by the court.

**(e) Upon the discharge by the court without imposition of sentence, the court may set aside the conviction and issue to the person a certificate to that effect.**

**(f)** The court may not suspend the imposition of sentence of a person who

*Pertinent Statutes*

(1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320, 11.41.410 - 11.41.530, or AS 11.46.400 ;

(2) uses a firearm in the commission of the offense for which the person is convicted; or

(3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony and the person has one or more prior convictions for a misdemeanor violation of AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction having substantially similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall be considered to have a prior conviction even if that conviction has been set aside under (e) of this section or under the equivalent provision of the laws of another jurisdiction.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB034-DPS-SS-2-28-05  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title An Act relating to the expungement RDU Statewide Services  
of records relating to convictions Component Criminal Records and ID  
Sponsor Representative Weyhrauch  
Requester \_\_\_\_\_ Component No. 1190

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

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Passage of this bill will increase the workload and add to the responsibilities of the Statewide Services Division of the Department of Public Safety (DPS), but due to questions regarding the extent to which the bill will change recordkeeping, it is not possible to determine the precise fiscal impact.

It will be difficult to locate and destroy "all records relating to the conviction, the suspended imposition of sentence (SIS), and the set aside." Such records are in hard copy and electronic format throughout the DPS and the criminal justice system. Regardless of how effectively DPS (and the court system) can locate and destroy records, many records will exist in places other than the court system and DPS (e.g., Corrections, Law, municipalities, Alcohol Safety Action Program (ASAP), treatment providers).

Prepared by: Director David Schade Phone 269-0202  
Division: Statewide Services Date/Time 2/28/05 4:33 PM  
Approved by: Commissioner William Tandeske Date 2/28/2005  
Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. HB 34

**ANALYSIS CONTINUATION**

Also, it is not clear how broadly the language "records relating to the conviction, the SIS, and the set aside" should be interpreted.

Does this mean that other DPS records relating to the charge must be destroyed as well? Does it include internal Alaska State Trooper investigation records and pre-conviction court records? Does it include records regarding hearings, calendaring orders, transport orders, probation and release orders, temporary orders, etc.?

Destruction, if it could be accomplished, will leave a problematic gap in the records. For example, if an inquiry were made about the status of a charge that was filed in the past, and DPS destroyed all records of the conviction and the set aside, there would be no way for DPS to research and explain what happened regarding the charge. It would be impossible to explain that SIS was successful, a set aside was ordered, and records were destroyed. This could be harmful to the successful defendant. Also, AS 12.55.086 allows a jail term to be imposed for an SIS, so the destruction of all records relating to an SIS will leave a gap in the record as to why the defendant was incarcerated.

Does the language of the bill, which states that "the defendant may provide the certificate to DPS and the clerk," mean that only when a defendant provides the certificate to the clerk and the department are the department and the clerk obligated to do the destruction? How is that reconciled with AS 12.62.120, which requires the court to report to DPS "an acquittal, dismissal, conviction, or other disposition of charges" as well as "the imposition of a sentence or the granting of a suspended imposition of sentence under AS 12.55.085" and "a judgment of a court that reverses, remands, vacates, or reinstates a criminal charge, conviction, or sentence"?

Since presently a successful SIS can be put to subsequent uses (for example, sex offender registration, aggravating factors), how does the destruction of records requirement impact those uses?

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB034-DPS-ASTD-2-28-05  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title The expungement of records relating to conviction RDU Alaska State Troopers  
set asides Component AST Detachments  
 Sponsor Representative Weyhrauch  
 Requester House State Affairs Component No. 2325

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

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Passage of this bill will have an indeterminate fiscal impact on the Alaska State Troopers.

The language in this bill does not provide specific enough information for the Alaska State Troopers to determine the full extent of the records that will have to be destroyed.

Prepared by: Lieutenant Todd Sharp Phone 907-269-4532  
 Division: Alaska State Troopers Date/Time 2/28/05 11:55 AM  
 Approved by: Commissioner William Tandeske Date 2/28/2005  
 Agency: Department of Public Safety

**Crimes Excluded from Set Aside Option**

- 12.55.085 (f) The court may not suspend the imposition of a sentence of a person (1) who is convicted of a violation of AS 11.41.100-11.41.220, 11.41.260-11.41.320, 11.41.410-11.41.530, or AS 11.46.400;
- (2) uses a firearm in the commission of the offense for which the person is convicted; or
- (3) is convicted of a violation of AS 11.41.230-11.41.250 or a felony and the person has one or more prior convictions for a misdemeanor violation of AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction having substantially similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall be considered to have a prior conviction even if that conviction has been set aside under (e) of this section or under the equivalent provision of the laws of another jurisdiction.

**AS 11.41.100-220**

Article 1. Homicide

- 11.41.100 1<sup>st</sup> Degree Murder  
11.41.110 2<sup>nd</sup> Degree Murder  
11.41.120 Manslaughter  
11.41.130 Criminally Negligent Homicide

Article 2. Assault & Reckless Endangerment

- 11.41.200 1<sup>st</sup> Degree Assault  
11.41.210 2<sup>nd</sup> Degree Assault  
11.41.220 3<sup>rd</sup> Degree Assault  
*skips 11.41.230 4<sup>th</sup> Degree Assault*  
*11.41.250 Reckless Endangerment*

**AS 11.41.260-320**

- 11.41.260 1<sup>st</sup> Degree Stalking  
11.41.270 2<sup>nd</sup> Degree Stalking

Article 3. Kidnapping & Custodial Interference

- 11.41.300 Kidnapping  
11.41.320 1<sup>st</sup> Degree Custodial Interference

*skips 11.41.330 2<sup>nd</sup> Degree Custodial Interference*

**Crimes Excluded from Set Aside Option, cont'd ...**

**AS 11.41.410-530**

Article 4. Sexual Offenses

- 11.41.410 1<sup>st</sup> Degree Sexual Assault
- 11.41.420 2<sup>nd</sup> Degree Sexual Assault
- 11.41.425 3<sup>rd</sup> Degree Sexual Assault
- 11.41.427 4<sup>th</sup> Degree Sexual Assault
- 11.41.434 1<sup>st</sup> Degree Sexual Abuse of a Minor
- 11.41.436 2<sup>nd</sup> Degree Sexual Abuse of a Minor
- 11.41.438 3<sup>rd</sup> Degree Sexual Abuse of a Minor
- 11.41.440 4<sup>th</sup> Degree Sexual Abuse of a Minor
- 11.41.450 Incest
- 11.41.455 Unlawful Exploitation of a Minor
- 11.41.458 1<sup>st</sup> Degree Indecent Exposure
- 11.41.460 2<sup>nd</sup> Degree Indecent Exposure

Article 5. Robbery, Extortion, & Coercion

- 11.41.500 1<sup>st</sup> Degree Robbery
- 11.41.510 2<sup>nd</sup> Degree Robbery
- 11.41.520 Extortion
- 11.41.530 Coercion

- AS 11.46.400 1<sup>st</sup> Degree Arson

## NOTES TO DECISIONS

Cited in *Stuart v. State*, 698 P.2d 1218 (Alaska Ct. App. 1985).

### Chapter 35. Abandonment and Nonsupport.

*[Repealed, § 1 ch 39 SLA 1970 and § 21 ch 166 SLA 1978. For current law on desertion and nonsupport of a minor, see AS 11.51.100 — 11.51.120.]*

### Chapter 36. Failure to Permit Visitation with Minor Child.

*[Repealed, § 21 ch 166 SLA 1978. For current law, see AS 11.51.125.]*

### Chapter 40. Crimes Against Morality and Decency.

*[Repealed, § 21 ch 166 SLA 1978. For current law, see AS 11.51.130, 11.51.140, AS 11.61.110, 11.61.130, 11.61.140 and AS 11.66.100 — 11.66.150.]*

### Chapter 41. Offenses Against the Person.

#### Article

1. Homicide (§§ 11.41.100 — 11.41.140)
2. Assault and Reckless Endangerment (§§ 11.41.200 — 11.41.270)
3. Kidnapping and Custodial Interference (§§ 11.41.300 — 11.41.370)
4. Sexual Offenses (§§ 11.41.410 — 11.41.470)
5. Robbery, Extortion, and Coercion (§§ 11.41.500 — 11.41.530)

**Cross references.** — For provisions authorizing arrest without warrant in certain cases where the police officer has reasonable cause to believe that the person has committed a crime under this chapter, see AS 12.25.030(b). For increase in classification of misdemeanors committed in connection with a criminal street gang, see AS 12.55.137.

## NOTES TO DECISIONS

Cited in *Leuch v. State*, 633 P.2d 1006 (Alaska 1981).

#### Article 1. Homicide.

##### Section

100. Murder in the first degree
110. Murder in the second degree
115. Defenses to murder
120. Manslaughter

##### Section

130. Criminally negligent homicide
135. Multiple deaths
140. Definition

**Cross references.** — For provision relating to withdrawal or withholding of cardiopulmonary resuscitation or other life-sustaining procedures, see AS 18.12.080.

## NOTES TO DECISIONS

**Evidence of other crimes involving domestic violence.** — In a trial involving domestic violence, Alaska Evid. R. 404(b)(4) allows the state to introduce evidence of other "crimes involving domestic violence"