

ALASKA LEGISLATURE COMMITTEE FILLES 2007-2008 SCRA 12

law is working for the community – and limit flip flopping due to organizing by very persuasive individuals at the local level.

The recommendations in SB 128 primarily address the supply side of the issue. I encourage the Alaska legislature to also make additional funds available to address the demand for and treatment of alcohol and substance abuse. Alaska families, communities and the State budget would benefit if the State proactively explored and set in place means to prevent and minimize the impact alcohol and substance abuse has on Alaska's communities and families, before problems occur – as opposed to locking up individuals after the fact.

While the provisions contained in SB 128 reflect only a small portion of the options that were developed, if implemented, they are a step in the right direction. Attached to my testimony, is a list of the options that were developed by the Alcohol workgroup for the consideration of the Commission. I wanted to note that there are many more options that have not yet been fully explored and recommended by the Commission, simply because we ran out of funding to continue our work.

Unfortunately, the Rural Justice and Law Enforcement Commission's funding got tied up in the federal budget "continuing resolution no-earmark" policy, such that the Commission has not received 2007 federal funds to continue our work. A request was submitted to the State Legislature in February by the Commission asking for stop gap funding to help the Commission continue its work until such time as federal funding again becomes available. Since its inception in 2004, the Commission has been funded by federal receipts. I hope that the legislature will see fit to support this very worthwhile commission.

Thank you for this opportunity to testify.

Alcohol Workgroup Options

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My name is Karen Bitzer and I am presenting testimony today on behalf of the Alaska Rural Justice and Law Enforcement Commission. Formed in 2004 by an act of congress, and supported by Senator Stevens, the Commission was tasked with studying four broad areas related to rural Alaska: law enforcement, judicial services, domestic violence/child abuse and alcohol importation and interdiction. Between October 2004 and June 2005, the Commission established 4 workgroups of professionals, experts, and citizens working on topics related to these 4 broad areas of interest. The workgroups met weekly by teleconference as the Commission traveled to key hub communities to receive testimony from rural Alaskans. The working groups created over 100 action options to be considered by the Commission for adoption and implementation. These are contained in the Initial Report of the AK Rural Justice and Law Enforcement Commission, a report that was delivered to your offices earlier this year.

In late 2006, the Commission formed 4 topic specific work groups – one again related to Alcohol importation and interdiction to review the recommendations of the first working group and expand those which offered the most promise for legislative relief and inter agency cooperation for implementation. The legislation you have before you in SB 128 promote several of the tenets you will find in the initial and subsequent report of the working groups of the Commission. These recommendations include support for a data base to track large shipments of alcohol to village locations, modifications to forfeiture, and prohibition of shipments to dry villages. Other recommendations support banning plastic containers in villages shipments, cross designation of officers, and a greater use of alcohol bracelet technology.

We have submitted a copy of this testimony in writing and have attached a full copy of the Commission's working group recommendations. Thank you for allowing us to speak in support of SB128.

*The Commission is currently without funding as a result of the Federal action regarding designated appropriations and has requested some stopgap funding from the State of Alaska. It is our sincere desire that this body will see the benefit of the recommendations created by citizens in Alaska over the last two years, and support the continued efforts of this Commission to work with this body to improve justice and law enforcement in rural Alaska.*

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### Options relating to prevention

1. Alcohol Abuse Prevention. This was a last year's recommendation (#15), adopted by the Commission (#29). Our group wanted to mention the successful DARE program.

**Statement of Need:** There is a need to reduce communities' tolerance of alcohol abuse and the number of young people who 'learn' this tolerance from their communities.

**Options:** Support a variety of prevention programs that include:

- Programs geared to helping young people learn to make healthy choices
- Healthy community and cultural activities that link youth and adults.
- Alcohol/Drug Information Schools for first time misdemeanor alcohol/drug related offenses.
- Programs that promote community responsibility for preventing and addressing alcohol related problems.

(All programs need to reflect and respect the culture of the local community.)

**Rational for Options:** Reducing the supply of alcohol to rural Alaska can only go so far to reduce alcohol abuse. Reduction in the demand for alcohol must also play a part. Demand reduction includes both preventing young people from becoming alcohol abusers and treating people who have become abusers. The D.A.R.E. (Drug Abuse Resistance Education) program, a police officer-led series of classroom lessons that teaches children from kindergarten through 12th grade how to resist peer pressure and live productive drug and violence-free lives, is one example of a successful nationwide effort. In rural Alaska, it would be most effective if the police officers leading the sessions were also Alaska Native to the maximum extent possible.

This recommendation addresses prevention.

**Impact Statement:** Fewer young people will become alcohol abusers, with a corresponding reduction in alcohol related violence, crime and intentional and unintentional injuries.

2. Public Information Program

**Statement of Need:** Attitudes towards alcohol and sobriety must change. Legislative changes can only go so far.

**Options:** The State and federal governments should cooperate in creating a "pro-sobriety" public information program to heighten awareness and prevention, with two components: an office to assemble informational resources available to any community group wanting to conduct a public information campaign on the benefits of sobriety; and a system of local grants available to communities or community groups wanting to implement such a public information campaign within their local communities.

**Rational for Options:** Alcohol manufacturers in the private sector devote considerable revenues to marketing alcohol. Pro-sobriety advocates lack a countervailing source of revenues. Public information campaigns have met with success in heightening public awareness and affecting attitudes towards drinking while driving, drinking while pregnant, and smoking.

**Impact Statement:** This would strengthen the efforts of those community activists urging villages to become and remain dry.

3. Liaison in state government for tribal court juvenile proceedings

**Statement of Need:** Alaska Native Villages would like to coordinate their efforts with regard to juvenile justice, particularly cases involving "minor consuming," more closely with state agencies.

**Options:** The State should designate a particular "minor consuming" specialist to act as a liaison with village governments and courts for minor consuming cases. Initially, this position might fit well with the "Disproportionate Contact" position currently in the Division of Juvenile Justice (which addresses the problem of over-representation of Alaska Native children in the Alaska juvenile justice system).

**Rational for Options:** Despite the fact that the State does not have the resources to bring a case for every "minor consuming" in Alaska's rural villages, its agencies might play a constructive backup role to tribal government efforts. In particular, some juveniles appearing before the tribal court might be more responsive to the tribal court's attempts to get the juvenile to address his/her alcohol problem if there were a mechanism under which the case could be "referred" to the State of Alaska for consideration of state court proceedings if the tribal court assessed the minor to be insufficiently responsive to traditional tribal attempts. The State might play a role analogous to that it plays with respect to Youth Court cases.

**Impact Statement:** This would help drive home the message that village governments and state government are determined to work together to address alcohol abuse, and provide a further incentive for juveniles to respond positively to tribal government attempts to get them to avoid alcohol.

#### 4. Purely private interdiction

**Statement of Need:** Private entities, such as airlines, need to do more to interdict the flow of alcohol into dry villages. However, any governmental mandate which might have the effect of branding a private entity as an agent of a law enforcement agency will undercut the efficacy of this approach.

**Options:** *Without* changes in state or federal law, urge that an appropriate non-profit private agency (e.g., Alaska Federation of Natives) approach a private funding source (e.g., the Rasmuson Foundation) for funding to provide commercial air enterprises with resources to carry out private screenings of cargo and passenger luggage for alcohol being transported to dry villages. Have a private entity recognize and reward conscientious businesses.

**Rational for Options:** The Fourth Amendment of the United States Constitution gives us rights as against the federal government; Alaska's Constitutional Right to Privacy gives us rights against the state government; and the Indian Civil Rights Act gives us rights against tribal governments. None of these preclude purely private searches without governmental involvement. This might include such approaches as random or systematic "dog sniffs" of cargo and luggage to detect alcohol, which state constitutional law places off-limits to state law enforcement agencies. It could also include better signage to raise public awareness. The case law is clear that when reports of the results of private searches are made to a law enforcement agency, it can act upon those, assuming that it conforms to its own warrant and/or "reasonable suspicion" requirements. If, however, the private entity conducts the search at the *behest* of a law enforcement agency, the results of the search are likely to be excluded from a subsequent criminal prosecution.

It appears that at least some private air carriers have indicated a willingness to assist in private screening efforts, assuming that these do not result in any significant inconvenience to legitimate (non-bootlegging) customers; but they do not have the resources to arrange the equipment and/or personnel to do so.

**Impact Statement:** If a private entity were able to obtain private funding to make resources available to private companies to conduct private screenings of cargo and luggage, then private interdiction might play a significant role in keeping dry villages dry, and any resulting contraband would not be a "fruit of a poisonous tree" excluded from criminal prosecutions.

5. **Require private carriers to take reasonable steps to check cargo for illegally shipped alcohol**

**Statement of Need:** Current law sanctions only the "knowing" importation of alcohol in violation of a local option. Transportation businesses which routinely operate within local option areas should be required to implement reasonable standards to screen cargo and luggage for alcohol.

**Options:** Create a category of local option monetary sanction for a business found to have transported alcohol into a local option area in violation of the local option law, with an affirmative defense that the business had implemented reasonable measures to screen its shipments for alcohol.

**Rational for Options:** Businesses need an economic incentive before they will find it advantageous to implement stricter screening measures. Otherwise, competition leads businesses to cater to illegal shippers, rather than tightening procedures, and unfairly penalizes businesses (e.g., Birchwood Air Service) which are trying to be conscientious in their screening. Even if the results of these searches are found to be constitutionally inadmissible in a criminal prosecution, the interdiction effect would be worthwhile, because the alcohol won't get to the village.

**Impact Statement:** This should prevent alcohol from reaching the villages, making it more difficult for illegal alcohol importers/smugglers to dupe businesses into transporting alcohol in violation of local ordinances.

## Options relating to local option laws

### 6. Revenue sharing incentives

**Statement of Need:** There is a tremendous need for rural Alaskan communities to receive a fair share of the State's revenue resources, as their ability to maintain any kind of municipal government at all is at risk. Among these communities, there are significant numbers that have been and remained "dry" for years, some that have remained "wet," and some that have vacillated back and forth, in a series of relatively close local option votes.

**Options:** Assuming state revenue sharing to municipalities is reinstated, it should include a significant financial incentive for communities to become and remain dry, and a lesser incentive for communities to become damp. If state revenue sharing is not generally offered to unincorporated municipalities, some equivalent financial incentive to unincorporated local option communities should be created.

**Rational for Options:** Rural communities that are "wet" present the State with significantly greater law enforcement and alcohol remediation costs than communities that are "dry."

**Impact Statement:** This would hopefully result in a larger proportion of communities voting to become and remain "dry."

### 7. Change in local option time frames

**Statement of Need:** Under 04.11.507(f), an election to remove a local option or to change to a less restrictive option may not be conducted during the first 12 months after the local option was adopted, nor can an election to remove or loosen a local option be held more than once in an 18-month period.

**Options:** Lengthen the initial non-repeal period to 18 months.

**Rational for Options:** Several communities go through periodic "swings of the pendulum" towards and away from the local option. This change would increase the length of the period during which a local option would be the "status quo."

**Impact Statement:** This would help stabilize the community for a longer period after adoption of a local option.

8. Change local option law to enable councils to adopt local options independently, subject to subsequent plebiscites.

**Statement of Need:** Local governing bodies need to have the authority to regulate alcohol independently of conducting a community plebiscite.

**Option:** Amend local option laws to allow local governments to have a greater control over local options, subject to change by local plebiscite. Specifically, change AS 04.11.491(a) to provide that a local option law, besides being enacted by a plebiscite, could be enacted by the local governing body of either a municipality or an established village, without a plebiscite, although such a local option law could still be repealed by plebiscite under AS 04.11.495 or changed by plebiscite under AS 04.11.493.

**Rational for Options:** Local governing bodies are allowed to adopt ordinances on a wide variety of other subjects without conducting a plebiscite.

**Impact Statement:** This decreases the impediments to communities moving towards "dry" status.

**Consideration:** This is also part of our proposal on Village Circuit Courts, but even if that proposal is not adopted, this idea should be independently considered.

9. Extend local option laws to encompass public intoxication

**Statement of Need:** Some villages report that a weakness with local option laws is that "possession by consumption" (i.e., being drunk inside the village) cannot be proscribed under those laws. AS 04.11.501(d).

**Options:** The local options laws would be amended to include the additional provision for a local option prohibiting public intoxication within the local option area.

**Rational for Options:** This gives local option laws increased flexibility to deal with a situation that many villages face.

**Impact Statement:** The local option will become more viable for these villages. It will improve public order.

**Consideration:** This is also part of our proposal on Village Circuit Courts, but even if that proposal is not adopted, this idea should be independently considered.

Options relating to the Alcohol Beverage Control Board

10. Adjustment of licensing fees for inflation.

**Statement of Need:** Some of the options recommended will require additional expenditures by the State of Alaska, and Alcohol Beverage Control Board licensing fees are the most appropriate source for revenues.

**Options:** Urge the legislature to increase all licensing fees to adjust for increases in the costs of remediating alcohol damages since those fees were set. Statutorily tie future fee increases to increases in the Consumer Price Index, in a manner similar to that used for exemption amounts under the Alaska Exemption Act, AS 09.38.115.

**Rational for Options:** Alcohol remediation saddles the State with a tremendous cost each year. The law allows ABC licensees to externalize these costs rather than bear them as a cost of doing business. These fees have remained constant, in most cases for approximately 27 years, in some cases for longer than that. (Section 468 of the Alaska "Carter" Code, enacted in 1900, set the fee for a wholesale license at \$2000 per annum, and barroom licenses at \$500, \$1000 or \$1500 annually depending on community size.) The ABC Board will face increased expenses as a result of several recent or proposed changes designed to enhance its ability to assist in the interdiction of the illegal flow of alcohol into villages, including implementation of the database for written orders suggestion from last year.

**Impact Statement:** Adjusting these fees, and tying future fee amounts to the consumer price index, will be a step towards having the industry bear a fairer share of these externalized costs.

11. Designated program receipt for ABC fines.

**Statement of Need:** The suggested programs for public education are more likely to be sustained if there is an identifiable program receipt designated for those, without violating the Alaska Constitution prohibition on dedicated funds.

**Options:** Urge the legislature to create statutorily a designated program receipt from ABC Board fines. Add a new subsection (81) to Alaska Statute 37.05.146(c) for this category.

**Rational for Options:** This approach has worked for 80 other "designated program receipts" and would be in compliance with the Alaska Constitution. Since the ABC Board has some measure of discretion over fines, the program receipts should not go directly to the ABC Board, to avoid any appearance of a remunerative interest.

**Impact Statement:** This will tie fines imposed for violations of ABC regulations to a funding source for programs designed to remediate the State's problems resulting from alcohol abuse.

12. Adjust membership requirements for ABC Board

**Statement of Need:**

Current law sets aside two of the five seats on the ABC Board for representatives of the alcohol industry. Other perspectives and/or areas of expertise should be represented.

**Options:** Urge the legislature to enact a statutory qualification requirement to balance the two industry seats with a requirement that a seat be designated for a person from rural Alaska, a person knowledgeable about alcohol abuse prevention or treatment, and a person with a law enforcement background. This option should be accompanied by an explicit statement that this is in no way a criticism of current board members, all of whom are very conscientious.

**Rational for Options:** This would merely redress a statutory imbalance.

**Impact Statement:** This would underscore the fact that many different sectors within the State have a vital interest in the work of the ABC Board

### Options relating to enforcement

13. **Plastic bottles:** This was a last year's recommendation (#11), adopted by the Commission (#18). In the absence of any information as to why this was not included in the 2006 legislation or otherwise implemented, there isn't much for the work group to do beyond simply reiterating it.
14. **Database for shipments by written orders:** This was a last year's recommendation (#8), adopted by the Commission (#53). Our group mainly wanted to find out if there was any particular obstacle to implementation. There is apparently a proposal within the Department of Public Safety, but the Work Group has not had an opportunity to review it.
15. **Cross-designations among state and federal agencies:** This was a last year's recommendation (#5) adopted by the Commission (#8). The work group was informed that the Commissioner of Public Safety is moving this forward through negotiations with the Postal Service. Eight AST personnel are close to finishing the cross-designation process. The addition the work group wanted to make was to expand the concept to include having Alaska District Attorneys cross-deputized within the U.S. Attorney's Office; this had worked well with one individual in the past and the work group thought that the idea of institutionalizing it should be explored. The idea was to be referred to the separate Police Standards and Cross-Designation Work Group.
16. **Prohibition on shipments to residents of dry villages:** This was last year's recommendation (#9), adopted by the Commission (#17). The group looked at SB 229, introduced by Sen. Olson in 2003. This year's group supports the idea and had no particular changes to suggest.

17. Further modifications to drug and alcohol forfeiture laws. Some modifications were included in last year's recommendation (#2), adopted by the Commission (#16) and included in SLA 2006, ch. 96.

**Statement of Need:** Prosecutors report a problem that the current statutes have been interpreted to require that civil forfeiture proceedings be initiated simultaneously with criminal proceedings. Criminal proceedings are a higher priority, and requiring initiation of civil proceedings may detract from the efficacy of criminal prosecutions. By the time the criminal case is dismissed, results in an acquittal, or results in a sentence which does not include forfeiture of property, the civil proceeding may be untimely.

**Options:** Urge the legislature to provide statutorily that, when property is validly held by the State during the pendency of criminal charges, the civil forfeiture proceedings need not be initiated as a separate case until the criminal case is resolved at the trial level. This should be applied to both Title 4 (alcohol) forfeitures and Title 17 (controlled substance) forfeitures.

**Rational for Options:** In case of conviction or plea bargain, the forfeiture can be incorporated into the criminal case judgment, saving the resources that would otherwise have to go into initiating (and then, in most cases, staying until resolution of the criminal case) the civil forfeiture proceedings. In case of dismissal or acquittal on the criminal charges, both the State and the individual can make a better informed decision about whether to initiate or contest, respectively, a civil forfeiture claim.

**Impact Statement:** This will give the State the option, even where it is unable to prove a criminal case beyond a reasonable doubt, to pursue a civil remedy against the defendant, without needing to divert resources during the prosecution itself.

Recommendation 18, continued

Draft revised language for AS 04.16.220(c):

- (a) [unchanged]
- (b) [unchanged]
- (c) ~~Within 30 days after a seizure under this section,~~ **The Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest or an assignee of a person holding an interest in the property seized, including a right to possession, lien, mortgage, or conditional sales contract. As to any item of property with an appraised value of \$500 or more, ~~The Department~~ **of Public Safety shall notify the person ascertained to have an interest in property seized of the impending forfeiture, and, before forfeiture, the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made or, if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The service and publication must be initiated within 30 days of a seizure under this section, except that, for property properly held in connection with the pendency of criminal charges, the mailing and publication must be initiated no later than 30 days after order of dismissal or final judgment is entered. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming an interest in the property shall file, within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings. Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this title.****
- (d) [unchanged]
- (e) [unchanged]
- (f) [unchanged]
- (g) [unchanged]
- (h) [unchanged]
- (i) [unchanged]
- (j) [unchanged]
- (k) [unchanged]

**Recommendation 18, continued**

**Draft revised language for AS 17.30.116:**

- (a) ~~Within 20 days after a seizure under AS 17.30.110 – 17.30.126,~~ **The commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$ 500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal, or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$ 500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The mailing and publication of notice will be initiated within thirty days of a seizure under AS 17.30.110 – 17.30.126, except that, for property properly held in connection with the pendency of criminal charges, the mailing and publication must be initiated no later than 30 days after order of dismissal or final judgment is entered. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.**
- (b) [unchanged]
- (c) [unchanged]

18. Change in Drug Enforcement Administration policy with respect to forfeitures

**Statement of Need:** State law enforcement needs to be able to collaborate with federal forfeiture proceedings, which on occasion present a better option for forfeiture of bootleggers' and/or drug dealers' items of property.

**Options:** The DEA should reconsider its change in policy which required that the property to be forfeited must be in DEA control with 30 days. If changes in federal regulations or statutes are necessary to accomplish this, these should be enacted.

**Rational for Options:** On occasion, federal forfeiture laws provide a more appropriate vehicle for depriving dealers and bootleggers of the items of property being used to further their criminal activities. Formerly, state law enforcement authorities could invite the DEA to consider forfeiture proceedings at the conclusion of a state criminal case. Subsequently, DEA policy was changed to require that the property to be forfeited be in DEA's possession within 30 days, a policy apparently applicable only in Missouri and Alaska. This had the effect of precluding referrals for federal forfeiture unless the State of Alaska was able to surrender the property during its own criminal prosecutions, which created obvious roadblocks in the efficacy of those prosecutions.

**Impact Statement:** This would heighten State/Federal collaboration, and expand the range of remedies available against alcohol and drug-related criminal activity.

19. Greater use of alcohol bracelet technology

**Statement of Need:** Particularly in village Alaska, more efficient ways of monitoring and enforcing orders that individuals abstain from alcohol should be developed. Otherwise, the resources simply do not exist to adequately monitor individuals for compliance.

**Options:** The Division of Juvenile Justice, the Department of Corrections, and the Alaska Court System should expand the use of "alcohol bracelets."

**Rational for Options:** The technology exists for "alcohol bracelets" which monitor alcohol intake for a period of several days. These were used experimentally in the state courts for the Second District in Kotzebue, with favorable results. When no-alcohol conditions were placed on pretrial releasees and probationers, the bracelets provided a systematic and convenient method for actual alcohol consumption to be monitored. At least one individual reported that he found it easier for him to exercise the willpower to abide by the no-alcohol condition, knowing that the bracelet was being used. The bracelet's data can be transmitted by the individual to the supervising agency via the telephone; unfortunately, the Kotzebue pilot program indicated that telecommunications with bush communities outside Kotzebue were not capable of transmitting the data satisfactorily. Still, many releasees were willing to come into Kotzebue in order to transmit the data from their bracelets.

**Impact Statement:** Wider availability of this technology will help reinforce individuals' willpower to avoid alcohol, especially if the problem with telecommunications with bush villages can be addressed.

20. Create a "designated program receipt" from the state share of civil forfeitures

**Statement of Need:** Alcohol interdiction efforts are more likely to be sustained if there are designated program receipts for those efforts, without violating the Alaska Constitution's prohibition on dedicated funds.

**Options:** Urge the legislature to create statutorily designated program receipts from civil forfeitures to support alcohol interdiction efforts. Add new subsection to AS 04.16.220 and AS 17.30.116 for that purpose.

**Rational for Options:** Current law (AS 04.16.220(k)) provides for the State to share a portion of forfeiture proceeds with participating municipal law enforcement agencies, but the remaining state share just goes back to the general fund. These could be used to fund some of the other options and recommendations. This approach has worked for other "designated program receipts" and would comply with the Alaska Constitution.

**Impact Statement:** This will support alcohol interdiction efforts by using proceeds of those efforts to continue them.

21. Amendment to AS 12.20.010

**Statement of Need:** Tribal remedies to stem the flow of alcohol should not reduce the state's jurisdiction in pursuing the same goal.

**Options:** The legislature should amend AS 12.20.010 so that a court judgment of the sort entered by the Metlakatla Tribal Court in the case of *Booth v. State* is not given statutory "double jeopardy" effect in Alaska State Courts.

**Rational for Options:** In *Booth v. State*, Booth had been charged with the same offense (assault) in both the Metlakatla Tribal Court and in state court. Having been convicted and sentenced (imposition of a fine) in Metlakatla, the defendant moved to dismiss the state case based on double jeopardy. The Alaska Court of Appeals found that neither the federal nor the state constitutional double jeopardy clauses would prevent state prosecution, but that the "statutory double jeopardy" law, AS 12.20.010, would. The State argued that, because Metlakatla's tribal ordinance made the offense punishable only by a fines or community service, and not incarceration, the statute should not apply, but the Court of Appeals disagreed.

**Impact Statement:** Particularly for alcohol offenses, but for other actions as well, imposition of a remedy such as a monetary fine or community service should not preclude a subsequent state prosecution. The United States and Alaska Constitutions do not require this, and the State should not require this by statute. Suggested language follows.

Sec. 12.20.010. Conviction or acquittal elsewhere as bar.

When an act charged as a crime is within the jurisdiction of the United States, another state, or a territory, as well as of this state, a conviction or acquittal in the former is a bar to the prosecution for it in this state. This bar shall not apply to an offense which is not punishable by a sentence of incarceration under the law of the jurisdiction entering the conviction or acquittal. A crime punishable by a sentence of community labor or community service shall not be deemed the equivalent of a crime punishable by a sentence of incarceration.

Options relating to jurisdiction

22. Village Alcohol and Controlled Substance Interdiction Zones

**Statement of Need:** There are numerous drawbacks to the present state and municipal law enforcement systems as applied to rural villages. Laws are enforced and prosecuted primarily from regional centers. Penalties for initial offenses are neither certain nor severe; youthful offenders, for whom serious intervention is needed when the youth first gets into trouble, can accumulate numerous minor offenses before significant attention can be paid by the state justice system. Geographic and cost constraints will always prevent the state from having adequate magistrates, troopers, prosecutors, etc., anywhere but in the largest communities. Second-class city governments, where they exist, have little or no tax base, no authority to establish municipal courts, and little ability to enforce municipal criminal ordinances because of the costs associated with prosecuting cases in distant state courts. Law enforcement authorities at both state and municipal levels are required to abide by state and federal rules that (1) preclude them from implementing some of the most effective interdiction methods to keep alcohol out of Alaska Native Villages and (2) may be culturally inappropriate for those Alaska Native Villages.

**Options:** Congress should enact legislation authorizing Alaska Native Villages to establish "Alaska Native Village Alcohol and Controlled Substance Interdiction Zones". A draft is attached.

**Rational for Options:** The best solutions to community alcohol problems are those which begin within the community. Tribal governments are in place, and are the only government in many villages. They are better situated to enforce and adjudicate minor offenses in remote communities than the state; they can intervene earlier and more effectively. Tribal courts are already dealing with juvenile offenses and child protection cases, many of which entail alcohol problems which the tribal courts need to deal with. Interdiction efforts under state and "local option" laws are limited by the privacy provisions of the Alaska and United States Constitutions, which the Workgroup was informed by the Department of Law prohibit random or systematic searches for alcohol. No matter how inappropriate the court rulings from the Ninth Circuit or the United States Supreme Court may be when applied to Alaska Native Villages, Congress cannot enact legislation under which state or municipal law enforcement authorities can act inconsistently with those decisions. With respect to tribal governments, however, Congress has plenary power and can authorize Alaska Native Villages to establish protection zones within which Alaska Native Villages can impose their own culturally appropriate rules. These could function as an important supplement to the local option laws. At least three Alaska Native Villages promulgated their own alcohol control ordinances, published by the Secretary of the Interior. These initiatives should be encouraged.

**Impact Statement:** Allowing Village Governments to promulgate and enforce their own rules would enable them to select legal solutions that are more likely to work for their local community. It might also enhance state prosecutorial efforts; searches that the Native Village conducts pursuant to its own civil authority, independent of State authority, could result in evidence that, once reported to the State authorities by the Tribe, might be admissible into evidence in state court criminal proceedings, as long as the search was not conducted at the behest of the State.

**Option 22 continued**

**Considerations:** This proposal provides for separate, not shared, power between the tribes and the state, although it provides for negotiated agreements between the State and tribes. It may increase the number of conflicts over jurisdiction, causing more divisiveness between tribes and the state. This proposal would extend tribal civil jurisdiction to non-Indians and non-members. These proceedings would occur under the Indian Civil Rights Act, as is now the case in Metlakatla. This proposal could increase the number of Alaska citizens who may be subject to a third set of civil rights standards, under ICRA, which may in some respects be less protective and in some respects more protective than those under the two standards already set by the United States and Alaska Constitutions. Without a change to AS 12.20.010, which we have proposed, this proposal may create statutory double-jeopardy problems that would impede state prosecutions. It would be helpful to have standards for the Secretary's review of tribal ordinances, if those standards are not already contained in existing regulations. There are those who believe that this proposal constitutes an unprecedented expansion of tribal jurisdiction, in that it creates the prospect of tribal jurisdiction over non-members outside Indian country, albeit only within an "Interdiction Zone."

(Draft statute on following pages)

Option 22 continued

Recommend that a new 18 USC 1157 be enacted, and amendments made to 18 USC 1161, as set out below.

§ 1157. Alaska Native Village Alcohol and Controlled Substance Interdiction Zones

(a) The federally recognized tribal governments of Alaska Native villages, regardless of whether or not they occupy "Indian country," have authority to enact and enforce ordinances prohibiting or regulating the manufacture, distribution, importation, possession, and consumption of alcoholic beverages and of other substances illegal or regulated under state, federal or tribal law, within an Interdiction Zone as defined herein and consistent with the provisions of this section and other applicable federal Indian laws.

(b) The area encompassed within an Interdiction Zone shall be the area within a five-mile radius of the post office of the village or, if the village does not have a post office, the area within a five-mile radius of another central site within the Village selected by the Village Council and identified in the Village Ordinance as approved by the Secretary of the Interior. Authority is hereby delegated to the Secretary to adjust the boundaries of an Interdiction Zone for a particular Alaska Native Village as necessary to account for local circumstances.

(c) Within an Interdiction Zone, any use of or transactions involving alcohol or other controlled substances must conform with the tribal ordinance, with the laws of the State of Alaska, and with any applicable federal laws. In addition, in any areas in which an Interdiction Zone overlaps with an area governed by an ordinance enacted by a local municipality, or by an area governed by a local option law, any use of or transactions involving alcohol or other controlled substances must conform with the tribal ordinance and with the municipal and local option laws, as well as state law and any applicable federal laws. If any applicable laws set inconsistent standards, the most restrictive of those standards shall govern.

(d) Alaska Native villages shall submit laws adopted pursuant to this section to the Secretary of the Interior, and the Secretary shall certify and publish those laws within the Federal Register within 180 days, under the same criteria and procedures as the Secretary uses for Indian country tribal alcohol laws under 18 U.S.C. 1161(a).

(e) Alaska Native villages and the State of Alaska are authorized to enter into agreements with each other, or subdivisions thereof, respecting jurisdiction over and enforcement of alcohol and drug control laws.

(f) For violations of Ordinances enacted under this section, an Alaska Native Village Tribal Court may impose civil sanctions, including but not limited to fines, forfeitures, community service, and treatment requirements, on any individual, regardless of tribal membership, found to have violated the applicable ordinance, but may not impose any criminal sentences on any individual who is not a member of a federally recognized tribe.

Option 22 continued

and may not entertain a case against state or municipal officials for actions taken to carry out their official duties under state or municipal law within an Interdiction Zone.

(g) Notwithstanding 25 U.S.C. 1302(2), an Alaska Native Village may by ordinance adopted pursuant to this section impose a systematic search requirement, random search requirement, or similar mechanism, on any cargo or personalty transported across the boundary into an Alaska Native Village Alcohol Interdiction Zone, provided that the Tribe takes reasonable steps to post notices of such search requirements, including requests that such notices be posted at airports from which aircraft are embarking to travel to the village.

(h) Nothing in this section is to preclude the State of Alaska or its municipalities from prosecuting individuals for violations of state laws, municipal laws, or local option laws due to any decision by the tribe to pursue any tribal case against the same individual for the same transaction or occurrence. Nothing in this section is to preclude an Alaska Native Village from initiating tribal proceedings against an individual based upon any decision by the State of Alaska or a municipality to prosecute that individual for that same transaction or occurrence. As used herein, the term "individual" shall mean and include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

(i) Nothing in the amendment is intended to enhance, diminish, or otherwise affect the issue of whether any particular areas in Alaska do or do not constitute "Indian country."

§ 1161. Application of Indian liquor laws

(a) Except as provided in subsection (b), the provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title [18 USC §§ 1154, 1156, 3113, 3488, and 3669], shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the Federal Register.

(b) The provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title [18 USC §§ 1154, 1156, 3113, 3488, and 3669], shall not apply within any area of the State of Alaska that is not within Indian country or an Alaska Native Village Alcohol Interdiction Zone, nor to any act or transaction within Indian country or an Alaska Native Village Alcohol Interdiction Zone provided such act or transaction is in conformity both with the laws of Alaska and with an ordinance duly adopted by the tribe located within the Indian country or Alaska Native Village Alcohol Interdiction Zone, certified by the Secretary of the Interior, and published in the Federal Register.

## 23. Village circuit courts

**Statement of Need:** The state judiciary needs to have a larger profile in the enforcement of local option laws in Alaska Native Villages. Village Councils need to be given the opportunity to play a larger role in local option determinations, at both the enactment and the adjudication stages.

**Options:** Change state law to create specialized alcohol courts called "Village Circuit Courts," to be created within the rural villages (outside the seven specified boroughs) which have adopted or may adopt a local option. Change local option laws as specified below to allow local governments to have a greater control over local options, subject to change by local plebiscite. Specifically:

- 1) A 04.11.491(a) would be amended to provide that a local option law, besides being enacted by a plebiscite, could be enacted by the local governing body of either a municipality or an established village, without a plebiscite, although such a local option law could still be repealed by plebiscite under AS 04.11.495 or changed by plebiscite under AS 04.11.493.
- 2) The local options laws would be amended to include the additional provision for a local option prohibiting public intoxication within the local option area.
- 3) Each village would have its own court. The territorial jurisdiction of the court would equal the territorial reach of the local option law as set out in state statute. The subject matter jurisdiction would be limited to violations of the local option law adopted for each village. The village courts would have personal jurisdiction over any person committing an offense against the local option ordinance, regardless of tribal membership or residence within the village.
- 4) Offenses against a village's local option ordinance would be charged and tried in the Village Circuit Court of the village whose ordinance was violated. Trials would be held in the village, although telephonic participation would be allowed. Trials could be prosecuted by the State, by a municipality, or by an established village within the meaning of AS 04.21.080; if a municipality or established village initiates the proceeding, notice will be provided to the Department of Law which will have 30 days so that prosecutors could exercise their discretion at that point to file charges in other state courts to address more serious offenses warranting incarceration, criminal conviction or more significant fines. Similar to traffic offenses, proceedings could be prosecuted through an attorney or through a non-attorney representative.
- 5) The Village Circuit Court would be a three judge court consisting of one Alaska Court System magistrate (appointed and supervised under the usual court procedures) and two individuals appointed by the tribal council.
- 6) The magistrate would be responsible for conducting trials and ruling on evidence and other matters. The magistrate would "ride circuit," conducting trials in several village circuit courts on a regular schedule. The same magistrate would serve a group of villages.
- 7) The tribal appointees would have to be full-time residents of the village who, in the judgment of the tribal council, are respected members of the village community. Tribally-appointed judges would serve a set term and would be subject to dismissal only for cause. Pro tem appointments by the tribal council would be permitted where a regular tribal appointee was unable to serve due to unavailability or conflict of interest.

"Unavailability" and "conflict of interest" and "dismissal for cause" would be defined by tribal ordinance and the state statute establishing Village Circuit Courts, and could be negotiated by the state and individual tribes or tribal groups.

- 8) Verdict and sentence would be decided by majority vote of the Village Circuit Court panel.
- 9) Trials would be conducted under state and federal constitutional standards and court rules that would be promulgated by the Alaska Supreme Court.
- 10) The offenses that could be tried in the courts would be classified as "infractions" under state law and thus would not be considered criminal convictions. Penalties would be limited to fines of no more than \$1,000 and/or community service (as decided by the panel) not to exceed 500 hours.
- 11) Appeals would be through the Alaska superior court, with review thereafter by the Alaska Supreme Court.
- 12) The costs of Village Circuit Courts would be shared by the federal and state governments. Tribes would make in-kind contributions to the system by providing the temporary facilities for trials, temporary housing for circuit magistrates and by providing tribal appointees to the court, who would not be paid or who would be paid a daily stipend by the tribes.
- 13) This proposal would be initially implemented as a pilot project covering a limited area and number of villages. It would be assessed after two to three years. All sovereigns involved in the pilot project would have an equal voice in the assessment process with a view toward producing a consensus evaluation. The state court system would be involved in the assessment process to the extent it wished to be involved.

**Rational for Options:** The "touchstone" of the concept is "shared power." The concept requires significant participation of the three sovereigns that have a role in improving conditions in rural Alaska. The proposal acknowledges that tribal councils and tribal judges have an important and meaningful role to play in the challenges facing their communities. It requires the state to be a true partner with tribes in addressing jurisdiction over alcohol offenses. It comports with the RJC's charge to establish "a *unified* . . . court system and system of local laws or ordinances for Alaska Native villages and communities" in the area of alcohol jurisdiction. (emphasis added)

**Impact Statement:** This would be a significant experiment in state/tribal cooperation, and could significantly heighten state court presence and enforcement of local option laws in the villages.

**Considerations:** This would not be effective unless it was adequately funded. Past proposals for circuit riding have had problems getting off the ground. Significant training would have to be provided for the Village appointees to the Village Circuit Courts. The proposal may require some villages to have better infrastructure (housing) than they currently have. It would require legislation on the state and federal levels, and court rule changes. This proposal is not intended to supplant tribal courts.

24. State statute for full faith and credit to tribal court civil money judgments in alcohol cases

**Statement of Need:** Tribal remedies for alcohol abuse would benefit from state assistance in enforcement.

**Options:** The Alaska Legislature should enact a statute granting full faith and credit to tribal court civil money judgments in alcohol cases.

**Rational for Options:** Tribal governments should be encouraged to use civil-type sanctions to stem the flow of alcohol. The State has enacted statutes allowing enforcement of civil money judgments from other jurisdictions. A parallel statute granting recognition to civil money judgments issued by tribal governments in alcohol-related cases would enhance enforcement mechanisms in the bush, without significant expense to the State. The mere availability of state court judgment enforcement procedures would serve as an incentive for individuals to pay any civil money judgments imposed on them by tribal governments.

**Impact Statement:** This would provide for more effective enforcement mechanisms as well as emphasize the collaboration between state and village governments in addressing alcohol abuse problems. Draft language follows.

**Considerations:** This proposal provides for separate, not shared, power between the tribes and the state, although it contemplates that the tribal and state systems would be mutually supportive. It may increase the number of conflicts over jurisdiction, causing more divisiveness between tribes and the state. Some tribes may be uncomfortable having a state court pass judgment on tribal jurisdiction – although those tribes could refrain from filing requests for full faith and credit under the proposal. This proposal would extend tribal civil jurisdiction to non-Indians and non-members. These proceedings would occur under the Indian Civil Rights Act (ICRA), as is now the case in Metlakatla. This proposal could increase the number of Alaska citizens who may be subject to a third set of civil rights standards, under ICRA, which may in some respects be less protective and in some respects more protective than those under the two standards already set by the United States and Alaska Constitutions. There are those who believe that this proposal constitutes an unprecedented expansion of tribal jurisdiction, in that it contemplates that there is tribal jurisdiction over non-members outside Indian country.

Alaska Statute 09.30.180. Full Faith and Credit for Tribal Court Money Judgments. Notwithstanding AS 04.21.020(a), the courts and agencies of the State of Alaska shall give full faith and credit to any Alaska Native Village Tribal Court judgment that meets the following requirements.

- a. The community is a federally recognized tribe, without regard to whether the tribe occupies Indian country or not, which has enacted a tribal ordinance regulating alcohol or other intoxicants.
- b. The ordinance creates a tribunal, which may or may not be the tribe's governing body, to hear cases arising under the ordinance.
- c. The tribunal has conducted a proceeding under the ordinance which has resulted in a civil money judgment being entered for violation of the

ordinance, against either (1) a tribal member or (2) an individual or business not a tribal member which has engaged in a consensual transaction with a tribal member (or with a child eligible for tribal membership) involving alcohol or another intoxicant.

- d. The proceedings were conducted in accordance with the due process and other requirements of the Indian Civil Rights Act, 25 U.S.C. §1301 et seq.
- e. The burden of proof required for proceedings under the ordinance is at least that of a preponderance of the evidence.
- f. If the money judgment is based on statutory rather than actual damages, the amount of the civil money judgment for any one incident does not exceed the ceiling on criminal fines imposable by a tribal court under the Indian Civil Rights Act.

**Alaska Statute 09.30.190. Filing and status.**

- a. A copy of a tribal judgment under §09.30.180 may be filed in the office of the clerk of the court with jurisdiction in this state. The clerk shall treat the tribal judgment in the same manner as a domestic judgment. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a domestic judgment and may be enforced or satisfied in like manner.
- b. A person filing a foreign judgment shall pay to the clerk of court the fee prescribed for the filing of an action. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for domestic judgments.
- c. At the time of the filing of the tribal judgment, the judgment creditor or the judgment creditor's lawyer shall file with the clerk of court a document with the name and last known mailing address of the judgment debtor and of the judgment creditor. Promptly upon the filing of the tribal judgment, the clerk shall mail notice of the filing of the tribal judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.
- d. No execution or other process for enforcement of a foreign judgment filed under this chapter shall issue until 20 days after the date the judgment is filed.
- e. If the judgment debtor shows the court that an appeal from the tribal judgment is pending or is available and will be taken, or that a stay of execution has been granted, the court may stay enforcement of the tribal judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the tribe before whose tribunal the appeal is pending, or the tribe whose tribunal has granted the stay.
- f. If the judgment debtor shows the court any ground upon which enforcement of a judgment of the court of this state would be stayed, the court shall stay

enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment that is required in this state.

**g.** The court shall grant a request by the judgment debtor to refuse full faith and credit if the judgment debtor establishes by a preponderance of the evidence that:

- (1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of the due process clause or other requirements of the Indian Civil Rights Act applicable to civil proceedings;
- (2) the tribal court did not have subject matter jurisdiction over the case under the laws of the tribe;
- (3) the judgment debtor is not a tribal member, the judgment debtor does not maintain a residence in the community in which the tribal court sits, the consensual transaction on which tribal jurisdiction is based took place outside the State of Alaska, the defendant in the tribal court proceedings was served outside the State of Alaska, and the defendant lacks other minimum contacts with the tribe;
- (4) the defendant in the proceedings in the tribal court did not receive notice of the proceedings in sufficient time to enable the defendant to defend;
- (5) the judgment was obtained by fraud;
- (6) the cause of action on which the judgment is based is repugnant to the public policy of this state;
- (7) the judgment conflicts with another final and conclusive judgment;
- (8) the proceeding in the tribal court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.

**h.** If the judgment debtor shows the court any ground upon which enforcement of a judgment of the court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment that is required in this state.

## 25. Compacts

**Statement of Need:** Current state laws for controlling alcohol in rural Alaska are not working. Everything from prohibition of alcohol sales to Alaska Natives to present-day attempts at curbing alcohol importation under the State's local option laws have been tried with only limited success. The result has been piecemeal policy approaches, with the ultimate outcome being a series of jurisdictional disputes. To the extent the jurisdiction of Alaska's tribes over the conduct of its members is established, one possible solution might be a Tribal-State Compact along the lines of the agreements authorized under the Indian Gaming Regulatory Act.

**Option:** Authorize Tribal-State Compacts which outline how the two sovereigns will share jurisdiction and law enforcement authority in the regulation of alcohol. The Workgroup did not have sufficient time to fully explore this option, but believe it is one that is worth further development.

**Rationale for Options:** Compacts under IGRA recognize tribal and state regulatory authority and jurisdiction and provide for cooperative enforcement efforts.

**Impact statement:** Jurisdictional issues could be resolved by agreement and the State and the Tribe could maximize their respective resources to address the regulation of alcohol in rural Alaska villages.

**Considerations:** Such agreements would be very difficult to negotiate. The State would have difficulties negotiating variant agreements with numerous villages, and may feel that federal or state statutory authorization to enter into an agreement would be required. The work-group urges this be considered, but not to the exclusion of other jurisdictional options.

In an effort to regulate the sale, distribution, purchase and shipment of alcoholic beverages into damp local option communities within the State of Alaska, Senate Bill 128 requires the Alcoholic Beverage Control Board (ABC), to create and maintain a database that will allow businesses that sell alcoholic beverages to keep track of written orders for alcohol shipped to each buyer. Anytime a written order for alcohol is received from a resident of a local option area, the package store licensee must consult the database prior to filling the order, to ensure that the customer has not already ordered their monthly quota for that month. Alcohol may only be shipped to the personal residence of the person placing the order, unless they reside in an area which has a community delivery site, in that case, all alcohol shipped must be delivered to that site and not the personal address of the buyer. The alcoholic beverages ordered cannot be sold to another person in the community. Such conduct would be a class A misdemeanor.

Having information readily available in a database will prevent bootleggers from ordering alcohol from multiple package stores in violation of the local option. The information in the database will be accessible only to package stores and law enforcement - none of the information would be public information.

Senate Bill 128 also contains a provision to correct an omission in state law relative to the transfer of liquor licenses between an organized borough and communities in that borough. Many communities across the state have used their allotment of liquor licenses, while their borough has not. Boroughs may now transfer alcoholic beverage licenses to those communities.

There are several people signed up to testify on this legislation. Annie Carpeneti, from the Criminal Division of the Department of Law is here to answer questions you may have.

*Rural Justice Commission*

**SB**

**136**

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 4/13/07

FURTHER: Transportation

Date of 5-Day Notice: April 12, 2007  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: April 17, 2007

Community & Regional Affairs Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136

**SB 136 MUNICIPAL ROAD SERVICE AREAS**

"An Act relating to certain municipal service areas that provide road services."

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>
<input checked="" type="checkbox"/> Same Title
<input type="checkbox"/> New Title
<hr/>
<b>HOUSE BILL:</b>
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Effective Date	Amount	Source	Notes
DCCED COM	4/1/07			✓

**PREVIOUS FISCAL NOTE(S):**

Department	Effective Date	Amount	Source	Notes

APPROPRIATION - no fiscal note

Signature	Printed Name	Checked	Other	Amend
<i>Thomas</i>	THOMAS	✓		
<i>Wagoner</i>	WAGONER	✓		
<i>Kookesh</i>	KOOKESH		✓	
CHAIR: <i>Olson</i>	OLSON	✓		

# ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

## Sponsor Statement

### **Senate Bill 136 - An Act relating to certain municipal service areas that provide road services.**

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

SB 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a vote by the owners of property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

SB 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

# ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

## **Sectional Summary – Senate Bill 136**

**Section 1 of the bill provides for (i) a service area to annex property that utilizes its roads for their sole or legally required access without a separate vote of the property to be annexed; and (ii) a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.**

## **ALTERATION OF ROAD SERVICE AREA BOUNDARIES TO ENSURE TAXPAYER FAIRNESS**

Under existing law the Borough lacks any effective means to alter existing road service area boundaries even when necessary to ensure taxpayer fairness. Because only those properties within the service area boundaries can be required to contribute to the costs of the service area, the Borough's inability to adjust boundaries creates two taxpayer fairness issues that the proposed legislation attempts to resolve. Currently, resolution of both problems depends upon taxpayers' willingness to vote against their own financial interest.

1. Presently, state law permits Borough residents, living outside a road service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. This problem usually arises because of subsequent development near a service area which utilizes existing service area roads for access. While the Borough demands, through its subdivision laws, that owner/subdividers consent to annexation into the service area as part of the subdivision application, state law still requires an election if anyone resides in the area, including the subdivider. These annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

- The proposed change to state law would fix this problem by **allowing a service area to annex property that uses its roads for their sole or legally required access without a separate vote of the property to be annexed.**

2. The second problem is almost the direct opposite. Here, people find themselves, either because of the way the original boundaries were drawn or due to subsequent road development, paying into a road service area even though they do not utilize the service area roads for access onto their property. Service areas, however, are often reluctant to vote to remove property from the service area because that effectively raises taxes on the remaining property owners.

- The proposed change to state law would fix this problem by **allowing the assembly to exercise its judgment to alter, by ordinance, the service area boundary to exclude that property or properties that do not use service area roads.**

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: SB136-COM-DCA-04-11-07  
 Bill Version: SB 138  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Municipal Road Service Areas RDU Community Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Thomas  
 Requester Senate Community & Regional Affairs Component No. 2703

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
<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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation amends AS 29.35.450 to add two exceptions to the law which requires a public vote before making certain changes to municipal service areas. The first exception states that a subdivision may be added to a service area without a public vote, if the roads provide the only access or are required by subdivision plat, regulation or ordinance. The second exception states that a subdivision may be excluded from a service area without a public vote, if the roads do not provide the only access or are required by subdivision plat, regulation or ordinance.

This legislation will have no fiscal impact on the operations of the division.

Prepared by: Mike Black, Director Phone 907.269.4535  
 Division Community Advocacy Date/Time 4/11/07 9:34 AM  
 Approved by: Emil Notti, Commissioner Date 4/11/2007  
 Agency Commerce, Community, and Economic Development



## Fairbanks North Star Borough

Department of Law

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March 23, 2007

**VIA FACSIMILE: 907-465-2819**

Representative Anna Fairclough  
State Capitol, Room 411  
Juneau, AK 99801-1182

Representative Fairclough:

Thank you for the opportunity to comment on the questions posed by the Municipality of Anchorage, through Mr. Johnson's e-mail. After receiving a copy of the e-mail, I contacted Rhonda Fehlen Westover, Deputy Municipal Attorney for the Municipality of Anchorage. We agreed, after an extensive discussion of HB 185, including its impacts on our respective municipalities, to provide you with a joint response, and we are authorized on behalf of our respective governmental entities, to support HB 185.

We are both confident the new clause 3, at line 19, page 2, is constitutional. Alaska's Constitution provides that service areas "may be established, altered, or abolished" by the Assembly, subject to the provisions of law or charter. Thus, while state law could certainly add additional requirements, our Constitution only requires assembly approval. HB 185 preserves this constitutional requirement.

With respect to charter provisions, Alaska Statute 29.35.450 is one of the limitations on home rule powers, and supersedes charter provisions. A charter amendment is not necessary to implement HB 185 if approved by the legislature.

If you have any further questions, please feel free to contact either or both of us.

Sincerely,

FAIRBANKS NORTH STAR BOROUGH

MUNICIPALITY OF ANCHORAGE

A. René Broker  
Borough Attorney

Rhonda Fehlen Westover  
Deputy Municipal Attorney



# Municipality of Anchorage


P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4489 <http://www.muni.org>

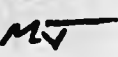
*Mayor Mark Begich*

Office of the Mayor

## Memorandum

**TO:** The Honorable Anna Fairclough, Chair  
Community and Regional Affairs Committee

**THROUGH:** Mayor Mark Begich 

**FROM:** Michael Johnson   
Mayor's Office

**DATE:** March 23, 2007

**SUBJECT:** House Bill 185

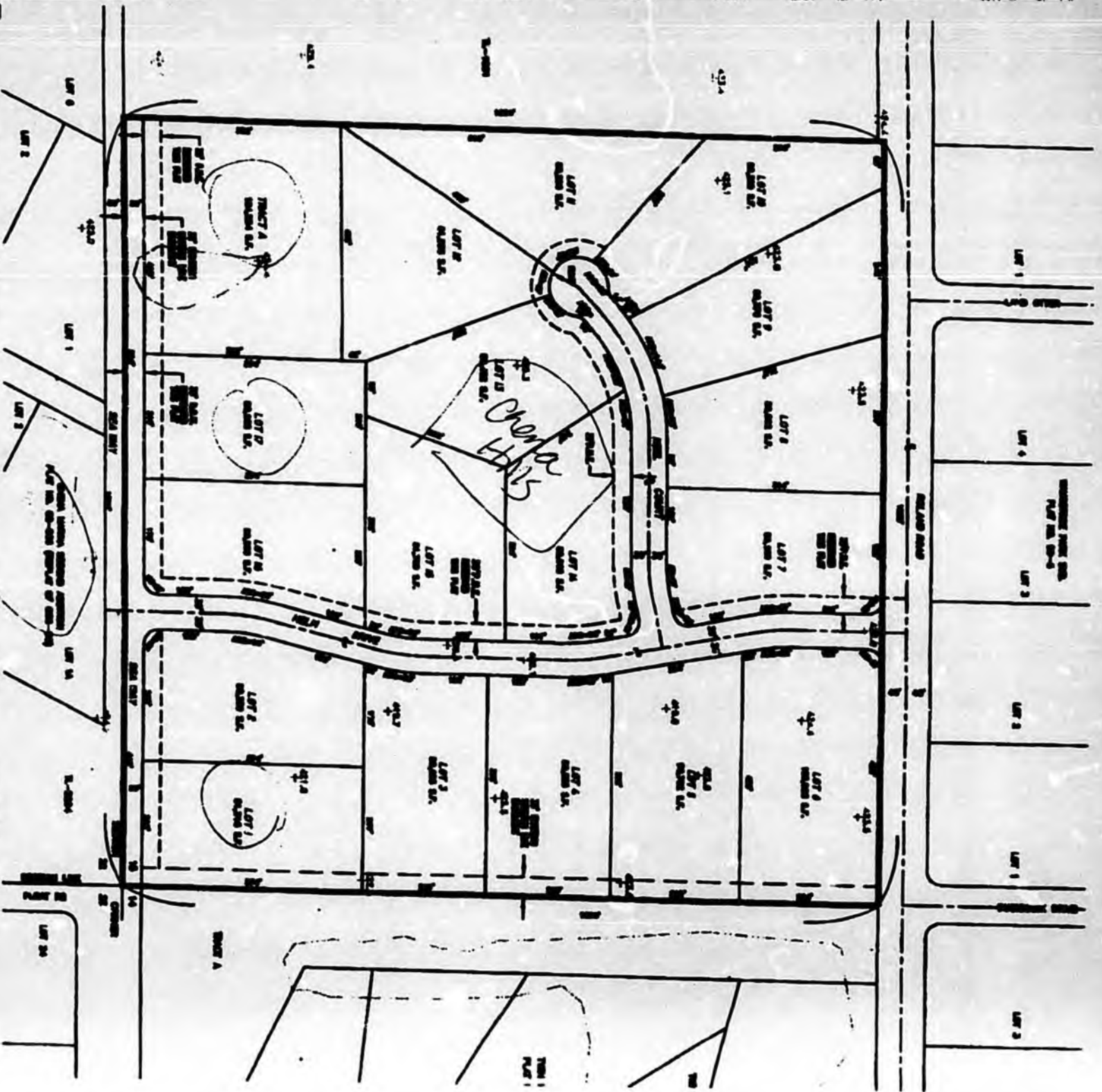
With the benefit of additional time to review the matter, I write to clarify Mayor Begich's position on House Bill 185 relating to service areas within a 1<sup>st</sup> Class Borough. Contrary to my email of Wednesday the 21<sup>st</sup>, Mayor Begich supports the passage of House Bill 185 with minor amendments.

As has been transmitted to you under separate cover, our Municipal Attorney's office, working with their counterparts in the Fairbanks North Star Borough, have resolved both our constitutional and charter concerns with this measure. With those items addressed, we wish only to suggest a minor amendment. In new section 3, beginning on line 19, we suggest the addition of the words "or parcel" immediately following the word 'subdivision' at the end of line 19, in the middle of line 21 and at the start of line 22.

Thanks again for the opportunity to comment on this legislation, and I regret any confusion caused by my previous email.

*Community, Security, Prosperity*

**THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES**



1. THE AREA OF LOT 17 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 16 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 15 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 14 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 13 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 12 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 11 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 10 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 9 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 8 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 7 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 6 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 5 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 4 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 3 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 2 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT. THE AREA OF LOT 1 IS 4,214 SQ. FT. AND IS TO BE DEVELOPED AS A SINGLE-FAMILY RESIDENTIAL LOT.

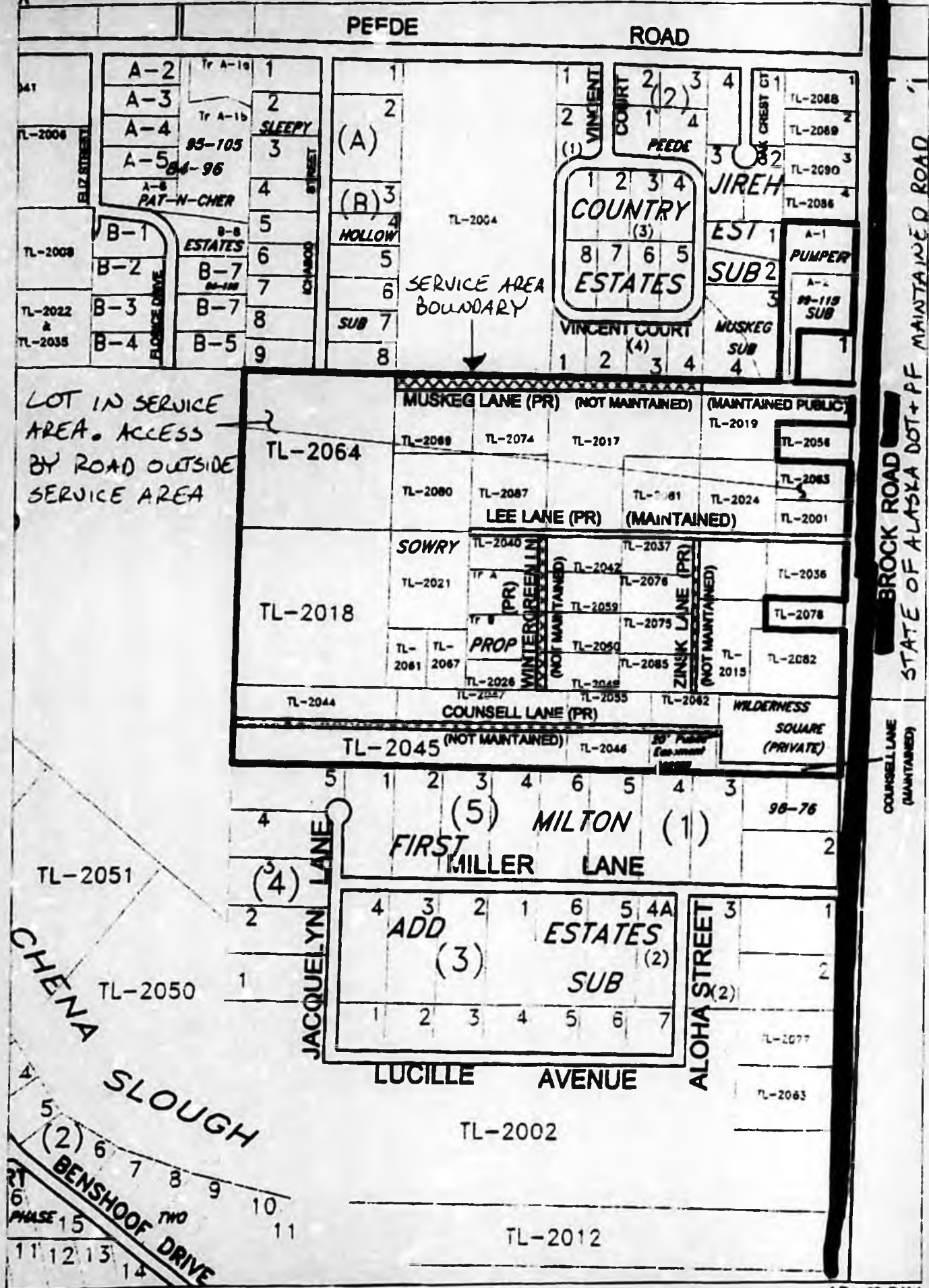
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AREA SCHEDULE

LOT NO.	AREA (SQ. FT.)
LOT 1-17	4,214 SQ. FT.
LOT 18	4,214 SQ. FT.
LOT 19	4,214 SQ. FT.
LOT 20	4,214 SQ. FT.

FMS RURAL SERVICES DIVISION  
 Derived from Borough Base Map  
 213D, E

# LEE LANE SERVICE AREA



LOT IN SERVICE AREA. ACCESS BY ROAD OUTSIDE SERVICE AREA

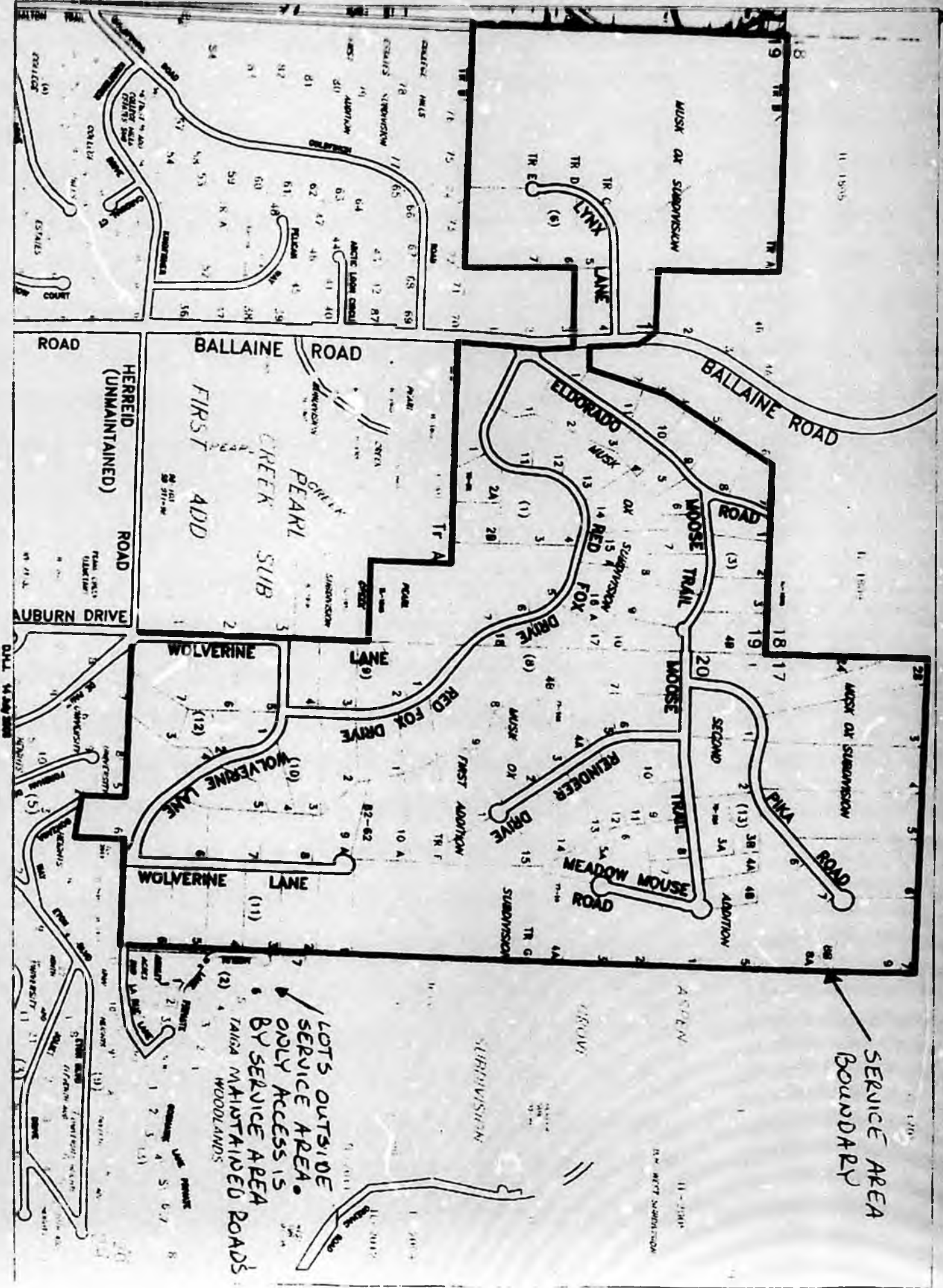
SERVICE AREA BOUNDARY

BROCK ROAD  
 STATE OF ALASKA DOT + PF MAINTAINED ROAD

CHENA SLOUGH  
 BENSHOOF DRIVE  
 PHASE 15  
 TWO



# Musk Ox Road Service Area

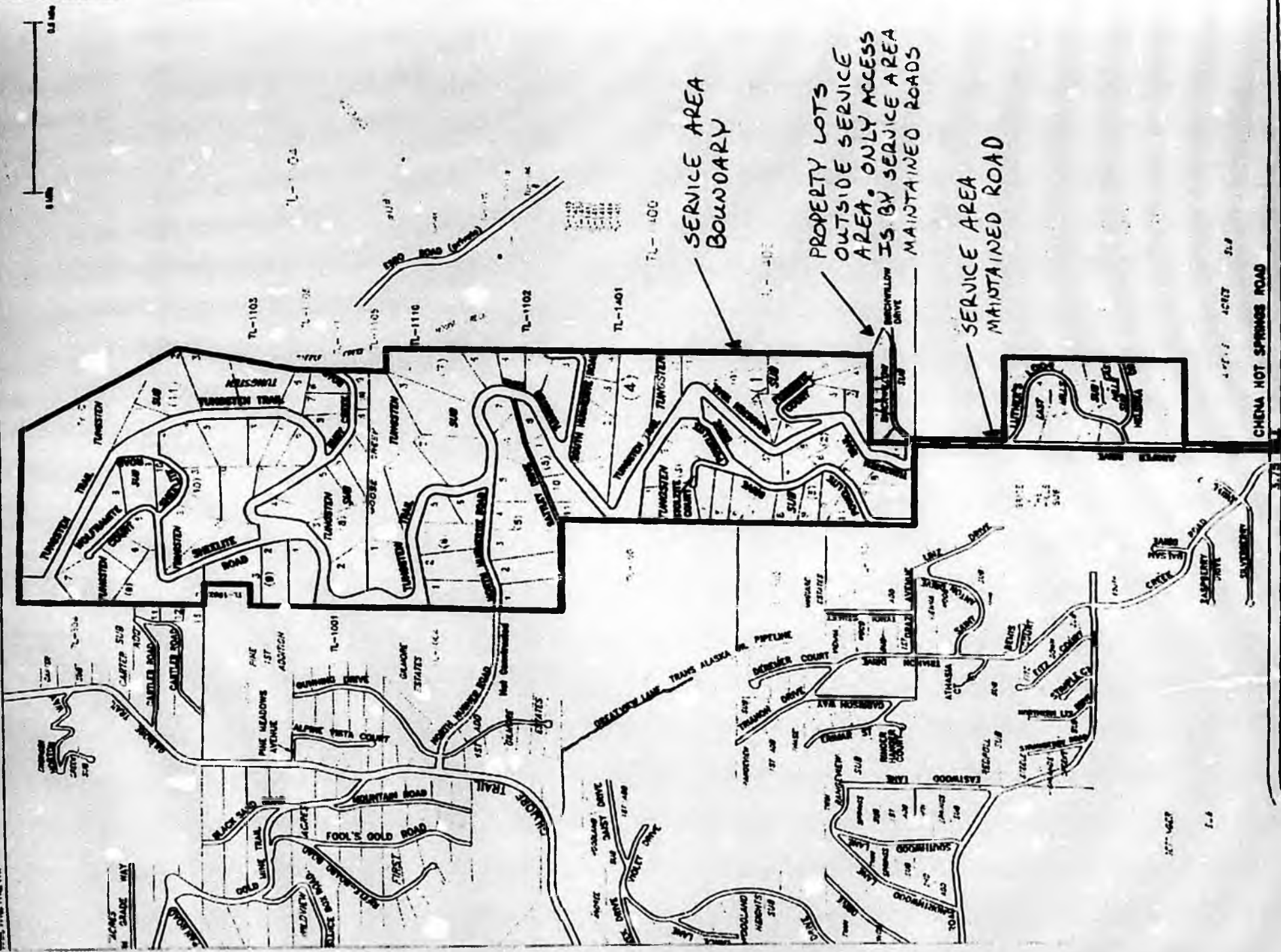


LOTS OUTSIDE SERVICE AREA ONLY ACCESS IS BY SERVICE AREA ROADS

SERVICE AREA BOUNDARY

DATE: 14 July 2008

# Tungsten Road Service Area

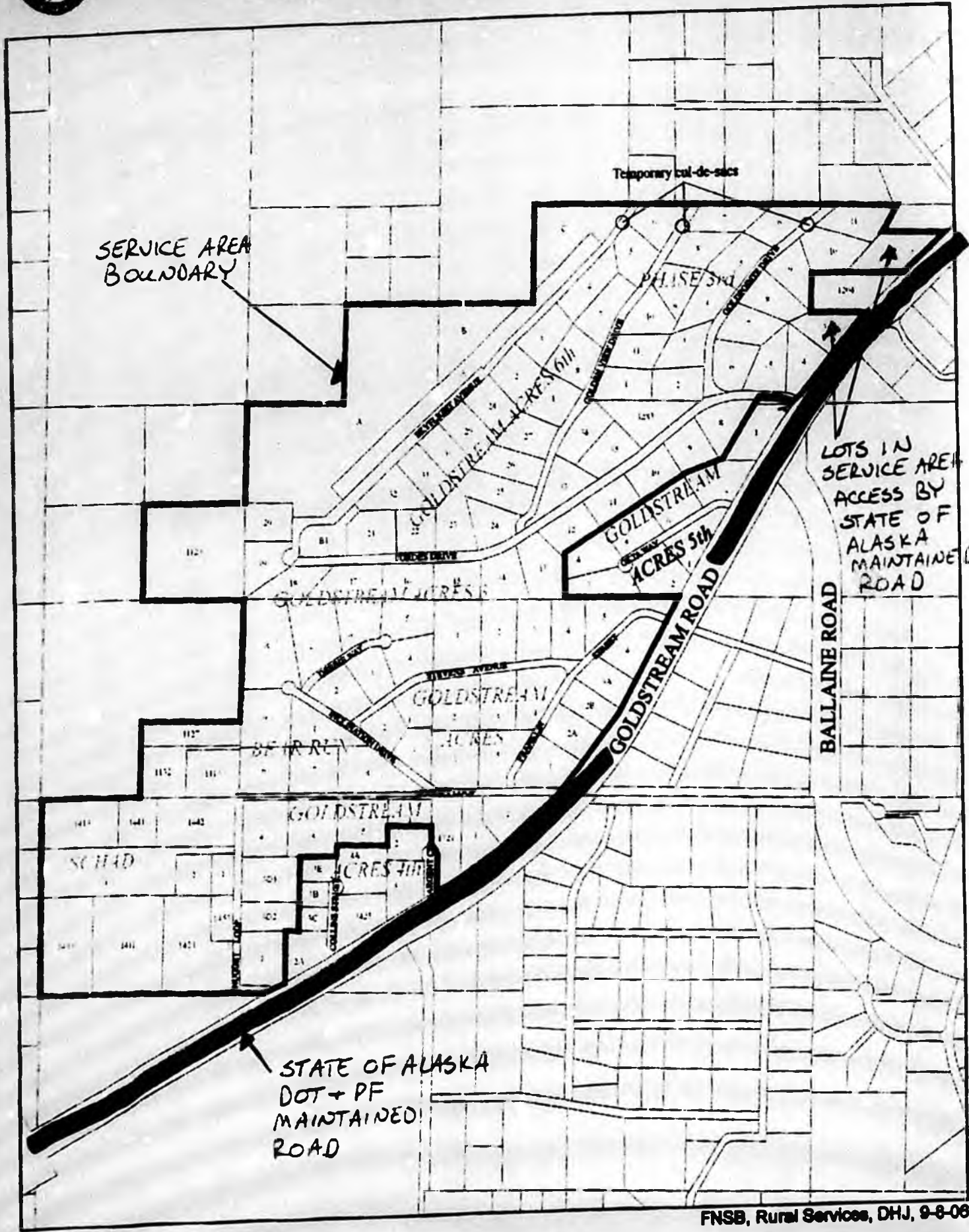


THIS MAP IS A SUMMARY OF THE  
 RECORDS OF THE  
 TUNGSTEN COUNTY  
 RECORDS DEPARTMENT  
 1977-1978

107-4627  
 1-6



# Cordes Drive Road Service Area



**SB**

**145**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 3/28/07

FURTHER: Judiciary

Date of 5-Day Notice: Apr 19, 2007  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: April 25, 2007

Community and Regional Affairs Committee considered SENATE BILL NO. 145

SB 145 MUNIS IMPOUND/FORFEIT MOTOR VEHICLE

\*An Act relating to municipal impoundment and forfeiture.\*

and recommends:

- be replaced with  SCS or  CS SB 145 (CRA)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<hr/>	
<b>HOUSE BILL:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DCCED	4/20/07			✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	WAGONER	✓			
	STEVENS	✗			
	KOOKESH	✓			
CHAIR:	OLSON	✓			

# 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 25, 2007

**SUBJECT:** CSSB 145(CRA) (Work Order No. 25-LS0807\E)

**TO:** Senator Donald Olson  
Chair of the Senate Community & Regional Affairs Committee  
Attn: Ginny Austerman

**FROM:** Gerald P. Luckhaupt *GPL/LMS*  
Legislative Counsel

Enclosed is the CS(CRA) you requested. I have two comments.

1. Starting with the "C" version of the bill, the committee requested that "shall" be inserted on p. 1, lines 5 and 7 replacing "may". There is no problem with inserting "shall" on line 5 but inserting "shall" on line 7 is incorrect. If "shall" is inserted on line 7 the sentence would then read: "The department shall not release information. . . ." I assume the committee wanted to prohibit the department from releasing information unless the conditions later identified are met. If my assumption is correct then "may not" is the correct phraseology to accomplish this result as it results in an absolute prohibition and removes any discretion. "Shall not" is incorrect as it provides that the department is not required to release the information but implies that the department has discretion to release the information. See the 2007 Manual of Legislative Drafting, p. 62.<sup>1</sup>

2. The committee requested that a general severability clause be inserted into the bill. Insertion of a general severability clause is incorrect and will undoubtedly cause problems for the legislature when courts review legislation in the future. Again, the Manual of Legislative Drafting addresses this issue:

A severability clause is a statement by the legislature that if a part of a law that is enacted is subsequently held to be unconstitutional, the unconstitutionality does not invalidate the rest of the law. There is a general severability clause in the Alaska Statutes. It reads as follows:

Any law heretofore or hereafter enacted by the Alaska legislature which lacks a severability clause shall be construed as though it contained the clause in the following language: "If any provision of this Act, or the application

<sup>1</sup> "Use the words "may not" to impose a prohibition upon someone. For a discussion, see Martineau, Drafting Legislation and Rules in Plain English (1991), pp. 81 - 82."

Senator Donald Olson

April 25, 2007

Page 2

thereof to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby."  
(AS 01.10.030)

In view of this section, the bill drafter should not use a severability clause in a bill unless it is necessary to specify more details than are provided in AS 01.10.030 (e.g., "held invalid by the United States Supreme Court . . .").

Why would including a general severability clause be of concern? It is of concern because a court when interpreting statutes will look to the intent of the legislature. One of the first rules of statutory construction is that the legislature does not do or intend futile things, that is, everything the legislature includes in an act means something and is there for a particular reason. The legislature does not include in acts things that are not needed or are not required for that bill. If the legislature includes a severability clause in a bill it must be given meaning. How is the court to give meaning to a severability clause that is included in a bill when the general severability clause of AS 01.10.03 seemingly applies to the bill? If the legislature routinely ignores the existence of the general severability clause of AS 01.10.030 and haphazardly includes general severability clauses in some bills and not in others a court could conclude that the legislature no longer intends that AS 01.10.030 apply to all acts of the legislature. A court could then conclude that any act that does not specifically include a severability is not severable. In consequence, the legislature would have to include a severability clause in every bill before it.

The inclusion of a general severability clause in this bill is not needed and has the potential of negatively impacting other legislation in the future.

GPL:ljw  
07-231.ljw

Enclosure

# ALASKA STATE LEGISLATURE

**Session**  
State Capitol Building, Room 125  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

**Interim**  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249



**Chair**  
Senate State Affairs  
Administrative Regulation Review

**Member**  
Senate Judiciary Committee  
Senate Resources Committee

**SENATOR LESIL MCGUIRE**

## **Sponsor Statement for SB 145 "An Act Relating to Municipal Impoundment & Forfeiture"**

SB 145 allows municipalities to impound a motor vehicle owned by a person who has more than \$1,000 in unpaid traffic fines. Under current law municipalities are authorized to adopt local ordinances for impoundment and forfeiture of vehicles for crimes including driving while intoxicated, driving with a suspended license and driving without insurance. SB 145 would add accumulation of more than \$1,000 in unpaid citations to the list.

The Municipality of Anchorage currently has \$7.57 million in unpaid fines. Currently, 1017 individuals have over \$1,000 in unpaid fines. One person has 43 citations totaling \$9,310, another has 70 traffic citations totaling \$7,853 in unpaid fines. This law targets the habitual, repeat offenders who time and again violate traffic laws, blatantly disregard public safety and refuse to pay citation fines. Many of these offenders refuse to pay their fines because they know the municipality has little recourse to collect.

SB 145 simply allows the municipality to use forfeiture as a way to encourage compliance with the law. SB 145 has no fiscal impact to the state.

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: SB145-COM-DCA-04-20-07  
 Bill Version: SB 145  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Muni's Impound/Forfeit Motor Vehicle RDU Community Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor McGuire  
 Requester Senate Community & Regional Affairs Component No. 2703

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Municipalities are authorized under AS 28.01.015(a) to adopt local ordinances for impoundment or forfeiture of vehicles for certain reasons. This legislation adds the provision that Municipalities may adopt a local ordinance for impoundment or forfeiture of vehicles used by a person who has \$1,000 or more in unpaid traffic fines.

This legislation would have no fiscal impact on the Division. If any municipality wishes assistance in the drafting of model ordinances for adoption by reference of this provision, as provided in AS 28.01.010(b), the Division would provide this assistance with existing staff.

Prepared by: Mike Black, Director Phone 907.269.4540  
 Division Community Advocacy Date/Time 4/20/07 6:51 PM  
 Approved by: Emil Notti, Commissioner Date 4/20/2007  
 Agency Commerce, Community, and Economic Development

# ALASKA STATE LEGISLATURE

**Session**  
State Capitol Building, Room 125  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
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Fax (907) 269-0249



**Chair**  
Senate State Affairs  
Administrative Regulation Review

**Member**  
Senate Judiciary Committee  
Senate Resources Committee

## SENATOR LESIL MCGUIRE

### **Municipality of Anchorage Breakdown of Delinquent Fines/Multiple Offenders**

In total, 23,718 individual offenders owe the MOA \$7,572,060.69 in delinquent fines from unpaid traffic citations. These numbers do not include unpaid parking tickets.

1017 offenders have \$1000 or more in delinquent fines for multiple traffic citations

This amounts to \$1,656,865.85 in delinquent fines.

Of those offenders:

1 person has two delinquent traffic citations

11 people have three delinquent traffic citations

1059 have four or more delinquent traffic citations

5 or more traffic citations = \$2,570,939.17 in delinquent fines (33.95% of total).  
2401 offenders

4 or more traffic citations = \$3,279,849.40 in delinquent fines (43.31% of total).  
3644 offenders

3 or more traffic citations = \$4,284,599.20 in delinquent fines (56.58% of total).  
5974 offenders



*Mark Begich,  
Mayor*

# ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599  
Telephone (907) 786-8500



*Service since 1921*

Senator Lesil McGuire  
State Capitol, Room 125  
Juneau, Alaska 99801

Dear Senator McGuire:

The purpose of this letter is to endorse the bill you are sponsoring that deals with habitual offenders. This legislation is a positive step towards addressing the present problem posed by having no mechanism to keep drivers who simply refuse to obey traffic laws and refuse to pay the fines associated with their driving violations.

Anchorage has instances where individuals have up to seventy unpaid tickets, and there are numerous cases where persons have ten or more outstanding fines for tickets. This is not only about fines; it is an attempt to address the reality that these people continue to drive unencumbered by respect for the law and a sense of responsibility for their actions.

This legislation targets those persons who are unwilling or unable to learn from their mistakes. The majority of our citizens, when stopped, will either exercise their due process to challenge the citation or will pay the assessed fine. It is only those whose blatant disregard for the law and the safety of the road who will be impacted by this new law.

The Anchorage Police Department supports efforts to make it more difficult for habitual offenders to drive, which will make our streets safer for all Alaskans.

Sincerely,

Rob Heun  
Chief of Police  
Anchorage Police Department