

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 149
 (H) Publish Date: 3/22/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Private Prison in Kenai BRU: Revenue Operations
 Component: Treasury
 Sponsor: Representative Chenault
 Requester: House State Affairs Component Number: 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Deven Mitchell, State Debt Manager Phone 465-3750
 Division: Treasury Date/Time March 14, 2001, 1 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 03/14/2001
 Agency: Department of Revenue

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Department of Revenue Fiscal Note for HB 149

This legislation authorizes the Department of Corrections to enter into an agreement with the Kenai Peninsula Borough to lease facilities for the confinement and care of prisoners. The lease would be for at least 20 years and provide at least 800 prison beds with no limitation on cost of the facility or cost of prisoner care. The lease must provide for an agreement between the Kenai Peninsula Borough and a private third-party contractor to construct and operate the facility. The legislation provides no requirement to use tax-exempt financing, no maximum lease term, no maximum annual lease payment amount, and no maximum project size in either dollars or number of prisoners to be housed at the facility.

The bill as drafted would make it quite unlikely that the facility could be financed on a tax-exempt basis. This means that any financing will carry interest rates approximately 2% higher than rates the state normally pays for financing public facilities. Based on the project estimates of \$60 million to \$125 million, paying a taxable rate of interest would increase the cost of the project financing from \$16 million to \$32 million. In order to minimize the cost to the state (reducing interest expense), the legislation should be redrafted in a way that would permit the use of tax-exempt financing. The current draft does not sufficiently circumscribe the role of the private third-party contractor to permit the borough to comply with "private use" and "management contract" guidelines of the Internal Revenue Service.

Additional concerns that should be addressed:

- No maximum capital expenditure for the facility is established.
- No maximum lease term is specified.
- No maximum lease payments are identified.

While the state's lease payments will be the security for the bonds, there is no specific provision in this legislation for the State Bond Committee to participate in structuring the financing. The state's credit is involved as purchasers of the bonds look to the underlying source of revenues for bond payments when determining risk. As the source of revenues will be the lease payments of the state to the borough, the "credit trail" leads to the state and its ability to make future lease payments. The foundation upon which the state has built credit ratings has been the centralized control of the state's credit through the State Bond Committee. To the extent we deviate from this policy, continued strong ratings of the state become more difficult to retain.

Accordingly, similar to the Anchorage jail transaction, it is anticipated that the State Bond Committee will actively participate in structuring the transaction with the Kenai Peninsula Borough. While costs are not specified in this fiscal note, it is anticipated that between \$50,000 and \$100,000 of bond proceeds (dependent upon size) would be used to pay the state's expenses in this transaction.