

ALASKA LEGISLATURE COMMITTEE FILES

2007-2008

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approval processes has shifted the balance of property rights over time from a condition in which landowners had tremendous discretion to develop their properties in the manner they saw fit to a system in which government has the final say on what property owners can and cannot do with their property. In some cases, zoning has become specific enough that land uses are largely determined by the local government. The development approval process itself has led to increased local administrative discretion and procedural delays that have served to increase the costs of property development. One recent study by the Lincoln Institute of Land Policy found that developers in both 1976 and 2002 felt that subdivision standards and zoning regulations both substantially increased the cost of the homes they built.<sup>23</sup>

Local governments have also increasingly imposed "exactions"—requirements that property owners pay for or provide public amenities as a pre-condition to development approval—to shift the costs of infrastructure provision from the public sector to private property owners. Exactions may take a variety of forms—including required land dedications and impact fees levied on property owners—and typically provide funds for water and sewer infrastructure, roadways and bike paths, schools, and recreation facilities. While exactions are often upheld as valid exercises of the police power, local governments have become more creative in imposing exactions that have little to do with addressing the tangible impacts of the project in question, leading to charges that some types of exactions (1) unduly restrict private property rights, resulting in regulatory takings, (2) confer benefits to the public disproportionate to the actual impacts of the proposed development, and (3) regulate for the purpose of raising revenue rather than to promote public health, safety, and welfare.

For example, the landmark 1994 U.S. Supreme Court regulatory takings case *Dolan v. City of Tigard* involved a hardware store owner in Tigard, Oregon, who wanted to expand her store, but was required by the city to dedicate part of her property for a storm drainage system and another part for a bicycle path intended to relieve traffic congestion in the city's Central Business District, both as pre-conditions for project approval. The Court found that the city's dedication requirements amounted to an uncompensated taking of property, as the city could not demonstrate why the store expansion created the need for the dedications. The Court upheld the use of exactions to advance legitimate public interests, but only when the exactions required are "roughly proportional" to the impact of the proposed development.

Another famous example of a regulatory taking via exaction comes from California. In 1982, James and Marilyn Nollan requested permission to rebuild their beachfront bungalow in Ventura County, California. The California Coastal Commission—the state's coastal development regulatory agency—conditioned their permit approval on a requirement that they provide an easement for public beach access through their property. The Nollans sued the Commission on the grounds that the easement requirement was an unconstitutional taking of their property. In 1987, the U.S. Supreme Court ruled in *Nollan v. California Coastal Commission* that requiring a permanent physical occupation of the Nollan's property as a condition for building permit approval represented a compensable taking. According to the Court's logic, if the state of California finds

that an easement serves an important public purpose, it should use its eminent domain power to pay for it, rather than it compelling coastal property owners alone to provide this public benefit.

Though these two cases represented "wins" for property owners, state and local governments routinely impose a variety of exaction requirements on property development that, while upheld by the courts as valid exercises of the police power, also place a significant financial burden on property owners. In their seminal book on land use exactions, *Regulation for Revenue: The Political Economy of Land Use Exactions*, authors Alan Altschuler and José Gómez-Ibáñez's argued that crafting regulatory systems explicitly to produce revenue (rather than in the interest of public health and safety), represents "a dramatic power shift...from the owners of property to government officials." Prior to 1960, only about 10 percent of American local governments imposed exactions, but by the mid-1980s this total increased to 90 percent.<sup>24</sup>

Finally, over the last century state and local governments have increasingly adopted a variety of regulations to address environmental and historic preservation concerns. At the local government levels, this often occurs by either expanding the scope of existing zoning and subdivision regulations or through the use of special district regulations such as overlay zones, special zones placed over an existing zoning district (or parts of districts) that apply a special set of regulations in addition to the requirements of the underlying zoning district. Examples of some of the areas covered in special district regulations include wetlands, historic districts, habitat conservation zones, view corridors, and floodplains.

For example, in concert with federal and state wetlands regulations, some communities have established wetlands overlay districts that preclude many forms of development on wetlands or anywhere within a certain buffer (25 feet, for example) of delineated wetland boundaries. Property owners are required to submit development plans to regulatory bodies to evaluate the potential impacts on wetlands before the owner is allowed to proceed. If regulators find that the proposed development would result in a disturbance or loss of wetlands, the owner may be offered a permit with strict conditions on development or denied permission to develop the property altogether. Either way, restrictions on the use of the property can lower its value substantially and preclude any number of uses of the property that would have otherwise been available to the owner. In addition, the development approval procedures mandated by wetlands regulations often impose lengthy and costly development delays.

While wetlands do offer certain environmental benefits (such as natural water filtration and wildlife habitat provision), the benefits of preserving wetlands accrue to society-at-large but are paid for only by owners of properties that include wetlands. Hence, property owners impacted by wetlands regulations have brought numerous regulatory takings lawsuits against federal and state governments. Yet, over the last three decades, state courts have rarely sided with landowners in these disputes, despite the fact that a growing number of states have enacted wetlands protections; plaintiffs in federal wetlands cases have fared little better.<sup>25</sup>

Historic preservation ordinances and districts are another type of special district regulation increasingly used by local governments to protect cultural landmarks and maintain the character of older neighborhoods. This type of regulation generally mandates a rigorous design review process for development proposals (either district-wide or on specific parcels) and establishes requirements for building colors, facades, and other architectural and structural details for new or renovated buildings. While they may protect a public good and enhance community welfare to a certain extent, historic preservation regulations also allow governments to impose strict development controls and building renovation requirements at minimal public expense, while simultaneously restricting private landowners from using their land for alternate, viable uses, such as commercial or residential development.

For example, one analysis of historic preservation regulations in Ohio found that a city's designation of an individual farmhouse on a 30-acre parcel as a historic landmark would effectively cost the property owner between \$600,000 and \$900,000 in renovation costs and foregone revenues from taking the property off the market.<sup>26</sup> Had the cost to preserve the farmhouse instead been spread over the entire city (which ostensibly benefits from the home's historic designation), each housing unit would have received a \$98 assessment. This situation provides a stark example of how the regulatory process can place an inordinate financial burden on a minority of landowners for the benefit of the community-at-large.

While zoning, subdivision regulations, exactions, and special district regulations comprise the main areas of land use regulation that impact property rights, they do so to varying degrees depending on the specific nature of the regulation itself. For example, planned unit developments (PUDs) offer developers an opportunity to build projects that deviate from traditional zoning and subdivision regulations by giving them greater flexibility in land use, density, and design characteristics like setbacks and building height. In this way, PUDs offer more options to landowners and are less restrictive than traditional zoning and subdivision ordinances.

The increasing breadth and depth of land use regulation over time has significant implications for property rights and regulatory takings analysis. The nature of land use regulation has evolved beyond the common law, nuisance-based tradition—primarily focused on preventing harm to the property rights of others, refraining from controlling land uses that do not produce tangible spillover effects, and giving property owners wide latitude in determining the best use of their land—to an approach that is much more prescriptive.

This nuisance-based approach stands in stark contrast to the tendencies reflected in contemporary land use regulation, which often uses public policy to mandate the private provision of amenities that benefit the community-at-large. As the regulatory scheme influencing local land use has grown more prescriptive and restrictive, there has been an increasing curtailment of private property rights.

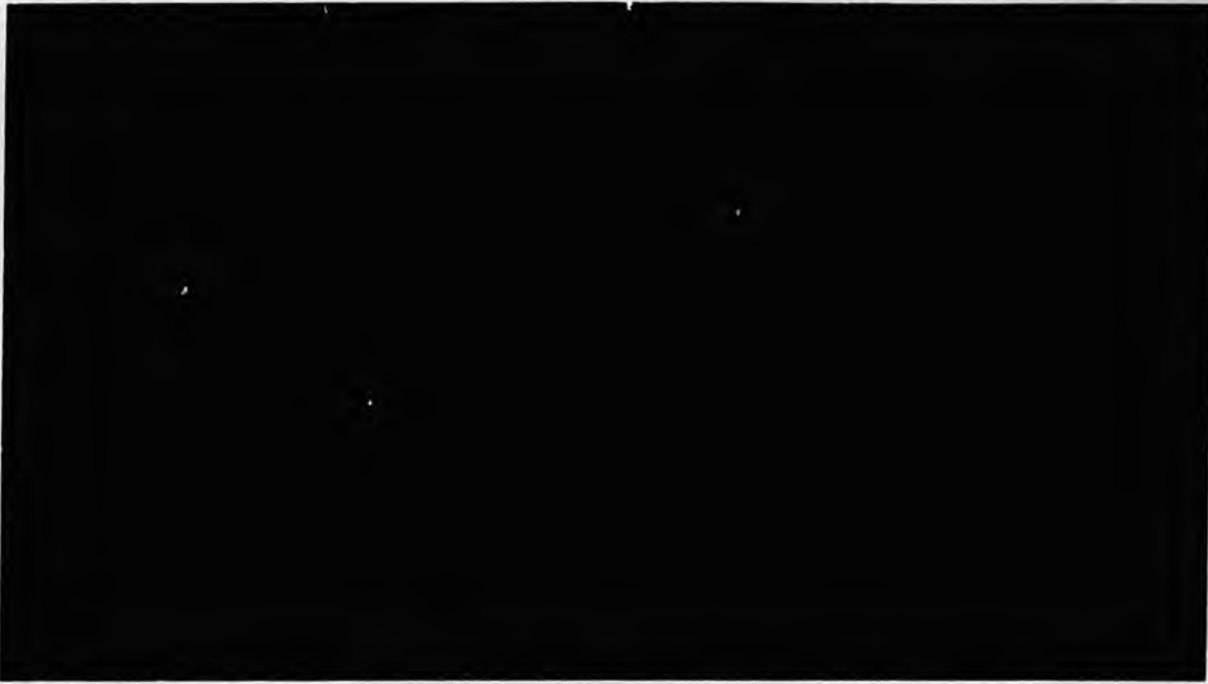
The contrast between the two approaches is summarized in the following figure. The zoning regulations with the lowest impacts on property rights give property owners the greatest freedom to

use their property as they see fit, providing the uses do not create nuisances or spillover impacts for neighbors and the community. The highest impact land use regulations tend to be most prescriptive and substantially restrict land uses, giving property owners the least amount of freedom (short of a physical taking of property).

Recognizing the historical shift toward more prescriptive and restrictive land use regulation, the modern property rights movement has focused on advancing three key principles:

- (1) that the notion of property ownership implies that landowners should be allowed to enjoy the full use of their property, provided that such use does not harm other people or their properties;
- (2) that land use regulation has gone too far in forcing a minority of private landowners to bear the costs of providing public goods that benefit the entire community; and
- (3) that fairness requires that private landowners be compensated by government to pay for the public benefits it receives through regulatory action.

#### Relative Impacts on Property Rights of Various Land Use Regulations



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## China land rights activist goes on trial



By HENRY SANDERSON, Associated Press Writer

Tue Feb 19, 9:26 AM ET

A Chinese land rights activist went on trial for subversion Tuesday for protesting the Beijing Olympics in a case highlighting China's efforts to clamp down on dissent before the Summer Games.

Yang Chunlin, led into court in handcuffs and leg irons, pleaded not guilty in the hearing before the Intermediate People's Court in the northeastern city of Jiamusi, said his lead attorney, Li Fangping.

Yang, a laid-off factory worker, became involved with farmers outside Jiamusi demanding redress for farmland taken from them by officials for development. He gathered 10,000 signatures for an open letter demanding land rights for farmers. To rally support, he posted the letter on the Internet with the title: "We want human rights, not the Olympics."

Yang's case is among the most highly charged before the August Games, challenging the Communist government's ambitions to use the Olympics to boost its legitimacy.

The official charge against him — inciting subversion of state power — is one commonly used against political dissidents, and in eight months in detention, Yang has been given little contact with his lawyer or family, who have said he was tortured.

Much of the nearly five-hour trial session was spent arguing about whether Yang's Olympic protest slogan counted as subversion, said an account posted on a human rights Web site that was corroborated by Li.

"Debate centered on 'We want human rights, not the Olympics,'" said Li. He said two types of evidence were presented against Yang: one involving the Olympics petition, the other articles Yang had written which allegedly attacked the socialist system and state leaders.

Li said his defense team argued that the land the farmers lost had been seized illegally because it was taken without the Cabinet's permission as required by regulations.

The Intermediate Court on Monday reversed an earlier decision to hold the trial behind closed doors and instead opened it to the public, a move that likely reflected Beijing's nervousness over the attention the case has drawn from overseas media and human rights groups.

"This decision came from Beijing. They want a trial that looks good," said Nicholas Bequetin, a researcher for Human Rights Watch in Hong Kong. "The charges are clearly in contravention of international standards, criminalizing speech."

Calls to the Jiamusi court seeking comment were not answered.

Yang was detained in July and formally arrested a month later. His sister said earlier that he was tortured while in detention, with his arms and legs stretched and chained to the corners of an iron bed.

China has been cracking down on dissent ahead of the Olympics. Earlier this month, a Chinese court sentenced democracy activist Lu Gengsong to four years in prison for "inciting to subvert state power."

Another well-known activist, Hu Jia, was taken from his home in December and arrested on similar charges. He is in custody, and there is no word on when he will face trial.

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## Church Sues Fairfax County To Keep Religion Classes

Offering Courses Violates Zoning Ordinances, Officials Ruled

By Maria Glod  
Washington Post Staff Writer  
Tuesday, July 18, 2006; B05

McLean Bible Church, a Tysons Corner megachurch, has sued Fairfax County so it can continue to offer religion classes that officials say violate zoning rules.

In a 14-page suit filed July 3 in U.S. District Court in Alexandria, the 10,000-member church says the classes are a regular part of church life, which is protected under the freedom of religion.

Fairfax officials say the church can't host the classes -- which can help students get a master's degree in theology or divinity at Lanham-based Capital Bible Seminary -- without county permission to operate as a college.

Colby M. May, a lawyer with the conservative American Center for Law and Justice, which filed the lawsuit on behalf of the church, said fewer than 100 people are enrolled in the classes at any time. Some students seek academic credit, and others don't, he said.

"We're not a college or a university and don't have a desire to be a college or university. We're a church," May said. "These classes are to study the Bible and study the sacred writings and denominational views of the Christian faith. It's pretty routine for churches everywhere in America, and in Fairfax County, to have studies of the Bible."

Fairfax spokeswoman Debra Bianchi said county officials declined comment on the suit because it is pending in court. But she said the county plans to file a written response within 60 days.

McLean Bible Church, which sits on a 43-acre campus on Route 7, has long had a tense relationship with some nearby residents, who have complained that the complex -- which includes a bookstore, a 2,400-seat auditorium and a cafeteria -- is too large for the suburban neighborhood. Neighbors have said the church brings too much traffic to the area's clogged roads.

Last year, the McLean Citizens Association approved a resolution urging the county to uphold its decision to bar the classes.

"We're concerned about the potential for unlimited and uncontrolled growth of the school project," said Jim Robertson, an association member. "We don't object to a school. All we asked is that they limit the number of students and the times of the classes. The bottom line is traffic."

In the lawsuit, the church notes the "presence of vocal opposition to the church" and alleges that the

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zoning decision "appears to be based more upon political pressure than legal principal."

The classes are "just part of the Christian education program," said Stuart Mendelsohn, an attorney for the church who is also a former Fairfax County supervisor. "They are no different than other classes any church holds, and a church ought to be the one who decides that, not the government."

The dispute over the classes began in 2004, when Fairfax officials found that the church violated zoning rules by holding the classes. The church says the classes fall under a provision that allows use of the campus for "groups or activities which are sponsored by the church and consistent with its ministry objectives."

But county officials said the church needs permission to run a college. According to a March 2005 county report, zoning staff noted that Capital Bible Seminary had set up an office and library at the church and that the classes were "designed as part of a degree program which may lead to a graduate theological degree."

At that point, the county report said, 40 of 130 students attending the classes were "associated with the church."

McLean Bible appealed the ruling after limiting Capital Bible Seminary's presence by doing away with the seminary's office and library. According to the lawsuit, the church also offered to ensure that students would not be able to complete a degree solely by taking classes at the church. Fairfax denied the appeals.

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## Family's New Fairfax Home Stuck in a Regulatory Forest

Trees Could Harm Blind Children, Parents Contend

By Lisa Rein  
Washington Post Staff Writer  
Friday, July 14, 2006; B05

Their seven-bedroom, \$2.2 million dream home is in spotless, move-in condition. It's an elegant hideaway on 1.6 acres in Oakton, set back from a winding, tree-lined road -- a perfect place for their four youngest children to grow up.

But for 36 days, Karen and Joe Bartling and their children have been homeless. Along with their college-age son and the family's Labrador retriever, they have been holed up in a tiny efficiency apartment in Chantilly with a pullout couch, all of their belongings in a storage locker.

The Bartlings can't move in until their builder plants 20 to 80 trees on their property that Fairfax County says are required in part because the builder cut down too many mature trees during construction.

But to the Bartlings, the trees are nothing but booby traps wrapped in wire and wooden stakes: Four of their five children -- who were adopted from Korea, China and India -- are blind. For them, trees are bumps and scrapes waiting to happen.

"I don't want my kids having black eyes running into trees all day," said Karen Bartling, 48. "These kids have enough obstacles in their lives. The last thing we want is trees in our yard."

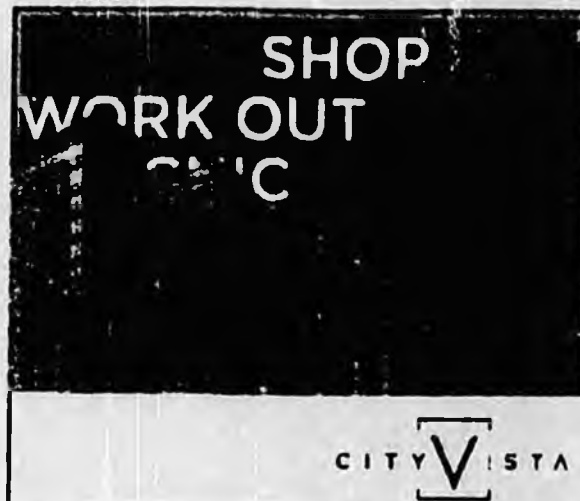
In a suburb whose last patches of green space are disappearing, the prospect of a canopy of hickories, oaks and maples would be welcome to many homeowners. Not the Bartlings. "For our family, trees don't work," said Joe Bartling, 48, who works in the District as a forensic investigator. "Maybe for other families, trees work."

The Bartlings said they planned to build a swimming pool and put a swing set, trampoline and barbecue in the back yard, leaving precious little room for a forest. The trees would be scattered around the property, making it impossible to fence them off.

The odyssey started June 9, the day the Bartlings were supposed to close on their house on Coulter Lane. The piano mover arrived at 11 a.m. at their old, much smaller house on a forested lot in Oakton. The rest of the trucks were loaded by noon. Then the builder, NV Homes of McLean, called at 1 p.m. to cancel the closing, the Bartlings said. The county had denied the builder a permit for occupancy of the house.

The day before, an NV Homes representative had shown the Bartlings a new plan for their lot with more than 80 trees in the front and back yards, in addition to the row of old trees the builder had left at the edge of the property. The trees were not on the original lot plan. The couple did not agree to the new proposal, believing they could work it out after the closing.

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What the Bartlings didn't know was that the county was requiring the builder to come up with a new tree conservation plan for the site after a neighbor notified the county that a contractor for NV Homes had illegally cleared a dozen 25-year-old, 100-foot trees during construction. This violated Fairfax's limits on clearing and grading.

Things got testy. NV Homes asked the Bartlings to sign a document agreeing to accept and maintain the 80 new trees and restrict any changes to the land, so they or any future owner would never cut down the trees. "Can you imagine paying that much money for a house and having someone telling you what you should do on your property?" Karen Bartling asked.

They called the county and got a lawyer and have been negotiating ever since. Yesterday, the county, the developer and the Bartlings reached a precarious agreement that could allow as few as 20 trees to be planted. But nothing is final.

Fairfax requires builders in residential developments like the Bartlings' -- four homes on 10 acres called the Estates at Oakton Hollow -- to preserve trees on 20 percent of the property. The trees can be old or new, to replace those that were knocked down for construction. NV Homes planned to put a "significant portion" of the trees on the Bartlings' lot, county spokeswoman Merni Fitzgerald said. This was partly because some of the other lots lie in a septic drain field that needs to be cleared, said Hugh Whitehead, a county urban forester.

The builder also recently cleared some trees on another lot it may develop in the subdivision, county officials said, prompting a new round of planning to replace them. In both cases, dozens of new trees are needed to make up for the old ones, Whitehead said.

Normally, the county allows trees on a private lot to be removed once the developer is released from bond. But in this case, NV Homes had violated the rules, and stricter requirements applied, officials said.

"It gets pretty sticky sometimes with homeowners wanting to do what they choose with their property," Whitehead said. "I'd certainly hope that most people want trees. I've been surprised by people who buy a lot and proceed to cut down every tree on it for one reason or another. They don't see the benefits."

Whitehead said he sympathizes with the Bartlings, who have tried to reach a resolution with the county and NV Homes as they pay \$219 a night for lodging. The number of trees required plunged to 68 and then 50, and the builder and county dropped the requirement prohibiting the trees from being cut down, said the Bartlings' attorney, Gorham Clark. Last week, the Bartlings agreed to accept some trees but demanded \$250,000 in compensation from NV Homes. In response, NV Homes threatened to terminate the Bartlings' contract and resell the house. Whitehead, asked about the Bartling case, said he is willing to accept fewer trees. "This is not a situation where I typically find myself," he said.

James Sack, NV Homes' general counsel, declined to comment.

The Bartlings are born-again Christians who said their faith led them to children with special needs. After their son Joel was born, fertility problems led them to adoption. They brought Hannah, 11, a bright fifth-grader who sings in the church choir, home from Korea nine years ago. David, a precocious 6-year-old from China, literally appeared on the couple's doorstep less than two years ago after another couple decided they could not handle a blind child. The year before, Karen Bartling had read in a publication for parents and teachers of blind children that Jesse, from Korea, and Abi, who had been abandoned malnourished on the streets of Calcutta, needed homes.

Life at the Towne Place Suites has been a mix of improvisation and anticipation. Everyone needed new clothes, and the children new toys. Five-year-olds Abi and Jesse, not good sleepers to begin with, are uncomfortable sharing beds with their older siblings, their mother said.

Meanwhile, with the lock on the interest rate on their mortgage about to expire, the Bartlings have taken to calling their predicament their Extreme Screwover.

"We're just sitting on the sidelines waiting for NV Homes to deliver us a home we contracted for," Joe Bartling said. "Since when are trees more important than people?"

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## Alexandria's End Run on Public Smoking

City Wants to Use Zoning Laws to Make Eateries Tobacco-Free

By Annie Gowen  
Washington Post Staff Writer  
Thursday, March 1, 2007; A01

Frustrated that the state legislature failed to ban smoking in bars and restaurants, Alexandria officials have come up with a maverick plan of their own that would prohibit smoking in all new eateries and make it more difficult for existing establishments to allow people to light up.

The unusual proposal would use the city's zoning authority to mandate smoke-free restaurants.

If successful, Alexandria would become the first jurisdiction to bar restaurant smoking in Virginia, where the state legislature severely limits local authority. That means individual governments do not have the power to institute outright smoking bans in restaurants and bars, such as those adopted in the District and several Maryland jurisdictions.

So Alexandria has decided to use its limited powers to achieve the same result.

"This is something we all wanted," said Mayor William D. Euille (D). "It would be nice if the state would mandate and make it happen. But obviously they're passing the buck on this . . . so we need to move forward to do what we need to do, and we found the loophole to do it."

Euille said the city's proposal was a result of "creative, outside-the-box" thinking.

Alexandria would seize control of the smoking issue with such mundane tools as use permits. When a bar or restaurant came to the city to request a permit, the city would require it to be smoke-free before granting the permit. Restaurants that have permits must agree to go smoke-free in three months or risk future restrictions or even closure.

The state legislature evaluated several proposals to restrict smoking in public places this year -- always a difficult sell in a tobacco state -- and ended up with a measure that requires restaurants to post signs if they allow smoking.

Health advocates hope that Gov. Timothy M. Kaine (D) will amend that bill to ban smoking in restaurants altogether, but even if he did so, such an amendment could have difficulty winning approval in the House of Delegates.

The city's proposal won praise from anti-smoking advocates yesterday, even as others who have watched the smoking battle unfold in the legislature privately expressed doubt it would withstand a legal challenge.

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"This is a brand-new approach to me," said Teresa Gregson, a lobbyist for the American Heart Association in Richmond. "I haven't heard of anybody using their zoning powers. I like it. It stirs up trouble and throws a whole new mix in the pot."

In a memo, Alexandria City Attorney Ignacio B. Pessoa wrote that if other jurisdictions protect residents from the dangers of secondhand smoke, while Alexandria does not, the city is likely to suffer an "economic disadvantage." Thus, the city is within its local authority to use zoning to require smoke-free dining, he argued. Montgomery, Prince George's, Howard, Talbot and Charles counties in Maryland as well as the District have smoking bans. Baltimore approved one this week, and the Maryland legislature is considering a statewide ban.

Alexandria's plan would require all new restaurants to be smoke-free, as well as existing restaurants with outdoor seating on public sidewalks -- which include many cafes in the popular Old Town and Del Ray shopping districts. Restaurants that want to continue to allow smoking would not be able to make upgrades or renovations and would risk being shut down, according to the plan.

"Alexandria would be the first jurisdiction in Virginia to link maintaining the economic vitality of the city as a restaurant destination with the abatement of the public health menace of secondhand smoke," Pessoa said.

The city has 2 million visitors annually and is expecting more when it is linked by water taxi to the massive National Harbor complex across the Potomac River in Prince George's County, set to open next year, Pessoa noted.

About a third of the city's 360 restaurants participate in the Proud to Be Smoke Free program, begun more than a year ago, officials said. That program is voluntary.

Others had reservations.

"I don't like it. I'd be against it," said Pat Troy, who owns an Old Town pub where smoking is allowed in the bar and on patios. "I want to stand up for people who want a cigarette or a smoke. The rights are being taken from people right and left. After a while, we'll have no rights left."

Asked about Alexandria's proposal, David Sutton, a spokesman for Richmond-based Philip Morris USA, reiterated the tobacco giant's position on smoking bans: that restaurateurs are the best gauge of their patrons' needs.

"We believe business owners -- especially those owners of restaurants and bars -- are most familiar with the needs of their patrons, and we think they should be afforded the opportunity to determine a smoking policy for their establishment," Sutton said.

Del. David L. Englin (D), whose district includes Alexandria, said he does not believe the proposal violates state law. "It's groundbreaking," he said. "It's a community making proper but creative use of its existing authority to protect public health."

The City Council approved an early draft of the proposal at its meeting Tuesday night and could hold a public hearing as early as next month. The mayor said he expects lots of public discussion in the coming weeks -- as well as a possible court battle if the measure is approved.

"I think we're going to be successful at this in the end," Euille said. "I'm sure there will be some legal

challenges, but hey, you never know until you try it."

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## The Importance of Maintaining Property Rights

1. The three most-influential political philosophers impacting the formation of American law were Charles Montesquieu, William Blackstone, and John Locke
2. Charles Montesquieu - "Let us therefore lay down a certain maxim: that whenever the public good happens to be the matter in question, **it is not for the advantage of the public to deprive an individual of his property – or even to retrench the least part of it by a law or a political regulation**"
3. William Blackstone - "So great moreover is the regard of the law for private property that it will not authorize the least violation of it – no, not even for the general good of the whole community"
4. John Locke - "the preservation of property [is] the reason for which men enter into society. Government . . . can never have a power to take to themselves the whole or any part of the subject's property without their own consent, for this would be in effect to leave them no property at all"
5. Samuel Adams - "first, a right to life; secondly, to liberty; thirdly, to property – together with the right to support and defend them"
6. John Adams - "The moment the idea is admitted into society that property is not as sacred as the law of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. Property is surely a right of mankind as real as liberty"
7. John Jay (original Chief Justice of the U. S. Supreme Court and an author of the *Federalist Papers*) - "It is the undoubted right and unalienable privilege of a [citizen] not to be divested or interrupted in the innocent use of . . . property. . . . This is the Cornerstone of every free Constitution"
8. Adam Smith, famous economist of the Founding Era, foresaw the tendencies of governments to impinge the rights of private property, forewarning: "As soon as the land of any country has all become private property, the landlords [e.g., the governments], like all other men, love to reap where they never sowed, and demand a rent even for its natural produce"
9. Noah Webster, a Founding Father who served as a judge and legislator, declared that property is "the exclusive right of possessing, enjoying and disposing of a thing; ownership. In the beginning of the world, the Creator gave to man dominion over the earth, over the fish of the sea and the fowls of the air, and over every living thing. This is the foundation of man's property in the earth and in all its productions. Prior occupancy of land and of wild animals gives to the possessor the property of them. The labor of inventing, making or producing anything constitutes one of the highest and most indefeasible titles to property"
10. John Adams (signer of the Declaration and framer of the Bill of Rights) and William Paterson (signer of the Constitution and Justice placed on the U. S. Supreme Court by President George Washington) - "All men are born free and

equal, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of . . . acquiring, possessing, and protecting property”

11. James Madison declared that “Government is instituted to protect property. . . . This being the end of government, that alone is a just government which impartially secures to every man whatever is his own. . . . That is not a just government, nor is property secure under it, where arbitrary restrictions [i.e., restrictive zoning requirements], exemptions, and monopolies deny to part of its citizens that free use of their [own] faculties”
12. Fisher Ames, a Framers of the Bill of Rights, forcefully declared that “The chief duty and care of all governments is to protect the rights of property”
13. John Dickinson, a signer of the Constitution, declared: “Let these truths be indelibly impressed on our minds: (1) that we cannot be happy without being free; (2) that we cannot be free without being secure in our property; (3) that we cannot be secure in our property if without our consent others may as by right take it away”
14. John Adams – one of only two signers of the Bill of Rights – declared: “Property must be secured or liberty cannot exist” and that “[i]t is agreed that the end of all government is the good and ease of the people in a secure enjoyment of their rights without oppression”
15. Thomas Jefferson similarly declared that the purpose of government “is to declare and enforce only our natural [inalienable, God-given] rights and duties and to take none of them from us,” including the right to own, use, and enjoy one’s own private property
16. An early public school textbook on ethics, reprinted for generations, transmitted these original principles to young Americans, teaching them: “Property is something which one owns and has a right to own. . . . Everything which you see or touch belongs to you or to somebody else. If it belongs to you, you have the right to do what you please with it, provided you do not abuse it: if it belongs to somebody else, you have no right to it whatever”

**SB**

**235**

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 1/18/08

FURTHER: Judiciary  
Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 2/13/08

Community and Regional Affairs Committee considered

SENATE BILL NO. 235

**SB 235 ALCOHOL: LOCAL OPTION/LICENSING/MINORS**

"An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area and providing alcohol to others in the local option area, including penalties for violations; relating to furnishing alcohol to a minor and to civil penalties for licensees whose agents or employees furnish alcohol to a minor; relating to manslaughter as a direct result of ingestion of alcoholic beverages brought in violation of a local option prohibition; relating to reports of the court concerning certain alcohol violations by minors; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS SB 235 (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
<b>HOUSE BILL:</b>
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

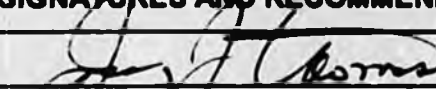
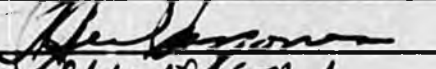
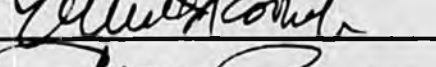
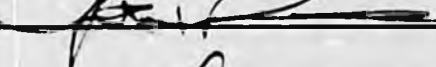
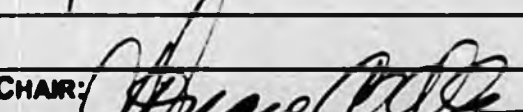
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
COR	2/6/08	✓			

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
Pub Saf	1/14/08			✓	8
ADM	1/13/08		✓		7
HSS	1/14/08			✓	6
LAW	1/14/08			✓	5
ADM	1/14/08			✓	4
ADM	1/13/08		✓		2
Pub Saf	1/14/08	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	THOMAS	✓			
	WAGNER				✓
	KOOLEN	✓			
	STEVEN			✓	
CHAIR: 	OLSON				✓

**AMENDMENT**

OFFERED IN THE SENATE  
TO: SB 235

BY SENATOR THOMAS

1 Page 1, lines 3 - 4:

2 Delete "furnishing alcohol to a minor and to civil penalties for licensees whose  
3 agents or employees furnish alcohol to a minor"

4 Insert "when a conviction occurs for certain purposes relating to alcoholic  
5 beverage licenses"

6

7 Page 2, line 12, through page 3, line 23:

8 Delete all material.

9

10 Renumber the following bill sections accordingly.

11

12 Page 3, line 25:

13 Delete "(b) of"

14

15 Page 4, line 4, through page 5, line 2:

16 Delete all material.

17

18 Renumber the following bill sections accordingly.

19

20 Page 8, line 10:

21 Delete "Sections 1, 8, and 9"

22 Insert "Sections 1, 5, and 6"

23

1 Page 8, lines 12 - 14:

2 Delete all material.

3

4 Reletter the following subsections accordingly.

5

6 Page 8, line 15:

7 Delete "Section 3"

8 Insert "Section 2"

9

10 Page 8, line 17:

11 Delete "Sections 6 and 7"

12 Insert "Sections 3 and 4"

13

14 Page 8, line 20:

15 Delete "Sections 10 and 11"

16 Insert "Sections 7 and 8"

# STATE OF ALASKA

## DEPARTMENT OF LAW CRIMINAL DIVISION

**SARAH PALIN,  
GOVERNOR**

**Mailing:** PO Box 110300  
Juneau, AK 99811-0300  
**Delivery:** 123 4<sup>th</sup> Street, Ste 717  
Juneau, AK 99801  
**Phone:** (907) 465-3428  
**Fax:** (907) 465-4043

January 22, 2008

Senator Donald Olson  
Chair, Senate Community and Regional Affairs Committee  
Alaska State Capitol, Room 514  
Juneau, Alaska 99801

Re: Senate Bill 235

An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area, etc.

Dear Senator Olson:

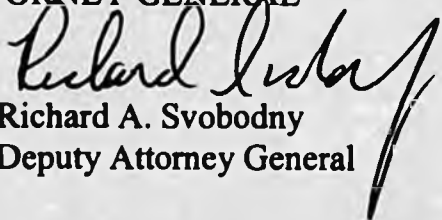
I am writing to respectfully request that you schedule the referenced bill for hearing in the Senate Community and Regional Affairs Committee at your earliest convenience. The bill builds on the recent alcohol enforcement efforts made by the legislature, by adopting mandatory minimum terms for bootleggers that are similar to those for drunk drivers and persons who refuse a breath test. It would also prohibit shipping alcohol to a local option area in plastic bottles, and would adopt mandatory civil penalties for alcohol licensees whose agents or employees are convicted of furnishing alcohol to minors.

A sectional analysis is attached that describes each provision of the bill.

Thank you for your consideration of this request.

Sincerely,

TALIS J. COLBERG  
ATTORNEY GENERAL

By:   
Richard A. Svobodny  
Deputy Attorney General

SENATE BILL 235  
SECTIONAL ANALYSIS

**Section 1** would prohibit a licensee from shipping alcohol in plastic containers to a resident who lives in a local option community, unless the shipment is to a community distribution center. According to law enforcement, detection of illegal alcohol shipments in plastic is much more difficult, because it weighs less and is much quieter in plastic than it would be in glass containers.

**Sections 2, 3, 4, and 5** address the serious problem of minors consuming alcohol in Alaska, by requiring the Alcoholic Beverage Control (ABC) Board to levy fines and, for a second or subsequent offense in a five year period, suspend licenses if a bartender or clerk is convicted of furnishing alcohol to a minor on the licensed premises of the licensee. Under current law, there are no consequences for a licensee if the licensee's clerk or bartender is convicted of serving or selling alcohol to a minor. This provision, similar to a provision in tobacco enforcement, would encourage licensees to ensure that their employees are trained and able to avoid furnishing alcohol to minors.

**Section 6** would make a third conviction for bringing smaller amounts of alcohol to a local option community, in violation of the local option, a class C felony if the conviction is the third bootlegging conviction in a 10 year period. Under current law it is a class C felony to bring large amounts of alcohol to a community in violation of a local option. This provision would make it a similar felony for bringing smaller amounts if the person has two convictions in the prior 10 years.

**Section 7** would adopt mandatory minimum sentences for bootleggers that are similar to the mandatory minimum sentences for drunk driving and refusal to submit to a breath test. The sentences would apply both to misdemeanor and felony bootlegging convictions. The look-back period for the prior convictions in the bill is a 10 year period, rather than the 15 year look-back for drunk driving and refusal.

**Sections 8 and 9** amend the manslaughter statute so that it would prohibit causing the death of a person, if the death was a direct result of ingestion of alcohol that the defendant brought ~~to the community~~ into a community in violation of a local option. This is similar to a law adopted two years ago addressing the illegal manufacture or delivery of methamphetamines that cause the death of another person.

**Section 10** clarifies that the court system should provide information about minors convicted of minor consuming alcohol to the Division of Motor Vehicles. This transfer of information is then available to law enforcement, so that a peace officer knows if the minor he or she is confronting has prior incidents of minor consuming.

**Section 11** allows a person charged with bootlegging to be eligible for consideration of referral to therapeutic court.

**Sections 12 and 13** include applicability and effective date sections.

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: SB 235  
(S) Publish Date: 1/18/08

Identifier (file name): 0035-DPS-ABC-1-16-08  
Title "An Act relating to...bringing alcohol to a local option area...furnishing alcohol to a minor..."

Dept. Affected: Public Safety  
RDU Statewide Support  
Component Alcoholic Beverage Control Board

Sponsor \_\_\_\_\_  
Requester \_\_\_\_\_ Component Number 2690

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	167.4		167.4	167.4	167.4	167.4	167.4	167.4
Travel	26.0		26.0	26.0	26.0	26.0	26.0	26.0
Contractual	14.0		14.0	14.0	14.0	14.0	14.0	14.0
Supplies	4.0		4.0	4.0	4.0	4.0	4.0	4.0
Equipment	6.0		3.0	0.0	3.0	0.0	3.0	3.0
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>217.4</b>	<b>0.0</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>214.4</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	217.4		214.4	211.4	214.4	211.4	214.4	214.4
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>217.4</b>	<b>0.0</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>214.4</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

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

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

This bill would impose civil fines and, for a second or subsequent offense within five years, license suspensions on liquor licensees whose employees are convicted of furnishing alcohol to a minor on the licensee's premises. These consequences are intended to increase the incentive for licensees to train and supervise agents and employees in a way that would emphasize service only to persons 21 years of age and older. Enforcement by the Alcoholic Beverage Control Board (ABC Board) of these new provisions will require the services of two additional Investigators III. These positions will work primarily in the area of preventing and reducing underage drinking by conducting compliance checks, "shoulder taps", and other enforcement efforts focused on keeping alcoholic beverages away from persons under the age of 21.

Other provisions in this bill related to bootlegging are not anticipated to have a fiscal impact on the ABC Board.

Prepared by: Douglas B. Griffin, Director  
Division: Alcoholic Beverage Control Board  
Approved by: Commissioner Walt Monegan  
Office of the Commissioner

Phone 269-0350  
Date/Time 1/14/08 5:00pm  
Date 1/17/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DOA-PD-1-13-08 Dept. Affected: Administration  
 Title: "An Act relating to shipping, sending, transporting, or bringing..." RDU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 Sponsor: Rules by Request Component Number: 1631  
 Requester: Governor

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	0.0	*	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*	*
<b>TOTAL OPERATING</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	*	0.0	*	*	*	*	*	*
1003 GF Match	*	0.0	*	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*	*
1005 GF/Program Receipts	*	0.0	*	*	*	*	*	*
1037 GF/Mental Health	*	0.0	*	*	*	*	*	*
Other Interagency Receipts	*	0.0	*	*	*	*	*	*
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill elevates certain convictions for importing alcohol from a misdemeanor to a felony if a person has two or more prior convictions within 10 years of the present offense. The bill provides for certain minimum penalties for misdemeanor and felony convictions. The bill also provides for a manslaughter conviction if a person dies from ingesting alcohol that was imported in violation of local option laws.

This bill is expected to have a fiscal impact due to the increased offense levels and increased penalties. It is, however, impossible to predict the fiscal impact any certainty. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director  
 Division: Public Defender Agency  
 Approved by: Rachael Petro, Deputy Commissioner  
Department of Administration

Phone 907-334-4414  
 Date/Time 1/13/08 11:50 a.m.  
 Date 1/13/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DOC-IDO-01-12-08 Dept. Affected: Corrections  
 Title "Act relating to shipping, sending, transporting ... alcohol ..." RDU Population Management  
 Component Institution Directors Office  
 Sponsor Rules Committee  
 Requester Governor Component Number 524

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	*	*	*	*	*	*	*
Travel	*	*	*	*	*	*	*	*
Contractual	*	*	*	*	*	*	*	*
Supplies	*	*	*	*	*	*	*	*
Equipment	*	*	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*	*	*
Grants & Claims	*	*	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*	*	*
<b>TOTAL OPERATING</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 Interagency Receipts	*	*	*	*	*	*	*	*
<b>TOTAL</b>	*	*	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

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

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

The department is unable to estimate the number of individuals who would be committed to the custody of the department as a result of this legislation.

Prepared by: Sharleen Griffin, Director  
 Division Administrative Services  
 Approved by: Dwayne Peeples, Deputy Commissioner  
Department of Corrections

Phone (907) 465-3339  
 Date/Time 1/12/08 12:00 AM  
 Date 1/12/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DOA-DMV-01-14-08 Dept. Affected: Administration  
 Title "An act relating to shipping, sending, transporting..." RDU Division of Motor Vehicles  
 Component Motor Vehicles

Sponsor Rules by request  
 Requester Governor Component Number 2348

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

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
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>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES ( )</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>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
1156 Receipt Supported Services							
<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>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill has no financial impact on the Division of Motor Vehicles.

Prepared by: Whitney Brewster, Director  
 Division Motor Vehicles  
 Approved by: Kevin Brooks, Deputy Commissioner  
Department of Administration

Phone 907-269-5574  
 Date/Time 1/14/08 1:45 PM  
 Date 1/14/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-LAW-CRIM-01-14-08 Dept. Affected: LAW  
 Title An Act relating to the illegal distribution of alcohol. RDU CRIMINAL  
 Component Criminal Justice Litigation  
 Sponsor Rules  
 Requester Governor Component Number \_\_\_\_\_

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

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
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>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 Interagency Receipts							
<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>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

The bill would facilitate enforcement of alcohol laws in both urban and rural areas. It prohibits sending alcohol in plastic containers to a local option area unless the area has a distribution site; provides for mandatory minimum sentences for bootleggers; adopts a class C felony for a person convicted of bootlegging for the third time in a ten year period; provides for civil penalties for liquor licensees whose agents or employees are convicted of furnishing alcohol to minors on their licensed premises; and amends the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option and a person dies as a direct result of ingesting the alcohol.

Prepared by: Robert Meiners, Administrative Services Manager  
 Division: Administrative Services  
 Approved by: Talis Colberg, Attorney General  
Department of Law

Phone 907-465-5427  
 Date/Time 1/14/07 8:30AM  
 Date 1/14/2007

# FISCAL NOTE

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

Fiscal Note Number: 6  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08  
 Dept. Affected: Health & Social Services

ID(File name) 0035-DHSS-BH-1-11-08

Title "AN ACT RELATING TO...BRINGING ALCOHOL TO A  
LOCAL OPTION AREA...FURNISHING ALCOHOL TO A  
MINOR..."

RDU Behavioral Health

Component Behavioral Health Administration

Sponsor \_\_\_\_\_

Requester \_\_\_\_\_

Component No. 2665

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

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

	Appropriation		Information				
	Required						
<b>OPERATING EXPENDITURES</b>	<b>FY 2009</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
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>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES (0)</b>							
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill will have no significant fiscal impact on Behavioral Health. The activities and strategies outlined in the bill, while significantly assisting Behavioral Health in the work of preventing and treating alcohol use, abuse and dependency among our citizens, will not directly impact our fiscal needs or operating budget.

Prepared by: Melissa Stone, Director  
 Division: Behavioral Health  
 Approved by: Karleen Jackson, Commissioner  
 Agency: Department of Health and Social Services

Phone 907-269-3410  
 Date/Time 01/14/2008  
 Date 01/16/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 7  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DOA-OPA-1-13-08 Dept. Affected: Administration  
 Title: "An Act relating to shipping, sending, transporting, or bringing..." RDU: Legal and Advocacy Services  
 Component: Office of Public Advocacy  
 Sponsor: Rules by Request  
 Requester: Governor Component Number: 43

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	0.0	*	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	<b>0.0</b>	*	*	*	*	*	*

**CAPITAL EXPENDITURES**

**CHANGE IN REVENUES ( )**

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	0.0	*	*	*	*	*	*
1003 GF Match	*	0.0	*	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*	*
1005 GF/Program Receipts	*	0.0	*	*	*	*	*	*
1037 GF/Mental Health	*	0.0	*	*	*	*	*	*
Other Interagency Receipts	*	0.0	*	*	*	*	*	*
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill elevates certain convictions for importing alcohol from a misdemeanor to a felony if a person has two or more prior convictions within 10 years of the present offense. The bill provides for certain minimum penalties for misdemeanor and felony convictions. The bill also provides for a manslaughter conviction if a person dies from ingesting alcohol that was imported in violation of local option laws.  
  
 This bill is expected to have a fiscal impact due to the increased offense levels and increased penalties. It is, however, impossible to predict the fiscal impact any certainty. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Joshua P. Fink, Director Phone 907-269-3500  
 Division: Office of Public Advocacy Date/Time 1/13/08 3:40 p.m.  
 Approved by: Rachael Petro, Deputy Commissioner Date 1/14/2008  
Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 8  
 Bill Version: SB 235  
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DPS-DET-01-14-08 Public Safety  
 Title "An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area..." RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Rules Committee  
 Requester Governor Component Number 2325

**Expenditures/Revenues**

(Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
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>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 Interagency Receipts								
<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>	<b>0.0</b>

Estimate of any current year (FY2008) cost:

0.0

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

This bill imposes civil penalties against a liquor license holder when the agents and employees of the licensee provide alcohol to those under 21. This bill also would impose mandatory minimum terms of imprisonment and fines and amend the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option. The sending of alcohol in plastic containers to a local option area would be prohibited under this legislation. Finally, this bill would clarify that the court is required to make certain reports to the Department of Administration concerning certain violations of alcohol laws by minors.

Passage of this legislation would have no fiscal impact on the department because it mainly deals with civil issues and terms of incarceration.

Prepared by: Lt. Rodney Dial  
 Division: Alaska State Troopers  
 Approved by: Walt Monegan, Commissioner  
Department of Public Safety

Phone 907-269-5591  
 Date/Time 1/14/08 10:48 AM  
 Date 1/14/2008

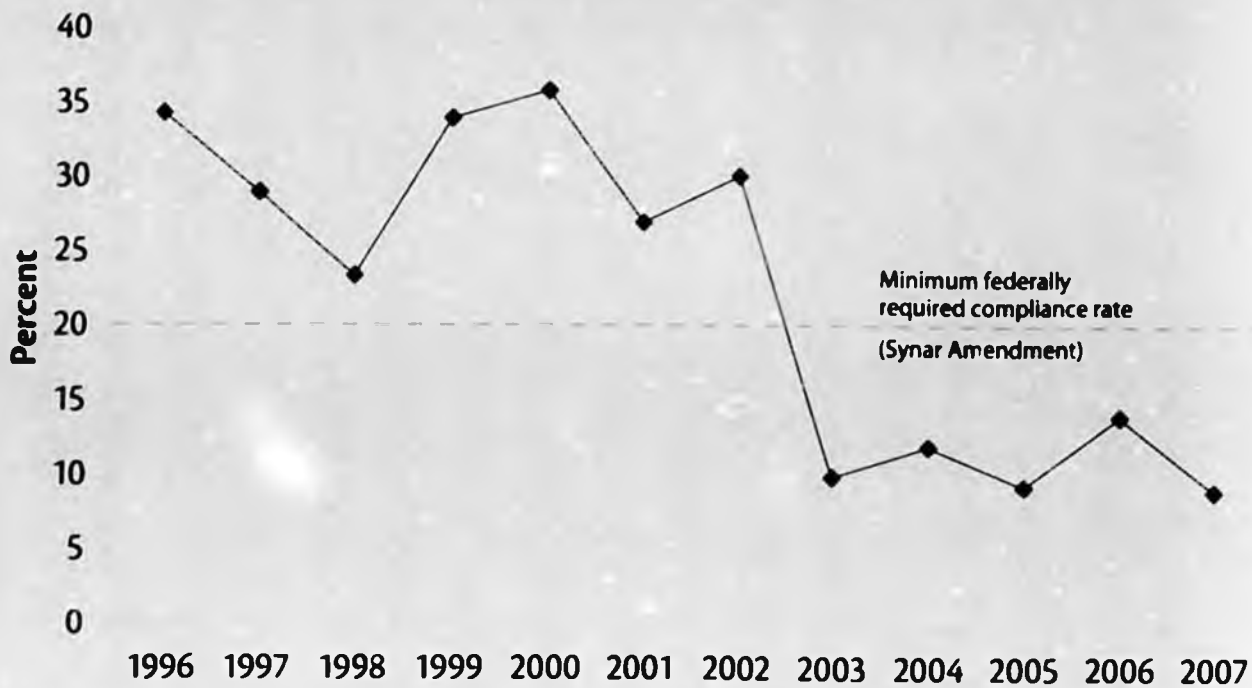
## Comparison of Alcohol & Tobacco Penalties

<b>Clerks</b>	<b>Tobacco</b>	<b>Current Alcohol</b>	<b>Proposed Alcohol</b>
<b>1<sup>st</sup> Offense</b>	<i>Violation</i> – minimum \$300 fine	<b>Class A misdemeanor</b> – up to 1 year jail time and up to \$10,000 fine	<b>Class A misdemeanor</b> – up to 1 year jail time and up to \$10,000 fine
<b>2<sup>nd</sup> &amp; Subsequent Offense</b>	<i>Violation</i> – minimum \$300 fine	<b>If previously convicted within 5 years, Class C felony</b> – up to 5 years in jail time and up to \$50,000 fine	<b>If previously convicted within 5 years, Class C felony</b> – up to 5 years in jail time and up to \$50,000 fine

<b>Licensee/Business Owner</b>	<b>Tobacco</b>	<b>Current Alcohol</b>	<b>Proposed Alcohol</b>
<b>1<sup>st</sup> Offense</b>	** Tobacco endorsement suspension of 20 days, and civil fine of \$300	<i>Notice of Violation, only if the owner makes the sale;</i> license suspension no more than 45 days at the discretion of the ABC Board	Civil fine of \$500
<b>2<sup>nd</sup> Offense</b>	** <b>If previously convicted within 2 years</b> , then tobacco endorsement suspension of 45 days, and civil fine of \$500	<i>Notice of Violation, only if the owner makes the sale;</i> license suspension no more than 90 days at the discretion of the ABC Board, <b>if previously convicted within 5 years</b> ,	<b>If previously convicted within 5 years</b> , then license suspension of 7 days, and civil fine of \$1,000
<b>3<sup>rd</sup> Offense</b>	<b>If previously convicted within 2 years</b> , then tobacco endorsement suspension of 90 days, and civil fine of \$1,000	<i>Notice of Violation, only if the owner makes the sale;</i> license suspension or revocation at the discretion of the ABC Board, <b>if previously convicted within 5 years</b> ,	<b>If previously convicted within 5 years</b> , then license suspension of 30 days, and civil fine of \$2,000
<b>4<sup>th</sup> Offense</b>	<b>If previously convicted within 2 years</b> , then tobacco endorsement suspension of 1 year, and civil fine of \$2,500	N/A	N/A

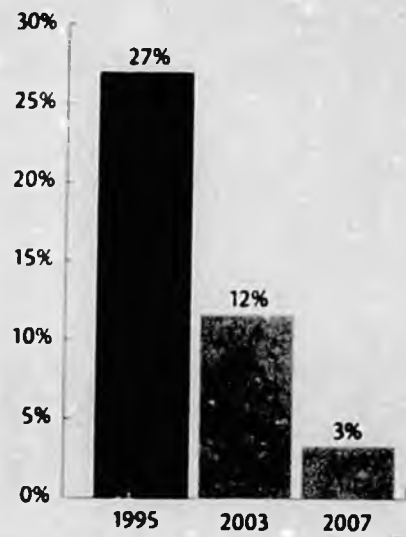
\*\* Note: Based on the results of the administrative hearing, the tobacco endorsement suspension can be **reduced or increased** by 10 days on the 1<sup>st</sup> offense and 20 days for the second offense.

Percentage of Alaska Vendors Found Selling Tobacco to Minors,  
by Year Alaska, 1996-2006



Source: Alaska Synar Compliance Database, 1996-2007

**Alaska High School Youth  
Bought Own Cigarettes,  
1995 vs. 2003 (Past 30 Days)**



Source: Alaska YRBS 1995, 2003, 2007.

## Best Practices Comparison

	Tobacco	Alcohol
<i>Concrete plan concerning how the state will enforce its law</i>	Yes	Yes
<i>State agency overseeing enforcement</i>	DBH	ABC
<i>Ongoing enforcement inspections employing test inspections</i>	3 Investigators	1 investigator
<i>State funding for enforcement inspections</i>	Tobacco fund	State GF
<i>Prosecution of offenders</i>	Yes, Violation	Yes, Class A misdemeanor & Class C felony for subsequent offenses
<i>Penalties for violating the law</i>	Penalties for both clerks and licensee	Only clerks and licensee if sell is made
<i>Effective merchant education</i>	Tobacco Prevention & Control developed original materials	TAMS

**Note:** Based Journal of Public Health Management and Practice- Best Practices for Enforcing State Laws Prohibiting the Sale of Tobacco to Minors



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- ELLER
- PAKALEET
- VALES
- WHITE MOUNTAIN

February 5, 2008

Testimony of Loretta Bullard, President of Kawerak on Senate Bill 235

Good afternoon. My name is Loretta Bullard. I am President of Kawerak, the regional non-profit that provides services throughout the Bering Strait Region of Alaska. I also serve as a member of the Alaska Rural Justice & Law Enforcement Commission. This Commission was formed by Congress in 2004 to develop recommendations to improve rural law enforcement and justice in Alaska for consideration by the Alaska Legislature, the State administration and Congress. I also serve on the Regional Wellness Forum in the Bering Straits Region. This is a coalition of agencies and non-profit service providers that meet quarterly. The purpose of the Regional Wellness Forum is to communicate, coordinate and collaborate as we seek to reinstate a culture of wellness in the Bering Straits Region – to the benefit of our children, families and future generations. Thank you for this opportunity to present testimony on Senate Bill 235.

I would like to testify in support of several provisions in Senate Bill 235, the first of which was a direct recommendation from the Alaska Rural Justice and Law Enforcement Commission:

I encourage the committee to support the proposed language in section 1 which prohibits the shipment of alcohol in plastic containers to residents of local option communities, unless the alcohol is to a community delivery site.

The Regional Wellness Forum supports Sections 2,3,4 and 5 of the draft bill which would require the ABC Board to levy fines (for an initial offense) and for second or subsequent offenses in a five year period, to suspend licenses if a bartender, (**add: waiter or waitress**) or clerk is convicted of furnishing alcohol to a minor on the licensed premises of the licensee. I encourage the committee to also add language which provides penalties for the individual bartender, clerk or waiter/waitress, since, (as was discussed in our last Regional Wellness Forum meeting) a disgruntled bartender, waiter or clerk, could easily provide liquor to a minor as a punitive measure against their employer.

Personally, I do not support Sections 6 and 7. I encourage the Alaska Legislature to make additional funds available so that those individuals with alcohol and drug addictions, can receive the treatment and support they need to become and stay sober. The Anvil Mountain Correctional Center here in Nome is full of individuals who need alcohol treatment – they do not receive it – and the cycle of addiction and lawlessness continues in our villages.

Just a comment on Section 8 – I do not feel I can testify either in support or opposition of the proposed language. It appears to be singling out importers of alcohol for manslaughter charges when someone dies from drinking in a dry village. Yet, here in Nome, and other wet communities, people die all the time from acute alcohol poisoning, driving under the influence, alcohol fueled homicides and accidents and yet the purveyors alcohol are not held accountable.

Thank you for this opportunity to testify.

*Ubellor*

**SB**

**254**

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

DATE: 1/28/08

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: Feb. 28 2008

Community and Regional Affairs Committee considered

SENATE BILL NO. 254

**SB 254 AK REGIONAL ECONOMIC ASSISTANCE PROGRAM**

"An Act extending the termination date of the Alaska regional economic assistance program; and providing for an effective date."

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 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	Date	Fiscal	Indet.	Zero	FN#
LED	2/4/08	✓			
LED	2/4/08	✓			

**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
	THOMAS	✓			
	WAGNER	✓			
	KOOKOSH	✓			
	STEARNS	✓			
	OLSON	✓			

# ALASKA STATE LEGISLATURE

Senate District H  
600 E. Railroad Avenue  
Wasilla AK 99654  
907-376-4866  
907-373-4724 :Fax



State Capitol  
Juneau AK 99801-1182  
907-465-3878  
Fax: 907-465-3265  
800-862-3878

## Charlie Huggins Senator

### SPONSOR STATEMENT: SENATE BILL 254

*"An Act extending the termination date of the Alaska regional economic assistance program; and providing for an effective date."*

The Alaska Regional Economic Assistance Program was created by the Legislature in 1988 to promote the economic development of Alaska's urban and rural areas. This program enables the creation of Alaska Regional Development Organizations (ARDORs). Each ARDOR is guided and directed by a board of directors composed of the economic development interests in the region. To carry out their mission, the State provides funding in the form of grants for the ARDOR program. In turn, the ARDORs use that money to leverage, on average, eight times the State's investment in private, federal, and other funds.

Currently, there are 11 ARDORs across the state. These ARDORs:

- Enable local officials and businesses to pool their limited resources and work together on economic development;
- Develop partnerships among public, private and other organizations; and
- Provide technical assistance via direct links with local citizens.

SB 254 is a companion bill to House Bill 272, which is sponsored by Rep. Bill Stoltze.

The Alaska Regional Economic Assistance Program and its ARDORs are an important part of the economic development of their regions. I ask your support in extending this program to 2013.

---

Contact: Jody Simpson  
907.465.2661  
Version 25-LS1367 \ A  
January 28, 2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 254  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): SB254-CED-AIDEA-02-04-08 Dept. Affected: DCCED  
 Title: AK Regional Economic Assistance Program RDU: AIDEA (125)  
 Sponsor: Huggins Component: AIDEA  
 Requester: Senate Community & Regional Affairs Component Number: 1234

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual	13.1	650.0	663.1	663.1	663.1	663.1		
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>13.1</b>	<b>650.0</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</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								
1102 AIDEA Receipts	13.1	650.0	663.1	663.1	663.1	663.1	663.1	
<b>TOTAL</b>	<b>13.1</b>	<b>650.0</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: 650.0

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This legislation extends the Alaska Regional Economic Development Organizations (ARDORS) through June 30, 2013. An additional \$13.1 of AIDEA Receipts is requested to keep the position 50% funded by AIDEA. ARDORS are not subject to AS 08.03.020, therefore, funding is not extended one year following the termination date.

Prepared by: Sara Fisher-Goad, Deputy Director - Operations  
 Division: Alaska Industrial Development and Export Authority  
 Approved by: Emil R. Notti, Commissioner  
Commerce, Community, and Economic Development

Phone 907-771-3012  
 Date/Time 2/4/08 8:07 PM  
 Date 2/4/2008

**PFD Appropriations in lieu of Dividends to Criminals (#1171)**

	<b>Final FY08</b>	<b>FY 08 %</b>	<b>FY09</b>	<b>FY 09 %</b>	<b>Increase over FY08</b>
<b>Amount Available for Appropriation</b>	<b>11,469.2</b>		<b>16,850.9</b>		<b>5,381.7</b>
<b>Appropriations:</b>					
DOA - Violent Crimes Compensation Board	1,067.6	9.31%	1,568.5	9.31%	500.9
DOC - Information Technology MIS					
DOC - Offender Rehabilitative Programs					
DOC - Inmate Health Care	6,211.4	54.16%	9,126.0	54.16%	2,914.6
DOC- Existing CRC Facilities					
DPS - CDVSA	3,789.6	33.04%	5,567.8	33.04%	1,778.2
LEG - Office of Victims Rights (in Leg Council)	400.6	3.49%	588.6	3.49%	188.0
<b>Total Appropriated</b>	<b>11,469.2</b>	<b>100.00%</b>	<b>16,850.9</b>	<b>100.00%</b>	<b>5,381.7</b>

# FISCAL NOTE

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 254  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): SB254-CED-AIDEA-02-04-08 Dept. Affected: DCCED  
 Title: AK Regional Economic Assistance Program RDU: AIDEA (125)  
 Component: AIDEA  
 Sponsor: Huggins  
 Requester: Senate Community & Regional Affairs Component Number: 1234

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual		13.1	650.0	663.1	663.1	663.1	663.1	
Su, plies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		<b>13.1</b>	<b>650.0</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</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								
1102 AIDEA Receipts		13.1	650.0	663.1	663.1	663.1	663.1	
<b>TOTAL</b>		<b>13.1</b>	<b>650.0</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: 650.0

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This legislation extends the Alaska Regional Economic Development Organizations (ARDORS) through June 30, 2013. An additional \$13.1 of AIDEA Receipts is requested to keep the position 50% funded by AIDEA. ARDORS are not subject to AS 08.03.020, therefore, funding is not extended one year following the termination date.

Prepared by: Sara Fisher-Goad, Deputy Director - Operations Phone 907-771-3012  
 Division: Alaska Industrial Development and Export Authority Date/Time 2/4/08 8:07 PM  
 Approved by: Emil R. Notti, Commissioner Date 2/4/2008  
Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 254  
 () Publish Date: \_\_\_\_\_

Identifier (file name): SB254-CED-OED-02-04-08  
 Title: AK Regional Economic Assistance Program

Dept. Affected: DCCED  
 RDU: Comm Assiat & Ec Dev (405)  
 Component: Office of Economic Development

Sponsor: Huggins  
 Requester: Senate Community & Regional Affairs

Component Number: 2743

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	13.1	30.0	43.1	43.1	43.1	43.1		
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims	0.0	620.0	620.0	620.0	620.0	620.0		
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>13.1</b>	<b>650.0</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>		<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<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								
1007 Inter-agency Receipts	13.1	650.0	663.1	663.1	663.1	663.1		663.1
<b>TOTAL</b>	<b>13.1</b>	<b>650.0</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>	<b>663.1</b>		<b>0.0</b>

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time		0.5	0.5	0.5	0.5	0.5	
Part-time							
Temporary							

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

This legislation extends the Alaska Regional Economic Development Organizations (ARDORS) through June 30, 2013. An additional \$13.1 of AIDEA receipts would be transferred to the Office of Economic Development via inter-agency receipts from AIDEA to keep the position 50% funded by AIDEA. ARDORS are not subject to AS 08.03.020, therefore, funding is not extended one year following the termination date of the program.

Prepared by: Joe Austerman, Manager  
 Division: Office of Economic Development  
 Approved by: Emil R. Notti, Commissioner  
Commerce, Community, and Economic Development

Phone 907.269.4588  
 Date/Time 2/4/08 8:05 PM  
 Date 2/4/2008



**RESOLUTION 2008-01**

**ARDOR JOINT RESOLUTION  
SUPPORTING STATE OF ALASKA ECONOMIC ASSISTANCE PROGRAM  
REAUTHORIZATION**

**WHEREAS,** we are the recognized Alaska Regional Development ORganizations (ARDORs) for the State of Alaska's Regional Economic Development Assistance Program; and

**WHEREAS,** the State's Regional Economic Development Assistance Program grant makes a significant portion of an ARDORs unencumbered budget available for ARDORs to use in pursuit of identified regional economic development goals; and

**WHEREAS,** this seed funding supplies an excellent source of match for grant funding from other sources and for projects that might not otherwise be undertaken, thus leveraging the state's investment; and

**WHEREAS,** the ARDORs in the state have made significant progress on economic development, as evidenced in annual reports summarizing cost effective achievement of regional economic development goals; and

**WHEREAS,** without this source of funding, ARDORs would have to divert their energies from economic development to finding other funds to maintain their level of development; and

**WHEREAS,** many of the smaller ARDORs could be impacted to the point where they might have to dissolve if the program is not renewed, putting further hardship on rural areas that most need economic development; and

**WHEREAS,** the ARDORs participate fully in developing and implementing a five-year regional Comprehensive Economic Development Strategies, (CEDs); and

**WHEREAS,** the ARDORS are a critical partner in developing regional economies to help offset declines in traditional industry and commerce. Further, recognizing that the ARDOR program returns eight dollars in economic development efforts for every one dollar invested by the State of Alaska, thus realizing its goal of cost effective statewide economic development

**NOW THEREFORE BE IT RESOLVED** that the ARDORS urge the Governor and the Alaska State Legislature to reauthorize the ARDOR program for an additional five (5) years in the interest of more effective planning for economic development for all Alaskans.

PASSED AND ADOPTED by a duly constituted quorum by the directors of the following ARDORS on January 21, 2008

*Bob Tietels*

-----  
Bering Strait Development Council

*Halley ...*

-----  
Fairbanks North Star Borough

*[Signature]*

-----  
Kenai Peninsula Economic Development District

*[Signature]*

-----  
Southwest AK Municipal Conference

*[Signature]*

-----  
Southeast Conference Development

*Carl Bergeson*

-----  
Lower Kuskokwim Economic Council

*Sue Coyne*

-----  
Prince William Sound Economic Development District

*Clair Scribner*

-----  
Copper Valley Development Association

*[Signature]*

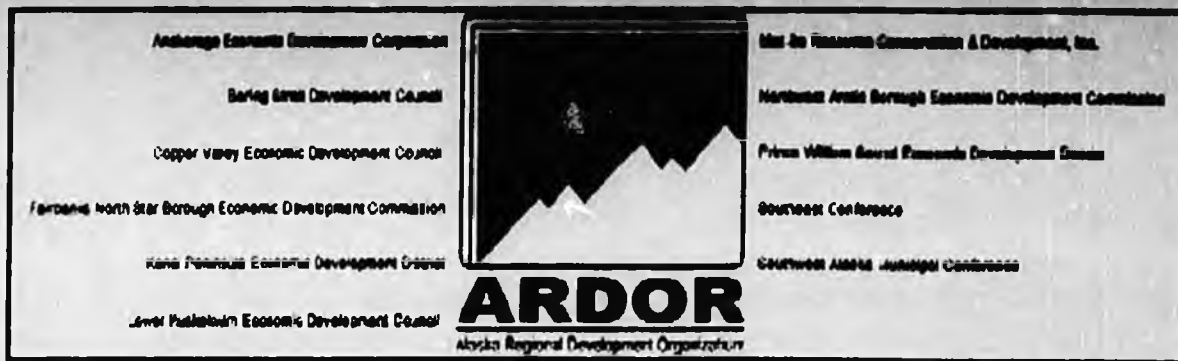
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Anchorage Economic Dev. Corporation

*[Signature]*

-----  
Northwest Arctic Borough Economic Development Commission

*Marty Motiva*

-----  
Mat-Su Resource Conservation & Development, Inc



**STATE OF ALASKA ARDOR PROGRAM** - The Alaska Legislature established the Alaska Regional Development Organization (ARDOR) Program in 1988.

- The ARDOR program receives \$650,000 annually. The State receives \$30,000 of this for administrative costs and the remainder is split, awarding each organization \$56,363, pending the States approval via an application process.
- The 11 designated ARDORs create a network of regional economic development organizations, representing numerous local public and private interests to plan and implement economic development at the regional level for both urban and rural Alaska.
- This program continues to play an integral role in driving local initiatives and furthering economic diversification in partnership with the State and other entities.
- The ARDOR program is the State's contribution to economic development in Alaska's urban and rural regions.

**ARDOR PROGRAM GOALS** - Each ARDOR represents a unique region and develops an annual work plan. The ARDOR program goals continue to be in line with the original intent of the Legislature. Program goals:

- Facilitate development of a healthy economy that results in sustainable business growth, attraction of new business investment, and further economic diversification in the State.
- Identify and eliminate regional economic development barriers.
- Develop and implement a comprehensive economic development strategy.
- Coordinate regional planning efforts resulting in the creation of new business opportunities.
- Achieve goals identified through regional processes; enable communities to pool their limited resources.
- Develop partnerships among public, private and other organizations.
- Establish a Board of Directors with 10-20 professional members constituting 150+ representatives of the region's economic, political and social interests, partnering to achieve a stronger economic base in their region.
- Provide technical assistance via direct links with local citizens.

**RETURN ON THE STATE'S INVESTMENT** - The ARDOR Program provides a positive fiscal impact by leveraging the funds received for economic development throughout the state's regions. In FY 07 funds were leveraged by nearly 800%, turning \$620,000 into \$4,476,914.

→ State ARDOR Program Funds	\$ 620,000
→ Other State Funds	\$ 239,561
→ Total Non-State Funds	\$1,904,076
→ Federal Funds	\$ 904,667
→ Private Sector Funds	\$1,108,558
→ Other Non-Federal/Non State Funds	\$1,665,316
→ In-Kind Contributions	\$ 417,238
→ <b>TOTAL ARDOR BUDGET</b>	<b>\$4,476,914</b>

**REAUTHORIZATION** - The ARDOR Program is up for reauthorization by the Legislature July 1, 2008. The ARDOR Program has continuously been reauthorized by the Legislature for three year periods.

- THE ARDORs are recommending reauthorization for five years so that more effective long term planning can be accomplished.

**PLEASE SUPPORT A 5 YEAR REAUTHORIZATION OF THE STATE'S ARDOR PROGRAM FOR MORE EFFECTIVE LONG TERM PLANNING**

**ARDOR PROGRAM ACCOMPLISHMENTS** – The ARDOR Program is responsible for many accomplishments over the years. Here is a representation of accomplishments and on-going activities from the 11 designated Alaska Regional Development Organizations:

- ➔ Provides technical training, financial literacy, credit reform, business planning, marketing strategies, and business start-up opportunity workshops. Services have been delivered to more than 650 individuals across the State.
- ➔ Hosts the Annual Economic Forecast Luncheon in Anchorage which was attended by more than 1000 local business and community leaders.
- ➔ Monitors fisheries regulatory, management, and marketing issues that impact Alaska fisheries and influence policies, management, and marketing initiatives to create a more stable fisheries economy in the regions. Over 250 seasonal jobs resulted; more fisherman bonuses were obtained from processors and substantial revenue to airlines and other local service providers was obtained.
- ➔ Supports Economic Development Administration (EDA) funding for development of community based seafood processing facilities, multipurpose facilities, harbor infrastructure projects and municipal services for increased job creation.
- ➔ Supports and assists in the promotion of regional economic development projects, natural resource products (salmon, mining, etc.) and, supported and promoted regional infrastructure expansion efforts (transportation, housing, etc.)
- ➔ Establishes E-Commerce Centers in rural villages to enable Alaska Native artists to sell their art globally to increase cash income in predominantly subsistence based economy regions, resulting in more than 400 participants. Eight E-Commerce Centers and an artist carving center have been established
- ➔ Creates Small Business Incubators; over 70 new Alaska jobs were created in one year. Multiple other small businesses created through business planning assistance.
- ➔ Markets ongoing regional tourism efforts and has resulted in increased businesses and inquiries by consumers, travel trade and travel media.
- ➔ Coordinates regional efforts and partners with more than 500 local, regional, private, municipal and State bodies to pool resources, decrease duplication of efforts and create new business opportunities.

**ALASKA REGIONAL DEVELOPMENT ORGANIZATIONS (ARDORS)**

**ANCH. ECONOMIC DEVELOPMENT CORPORATION**  
907/258-3700

**BERING STRAIT DEVELOPMENT COUNCIL**  
907/443-4248

**COPPER VALLEY DEVELOPMENT ASSOC.**  
907/822-5001

**FAIRBANKS NORTH STAR BOROUGH ECONOMIC DEV. COMMISSION**  
907/459-1309

**LOWER KUSKOKWIM ECONOMIC DEV. COUNCIL**  
907/543-5967

**KENAI PENINSULA BOROUGH ECONOMIC DEV. DISTRICT**  
907/283-3335

**MAT-SU RESOURCE CONSERVATION & DEVELOPMENT**  
907/373-1062

**NORTHWEST ARCTIC BOROUGH ECONOMIC DEV. COMMISSION**  
907/442-2500

**PRINCE WILLIAM SOUND ECONOMIC DEV. DISTRICT**  
907/222-2440

**SOUTHEAST CONFERENCE**  
907/463-3445

**SOUTHWEST ALASKA MUNICIPAL CONFERENCE**  
907/562-7380

**STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT**  
907/269-8104

# ALASKA REGIONAL DEVELOPMENT ORGANIZATIONS (ARDOR)

## A Network:

Regional economic development organizations

Plan and implement regional economic development

Represent both urban and rural Alaska

Partner with State and others

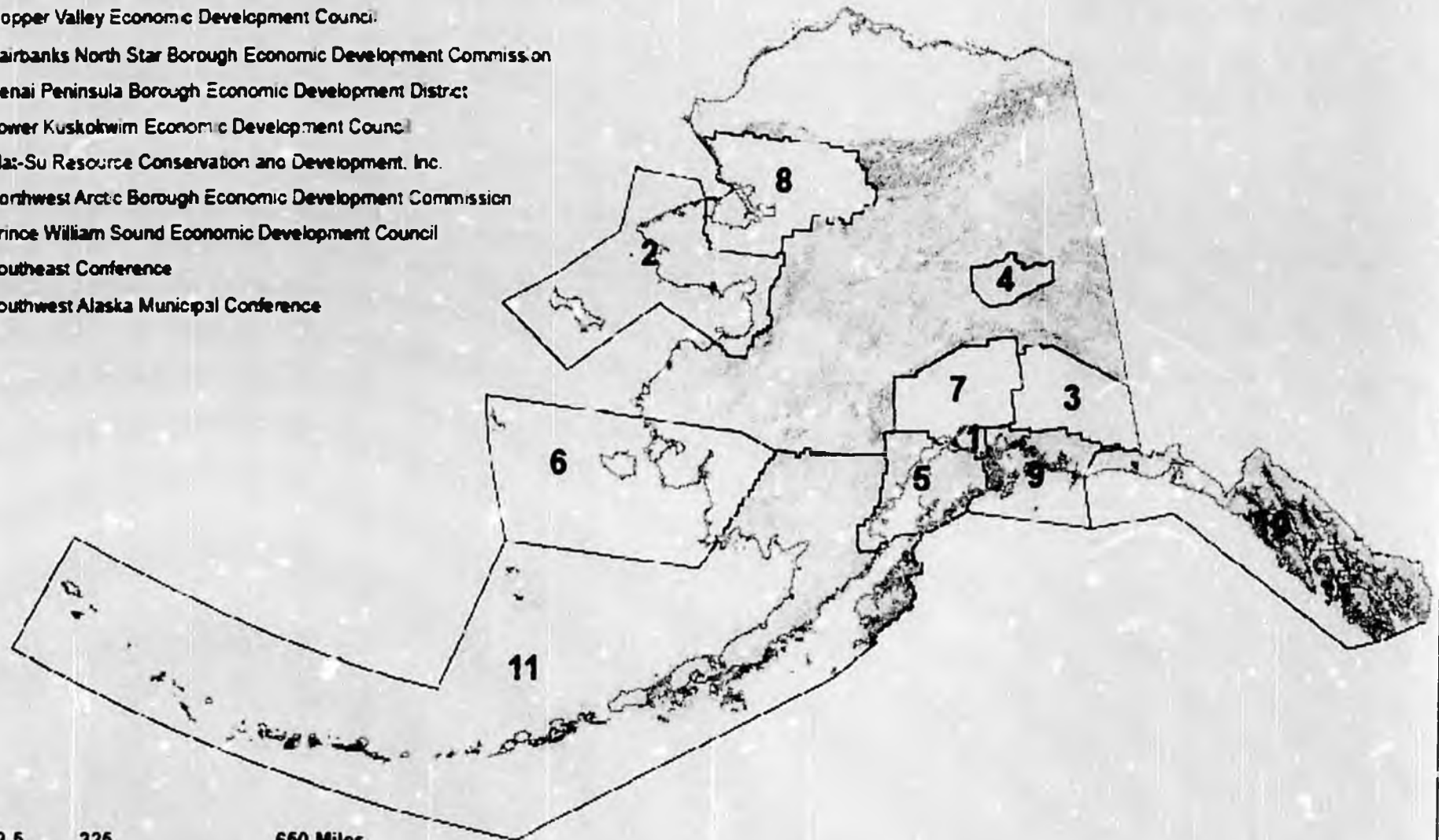
# Alaska Regional Development Organizations (ARDORS)

Partners in developing our state and regional economies.

## Legend

### ARDORS

- 1** Anchorage Economic Development Corporation
- 2** Bering Straits Development Council
- 3** Copper Valley Economic Development Council
- 4** Fairbanks North Star Borough Economic Development Commission
- 5** Kenai Peninsula Borough Economic Development District
- 6** Lower Kuskokwim Economic Development Council
- 7** Mat-Su Resource Conservation and Development, Inc.
- 8** Northwest Arctic Borough Economic Development Commission
- 9** Prince William Sound Economic Development Council
- 10** Southeast Conference
- 11** Southwest Alaska Municipal Conference



0 162.5 325 650 Miles

# ALASKA LEADERS

**11 ARDORs**

**150 Board members**

**Experts in**

- Health
- Transportation
- Tourism
- Chamber of Commerce
- Municipalities
- Natural resources
- Workforce development
- Education
- Fisheries
- Mining
- Native Corporations
- IRAs

# ARDORs Partner to Develop Regional and State Economy

Alaska Manufacturing Extension Partnership

Denali Commission

Economic Development Administration

US Department of Agriculture

US Small Business Administration

UA Center for Economic Development

Coordinates regional efforts and

More than 500 local, regional, private,  
municipal and State organizations

# ARDOR Information

Established by Legislature in 1988

Organizations certified as ARDORs

11 ARDORs

Represent local and regional public & private organizations and interests

Reauthorized every three years

Funded through AIDEA Receives  
\$650,000 annually

\$56,363/organization

\$30,000 /state for administration

