

SB

65

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

M E M O R A N D U M

FEB 6 1987

Beets
Bank up to
Kelly Bill
H...

DATE: February 4, 1987

TO: The Honorable Jalmar Kerttula
Alaska State Senate

FROM: Gerald Wilkerson *GW*
Legislative Auditor

RE: Duties and Responsibilities of Legislative Audit

The Division of Legislative Audit (DLA) performs three types of audits and/or reviews: (1) specially requested reviews and performance audits, (2) financial/compliance departmental audits, and (3) sunset reviews.

Special Reviews

DLA conducts special reviews of state programs, grants, and agencies as directed by the Legislative Budget and Audit Committee. The Committee authorizes these special reviews from specific requests received from legislators. Special reviews provide the Legislature with an informed and objective evaluation of issues or concerns involved in state government operations.

Because they initiate the requests, legislators generally are more interested in the special review reports than the reports generated by the other two types of DLA reviews. Special reviews reflect the specific concerns and interests of individual legislators and their constituents.

Financial/Compliance

From the state's fiscal point of view, an important part of DLA's responsibilities is the performance of departmental financial compliance audits in conformity with the requirements established by the Federal Single Audit Act and generally accepted auditing standards. All departments that receive Federal funds are required to be audited under the provisions of this act. Last year the State received in excess of \$335 million in Federal funds.

In recent years, increased efficiency has allowed DLA to audit every department each fiscal year. An annual departmental audit is a primary requirement of the Federal Single Audit Act. This enhanced audit effort has provided for more follow-up and monitoring of departmental operations and, in most state agencies, has contributed to improved fiscal practices.

Financial compliance audits provide benefits other than meeting the requirements to receive Federal funding and improved fiscal operations. This continual, independent review of operations allows DLA to develop a broad understanding of how each department works and effectively carry out the special reviews requested by the Legislative Budget and Audit Committee.

Sunset Reviews

The sunset process, enacted by the 1977 Legislature, provides for the periodic legislative scrutiny of the activities of various boards and commissions. DLA sunset reviews are a critical element in the legislative sunset review process. Since sunset reviews began in 1979, DLA has conducted from 6 to 8 reviews a year. These reviews focus on the function of the various boards, evaluates how effectively they serve the public, and makes recommendations regarding whether they should be allowed to sunset.

Summary

Each type of the three audits/reviews is conducted using different criteria and is intended to serve a different purpose. While the results of one type of review may be more visible and valuable to individual legislators when compared to other types, each serves an important purpose, be it satisfaction of a legislative inquiry, compliance with the Single Audit Act and receipt of Federal funds, or as part of the Sunset Review process.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 21, 1987

SUBJECT: Sectional Analysis of SB 65
(Creating a state auditor)

TO: Senator Jalmar Kerttula
Chairman Senate Finance Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of SB 65, providing for a state auditor.

Section 1 creates a new chapter which establishes the state auditor.

Sec. 37.06.010 sets out the experience requirements for the state auditor.

Sec. 37.06.020 lists the powers and duties of the state auditor. The duties include reviewing compliance audits from state agencies, municipalities, and school districts; providing management and program audits on request and for sunset reviews; and reporting any unauthorized illegal, irregular or unsafe financial administration; and assisting state agencies, municipalities, and school districts to improve accounting systems. The auditor may audit any matter related to state finance and may investigate the conduct of officers who handle state money, property or records.

Sec. 37.06.030 permits the state auditor to employ staff, who are placed in the exempt service.

Sec. 37.06.040 gives the auditor access to all records of state agencies, municipalities and school districts. The auditor may require information on oath.

Sec. 37.06.050 sets out the auditor's duties concerning audit reports, both those prepared by the auditor's office

and those prepared by others. If the auditor finds a report inaccurate, the auditor may require correction. If the auditor disapproves a report, the auditor may serve a notice of intent to withhold state funds from the entity under Sec. 37.06.060. The auditor is required to furnish copies of approved audit reports to various entities and to report annually on the office's activities to the legislature.

Sec. 37.06.060 requires entities who have been audited to implement recommendations in the audit. Failure to do so may result in the withholding of 50 percent of the state funds identified in the auditor's notice of intent to withhold. The entity has the right to an informal conference with the auditor and to a formal hearing under the Administrative Procedure Act.

Sec. 37.06.070 permits the auditor to provide for follow-up audits or investigations and requires them if the initial report revealed evidence of fraud, abuse, or illegal acts, substantial noncompliance with law, or material weaknesses in internal accounting controls.

Sec. 37.06.080 prohibits the auditor and employees of the auditor from serving on state boards, commissions, authorities or other administrative agencies and makes them subject to the conflict of interest chapter (AS 39.50).

Sec. 37.06.090 requires the auditor to establish by regulation standards for conducting audits. Audits conducted by independent outside auditors are subject to these standards if the state auditor contracts for or reviews the audit.

Sec. 37.06.100 permits the auditor to have access to bank records and to require help from all state officers and employees when conducting an audit. Subsection (b) requires the auditor to maintain complete files for audit work papers which are to be confidential unless an audit report has been released under Sec. 37.06.050.

Sec. 37.06.110 requires the auditor to contract with certified public accountants and internal auditors to the greatest extent possible for the conduct of financial and compliance audits and permits the auditor to contract for management and program audits.

Sec. 37.06.120 requires various entities to reimburse the state auditor for the cost of an annual audit performed by the auditor.

Sec. 37.06.130 appoints the attorney general as legal counsel to the state auditor but permits the auditor to employ independent legal counsel to better serve the needs of the office. The section also requires the auditor to report illegal conduct to the attorney general for prosecution.

Sec. 37.06.140 requires the state auditor to comply with the Administrative Procedure Act (AS 44.62).

Sec. 37.06.150 permits the legislature to remove the auditor for cause.

Sec. 37.06.200 defines various terms used in the chapter. The change in some definitions requires conforming changes in statutes outside the chapter. For example, the bill uses the term "management and program audit" for "operational and performance audit."

Section 2 permits the department of education to contract with an independent outside auditor to perform audits on school districts that have received state funding for construction projects. The section requires the audits to conform to standards adopted by the state auditor.

Section 3 permits the commissioner of education or the board of education to contract with an independent outside auditor to perform audits of a school district's public school foundation money. The section requires the audits to conform to standards adopted by the state auditor.

Section 4 requires the annual audits performed on regional housing authorities to conform to the audit standards adopted by the state auditor.

Sections 5 and 6 require the annual audits of the Alaska Housing Finance Corporation to conform to audit standards adopted by the state auditor.

Section 7 requires the annual audit of the Legislative Council to conform to audit standards adopted by the state auditor.

Section 8 limits the power of the Legislative Budget and Audit Committee to prescribe procedures for post-audit functions or to provide for annual post audits. The bill gives those functions to the state auditor.

Section 9 directs the Legislative Budget and Audit Committee to provide for an annual audit of the state auditor.

Section 10 changes the duties of the Legislative Budget and Audit Committee to reflect the change of power from the legislative auditor to the state auditor. The section also substitutes new terms for old terms.

Sections 11 and 12 make changes to reflect that the state auditor will be performing functions now performed by the legislative auditor.

Section 13 adds the state auditor to the list of persons exempt from investigation by the Office of the Ombudsman.

Section 14 substitutes the state auditor for the legislative auditor.

Section 15 requires the annual audit of a municipality to conform to audit standards adopted by the state auditor.

Section 16 substitutes the state auditor for the legislative auditor and requires the annual audit of a regional resource development authority to conform to audit standards adopted by the state auditor.

Section 17 requires the annual audit of the public facility planning fund to conform to audit standards adopted by the state auditor.

Section 18 substitutes the state auditor for the legislative auditor.

Section 19 requires state agencies to have their financial records audited annually by an independent outside auditor in conformance with standards adopted by the state auditor.

Section 20 requires the annual audit of the Alaska Resources Corporation to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 21 permits the Legislative Budget and Audit Committee to request the state auditor to audit the Alaska Permanent Fund. The committee currently has authority to provide for the audit.

Section 22 requires the annual audit of the financial statement of the permanent fund corporation to conform to audit standards adopted by the state auditor.

Section 23 makes the compensation fixed by law for the state auditor the exclusive compensation for that officer.

Section 24 excludes the state auditor from coverage of the state personnel act and from laws relating to hours of work, leave, overtime, and travel allowances.

Section 25 exempts the state auditor from the laws relating to leaves of absence.

Section 26 adds the employees of the Office of State Auditor to the list of state employees in the exempt service.

Section 27 adds the state auditor to the list of state officers required to file income statements under the conflict of interest laws.

Section 28 adds the state auditor to those required to report financial interests and directs that if the auditor fails to file, salary and expenses due after that date are forfeited. Failure to file is a misdemeanor.

Section 29 substitutes the state auditor for the legislative auditor.

Section 30 requires that the annual performance audit of the Alaska Railroad conform to audit standards adopted by the state auditor except as specifically provided in the section. The section also substitutes the state auditor for the legislative audit division.

Section 31 substitutes the state auditor for the Legislative Budget and Audit Committee. The section also requires the audit of the Alaska City Development Corporation to conform to audit standards adopted by the state auditor.

Section 32 substitutes the state auditor for the legislative audit division.

Section 33 requires the director of the office of management and budget to instruct the commissioner of administration to withhold funds to an entity that has failed to correct an audit when directed by the state auditor under Sec. 37.06.060.

Section 34 requires the annual audit of the housing assistance revolving fund in the Department of Community and Regional Affairs to conform to audit standards adopted by the state auditor.

Section 35 directs the state auditor to select an independent auditor to perform management and program audits of boards, commissions and authorities subject to sunset review. The audit is required to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative audit division.

Section 36 substitutes the state auditor for the legislative audit division.

Section 37 substitutes the state auditor for the legislative audit division. The audit is required to conform to audit standards adopted by the state auditor.

Section 38 substitutes the state auditor for the legislative auditor.

Section 39 requires the annual audit of the Alaska Gas Pipeline Financing Authority to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 40 requires the annual audit of the Alaska Power Authority to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 41 requires the annual audit of the bond bank authority to conform to audit standards adopted by the state auditor.

Section 42 requires the annual audit of the Alaska Industrial Development Authority to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 43 substitutes the state auditor for the legislative audit division.

Section 44 provides for the transition from the legislative auditor to the state auditor.

Section 45 directs appropriate name changes to reflect the substitution of the state auditor for the legislative auditor.

Section 46 repeals various laws relating to the legislative auditor.

Section 47 makes the Act effective on the first day of the first term of the first state auditor. This means that the Act is not effective unless the constitutional amendment is approved by the voters.

TC:csh
c7/020

Examples of Need for Stronger Audit Function

1. Department of Transportation & Public Facilities: Governor Cowper said in his State of the State address that there is no way to correlate the State's budget system, its accounting system and its cash management system.

The Governor also said that DOTPF has used its own private accounting system which did not track with the State accounting system and "we can't tell how much money has been spend on the (capital) projects we do know about, or how much is allocable to state funds and how much to federal funds."

The Governor continued: "no one seems to know how much of a reserve fund is actually there for the projects. It could be as high as \$787 million dollars. It could also be much lower." (Governor's Budget Message)

2. In 1985, the Department of Community & Regional Affairs found \$25.6 million dollars in interest earnings on loan programs which had inadvertently been missed by both the Department of Revenue and C & RA.

3. Until recently there has been no audit requirement for state grants, although billions of dollars have been appropriated in recent years to local governments and community groups. A State Auditor would be able to point this out to the public. (Anchorage Times editorial)

4. In 1985, it was revealed that millions of dollars in state money had been awarded borrowers under the Agricultural Revolving Loan Fund but many borrowers had not signed promissory notes for the money. (Anchorage Times story)

Recommended changes to SB 65 by Senator Kelly:

A. On page 1, lines 24, 26 and 28, the bill calls for annual compliance audits. This requirement may be unnecessary or difficult to meet and may result in excessive audit costs. "Annual" should be deleted and the frequency of audits left to the discretion of the Auditor.

B. On page 8, line 18, include the Alaska Commercial Fishing and Agriculture Bank. The Labor & Commerce Committee has recently held hearings on two bills relating to CFAB and discussed the issue of the costs of audits of the bank.

C. On page 15, lines 13, 17, and 20, changes have been made to the requirements for operational and performance evaluations of the Permanent Fund. These changes may be inappropriate and the committee may want to restore the original language.

D. On page 23, line 12, the bill would delete language calling for a performance audit by "a recognized railroad management expert". The original language should be retained, and this change not made.

E. Two changes need to be made to permit the employment of certain qualified professionals by the Auditor.

On page 3, line 6, after "accountants", add "certified internal auditors or certified management accountants".

On page 8, line 10, delete "and", add a comma; and after "certified internal auditors" add "and certified management accountants". On page 8, line 12, delete "and", add a comma; on line 13, following "certified internal auditors", add "certified management accountants".



Times photo by Mark Sweeney

Montessori school

Bobby Walker stacks counting rods recently during a class at Children's Montessori School in Chugiak. Maria Montessori, founder of the system, believed that

State mishandles \$3 million in loans

by Harry McFarland
Times Business Writer

Nearly five years after the state issued its first loan to a Delta Junction barley farmers' cooperative, papers have yet to be signed to legally obligate the group to repay loans now totaling about \$3 million.

Those unsigned notes are just one example of the faulty accounting methods and mishandled loan packages plaguing a \$52-million loan program, according to official documents. State officials say those problems could threaten Alaska's legal position should they need to initiate foreclosures on any of the loans.

Among the 276 borrowers of the Agricultural Revolving Loan Fund, 48.6 percent were delinquent with payments, according to a Division of Agriculture report for August.

State officials this week presented a

plan that would forgive the parcel-purchase and land-clearing loans on the second phase of the Delta project if the farmers give up their rights to farm. It validates acknowledgement that foreclosures to recover a portion of the state's investment may be commonplace among the 276 borrowers.

Last year, the state foreclosed on 13 Delta II farmers.

"We are trying to come to grips with the problems," said James Barnett, deputy commissioner of the Department of Natural Resources. "We have to realize that we have to take losses. Some farmers are going have to go into default."

Assistant Attorney General Joan Travostino, who has been assigned to help Division of Agriculture officials correct discrepancies in loans, said signatures from Alaska Farmers Cooperative directors won't be affixed to the

documents for some time.

"They don't have any way to pay. They don't make enough money," Travostino said.

Payment will be "tough," acknowledged Adrian Fredericks, cooperative manager since 1980, because "there aren't enough acres in production to keep a facility like this running."

Fredericks said that annual payments are being made to the agriculture division, but they are not full payments.

The cooperative's grain elevator has the capacity to handle 60,000 to 70,000 acres of grain production, Fredericks said, but only 12,000 to 13,000 acres are yielding crops.

"There's no way that the cooperative would be able to service the debt," he said.

The paper trail that details years of See Mishandled, page A-12

Sheffield axes Susitna funds; backers say dam will proceed

by Debbie Reinwand
Times Writer

Conspicuously absent from Gov. Bill Sheffield's \$7.6 billion budget for 1987, released Friday, were funds for the Susitna hydroelectric project. But proponents say the licensing process can continue without any more state dollars.

"Receiving money this year would have made the process easier down the road, but I think we all understand there isn't the money right now," said David Gottstein, spokesman for Alaskans for Statewide Energy Solutions, a group backing development of Railbelt hydroelectric dams. "We'll be happy if

ment fund," Gottstein said.

Sheffield said he intends to introduce legislation to do just that.

"We plan to return the money to the fund and continue with the FERC (Federal Energy Regulatory Commission) licensing process," the governor said.

In 1984, the legislature passed what is known as a continuing appropriation. The legislation required lawmakers to set aside \$200 million each year for development of the Susitna project, as well as \$50 million for the Bradley Lake hydro project.

This fall, however, two public inter-

An Anchorage judge agreed with the groups' legal argument and tossed out the continuing appropriation.

That threw into limbo the hundreds of millions of dollars already set aside for Susitna. Sheffield on Friday said he has a three-point plan for developing the dam, which includes returning the money already earmarked for Susitna to the power development fund.

"After we've reappropriated that money, we need a mechanism through legislation where we can put the interest derived from the fund back into the fund each year," Sheffield said.

"The third thing we need this year in

Continued from page A-1

error-plagued accounting procedures was first revealed by a 1980 audit that examined a \$1 million loan issued to the cooperative without any signed loan papers. The loan was issued to build the grain elevator at Delta Junction.

A confidential state ombudsman's report written this summer and obtained by The Times revealed the problems in the Division of Agriculture's loan program, and, specifically, the lack of documentation on the cooperative's loans.

Division of Agriculture Director Bill Helm admitted problems in the agency, but said he has been short of personnel that would help keep the loans in order.

The ombudsman's report further revealed that one of the cooperative's loans never has had a principal nor repayment terms agreed to by the group or the agriculture division.

"I guess I can't answer why they weren't signed," Fredericks said.

Neither apparently can anyone else.

The officials who ran the Division of Agriculture in 1980 and 1981 were replaced when Gov. Bill Sheffield was elected to office. Only John Katz, Department of Natural Resources commissioner, was retained by Sheffield, and he now runs the governor's Washington, D.C., office.

In 1982, auditors found that 23 loans had been authorized and more than \$5 million disbursed without official loan documents. Katz told Legislative Budget and Audit Director Gerald Wilkerson that letters of intent were executed to outline terms of the notes, but the farmers' cooperative apparently slipped through the cracks.

Travostino said the cooperative's four unsigned notes, as well as those of other borrowers, have forced the board to tighten loan procedures, especially to those who keep returning for funds.

Barnett said the state will have to begin taking a more focused approach to forcing farmers to meet the obligations.

"A lot of money was sent in a lot of places during the early '80s," Barnett said. "A lot of the investment was too speculative."

"I think in the past," said Travostino, "the loan board was not concerned with the delinquencies, because they were so busy handing out money."

State auditors say that 48.6 percent of the state's 787 farming loans are delinquent, while the Division of Agriculture says only 35 percent are delinquent. The

13.6 percent difference is a matter of semantics.

Helm said auditors mark a loan delinquent and due when a current month's payment is past due. The loan fund says a note is delinquent when it hasn't been paid on its maturity date.

Delta Junction farmers have borrowed 46 percent, or \$22.8 million, of the total outstanding loans, according to agricultural division records. Auditors say \$13.5 million in loans are delinquent, a rate of 25.8 percent; the loan board says 17.2 percent are late.

In the Delta Junction area, 98 borrowers account for a total 364 loans; 21 farmers have been referred to the Department of Law for collection.

The Matanuska Valley farmers are not much better off, as they account for about 21 of 77 farmers in that area who have been referred to the law department. Auditors say nearly 26 percent of the Matanuska loans are delinquent, while the agriculture division says delinquencies are 17 percent.

A 1984 legislative audit reiterated criticisms detailed in earlier reviews, which had found numerous discrepancies in agricultural division loan handling procedures. The auditors found one \$160,000 mistake in interest accrual, and had to correct more than 150 loan account errors.

More staff and thorough accounting may be the only answers, state officials say. Both Barnett and Travostino note that a receding revenue picture could darken any hope that the state will be able to keep pouring money into agricultural projects, hire needed loan examiners, accounting staff and attorneys to ensure tighter control on the monies.

"We have to make the farmers successful without putting any more money in," Barnett said.

Legislative auditors in 1980 first began hammering at the agriculture officials to clear up discrepancies in its loan procedures.

Among the recommendations were:

- The Department of Natural Resources should improve its procedures for disbursing loan funds. The recommendation came from a "special review" of the \$1 million allocation to build grain storage facilities at Delta Junction.

The funds were issued to the Alaska Farmers Cooperative, but auditors found that the "loan agreement was never executed, and although the Coop is voluntarily complying with some of the conditions . . . it is not meeting the more important condi-

tions regarding investment capital and operating losses."

Auditors recommended the state force the cooperative to sign loan payments, and the agricultural division should monitor the group's activities to ensure that the provisions of the agreement are being carried out."

• Apparently a loan agreement of \$32,000 was executed improperly for the amount of \$174,000. The auditors recommended that that be changed to reflect the proper amount of money loaned.

Yet, more than two years later, agriculture division procedures remained in disarray. A legislative audit for fiscal 1982 found auditors recommending that "ARLF should ensure loan notes are properly executed" after they found the 23 loans issued without legally binding documents.

The lack of documentation left auditors to conclude that, "If the notes are not complete with the amount of the loan, issue date, interest rate, repayment terms, and maturity date, and a notarized signature of the borrower, the collectibility of the loan may be jeopardized.

"For example," the auditors continued, "ARLF presently has plans to foreclose on a loan for which the note has no stated repayment terms or maturity date. The borrower has departed from Alaska. ARLF may have difficulties foreclosing on this loan due to the incomplete note."

Auditors also said they found five delinquent loans that

weren't shown by division staff to be in that status. "This was due to the staff being informed that loan extension and-or reamortization agreements were in process," auditors said. "However, no written agreements were ever executed with the borrowers."

The 1982 audit also revealed:

• A loan for \$40,000 denied by the ARLF board was subsequently issued by agricultural division staff.

• A loan issued for an amount different from the amount approved by the board.

• Two loans totaling \$43,000 issued with no record of board approval.

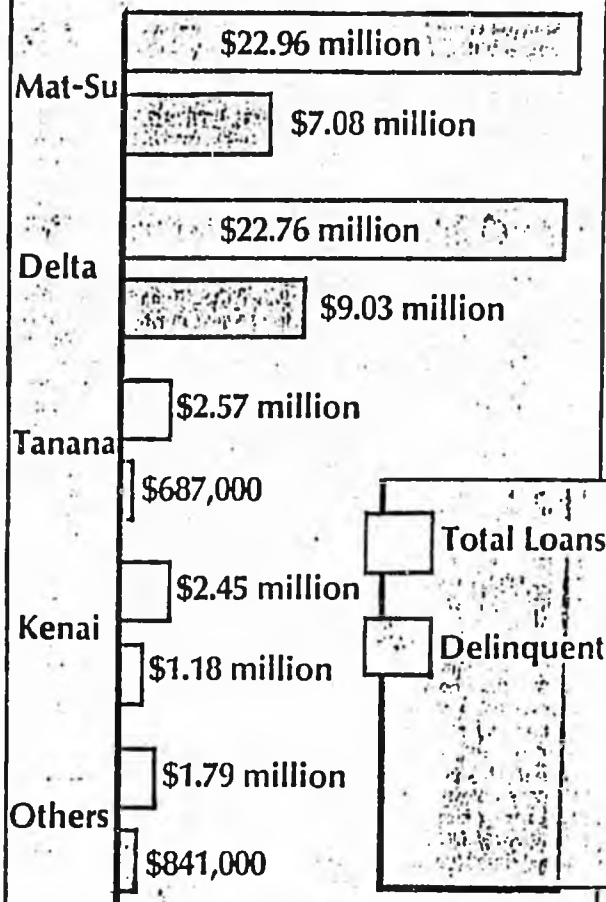
Alaska statutes required that any loans in excess of \$25,000 be approved by the loan board and the natural resources commissioner.

In December 1984, the auditors once again reported major discrepancies and laxity in the agriculture division, and issued several recommendations to tighten up the purse strings.

Among the findings, the auditors found that bank accounts were not reconciled, borrowers' controlled accounts were not kept in check which allowed borrowers to spend funds on inappropriate equipment, and interest accruals were reported erroneously. One mistake in interest totaled \$160,000.

The auditors reported they had to make adjustments on interest accruals for more than 150 accounts.

Local farm debts



States with "State Auditor", or similarly titled official

32 Total

Alabama, State Auditor
Arizona, Auditor General
Arkansas, State Auditor
California, Auditor General
Colorado, State Auditor
Connecticut, Auditors of Accounts
Delaware, Auditor of Accounts
Florida, Auditor General
Georgia, State Auditor
Illinois, Auditor General
Iowa, Auditor of State
Kentucky, Auditor of Public Accounts
Maine, State Auditor
Massachusetts, State Auditor
Minnesota, State Auditor
Missouri, State Auditor
Nebraska, Auditor of Public Accounts
New Mexico, State Auditor
North Carolina, State Auditor
North Dakota, State Auditor
Ohio, State Auditor
Oklahoma, State Auditor & Inspector
Pennsylvania, Auditor General
Rhode Island, Auditor General
South Carolina, State Auditor
Texas, State Auditor
Utah, State Auditor
Vermont, Auditor of Accounts
Virginia, Auditor of Public Accounts
Washington, State Auditor
Wisconsin, State Auditor
Wyoming, State Auditor

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

REVISION DATE: _____

REQUEST

FISCAL DETAIL

Bill/Resolution No.: SB 148 Agency Affected: Legislative Audit, CRA, DEC, DOTPF, Labor, HSS, and DOA

Title: Elected State Treasurer Program Category Affected: _____

Sponsor: Kelly/Sturgulewski/Halford/ Bennett/Ferguson/Abood/Faiks BRU, Program or Subprogram(s) Affected _____

Requestor: _____

Date Requested: _____

Fiscal Note is zero based upon assumptions detailed in the analysis section.

ANALYSIS

Assumptions:

1. Financial compliance audits performed upon school boards, municipalities, independent State authorities, banks or quasi-corporations, as required by this law, shall be paid for by the auditee.
2. Financial compliance audits performed in item (1) will be performed by certified public accountants licensed in the State.
3. Performance, management and program audits to be performed on independent State authorities or quasi-corporations will be done by the State Treasurer.
4. The FY 86 budget level of the Legislative Audit Division, including appropriate inflation adjustments (\$2,569,400) through 1988, will be combined with other budgets listed in item 6 to fund the State Treasurer organization.
5. Management and program audit requests by the Governor, Legislative Budget and Audit Committee or the Chief Justice of the Supreme Court will not increase above the FY 84 audit request activity.
6. Budget levels of the respective executive branch internal audit groups, approximating \$2,200,000, including appropriate inflation adjustments, will be transferred to the elected treasurer organization in 1988, are adequate to meet their respective audit mandates and will be adjusted for inflation through the date of transfer. These groups are presently part of CRA, DEC, OMB, DOTPF, Labor, HSS, and DOA.

Prepared By: 

Phone: 465-3830

Division: Legislative Audit

Date: 7/5/86

Approved by Commissioner _____

Date: _____

Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office Management and Budget
- Impacted Agency(ies)

Original sponsors: Kelly, Abood,
Sturgulewski and Faiks

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 65 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for a state auditor; establishing
7 the state auditor's powers and duties; abolishing the
8 legislative audit division; and providing for an
9 effective date."

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

11 * Section 1. AS 37 is amended by adding a new chapter to read:

12 CHAPTER 06. STATE AUDITOR.

13 Sec. 37.06.010. QUALIFICATIONS. The state auditor shall have
14 management experience. If the state auditor does not have at least
15 five years of public sector management and program audit experience,
16 the auditor shall appoint a deputy state auditor who meets that re-
17 quirement. The state auditor shall

18 (1) hold a valid certificate under AS 08.04.100 as a cer-
19 tified public accountant;

20 (2) be a certified internal auditor and a member in good
21 standing of the Institute of Internal Auditors; or

22 (3) be a certified management accountant and a member in
23 good standing of the Institute of Certified Management Accountants.

24 Sec. 37.06.020. POWERS AND DUTIES. (a) The state auditor
appointed under art. IX, sec. 18 of the state constitution, shall

26 (1) review the compliance audits of the accounts of all
27 state agencies;

28 (2) review the compliance audits of the accounts of munici-
29 palities under AS 29.35.120;

1 (3) review the compliance audits of the accounts of school
2 districts in the state under AS 14.11.125 and AS 14.17.190;

3 (4) provide for management and program audits and investi-
4 gations when required by the governor, the Legislative Budget and
5 Audit Committee, or the chief justice of the supreme court;

6 (5) provide for management and program audits of boards and
7 commissions designated in AS 08.03.010 and AS 44.66.010 and of the
8 programs and activities subject to termination under AS 44.66.020 and
9 44.66.030, and submit the report to the legislature no later than the
10 first day of the regular session of the legislature convening in the
11 year designated in AS 08.03.010 and AS 44.66 as the termination year
12 for the board, commission, or program;

13 *new section*
14 (6) provide for management and program audits of each state
15 agency not designated under AS 08.03.010 or AS 44.66.010 at least once
16 in each three-year period;

17 (7) review the compliance audits of all statements of
18 financial condition of the state government and agencies of state
19 government;

20 (8) report immediately to the governor, the attorney gen-
21 eral, and the Legislative Budget and Audit Committee any unauthorized,
22 illegal, irregular, or unsafe handling or expenditure of state money,
23 or other improper practice of financial administration, and ob-
24 struction of the state auditor during the conduct of an audit or
25 investigation;

26 (9) assist state agencies, municipalities, and school
27 districts in establishing or improving their accounting systems;

28 (10) keep accounts showing the costs of audit operations and
29 of each audit and investigation conducted, and other accounts neces-
sary for administration of the state auditor's office.

1
removed
"Management
audit"

(b) The state auditor may

(1) provide for an investigation of a matter related to state finance or operations; and

(2) investigate and examine the conduct of officers who are authorized to receive, collect, or disburse money for the state, or who manage or control property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by a state agency in the disbursement of public money.

10
new language
"P.A.s"

9 Sec. 37.06.030. EMPLOYEES. The state auditor may employ staff needed to carry out the duties of the office. Qualified professionals may be employed on a temporary basis for special assignments. Employees of the office of the state auditor are members of the exempt service under AS 39.25.110.

14 Sec. 37.06.040. ACCESS TO RECORDS AND TESTIMONY. (a) The state auditor has access at all times to records, accounts, reports, vouchers, correspondence, files, books, money, and property, whether confidential or not, of every state agency, municipality or school district subject to the audit and investigative authority of the state auditor. An officer or employee of a state agency who possesses or controls records or property shall permit access to and examination of them upon the request of the state auditor or an agent authorized by the state auditor to make the request.

(b) The state auditor may require information on oath from a person regarding matters relating to an account that the state auditor is authorized to audit. The state auditor may summon a person to appear and to give testimony or answer interrogatories under oath respecting audit matters.

28 Sec. 37.06.050. AUDIT AND INVESTIGATION REPORTS. (a) Upon completion of each audit or investigation under this chapter, the

1 auditor or investigator shall prepare a report containing findings and
2 recommendations. The state auditor shall review reports that are not
3 prepared by the state auditor to determine accuracy, completeness, and
4 compliance with audit standards. If the state auditor finds that a
5 report is inaccurate, incomplete, or fails to comply with audit stan-
6 dards, the state auditor shall return it to the auditor or investiga-
7 tor who prepared it and to the agency, municipality, or school dis-
8 trict concerned together with a notice of deficiencies. The auditor
9 or investigator shall correct the report and resubmit it to the state
10 auditor.

11 (b) If the state auditor approves a report or a corrected re-
12 port, the auditor or investigator shall furnish a copy of the report
13 and the notice of approval to the governor, the legislature, the state
14 auditor, and to the head of the agency, municipality, or school dis-
15 trict concerned. Unless a report is based on or contains information
16 made confidential by law or protected by the right to privacy estab-
17 lished in art. I, sec. 22, Constitution of the State of Alaska, the
18 state auditor shall release the report to the public.

19 (c) If the auditor or investigator fails to correct the report,
20 the state auditor shall disapprove the report. If the state auditor
21 disapproves a report concerning an agency, the state auditor shall
22 notify the agency head and the governor, chief justice of the supreme
23 court, Legislative Council, or Board of Regents. The auditor or
24 investigator shall furnish a copy of the report to the governor, the
25 legislature, the state auditor, and to the head of the agency, munic-
26 ipality, or school district concerned. If the state auditor disap-
27 proves a report concerning a municipality or a school district, the
28 state auditor shall notify the governing body and shall serve a notice
29 of intent to withhold funds under AS 37.06.060 on the governing body.

1 (d) The state auditor shall prepare and submit to the legisla-
2 ture an annual report of activities, summarizing the findings and
3 recommendations of each audit and investigation report and presenting
4 other findings and recommendations considered necessary.

5 Sec. 37.06.060. REVIEW OF REPORTS. (a) Upon receiving an
6 approved audit or investigation report under AS 37.06.050, the head of
7 the agency or the governing body of the municipality or school dis-
8 trict concerned shall review the report and determine the measures
9 necessary to correct the deficiencies identified. Within 30 days
10 after receiving the report, the agency head or the governing body
11 shall file with the state auditor a written response setting out the
12 corrections proposed. The response may dispute the findings of the
13 auditor or investigator. The state auditor shall review the response.
14 If the state auditor approves the response, the state auditor shall
15 notify the agency or governing body of the approval.

16 (b) If the state auditor disapproves an audit of a municipality
17 or school district under AS 37.06.050 or the response of a municipali-
18 ty or school district, the state auditor shall serve a notice of
19 intent to withhold funds on the governing body. The notice shall
20 inform the governing body of the

21 (1) inaccuracy, omission, or noncompliance with audit
22 standards of a report; or

23 (2) deficiencies identified by an approved report for which
24 the governing body has failed to propose adequate corrections and
25 shall identify methods for making the corrections.

26 (c) After service of the notice of intent to withhold funds, the
27 governing body may request a hearing under AS 44.62 (Administrative
28 Procedure Act). In addition, the governing body may request an
29 informal conference with the state auditor. If a conference is

1 requested, the state auditor shall postpone the hearing until the con-
2 ference is adjourned.

3 (d) If, after a hearing, the state auditor finds that the audi-
4 tor or investigator has failed to correct the report or the governing
5 body has failed to adopt an adequate plan to correct deficiencies, the
6 state auditor may order that state funds be withheld from the munici-
7 pality or school district for approved school construction projects
8 under AS 14.11, the public school foundation program under AS 14.17,
9 municipal tax resource equalization under AS 29.60.010 - 29.60.080,
10 state aid to municipalities for miscellaneous purposes under AS 29.-
11 60.100 - 29.60.180, or grants to municipalities under AS 37.05.315
12 until the governing body adopts an adequate plan. The state auditor
13 shall certify the findings and order to the director of the office of
14 management and budget. The director shall immediately instruct the
15 commissioner of administration to withhold from distribution to the
16 municipality or school district 50 percent of the money for that
17 fiscal year remaining to be distributed for a program identified in
18 the order. If the legislature suspends the operation of any of the
19 programs identified in the order and establishes a substitute program
20 for the period of suspension, the director shall instruct the commis-
21 sioner to withhold from distribution 50 percent of all money for that
22 fiscal year remaining to be distributed to the municipality or school
23 district under the substitute program.

24 (e) The governing body of the municipality or school district
25 from which funds are withheld may petition the state auditor to au-
26 thorize the release of funds. The state auditor shall authorize the
27 director of the office of management and budget to release the funds
28 if the state auditor finds that the auditor or investigator has cor-
29 rected the report or the governing body has taken adequate action to

1 correct the deficiencies identified in the report.

2 Sec. 37.06.070. FOLLOW-UP AUDITS AND INVESTIGATIONS. (a) The
3 state auditor may provide for a follow-up audit or investigation of a
4 matter audited or investigated under this chapter. A follow-up audit
5 or investigation shall comply with this chapter.

6 (b) The state auditor shall provide for a follow-up audit or
7 investigation if the initial report revealed

8 (1) evidence of fraud, abuse, or illegal acts;

9 (2) substantial noncompliance with applicable laws and
10 regulations; or

11 (3) material weaknesses in internal accounting controls.

12 Sec. 37.06.080. CONFLICT OF INTEREST. (a) The state auditor
13 and employees of the state auditor may not serve in ex officio or
14 other capacity on a board, commission, or other administrative agency
15 of state government.

16 (b) The state auditor and the professional staff of the state
17 auditor are subject to AS 39.50 (conflict of interest).

18 Sec. 37.06.090. AUDIT STANDARDS. The state auditor shall estab-
19 *changed from generally accepted* lish by regulation standards for conducting audits consistent with
20 *standards* nationally recognized auditing standards. To comply with federal
21 regulations, the audit standards may specify separate or particular
22 standards applicable only to audits of federal grants, aid, or trust
23 funds administered by state agencies. Audit standards established
24 under this section govern audits contracted for, conducted, or re-
25 viewed by the state auditor.

26 Sec. 37.06.100. AUDIT CONDUCT AND RECORDS. (a) When conducting
27 an audit the state auditor may

28 (1) require the assistance and cooperation of all state
29 officials and employees;

1 (2) ascertain, as necessary for audit verification, the
2 amount of agency funds on deposit in any bank as shown on the books of
3 the bank; a bank is not liable for making information required under
4 this paragraph available to the state auditor.

5 (b) The state auditor shall keep a complete file of all audit
6 reports and other reports or releases issued by the office, and a com-
7 plete file of audit work papers and other related supportive material
8 for each report prepared by the state auditor's office. The state
9 auditor shall also keep a complete and accurate record of all fiscal
10 transactions involving the office. Audit records are confidential
11 unless an audit report based on the records has been released to the
12 public under AS 37.06.050.

13 Deleted
14 2nd Amend
15 and added
16 2nd Amend
17 Sec. 37.06.110. CONTRACT AUDITS. To the greatest extent practi-
18 cable, the state auditor shall contract with certified public accoun-
19 tants licensed under AS 08.04 and certified internal auditors to
20 conduct financial and compliance audits. The state auditor may also
21 contract with professional management and program auditors with at
22 least three years of public sector management and program auditing
23 experience to conduct management and program audits. An audit
24 conducted under this section shall conform to audit standards
25 established by the state auditor.

26 ad 25
27 Sec. 37.06.120. PAYMENT FOR ANNUAL AUDITS. A school board,
28 municipality, or independent state authority, bank or corporation,
29 including the Alaska Railroad Corporation, the Alaska permanent fund,
and the Alaska Commercial Fishing and Agriculture Bank, on which the
state auditor performs an annual audit shall reimburse the state
auditor for the cost of the audit.

Sec. 37.06.130. LEGAL COUNSEL. (a) The attorney general shall
advise the state auditor in legal matters arising in the discharge of

1 the state auditor's duties and shall represent the state auditor in
2 suits to which the state auditor is a party. The state auditor may
3 employ independent legal counsel for proceedings and court actions in
4 which the attorney general is representing another agency of the state
5 government or if the state auditor determines that employment of
6 independent legal counsel will better serve the needs of the office of
7 the state auditor.

8 (b) The state auditor shall inform the attorney general in
9 writing of the need for the attorney general to direct a prosecution
10 in the name of the state against a person for an illegal act or omis-
11 sion discovered in the course of the state auditor's official duties.

12 Sec. 37.06.140. PROCEDURE. The state auditor shall adopt regu-
13 lations and conduct hearings under AS 44.62 (Administrative Procedure
14 Act).

15 Sec. 37.06.150. REMOVAL. The legislature, by a concurrent
16 resolution adopted by a roll call vote of two-thirds of the members in
17 each house entered in the journal, may remove or suspend the state
18 auditor from office, but only for neglect of duty, misconduct, or
19 disability.

20 Sec. 37.06.200. DEFINITIONS. In this chapter

21 (1) "agency" means a department, office, institution,
22 corporation, authority, board, commission, bureau, division, or other
23 administrative unit forming the state government, including the legis-
24 lative, executive, and judicial branches of government and the Univer-
25 sity of Alaska;

26 (2) "compliance audit" means a post audit that determines

27 (A) whether the financial statements of an audited
28 entity present fairly the financial position and the results of
29 financial operations in accordance with generally accepted

1 accounting principles; and

2 (B) whether the entity has complied with laws and
3 regulations that may have a material effect upon the financial
4 statements;

5 (3) "investigation" means an inquiry into specified acts or
6 allegations of impropriety, malfeasance or nonfeasance in the obliga-
7 tion, expenditure, receipt or use of public funds of the state, or
8 into specified financial transactions or practices that may involve
9 impropriety, malfeasance or nonfeasance;

10 (4) "management audit" means a post audit that determines

11 (A) whether the audited entity is managing and utiliz-
12 ing its resources, including personnel, property, and space,
13 economically and efficiently;

14 (B) causes of inefficiencies or uneconomical prac-
15 tices; and

16 (C) whether the entity has complied with laws and
17 regulations concerning matters of economy and efficiency;

18 (5) "program audit" means a post audit that determines
19 whether an agency

20 (A) is achieving the desired results or benefits
21 established by the legislature or other authorizing body; and

22 (B) has considered alternatives that might yield
23 desired results at a lower cost;

24 (6) "state auditor" means the state auditor under art. IX,
25 sec. 17 of the state constitution.

26 * Sec. 2. AS 14.11.125(b) is amended to read:

27 (b) Each borough or city that [WHICH] is a school district shall
28 maintain financial records of the receipt and disbursement of state
29 funds received under AS 14.11.105 - 14.11.135 and money provided

Changed throughout the bill from "independent outside auditor"

1 toward local effort. The records must [SHALL] be in the form pre-
2 scribed by the department and are subject to audit by it at any time.
3 The department may contract with an independent certified public
4 accountant to perform the audit. The audit shall conform to audit
5 standards adopted by the state auditor under AS 37.06.090.

6 * Sec. 3. AS 14.17.190(b) is amended to read:

7 (b) Each district shall maintain financial records of the re-
8 ceipt and disbursement of public school foundation money and money
9 acquired from local effort. The records must be in the form required
10 by the commissioner and are subject to audit by the commissioner or
11 the board at any time. The commissioner or the board may contract
12 with an independent certified public accountant to perform the audit.
13 The audit shall conform to audit standards adopted by the state audi-
14 tor under AS 37.06.090.

15 * Sec. 4. AS 18.55.996(i) is amended to read:

16 (i) A housing authority created under this section shall have
17 its financial records audited annually by an independent certified
18 public accountant. The audit shall conform to audit standards adopted
19 by the state auditor under AS 37.06.090 [CERTIFIED PUBLIC ACCOUNTANT].
20 The state [LEGISLATIVE] auditor may prescribe the form and content of
21 the financial records of the housing authority and shall have access
22 to these records at any time.

23 * Sec. 5. AS 18.56.089 is amended to read:

24 Sec. 18.56.089. EXECUTIVE BUDGET ACT. The operating budget of
25 the corporation is subject to the Executive Budget Act (AS 37.07). To
26 further ensure effective budgetary decision making by the legislature,
27 the corporation shall present a complete accounting of all assets of
28 the corporation, including assets of the Alaska housing finance re-
29 volving fund, to the legislature by January 10 of each year. The

1 accounting shall be audited by an independent certified public accoun-
2 tant [OUTSIDE AUDITOR] and shall include a full description of all
3 mortgage loan interest and principal repayments and program receipts,
4 including mortgage loan commitment fees, received by or accrued to the
5 corporation during the preceding fiscal year, and all income earned on
6 assets of the corporation during that period, including earnings on
7 assets of the state assisted mortgage fund. The audit shall conform
8 to audit standards adopted by the state auditor under AS 37.06.090.

9 * Sec. 6. AS 18.56.200(b) is amended to read:

10 (b) By January 10 of each year, the board shall publish a report
11 of the corporation for distribution to the governor, legislature, and
12 the public. The report shall be written in easily understandable
13 language. The report shall include a financial statement audited by
14 an independent certified public accountant [OUTSIDE AUDITOR], a state-
15 ment of corporation investments in mortgage loans under this chapter,
16 including an estimate of market value of the mortgage loans, a compar-
17 ison of the corporation performance with the goals of the corporation,
18 and the levels of bonding and investment activities anticipated in the
19 previous year's report under (c) of this section, and any other infor-
20 mation the board believes would be of interest to the governor, the
21 legislature, and the public. The audit shall conform to audit stan-
22 dards adopted by the state auditor under AS 37.06.090. The annual
23 income statement and balance sheet of the corporation shall be pub-
24 lished in at least one newspaper in each judicial district. The board
25 may also publish other reports it considers desirable to carry out its
26 purpose.

27 * Sec. 7. AS 24.20.140 is amended to read:

28 Sec. 24.20.140. APPROPRIATIONS. Appropriations for carrying out
29 AS 24.20.010 - 24.20.140 shall be set forth in the general

1 appropriation bill or in [SUCH] other bills as may be necessary. The
2 council may direct the executive director to transfer amounts from one
3 appropriation to another if the transfer is considered necessary to
4 accomplish the work of the council. The council may not exceed the
5 total amount of the authorized appropriation. All expenditures of the
6 council are subject to an annual [INDEPENDENT] audit by an independent
7 certified public accountant. The audit shall conform to audit stan-
8 dards adopted by the state auditor under AS 37.06.090 [WHICH SHALL BE
9 MADE ANNUALLY].

10 * Sec. 8. AS 24.20.201(a) is amended to read:

11 (a) The Legislative Budget and Audit Committee may [HAS THE
12 POWER TO:]

13 (1) organize, adopt rules for the conduct of its business
14 and prescribe procedures for the comprehensive fiscal analysis and [,]
15 budget review [AND POST-AUDIT] functions;

16 (2) hold public hearings, administer oaths, issue sub-
17 poenas, compel the attendance of witnesses and production of papers,
18 books, accounts, documents and testimony, and have the deposition of
19 witnesses taken in a manner prescribed by court rule or law for taking
20 depositions in civil actions;

21 (3) require all state officials and agencies of state
22 government to give full cooperation to the committee or its staff in
23 assembling and furnishing requested information;

24 (4) review revenue projections, state agency appropriation
25 requests, the expenditure of state funds, including the relationship
26 between state agency program accomplishments and legislative intent,
27 and the fiscal policies and procedures of state government;

28 (5) review and approve proposed changes to agency author-
29 ized budgets as provided in the Executive Budget Act (AS 37.07);

1 (6) make recommendations concerning appropriations, their
2 expenditure and the fiscal policies and procedures of state government
3 to the governor when appropriate, and to the legislature;

4 (7) prepare and distribute reports, memoranda or other
5 necessary materials;

6 (8) sue in the name of the legislature during the interim
7 between sessions if authorized by majority vote of the full membership
8 of the committee;

9 (9) hold public hearings on the confirmation of the members
10 of the Board of Trustees of the Alaska Permanent Fund Corporation;

11 (10) make recommendations to the legislature and to agencies
12 of the state that [WHICH] perform lending or investment functions
13 concerning the structure and operating practices of the agencies;

14 (11) enter into and enforce all contracts necessary or
15 desirable for the functions of the committee;

16 (12) review the [PROVIDE FOR] annual post audits of the
17 Alaska Housing Finance Corporation and the Alaska Industrial Develop-
18 ment Authority.

19 * Sec. 9. AS 24.20.201 is amended by adding a new subsection to read:

20 (c) The committee shall provide for an annual post audit of the
21 Office of the State Auditor by an independent outside auditor. The
22 committee shall distribute the audit report to the governor, the
23 legislature, and the public.

24 * Sec. 10. AS 24.20.281 is amended to read:

25 Sec. 24.20.281. [SPECIAL] AUDIT REQUEST. A member of the legis-
26 lature may, in writing and with at least six days notice, request that
27 the budget and audit committee direct a management or program [SPE-
28 CIAL] audit or investigation of any state agency or determine the
29 propriety of any expenditure of state funds received by any political

1 subdivision or other entity obtaining state funds. Should a majority
2 of the committee vote to approve the request, the state auditor shall
3 provide for or conduct [LEGISLATIVE AUDIT DIVISION SHALL MAKE] the
4 audit.

5 * Sec. 11. AS 24.20.291 is amended to read:

6 Sec. 24.20.291. CONFLICT OF INTEREST. The [LEGISLATIVE AUDITOR,
7 THE SUPERVISOR OF AUDIT, THE] legislative fiscal analyst and members
8 of the staff of the legislative finance division [AND AUDIT DIVISIONS]
9 may not serve in ex officio or other capacity on any board, [() except
10 as authorized in AS 24.20.231(6) [()], commission or other administra-
11 tive agency of state government; nor may they have a financial inter-
12 est in transactions involving any agency of state government.

13 * Sec. 12. AS 24.55.330(2) is amended to read:

14 (2) "agency" includes a department, office, institution,
15 corporation, authority, organization, commission, committee, council
16 or board of a municipality or in the executive, legislative or judi-
17 cial branches of the state government, and a department, office,
18 institution, corporation, authority, organization, commission, commit-
19 tee, council or board of a municipality or of the state government
20 independent of the executive, legislative and judicial branches; it
21 also includes an officer, employee or member of an "agency" acting or
22 purporting to act in the exercise of official duties, but does not
23 include the governor, lieutenant governor, state auditor, a member of
24 the legislature, justice of the supreme court, judge of the court of
25 appeals, a superior court judge, district court judge, magistrate,
26 member of a city council or borough assembly, elected city or borough
27 mayor, or a member of an elected school board;

28 * Sec. 13. AS 24.60.050(e) is amended to read:

29 (e) The state auditor [DIVISION OF LEGISLATIVE AUDIT] shall

1 annually review state loans granted to or held by persons to whom this
2 chapter applies to determine whether appropriate procedures were
3 observed in granting or reviewing the loans and whether loan condi-
4 tions imposed by the lending agency are being enforced. The state
5 auditor [DIVISION] shall report the [ITS] findings to the committee by
6 April 1.

7 * Sec. 14. AS 29.35.120(a) is amended to read:

8 (a) The governing body shall provide for an annual independent
9 audit of the accounts and financial transactions of the municipality
10 or, in the case of a second class city, an audit or statement of
11 annual income and expenditures. To make the audit the governing body
12 shall designate a public accountant who has no personal interest,
13 direct or indirect, in the fiscal affairs of the municipality. The
14 audit shall conform to audit standards adopted by the state auditor
15 under AS 37.06.090. Copies of the audit shall be available to the
16 public upon request.

17 * Sec. 15. AS 30.13.125 is amended to read:

18 Sec. 30.13.125. AUDIT. The state [LEGISLATIVE] auditor shall
19 audit or shall cause to have audited annually the financial records of
20 an authority. The audit shall conform to audit standards adopted by
21 the state auditor under AS 37.06.090. The state [LEGISLATIVE], auditor
22 may prescribe the form and content of the financial records of an
23 authority and shall have access to these records at any reasonable
24 time.

25 * Sec. 16. AS 35.10.135 is amended to read:

26 Sec. 35.10.135. PUBLIC FACILITY PLANNING FUND. There is estab-
27 lished within the Office of the Governor, office of management and
28 budget a public facility planning fund. The fund is a capital fund
29 and consists of (1) money appropriated by the legislature, (2) money

1 reimbursed to it from the proceeds of the sales of general obligation
2 bonds and revenue bonds issued for projects and (3) money reimbursed
3 to it from appropriations for any projects for which money from the
4 fund has been spent. The fund is available for expenditure, on a
5 reimbursable basis, only for the purposes of providing working capital
6 for facility program planning and for facility procurement planning as
7 specified in this chapter. All expenditures from the fund are subject
8 to an [INDEPENDENT] audit which shall be made annually by an indepen-
9 dent certified public accountant and reported to the governor and the
10 legislature. The audit shall conform to audit standards adopted by
11 the state auditor under AS 37.06.090.

12 * Sec. 17. AS 37.05.210 is amended to read:

13 Sec. 37.05.210. FISCAL REPORTING AND STATISTICS. The Department
14 of Administration shall

15 (1) at least once each month and annually, prepare reports
16 as of the close of the preceding month or fiscal year showing the
17 financial condition of each fund as of the close of the respective
18 period and the transactions of each fund for those periods;

19 (2) file with the governor and with the state [LEGISLATIVE]
20 auditor before October 16 a report of the financial transactions of
21 the preceding fiscal year and of the financial condition of the state
22 as of the end of that year, with comments and supplementary data that
23 [WHICH] it considers necessary; this report shall be printed for the
24 information of the legislature and the public;

25 (3) compile statistics necessary for the budget and other
26 statistics required by the governor.

27 * Sec. 18. AS 37.10 is amended by adding a new section to read:

28 Sec. 37.10.066. ANNUAL AUDITS. Unless otherwise provided by
29 law, a state agency shall have its financial records audited annually

1 by an independent certified public accountant. The audit shall con-
2 form to audit standards adopted by the state auditor under AS 37.06.-
3 090.

4 * Sec. 19. AS 37.12.100 is amended to read:

5 Sec. 37.12.100. ANNUAL AUDIT. The corporation shall have its
6 financial record audited annually by an independent certified public
7 accountant [OUTSIDE AUDITOR]. The audit shall conform to audit stan-
8 standards adopted by the state auditor under AS 37.06.090. The state
9 [LEGISLATIVE] auditor may prescribe the form and content of the finan-
10 cial record of the corporation and shall have access to these records
11 at any time.

12 * Sec. 20. AS 37.13.160 is amended to read:

13 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Com-
14 mittee may request the state auditor to perform or provide for an
15 annual post audit and annual management and program audit [OPERATIONAL
16 AND PERFORMANCE EVALUATIONS] of the corporation's investments and
17 investment programs.

18 * Sec. 21. AS 37.13.170 is amended to read:

19 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of
20 each year, the board shall publish a report of the corporation for
21 distribution to the governor, legislature, and the public. The report
22 shall be written in easily understandable language. The report must
23 include financial statements audited by independent certified public
24 accountants [OUTSIDE AUDITORS], a statement of the amount of money
25 received by the Alaska permanent fund from each investment during the
26 period covered, a statement of investments of the corporation includ-
27 ing an appraisal at market value, a description of corporation invest-
28 ment activity during the period covered by the report, a comparison of
29 the corporation performance with the intended goals contained in

1 AS 37.13.020, an examination of the impact of the investment criteria
2 of this chapter on the corporation portfolio with recommendations of
3 any needed changes, and any other information the board believes would
4 be of interest to the governor, the legislature, and the public. The
5 audit shall conform to audit standards adopted by the state auditor
6 under AS 37.06.090. The annual income statement and balance sheet of
7 the corporation shall be published in at least one newspaper in each
8 judicial district. The income statement and balance sheet for the two
9 fiscal years preceding the publication of the election pamphlet under
10 AS 15.58 shall be included in that pamphlet.

11 * Sec. 22. AS 39.20.050 is amended to read:

12 Sec. 39.20.050. EXCLUSIVE COMPENSATION. The compensation fixed
13 by law for the governor, [AND] lieutenant governor, and state auditor
14 is in full for all services rendered by each of them in any official
15 capacity or employment [WHATSOEVER] during their respective terms of
16 office, and shall be paid throughout their respective terms of office
17 unless the office becomes vacant.

18 * Sec. 23. AS 39.20.060 is amended to read:

19 Sec. 39.20.060. EXCLUSION OF GOVERNOR, [AND] LIEUTENANT GOVER-
20 NOR AND STATE AUDITOR FROM PERSONNEL LAWS. Notwithstanding the pro-
21 visions of any other law, the governor, [AND] lieutenant governor, and
22 state auditor are not considered employees of the state for the pur-
23 pose of state personnel laws relating to hours of employment, annual
24 leave, sick leave, overtime, compensatory time, and travel allowances.
25 This section does not [NOTHING IN THIS SECTION SHALL BE CONSTRUED TO]
26 deprive the governor, [AND] lieutenant governor, or state auditor of
27 the right to participate in the state retirement system or in state
28 group insurance plans.

29 * Sec. 24. AS 39.20.310 is amended to read:

1 Sec. 39.20.310. EXCEPTIONS. AS 39.20.200 - 39.20.330 do not
2 apply to

3 (1) members of the state legislature, the governor, the
4 lieutenant governor, the state auditor, and justices and judges of the
5 supreme and superior courts and of the court of appeals, but nothing
6 in AS 39.20.200 - 39.20.330 may be construed to diminish the salaries
7 fixed by law for these officers by reason of absence from duty on
8 account of illness or otherwise;

9 (2) magistrates serving the state on less than a full-time
10 basis;

11 (3) officers, members of the teaching staff, and employees
12 of the University of Alaska;

13 (4) [Repealed

14 (5)] persons employed in a professional capacity to make a
15 temporary and special inquiry, study, or examination as authorized by
16 the governor, the state auditor, the legislature, or a legislative
17 committee;

18 (5) [(6)] members of boards, commissions, and authorities
19 who are not otherwise employed by the state;

20 (6) [(7)] temporary employees hired for periods of less
21 than 12 consecutive months;

22 (7) [(8)] persons employed by the division of marine
23 transportation as masters and members of the crews operating the state
24 ferry system who are covered by collective bargaining agreements as
25 provided in AS 23.40.040, except as expressly provided by law; or [.]

26 (8) [(9)] persons employed by the state who are covered by
27 collective bargaining agreements as provided in AS 23.40.210, except
28 as expressly provided by law.

29 * Sec. 25. AS 39.25.110 is amended by adding a new paragraph to read:

1 (24) employees of the Office of State Auditor.

2 * Sec. 26. AS 39.50.020(b) is amended to read:

3 (b) The governor, lieutenant governor, members of the legisla-
4 ture, and candidates for these offices, judicial officers, the state
5 auditor, each commissioner, head or deputy head of, or director of a
6 division within, a department in the executive branch, assistant to
7 the governor or chairman or member of a commission or board required
8 to report under this chapter, shall file the statement with the Alaska
9 Public Offices Commission. Municipal officers, and candidates for
10 elective municipal office, shall file with the municipal clerk or
11 other municipal official designated to receive their filing for of-
12 fice. All statements required to be filed under this chapter are
13 public records.

14 * Sec. 27. AS 39.50.130 is amended to read:

15 Sec. 39.50.130. REPORT OF FINANCIAL INTERESTS OF GOVERNOR, [AND]
16 LIEUTENANT GOVERNOR, AND STATE AUDITOR. The governor, [AND] lieu-
17 tenant governor and state auditor shall each file a report of finan-
18 cial interests required by this chapter. If the governor, [OR] lieu-
19 tenant governor, or state auditor fails to file the report when due,
20 salary, per diem, and travel expenses after the due date are forfeited
21 and may not be paid until compliance, and the person is guilty of a
22 misdemeanor and upon conviction is punishable by a fine of not less
23 than \$100 nor more than \$1000.

24 * Sec. 28. AS 39.50.200(a)(8) is amended to read:

25 (8) "public official" means a judicial officer, a member of
26 the legislature, the fiscal analyst of the legislative finance divi-
27 sion, [THE LEGISLATIVE AUDITOR OF THE LEGISLATIVE AUDIT DIVISION,] the
28 executive director of the Legislative Affairs Agency and the directors
29 of the divisions within the Legislative Affairs Agency, the governor,

1 the lieutenant governor, a person hired or appointed as the head or
2 deputy head of, or director of a division within, a department in the
3 executive branch, an assistant to the governor, the state auditor,
4 chairman or member of a state commission or board, and each appointed
5 or elected municipal officer;

6 * Sec. 29. AS 42.40.270(b) is amended to read:

7 (b) The corporation shall make all of its financial records
8 available to an auditor appointed by the governor and to the state
9 auditor [AND TO THE LEGISLATIVE AUDIT DIVISION FOR EXAMINATION].
10 Disclosure to the public by the auditor or state auditor [OR LEGIS-
11 LATIVE AUDIT DIVISION] of this information is subject to AS 42.40.220
12 and rules implementing that section. To the extent not inconsistent
13 with this section, audits shall conform to audit standards adopted by
14 the state auditor under AS 37.06.090.

15 * Sec. 30. AS 44.07.200 is amended to read:

16 Sec. 44.07.200. MONEY OF THE CORPORATION. The state [LEGISLA-
17 TIVE] auditor may examine all the accounts and books of the corpo-
18 ration and all other records and papers relating to its financial
19 standing. The state auditor [LEGISLATIVE BUDGET AND AUDIT COMMITTEE]
20 shall conduct an audit of the corporation [EXAMINATION] at least once
21 every two years or may accept an independent audit of the corporation
22 by a firm of certified public accountants made at the request of the
23 corporation in satisfaction of the examination requirement. The audit
24 shall conform to audit standards adopted by the state auditor under
25 AS 37.06.090.

26 * Sec. 31. AS 44.07.280 is amended to read:

27 Sec. 44.07.280. STAFF. The state auditor shall provide audits
28 [LEGISLATIVE AUDIT DIVISION] and the legislative finance division
29 shall provide [AUDITS,] reports and analyses requested by the

1 committee. The committee may hire and determine the salary of the
2 staff it considers necessary within the limit of the budget approved
3 by the legislature.

4 * Sec. 32. AS 44.19.144(a) is amended to read:

5 (a) The director shall

6 (1) supervise and administer the activities of the office;

7 (2) advise the governor on matters of comprehensive state
8 planning;

9 (3) make an annual report to the governor of the activities
10 of the office;

11 (4) instruct the commissioner of administration to withhold
12 50 percent of the remaining balance of an appropriation when directed
13 to do so by the state auditor under AS 37.06.060.

14 * Sec. 33. AS 44.47.530 is amended to read:

15 Sec. 44.47.530. ANNUAL REPORT. To further ensure effective
16 budgetary decision making by the legislature, the division shall
17 present a complete accounting of the housing assistance revolving fund
18 to the legislature by January 10 of each year. The accounting shall
19 be audited by an independent certified public accountant [OUTSIDE
20 AUDITOR] and shall include a full description of all mortgage loan
21 interest and principal repayments and program receipts, including
22 mortgage loan commitment fees, received by or accrued to the division
23 during the preceding fiscal year, and all income earned on assets of
24 the division during that period. The audit shall conform to audit
25 standards adopted by the state auditor under AS 37.06.090.

26 * Sec. 34. AS 44.66.050(a) is amended to read:

27 (a) Before the termination, dissolution, continuation or re-
28 establishment of a board or commission under AS 08.03.010 or AS 44.-
29 66.010, or of an agency program under AS 44.66.020 and 44.66.030, a

1 committee of reference of each house, which shall be the standing
2 committee of legislative jurisdiction as provided in the Uniform Rules
3 of the Legislature, shall hold one or more hearings to receive testi-
4 mony from the public, the commissioner of the department having admin-
5 istrative responsibility for each named board, commission, or agency
6 program, and the members of the board or commission involved. The
7 hearings may be joint hearings. The committee shall also consider the
8 proposed budget of the board, commission, or agency program, prepared
9 in accordance with AS 37.07.050(f), the management and program [AND
10 THE PERFORMANCE] audit of the activities of the board, commission, or
11 agency program, prepared by a qualified professional selected by the
12 state auditor under AS 37.06.020. The audit shall conform to audit
13 standards adopted by the state auditor under AS 37.06.090 [THE LEGIS-
14 LATIVE AUDIT DIVISION AS PRESCRIBED IN AS 24.20.271(1)]. The commit-
15 tee may consider any other report of the activities of the board,
16 commission or program, including but not limited to annual reports,
17 summaries prepared by the Legislative Affairs Agency, and any evalu-
18 ation or general report of the manner of conduct of activities of the
19 board, commission, or agency program prepared by the Office [OFFICE]
20 of the Ombudsman [OMBUDSMAN].

21 * Sec. 35. AS 44.81.260(b) is amended to read:

22 (b) The requirements of (a) of this section are subject to the
23 following exceptions:

24 (1) The state auditor or an independent certified public
25 accountant selected by the state auditor [LEGISLATIVE AUDIT DIVISION]
26 has access to the records of the bank to perform an audit authorized
27 under AS 44.81.270.

28 (2) The board of directors or the president of the bank
29 shall supply statistical and other impersonal information pertaining

1 to members, applicants, and loans in response to requests from the
2 legislature or a state agency or members of the federal farm credit
3 system and may provide similar information upon request to a respon-
4 sible private organization.

5 (3) Information concerning members may be given for the
6 confidential use of a member of the federal farm credit system or
7 other financial institution in contemplation of the extension of
8 credit or the collection of loans.

9 (4) Impersonal information based solely on transactions or
10 experience with a member, such as amounts of loans, terms, and payment
11 records may be given by the bank for the confidential use of a reli-
12 able organization in contemplation of the extension of credit.

13 (5) Credit information concerning a member may be given
14 when the member consents to it in writing.

15 (6) In litigation between a member (or the member's succes-
16 sor in interest) and the bank, any competent evidence may be intro-
17 duced with respect to relevant statements made orally or in writing by
18 or to the member or the successor.

19 * Sec. 36. AS 44.81.270 is amended to read:

20 Sec. 44.81.270. AUDIT OF BANK. The state auditor or an inde-
21 pendent certified public accountant selected by the state [LEGISLA-
22 TIVE] auditor may audit the bank under AS 37.06. The audit shall
23 conform to audit standards adopted by the state auditor under AS 37.-
24 06.090 [CAUSE THE BANK TO BE AUDITED IN THE MANNER AND UNDER THE
25 CONDITIONS PRESCRIBED BY AS 24.20.271 FOR AUDITS PERFORMED BY THE
26 LEGISLATIVE AUDIT DIVISION]. The state auditor or the independent
27 certified public accountant [LEGISLATIVE AUDIT DIVISION] has free
28 access to all books and papers of the bank that relate to its business
29 and books and papers kept by a director, officer, or employee relating

1 to or upon which a record of its business is kept, and may summon
2 witnesses and administer oaths or affirmations in the examination of
3 the directors, officers, or employees of the bank or any other person
4 in relation to its affairs, transactions, and conditions, and may
5 require and compel the production of records, books, papers, con-
6 tracts, or other documents by court order if not voluntarily produced.

7 * Sec. 37. AS 44.81.280 is amended to read:

8 Sec. 44.81.280. PROHIBITION ON DISCLOSURE. The state [LEGISLA-
9 TIVE] auditor and the state auditor's agents or employees may not
10 disclose information acquired by them in the course of an audit of the
11 bank concerning the particulars of the business or affairs of a bor-
12 rower of the bank or another person, unless the information is re-
13 quired to be disclosed by law or under a court order.

14 * Sec. 38. AS 44.82.180 is amended to read:

15 Sec. 44.82.180. ANNUAL AUDIT. The authority shall have its
16 financial records audited annually by an independent certified public
17 accountant. The audit shall conform to audit standards adopted by the
18 state auditor under AS 37.06.090 [THE LEGISLATIVE AUDITOR OR BY A
19 CERTIFIED PUBLIC ACCOUNTANT APPROVED BY THE LEGISLATIVE AUDITOR]. The
20 state [LEGISLATIVE] auditor may prescribe the form and content of the
21 financial records of the authority and is entitled to access to these
22 records at any time.

23 * Sec. 39. AS 44.83.190 is amended to read:

24 Sec. 44.83.190. ANNUAL AUDIT. The authority shall have its
25 financial records audited annually by an independent [A] certified
26 public accountant. The state [LEGISLATIVE] auditor may prescribe the
27 form and content of the financial records of the authority and shall
28 have access to these records at any time. The audit shall conform to
29 audit standards adopted by the state auditor under AS 37.06.090.

1 * Sec. 40. AS 44.85.100(a) is amended to read:

2 (a) Before October 1 of each year the bond bank authority shall
3 make a report of its activities for the preceding fiscal year to the
4 governor and to the legislature. The report shall set out a complete
5 operating and financial statement covering its operations during the
6 year. The bond bank authority shall have an audit of its books and
7 accounts made at least once in each year by an independent certified
8 public accountant [ACCOUNTANTS] and the cost of the audit shall be
9 considered an expense of the bond bank authority and a copy of the
10 audit shall be filed with the commissioner of revenue and the legisla-
11 ture. The audit shall conform to audit standards adopted by the state
12 auditor under AS 37.06.090.

13 * Sec. 41. AS 44.88.200 is amended to read:

14 Sec. 44.88.200. ANNUAL AUDIT. The authority shall have its
15 financial records audited annually by an independent certified public
16 accountant. The audit shall conform to audit standards adopted by the
17 state [THE LEGISLATIVE] auditor under AS 37.06.090 [OR BY A CERTIFIED
18 PUBLIC ACCOUNTANT APPROVED BY THE LEGISLATIVE AUDITOR]. The state
19 [LEGISLATIVE] auditor may prescribe the form and content of the finan-
20 cial records of the authority and shall have access to these records
21 at any time.

22 * Sec. 42. AS 47.40.031 is amended to read:

23 Sec. 47.40.031. REQUIRED ACCOUNTING PROCEDURES. Facilities that
24 solicit or receive grants from the department for the cost of services
25 provided under AS 47.40.011 - 47.40.091 shall

26 (1) meet accepted standards of fiscal accountability for
27 public money and shall, upon request, submit to the department and to
28 the state auditor [DIVISION OF LEGISLATIVE AUDIT] a complete financial
29 statement prepared by an independent certified public accountant;

1 (2) keep records of the expenditures for the services
2 provided, using cost-accounting procedures in accordance with depart-
3 ment regulations;

4 (3) upon request, furnish the department and the state
5 auditor [DIVISION OF LEGISLATIVE AUDIT] all fiscal information, books,
6 records, and accounts pertaining to services paid for under AS 47.-
7 40.011 - 47.40.091.

8 * Sec. 43. TRANSITION. All litigation, hearings, investigations and
9 other proceedings pending under a law amended or repealed by this Act, or
10 in connection with functions transferred by this Act, continue in effect
11 and may be continued and completed notwithstanding a transfer or amendment
12 or repeal provided for in this Act. Certificates, orders, and regulations
13 issued or adopted under authority of a law amended or repealed by this Act
14 remain in effect for the term issued, until revoked, vacated, or otherwise
15 modified under the provisions of this Act. All contracts, rights, liabil-
16 ities, and obligations created by or under a law amended or repealed by
17 this Act, and in effect on the effective date of this Act, remain in effect
18 notwithstanding this Act's taking effect. Records, equipment, and other
19 property of agencies of the state whose functions are transferred under
20 this Act shall be transferred commensurate with the provisions of this Act.

21 * Sec. 44. NAME CHANGE. To be consistent with the changes made by this
22 Act, wherever in the Alaska Statutes and in regulations adopted under those
23 statutes, "Legislative Audit Division" and other terms identifying the
24 division are used, they shall be read as referring to the Office of the
25 State Auditor. Under AS 01.05.031, the revisor of statutes shall implement
26 this section in the statutes, and under AS 44.62.125(b)(6), the regulations
27 attorney shall implement this section in the administrative regulations.

28 * Sec. 45. AS 24.20.241, 24.20.251, 24.20.261, 24.20.271, and 24.20.-
29 301(a) are repealed.

1 * Sec. 46. This Act takes effect on the first day of the first term of
2 the first state auditor.

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1987

SUBJECT: Sectional Analysis of draft CSSB 65 (Jud)
(Creating a state auditor)

TO: Senator Jalmar Kerttula
Chairman Senate Finance Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of CSSB 65 (Judiciary) dated 2/04/87, providing for a state auditor.

Section 1 creates a new chapter which establishes the state auditor.

Sec. 37.06.010 sets out the experience requirements for the state auditor.

Sec. 37.06.020 lists the powers and duties of the state auditor. The duties include reviewing compliance audits from state agencies, municipalities, and school districts; providing management and program audits every three years for agencies not subject to sunset laws, on request, and for sunset reviews; reporting any unauthorized illegal, irregular or unsafe financial administration; and assisting state agencies, municipalities, and school districts to improve accounting systems. The auditor may investigate any matter related to state finance and may investigate the conduct of officers who handle state money, property or records.

Sec. 37.06.030 permits the state auditor to employ staff, who are placed in the exempt service.

Sec. 37.06.040 gives the auditor access to all records of state agencies, municipalities and school districts. The auditor may require information on oath.

Sec. 37.06.050 sets out the auditor's duties concerning audit reports, both those prepared by the auditor's office and those prepared by others. If the auditor finds a report inaccurate, the auditor may require correction. If the auditor disapproves a report, the auditor may serve a notice of intent to withhold state funds from the entity under Sec. 37.06.060. The auditor is required to furnish copies of approved audit reports to various entities and to report annually on the office's activities to the legislature.

Sec. 37.06.060 requires entities who have been audited to implement recommendations in the audit. Failure to do so may result in the withholding of 50 percent of the state funds identified in the auditor's notice of intent to withhold. The entity has the right to an informal conference with the auditor and to a formal hearing under the Administrative Procedure Act.

Sec. 37.06.070 permits the auditor to provide for follow-up audits or investigations and requires them if the initial report revealed evidence of fraud, abuse, or illegal acts, substantial noncompliance with law, or material weaknesses in internal accounting controls.

Sec. 37.06.080 prohibits the auditor and employees of the auditor from serving on state boards, commissions, authorities or other administrative agencies and makes them subject to the conflict of interest chapter (AS 39.50).

Sec. 37.06.090 requires the auditor to establish by regulation standards for conducting audits consistent with nationally recognized audit standards. Audits conducted by other auditors are subject to these standards if the state auditor contracts for or reviews the audit.

Sec. 37.06.100 permits the auditor to have access to bank records and to require help from all state officers and employees when conducting an audit. Subsection (b) requires the auditor to maintain complete files for audit work papers which are to be confidential unless an audit report has been released under Sec. 37.06.050.

Sec. 37.06.110 requires the auditor to contract with certified public accountants and internal auditors to the greatest extent possible for the conduct of financial and compliance audits and permits the auditor to contract with experienced

professional management and program auditors for management and program audits.

Sec. 37.06.120 requires various entities to reimburse the state auditor for the cost of an annual audit performed by the auditor.

Sec. 37.06.130 appoints the attorney general as legal counsel to the state auditor but permits the auditor to employ independent legal counsel to better serve the needs of the office. The section also requires the auditor to report illegal conduct to the attorney general for prosecution.

Sec. 37.06.140 requires the state auditor to comply with the Administrative Procedure Act (AS 44.62).

Sec. 37.06.150 permits the legislature to remove the auditor for cause.

Sec. 37.06.200 defines various terms used in the chapter. The change in some definitions requires conforming changes in statutes outside the chapter. For example, the bill uses the term "management and program audit" for "operational and performance audit."

Sections 2 - 7, 16, 18, 19, 21, 33, 35, 36, and 39 - 41 change references to "outside auditors" in SB 65 to references to "certified public accountants."

Section 2 permits the department of education to contract with an independent certified public accountant to perform audits on school districts that have received state funding for construction projects. The section requires the audits to conform to standards adopted by the state auditor.

Section 3 permits the commissioner of education or the board of education to contract with an independent certified public accountant to perform audits of a school district's public school foundation money. The section requires the audits to conform to standards adopted by the state auditor.

Section 4 requires the annual audits performed on regional housing authorities to conform to the audit standards adopted by the state auditor.

Sections 5 and 6 require the annual audits of the Alaska Housing Finance Corporation to conform to audit standards adopted by the state auditor.

Section 7 requires the annual audit of the Legislative Council to conform to audit standards adopted by the state auditor.

Section 8 limits the power of the Legislative Budget and Audit Committee to prescribe procedures for post-audit functions or to provide for annual post audits. The bill gives those functions to the state auditor.

Section 9 directs the Legislative Budget and Audit Committee to provide for an annual audit of the state auditor to be performed by an independent outside auditor.

Sections 10 and 11 make changes to reflect that the state auditor will be performing functions now performed by the legislative auditor.

Section 12 adds the state auditor to the list of persons exempt from investigation by the Office of the Ombudsman.

Section 13 substitutes the state auditor for the legislative audit division.

Section 14 requires the annual audit of a municipality to conform to audit standards adopted by the state auditor.

Section 15 substitutes the state auditor for the legislative auditor and requires the annual audit of a regional resource development authority to conform to audit standards adopted by the state auditor.

Section 16 requires the annual audit of the public facility planning fund to conform to audit standards adopted by the state auditor.

Section 17 substitutes the state auditor for the legislative auditor.

Section 18 requires state agencies to have their financial records audited annually by an independent certified public accountant in conformance with standards adopted by the state auditor.

Section 19 requires the annual audit of the Alaska Resources Corporation to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 20 permits the Legislative Budget and Audit Committee to request the state auditor to audit the Alaska Permanent Fund. The committee currently has authority to provide for the audit.

Section 21 requires the annual audit of the financial statement of the permanent fund corporation to conform to audit standards adopted by the state auditor.

Section 22 makes the compensation fixed by law for the state auditor the exclusive compensation for that officer.

Section 23 excludes the state auditor from coverage of the state personnel act and from laws relating to hours of work, leave, overtime, and travel allowances.

Section 24 exempts the state auditor and temporary professional employees of the auditor's office from the laws relating to leaves of absence.

Section 25 adds the employees of the Office of State Auditor to the list of state employees in the exempt service.

Section 26 adds the state auditor to the list of state officers required to file income statements under the conflict of interest laws.

Section 27 adds the state auditor to those required to report financial interests and directs that if the auditor fails to file, salary and expenses due after that date are forfeited. Failure to file is a misdemeanor.

Section 28 substitutes the state auditor for the legislative auditor.

Section 29 requires that the annual performance audit of the Alaska Railroad conform to audit standards adopted by the state auditor except as specifically provided in the section. The section also substitutes the state auditor for the legislative audit division.

Section 30 substitutes the state auditor for the Legislative Budget and Audit Committee. The section also requires the audit of the Alaska City Development Corporation to conform to audit standards adopted by the state auditor.

Section 31 substitutes the state auditor for the legislative audit division.

Section 32 requires the director of the office of management and budget to instruct the commissioner of administration to withhold funds to an entity that has failed to correct an audit when directed by the state auditor under Sec. 37.06.060.

Section 33 requires the annual audit of the housing assistance revolving fund in the Department of Community and Regional Affairs to conform to audit standards adopted by the state auditor.

Section 34 directs the state auditor to select an independent qualified professional to perform management and program audits of boards, commissions and authorities subject to sunset review. The audit is required to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative audit division.

Section 35 substitutes the state auditor or an independent certified public accountant selected by the auditor for the legislative audit division.

Section 36 substitutes the state auditor for the legislative audit division. The audit of the Alaska Commercial Fishing and Agriculture Bank is required to conform to audit standards adopted by the state auditor.

Section 37 substitutes the state auditor for the legislative auditor.

Section 38 requires the annual audit of the Alaska Gas Pipeline Financing Authority to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 39 requires the annual audit of the Alaska Power Authority to conform to audit standards adopted by the state

auditor. The section also substitutes the state auditor for the legislative auditor.

Section 40 requires the annual audit of the Alaska Municipal Bond Bank authority to conform to audit standards adopted by the state auditor.

Section 41 requires the annual audit of the Alaska Industrial Development Authority to conform to audit standards adopted by the state auditor. The section also substitutes the state auditor for the legislative auditor.

Section 42 substitutes the state auditor for the legislative audit division.

Section 43 provides for the transition from the legislative auditor to the state auditor.

Section 44 directs appropriate name changes to reflect the substitution of the state auditor for the legislative auditor.

Section 45 repeals various laws relating to the legislative auditor.

Section 46 makes the Act effective on the first day of the first term of the first state auditor. This means that the Act is not effective unless the constitutional amendment is approved by the voters.

TC:mkr
m9/014

Alaska MUNICIPAL League

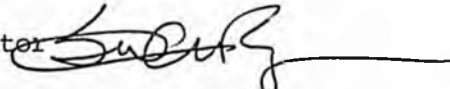
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105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

February 24, 1987

MEMORANDUM

TO: Senator Jalmar Kerttula, Chairman
Members of the Senate Judiciary Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: SB 65 - Providing for a state auditor; SJR 6 - Relating
to the office of state auditor

The Alaska Municipal League is opposed to the inclusion of municipalities and school districts in SB 65 and SJR 6. In summary, the bill vests significant authority in one person; is potentially very costly; and, as currently written, is unclear.

The AML Legislative Committee met and reviewed SB 65 and SJR 6 at their meeting in Juneau, January 29, 1987. The following general and specific comments (see Attachment 1) were provided to me by Barbara Steckel, Chief Fiscal Officer for the Municipality of Anchorage, and a member of the AML Legislative Subcommittee on Taxation and Finance. The comments are provided to the Committee to explain the League's opposition to SB 65 and SJR 6, as introduced:

The power that is being provided to one person as State Auditor is significant. If the State Auditor did not like the responses provided by a local government or school district, future funds could be withheld until the Auditor is satisfied with the response. This is extremely arbitrary.

This bill does not have a fiscal note attached at present and yet it appears it could have a very substantial cost. If the State Auditor is going to review all annual audits of school districts and municipalities for "accuracy, completeness, and compliance with audit standards", it is going to require substantial staffing or contractual funds to perform the work. There does not appear to be any way the review can be performed without actually reviewing the workpapers of the external auditors.

This bill grants the Auditor substantial authority to have access to records at "all" times. In addition, they have access to confidential files that are subject to the audit and investigative authority of the state, even if it is not under audit.

Memo - Senator Jalmar Kerttula, Chairman
Members of the Senate Judiciary Committee
February 24, 1987
Page Two

The process set out for the Auditor to review all reports and determine whether to approve them or not and how the reports are released, and by whom raise many questions. If the local governmental body is paying for the audit, it seems they should have the prerogative to accept or reject the report, and not have to wait for the State Auditor to make a decision. The auditing firms do have ethical and professional standards to go by and it seems redundant to have the state auditor creating additional standards. There is no question that a consistent set of grant accounting and auditing standards for all state grants would be helpful, but there is no need to duplicate existing standards and guidelines for governmental accounting and auditing.

There appears to be inconsistencies between the definitions in Section 37.06.200 and the Powers and Duties in 37.06.020. The Auditor is going to review various audits under Powers and Duties and yet in definitions the audits that he is going to review are described as "post audits." What exactly is the Auditor going to do?

In a time of reduced revenues, the first thought is that an auditor might help reduce the waste and save money, but the way this bill is currently structured, it appears that it will be very costly, since the only provision for charging back is for annual audits.

SB 65 - Providing for a State Auditor

Following are comments or questions regarding this bill:

Sec. 37.06.020 (a) (2) - The audit required under Sec. 29.35.120 is an audit of accounts and financial transactions; it is not a compliance audit.

(9) - There is no objection to keeping the account showing the costs of the audit operations; however, we do question if this is going to be the basis of charges back to organizations audited under Sec. 37.06.120.

(b) (1) - The State Auditor may do a management or program audit or investigation of any matter related to State finance. Does this include any grant received by a local government; if so, what happens to the audit organizations in the various State organizations .

Sec. 37.06.030 - A CPA may be employed on a temporary basis. Does this mean firms or individuals; furthermore, does it prohibit the State Auditor from hiring accountants who are not CPA's? All staff in an audit do not have to be capable of the attest function.

Sec. 37.06.040 - Access to records and testimony. The State Auditor has access at all times, whether during working hours or not and to all confidential matters. If all employees of the State Auditor are going to have access to confidential files, especially litigation, then high ethical standards will have to be maintained to insure information harmful to local government and school districts is not released. Perhaps the employee should be bonded in case they release information with financial impacts.

(b) - This section does not even require the matter to be under investigation or audit to have the State Auditor require someone to go under oath.

Sec. 37.06.050 - This requires the State Auditor to review all audits under Chapter 37 not prepared by the State Auditor and to determine accuracy, completeness and compliance standards. How can someone review the audit report and make a determination on accuracy or completeness without reviewing all of the work papers. This requirement could be very costly to either the State or the local government or school district if the costs for the review are passed on.

There are audit standards for governmental organizations. Even if the Auditor sets new standards, we do not know how the Auditor can determine it was not prepared in compliance with audit standards without field review.

When does this report go to the State? Before the external auditor/finance officer transmits the report to the governing body? What is the time element for the review?

(b) - Why should the State Auditor release a local government or school district audit report to the public, as they are public documents upon completion and transmission to appropriate authorities, unless the notice of approval is necessary before providing copies to the appropriate entities.

Does this section include internal audit reports prepared by a local unit in conjunction with the annual audit?

(c) - While it does not seem logical that an auditor or investigator wouldn't correct the report, there could be circumstances where an external auditor would not be willing to change his position and yet the State Auditor can still serve notice to withhold funds. External auditors are independent, putting an organization into a position of trying to pressure an auditor into changing a report, or having to deal with the possible loss of funds. This is not acceptable.

(d) - It appears that the annual report required is a make work effort and would be quite large.

Sec. 37.06.060 (a) (b) - Why should a State Auditor approve or disapprove the way a governing body of a municipality or school district implements or makes a decision not to implement the Auditor's comments. Some of the comments have no impact on funds received from the State so why is the State Auditor's approval on comments necessary? The State Auditor is not responsible for the management and operation of the organization, but the governing body is.

(c) - It appears an informal conference to resolve matters should be required before an administrative hearing can be requested. Informal conferences are generally more cost effective than an administrative hearing.

(e) - The Auditor shall release the withheld funds if the report is corrected or adequate action has been taken by the governing body. The determination of "adequate action" is very subjective.

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Sec. 37.06.120 - Assume all work other than annual audits, i.e. review for accuracy, completeness and compliance to audit standards carries no charge to the organization.

Sec. 37.06.200 (2) - "Compliance Audit" - the definition is much different than commonly accepted for a compliance audit. Is this really meant to be an audit of an audit, or a review of an audit.

See use in Sec. 37.06.020 Powers and duties - Requires Auditor to "review the annual compliance audit and yet the definition above is a "post audit". Appears to be a conflict.

(5) and (6) - Describes "management audit" and "program audit" as post audits, yet Section 37.06.020 (4) has the Auditor providing for management and program audit. Again appears to be a conflict.

SB 65 should not be supported as currently written.



VERN ROBERTS
FINANCE DIRECTOR

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S. B. 65 - Providing for a State Auditor

The power that is being provided to one person as State Auditor is significant. If the State Auditor did not like the responses provided by a local government or school district, future funds could be withheld until the Auditor is satisfied with the response. This is extremely arbitrary.

This bill does not have a fiscal note attached at present and yet it appears it could have a very substantial cost. If the State Auditor is going to review all annual audits of school districts and municipalities for "accuracy, completeness and compliance with audit standards", it is going to require substantial staffing or contractual funds to perform the work. There does not appear to be any way the review can be performed without actually reviewing the workpapers of the external auditors.

This bill grants the Auditor substantial authority to have access to records at "all" times. In addition they have access to confidential files that are subject to the audit and investigative authority of the State, even if it is not under audit.

The process set out for the Auditor to review all reports and determine whether to approve them or not and how the reports are released, and by whom, raises many questions. If the local governmental body is paying for the audit, it seems they should have the prerogative to accept or reject the report, and not have to wait for the State Auditor to make a decision. The auditing firms do have ethical and professional standards to go by and it seems redundant to have the State Auditor creating additional standards. There is no question that a consistent set of grant accounting and auditing standards for all State grants would be helpful, but there is no need to duplicate existing standards and guidelines for governmental accounting and auditing.

There appears to be inconsistencies between the definitions in Sec. 37.06.200 and the Powers and Duties in Sec. 37.06.020. The Auditor is going to review various audits under Powers and Duties and yet in definitions the audits that he is going to review are described as "post audits". What exactly is the Auditor going to do?

In a time of reduced revenues, the first thought is that an auditor might help reduce the waste and save money, but the way this bill is currently structured, it appears that it will be very costly, since the only provision for charging back is for annual audits.

SB 65 - Providing for a State Auditor

Following are comments or questions regarding this bill:

Sec. 37.06.020 (a) (2) - The audit required under Sec. 29.35.120 is an audit of accounts and financial transactions; it is not a compliance audit.

(9) - There is no objection to keeping the account showing the costs of the audit operations; however, we do question if this is going to be the basis of charges back to organizations audited under Sec. 37.06.120.

(b) (1) - The State Auditor may do a management or program audit or investigation of any matter related to State finance. Does this include any grant received by a local government; if so, what happens to the audit organizations in the various State organizations .

Sec. 37.06.030 - A CPA may be employed on a temporary basis. Does this mean firms or individuals; furthermore, does it prohibit the State Auditor from hiring accountants who are not CPA's? All staff in an audit do not have to be capable of the attest function.

Sec. 37.06.040 - Access to records and testimony. The State Auditor has access at all times, whether during working hours or not and to all confidential matters. If all employees of the State Auditor are going to have access to confidential files, especially litigation, then high ethical standards will have to be maintained to insure information harmful to local government and school districts is not released. Perhaps the employees should be bonded in case they release information with financial impacts.

(b) - This section does not even require the matter to be under investigation or audit to have the State Auditor require someone to go under oath.

Sec. 37.06.050 - This requires the State Auditor to review all audits under Chapter 37 not prepared by the State Auditor and to determine accuracy, completeness and compliance standards. How can someone review the audit report and make a determination on accuracy or completeness without reviewing all of the work papers. This requirement could be very costly to either the State or the local government or school district if the costs for the review are passed on.

There are audit standards for governmental organizations. Even if the Auditor sets new standards, we do not know how the Auditor can determine it was not prepared in compliance with audit standards without field review.

When does this report go to the State? Before the external auditor/finance officer transmits the report to the governing body? What is the time element for the review?

(b) - Why should the State Auditor release a local government or school district audit report to the public, as they are public documents upon completion and transmission to appropriate authorities, unless the notice of approval is necessary before providing copies to the appropriate entities.

Does this section include internal audit reports prepared by a local unit in conjunction with the annual audit?

(c) - While it does not seem logical that an auditor or investigator wouldn't correct the report, there could be circumstances where an external auditor would not be willing to change his position and yet the State Auditor can still serve notice to withhold funds. External auditors are independent, putting an organization into a position of trying to pressure an auditor into changing a report, or having to deal with the possible loss of funds. This is not acceptable.

(d) - It appears that the annual report required is a make work effort and would be quite large.

Sec. 37.06.060 (a) (b) - Why should a State Auditor approve or disapprove the way a governing body of a municipality or school district implements or makes a decision not to implement the Auditor's comments. Some of the comments have no impact on funds received from the State so why is the State Auditor's approval on comments necessary? The State Auditor is not responsible for the management and operation of the organization, but the governing body is.

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SB 65 should not be supported as currently written.



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907-276-7401

February 26, 1987

Senator Jalmar M. Kerttula
State of Alaska
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

*File early bill
BK up*

MAR 3 1987

Dear Senator Kerttula:

The purpose of this letter is to provide you some general comments and observations regarding the Senate Bill establishing a State Auditor.

The accounting profession and Peat Marwick should be ecstatic over the bill. It will result in significant more audit work, more regulation, more compliance and, as a result, more fees for the profession. From a business point of view, our Firm would directly benefit. However, from a personal point of view, as a citizen of the State, I believe the Bill adds a level of bureaucracy and additional cost which the State can't even begin to measure, much less afford.

The Bill seems to ignore the Administrative Regulation establishing the State Single Audit Act. This Act provides for significant financial and compliance audit procedures with respect to any agency receiving State funds. While it has only been in effect for a year, it has had the impact of requiring recipients of State funds to better control and use those funds. It has done so, however, at some cost. We estimate that the additional compliance and audit costs are approximately ten percent of funds received. The creation of the State Auditor appears to be additional layering on top of the State Single Audit Act.

Most recipients of State funds have independent Boards of Directors to provide oversight. These boards are charged with the responsibility to determine that the agencies comply with the State Single Audit Act and to review the overall efficiency and effectiveness of the agencies' programs. The State Auditor will have the right to challenge and usurp the authority of these Boards of Directors. Yet, the State Auditor will have no responsibility. Giving authority without commensurate responsibility creates an untenable circumstance.

Finally, there are a significant number of inconsistencies in the language of the Bill. Several times the Bill refers to compliance audits in the



Senator Jalmar M. Kerttula

February 26, 1987

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same context as it refers to statements of financial condition. Financial condition and compliance with State regulations are frequently mutually exclusive. The Bill indicates that the State Auditor will establish regulation standards for conducting audits consistent with generally accepted government auditing standards. If they are to be consistent with generally accepted auditing standards, why not simply use generally accepted auditing standards instead of creating a new body of standards.

The Bill does not state the reasons for the need for the creation of a State Auditor. I presume it is because some State funds fall through the "safety net" which currently exists. I would suggest that identifying a solution for those falling through the "safety net" would be a better response than creating an entire new level of State government. In that regard, I think those funds falling through the "safety net" could be identified by assembling a task force of volunteers representing the auditing profession, recipients of State funds, persons from the Office of Management and Budget, etc. Such a task force could evaluate where additional procedures and controls need to be implemented and could then provide the Senate with recommendations which will allow for direct solutions to the problem.

If you need any additional information or specific comments regarding the Senate Bill, please feel free to contact me.

Very truly yours,

PEAT, MARWICK, MITCHELL & CO.

Joseph E. Heintz
Managing Partner

JEH:AMO

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 65
Publish Date : 1/19/87

Revision Date: _____
Title : An Act providing for a State Auditor

Agency Affected : Legislative Audit, DCRA, DEC, BRU, DOTPF, DOL, DHSS, DOA, DOE

Sponsor : Kelly, /Abood/Sturgulewski/Fatks/
Requestor : Kerttula

Components : _____

EX. ENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

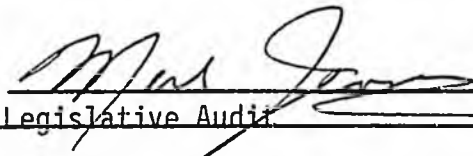
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Fiscal Note is zero based upon the attached assumptions.

Prepared by :  Phone : 465-3830
Division : Legislative Audit Date : 1/30/87

Approved by Commissioner : _____ Date : _____
Agency : _____

- Distribution (by preparer) :
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

ASSUMPTIONS

1. Audit fees currently being paid by school boards, municipalities, independent State authorities, banks or quasi-corporations for mandated financial or compliance audits would not be significantly changed.
2. Due to the overlapping audit coverage, the budgets of the respective executive branch internal audit groups, and personnel monitoring grants and performing program compliance reviews, estimated at \$2,200,000 and assumed adequate to meet their respective review mandates, would be transferred to the State Auditor organization.
3. The 1987 Legislative Audit Division budget of approximately \$2,400,000 combined with the budgets in item (2) would be adequate to cover the costs of performing financial compliance audits and performance audits of operations in the Legislative, Executive, and Judicial branches of State government, and to fund the administrative and oversight functions of school district and local government audits.