

HB

B

7

4

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 24, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/8/89

The FINANCE Committee considered:

HB 74

HOUSE BILL NO. 74 [SEWARD STUDENT SERVICE CENTER]

"An Act approving acquisition and refinancing of the Seward Student Service Center by the Alaska State Building Authority, and approving a lease-financing agreement for the project; and providing for an effective date."

RECOMMENDS:

- replacing with CS HB 74 (Fin) the same title
- the attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: 1/9/89 (Revenue)
- (2) zero fiscal notes(s) published: 1/9/89 (ASBA) & (Educ.)

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

HOFFMAN [Signature]

LARSON [Signature]

SWACK- [Signature]

BROWN [Signature]

KOPNETZ [Signature]

LILMER [Signature]

BARNES [Signature]

PHILLIPS [Signature]

RIEBER [Signature]

WALLIS [Signature]

[Signature] No Rec

SHULTZ

[Signature]

Chairman's signature

[Signature]

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Acquisition and Refinancing of
the Seward Student Service Center
Sponsor: Rules
Requestor: Governor

Agency Affected: Education
BRU: Alaska Vocational Technical
Center
Components: Alaska Vocational Technical
Center

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Marv Hakala Phone: 465-2800
Division: Commissioner's Office Date: 12/12/88
Approved by Commissioner: William G. Demmert Date: 12/12/88
Agency: Education

Distribution (by preparer):

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

Adopted

31
OC

STATE OF ALASKA
1989 LEGISLATIVE SESSION

Bill Version: HB 74
Publish Date: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: State Bond Committee
Title: Authorizing Acquisition and BRU: _____
Refinancing of Seward Student Service Center
Sponsor: Rules Committee Components: _____
Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	(433.2)	(68.5)	(67.7)	(74.7)
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	(433.2)	(68.5)	(67.7)	(74.7)
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	(433.2)	(68.5)	(67.7)	(74.7)
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MD*
Division: Treasury

Phone: 465-2350
Date: 12-19-88

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 12/19/88

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

Adopted

Fiscal Note Analysis

The projected annual savings on refinancing the Seward Student Service Center through its acquisition by the Alaska State Building Authority is estimated in the table below.

The present value of the savings on the Seward facility would be \$1,203,001, representing a savings of 21.5 percent of the amount of bonds issued. This is far above the State Bond Committee's criteria of 3 percent savings to justify a refinancing.

The Seward refinancing would reduce the required lease payments to be made by the State Bond Committee for Seward as detailed in the attached September 23, 1988 memo. However, because the actual interest rate on the refunding debt--and therefore the actual reduction in debt service--will not be known until the bonds are sold, no reduction should be made to the \$12,106,257.68 appropriation to the State Bond Committee for FY 90 lease payments. The FY 90 savings would lapse and future appropriations would be reduced.

Please see the attached letter of _____ from John Andrews for additional information on the Seward refinancing.

Lease-Financing Costs (Savings)

<u>Fiscal Year</u>	<u>Seward Student Service Center</u>
1990	\$(433,229)
1991	(68,476)
1992	(67,710)
1993	(74,661)
1994 to maturity	<u>(1,062,851)</u>
Total	\$(1,706,927)

30

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Alaska State Building Autl
 Title: Refinance of Seward Student BRU: _____
 Center
 Sponsor: Rules Components: _____
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Julia Tucker *Julia Tucker* Phone: 562-2813
 Division: Legal Department Date: 12/31/88

Approved by Commissioner: *Ray* Date: 12/23/88
 Agency: Alaska State Building Authority

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

Adopted

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 74 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the acquisition and financing of
7 the Seward Student Service Center by the Alaska State
8 Building Authority, and relating to the use of a
9 lease-financing agreement for the project; and pro-
10 viding for an effective date."

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

12 * Section 1. The Alaska State Building Authority may acquire the Seward
13 Student Service Center in Seward and provide financing for the acquisition.

14 * Sec. 2. Section 1 of this Act gives the approval referred to in
15 AS 18.55.100(d).

16 * Sec. 3. The Department of Administration may enter into a lease-
17 financing agreement with the Alaska State Building Authority for the Seward
18 Student Service Center in Seward.

19 * Sec. 4. Section 3 of this Act gives the approval referred to in
20 AS 36.30.080(c).

21 * Sec. 5. The Alaska State Building Authority shall transfer to the
22 state the title to the Seward Student Service Center when the

23 (1) bonds for the authority's acquisition of the center have
24 been paid off;

25 (2) bonds for the authority's acquisition of the center have
26 been defeased; or

27 (3) Department of Administration exercises its purchase option
28 under its lease-financing agreement with the authority.

29 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE HOUSE

BY RIEGER

TO: CSHB 74 (HESS)

Page 1, line 6:

Delete "approving"

Insert "relating to the"

Page 1, line 8:

Delete "approving"

Insert "relating to the"

Page 1, following line 20:

Insert a new bill section to read:

"* Sec. 5. The Alaska State Building Authority shall transfer to the state the title to the Seward Student Service Center when the

(1) bonds for the authority's acquisition of the center have been paid off;

(2) bonds for the authority's acquisition of the center have been defeased; or

(3) Department of Administration exercises its purchase option under its lease-financing agreement with the authority."

Renumber the following bill section accordingly.

CITY OF SEWARD

P.O. Box 107
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3341
- Telecopier (907) 224-3248

CERTIFICATE OF OCCUPANCY

IT IS HEREWITH CERTIFIED THAT A FINAL INSPECTION OF THE WORK AUTHORIZED BY BUILDING PERMIT NO. 84-24, ISSUED TO Dick Fischer Development

FOR THE BUILDING OR STRUCTURE DESCRIBED AS:

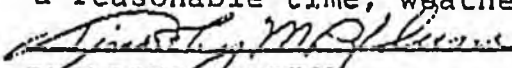
AVTEC Student Service Center, Block 29 OTS

HAS BEEN PERFORMED,

AND THE DESCRIBED WORK COMPLIES WITH THE PROVISIONS AND REQUIREMENTS OF THE CITY OF SEWARD CODE CHAPTER 6, AND ALL APPLICABLE CODES REFERENCED THEREIN, FOR THE GROUP AND DIVISION OF OCCUPANCY AND THE USE FOR WHICH THE PROPOSED OCCUPANCY IS CLASSIFIED.

USE AND OCCUPANCY OF THE ABOVE DESCRIBED BUILDING OR STRUCTURE IS HEREBY AUTHORIZED BY THE CITY OF SEWARD BUILDING DEPARTMENT.

This Certificate of Occupancy is issued with the provision that the parking requirements established for the building be completed within a reasonable time, weather permitting.


BUILDING INSPECTOR

CITY OF SEWARD
SEWARD, ALASKA

DATE April 29, 1985

APR 29 1985
CITY OF SEWARD

MEMORANDUM

STATE OF ALASKA

DEPARTMENT OF REVENUE

TO: Alison Elgee
Director
Budget Review

DATE: September 23, 1988

FILE NO:

TELEPHONE NO: 465-2350

THRU:

SUBJECT: FY 90 Debt Service
and Front Sections

FROM: Milton B. Barker *MB*
Deputy Commissioner
Department of Revenue

The amounts required for debt service and trustee fees to be paid by the State Bond Committee during FY 90 are:

	<u>Debt Service</u>	<u>Trustee fees</u>	<u>Fund Source</u>
General Obligation Bonds	\$120,306,290	\$80,000	General Fund
International Airports Revenue Bonds	8,707,584	30,000	International Airports Revenue Fund

"Front sections" of the general appropriations bill also are needed to appropriate the lease rental payments that the State is required to make to

1. the Alaska State Building Authority for lease of facilities constructed with the proceeds of lease revenue bonds issued by that agency, at the time, the Alaska State Housing Authority;
2. the City of Seward for lease of the Spring Creek Correctional Center which was constructed with the proceeds of Certificates of Participation issued by the City;
3. Delta Fox, Ltd. for lease of the Seward Student Service Center which was constructed with the proceeds of Certificates of Participation issued by Delta Fox, Ltd.; and

Alison Elgee
 Page 2
 September 23, 1988

4. the City of Palmer for lease by the Court System of a courthouse in Palmer which was constructed with the proceeds of revenue bonds issued by the City.

The State's lease payments are the security for the bond and certificates. As indicated by the attached letter from Standard & Poor's, failure to make these lease payments would have similar consequences for the State's credit standing and ability to borrow as a default on the State's general obligation bonds would have.

The "front section" should read:

- * Sec. . The sum of \$12,106,257.68 is appropriated from the general fund to the State Bond Committee for lease payments to the Alaska State Building Authority, City of Seward, Delta Fox, Ltd., and the City of Palmer.

This appropriation is not net of a \$39,115.40 rebate of Seward Student Service Center rent that the Department of Administration receives pursuant to Section 5.6 of the Seward Student Service Center Commercial Lease (attached). The rebate is deposited in the general fund as unrestricted revenue.

The amounts of lease payments to maturity of the lease revenue bonds and certificates are as follows:

	<u>ASBA Bonds</u>	<u>Spring Creek</u>	<u>Student Service Center¹</u>	<u>Palmer Courthouse</u>
FY 90	\$ 6,555,108.39	\$ 4,333,923.84	\$ 850,697.95	\$ 366,527.50
FY 91	6,550,775.90	4,333,923.84	850,697.95	365,577.50
FY 92	6,567,048.41	4,333,923.84	850,697.95	366,117.50
FY 93-94	9,096,153.75	8,667,847.68	1,701,395.90	726,545.00
FY 95-06	<u>1,536,107.50</u>	<u>53,090,568.18</u>	<u>4,295,603.52</u>	<u>5,008,528.75</u>
	\$30,305,173.95	\$74,760,187.38	\$8,549,093.27	\$6,971,072.50

¹ These amounts are not net of the \$39,115.40 rebate. The amounts for FY 90 through FY 94 are escalated per Section 5.2 of the Commercial Lease assuming a 10% increase in the CPI and escalated further for FY 95 - 99 assuming a further 10% CPI increase to \$859,120.70 per annum.

Like previous general appropriations acts, an additional "front section" for FY 90 is required which would read as follows:

Alison Elgee
Page 3
September 23, 1988

* Sec. . - The amount of the Rebate Requirement, as defined by Resolution No. 86-5 of the state bond committee, is appropriated from the International Airports Revenue Fund to the state bond committee for deposit in the Rebate Fund established by Resolution No. 86-5 of the state bond committee.

The section appropriates the arbitrage earned on International Airports Revenue Bonds, Series G, to a Rebate Fund for payment to the United States government. The arbitrage rebate is required by the Internal Revenue Code and regulations. The appropriation request from the International Airports Revenue Fund is required by section 16.09 of Resolution No. 86-5 of the State Bond Committee which authorizes the Series G bonds and which reads in part:

"Rebate Fund. There is hereby created and established with the Trustee a Rebate Fund. Notwithstanding anything in the Resolution to the contrary, amounts deposited in the Rebate Fund shall not constitute Revenues and are not pledged as security for payment of the Bonds of Series G or any other Bonds or obligations issued pursuant to the Resolution, but shall be held by the Trustee hereunder solely in trust for the benefit of the United States.

Prior to December 31 of each Fiscal Year, the State shall estimate the amount of the Rebate Requirement for the next succeeding Fiscal Year (including any deficiencies in the amounts deposited in the Rebate Fund with respect to any prior Fiscal Year), and shall include such amount in the budget for the Revenue Fund for such next succeeding Fiscal Year."

MBB/gb

Attachment

cc: Hugh Malone, Commissioner of Revenue
Bob Link, Director, Division of General Services and Supply,
Department of Administration

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX C
JUNEAU, ALASKA 99811-0200
PHONE: (907) 485-2200

January 18, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

In compliance with AS 36.30.080(c), I wish to inform you that the Department of Administration intends to enter into a lease-financing agreement for the Seward Student Service Center which may have annual rent in excess of \$1,000,000 to be paid by the State. The agreement is expected to be with the Alaska State Building Authority (ASBA) as lessor. The State would assign its purchase option under an existing lease-financing agreement to ASBA. ASBA would issue debt and use the proceeds to exercise the purchase option. State lease rental payments under the new lease-financing agreements with ASBA would pay the debt service on ASBA debt. The reason for this undertaking is that the State's lease rental payments would decrease significantly under the new lease-financing agreement as a result of declines in interest rates. The current lessor's proceeds from sale of the leased facilities to ASBA will be used to payoff currently outstanding debt issued by the current lessor.

Under the proposed lease-financing agreement, ASBA would acquire the Seward Student Service Center from Delta Fox, Ltd. (formerly Dick Fischer Development, Inc.) at one of the prices listed below:

Seward Student Service Center

<u>Closing Date of Property Sale</u>	<u>Price</u>
July 1 - July 30, 1989	\$4,988,016.00
July 1 - July 30, 1990	\$4,717,860.00
July 1 - July 30, 1991	\$4,422,324.00
July 1 - July 30, 1992	\$4,094,640.00
July 1 - July 30, 1993	\$3,778,756.00
July 1 - July 30, 1994	\$3,360,876.00
July 1 - July 30, 1995	\$2,942,952.00
July 1 - July 30, 1996	\$2,474,832.00
July 1 - July 30, 1997	\$1,952,004.00
July 1 - July 30, 1998	\$1,370,520.00
July 1 - July 30, 1999	\$ 722,484.00

The Seward Student Service Center is a student lounge and recreation complex for the Alaska Vocational-Technical (Vo-Tec) Center at Seward. The Vo-Tec Center is the only State-operated adult vocational training facility in the State. The Center was completed and occupied by the State in April 1985.

Assuming the sale is closed during July 1 to July 30, 1989, the purchase price would be \$4,988,016. The anticipated amount of the ASBA financing for this project would be \$5,600,000 including the costs of issuance. The resulting anticipated annual lease rental payments by the State compared to existing payments would be:

Seward Student Service Center

<u>Fiscal Year</u>	<u>Anticipated Rent</u>	<u>Existing Rent^{1/2/}</u>	<u>Savings^{3/}</u>
1990	\$ 764,307	\$ 803,160	\$ 433,229
1991	737,872	806,348	68,476
1992	741,840	809,550	67,710
1993	738,102	812,763	74,661
1994	742,352	815,990	73,638
1995	738,915	819,230	80,315
1996	738,037	822,482	84,445
1997	739,337	825,747	86,410
1998	742,097	829,025	86,928
1999	<u>181,202</u>	<u>832,317</u>	<u>651,115</u>
TOTAL	<u>\$6,864,061</u>	<u>\$8,176,612</u>	<u>\$1,706,927</u>

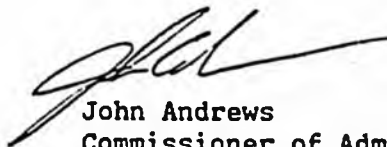
Notes to Seward Student Service Center Table:

1. 1990 and later existing rents are reduced by the credit for payment one year in advance.
2. 1991 and later existing rents have been escalated by the July 1984 to July 1986 increase in the Anchorage CPI pursuant to inflation adjustment provision of the lease.
3. 1990 savings includes \$394,375.80 rebate under existing lease calculated as follows: June 10, 1989 Existing Rent Payment of \$842,275.20 - \$39,115.40 credit for payment one year advance - (\$6,090,000 certificates outstanding + 2% call premium of \$121,800 - \$4,988,016 purchase price - \$815,000 reserve fund).

Page 3

The present value of the savings to the State is estimated at \$1,203,001 using the estimated 6.7542 percent true interest cost on the proposed ASBA financing.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John Andrews", written in a cursive style with a long horizontal flourish extending to the right.

John Andrews
Commissioner of Administration

JA/MB/gb

8534H

Standard & Poor's Corporation
25 Broadway, New York, New York 10004



December 29, 1983

RECEIVED

JAN 03 1984

Mr. Milt Barker
Deputy Commissioner
Department of Revenue
11th Floor State Office Bldg.
Pouch, SB
Juneau, Alaska 99811

ALASKA DEPARTMENT OF REV
TREASURY DIVISION
JUNEAU

Dear Mr. Barker:

I would like to respond to your letter of December 13, regarding our views on lease obligations.

Lease Payments are viewed in essentially the same light as debt service on general obligation bonds; regardless of whether the obligation is cancellable due to non-appropriation. In fact, debt obligations secured by lease payments are included in our computations for overall debt burden.

Many states do not consider lease rental debt under debt limitation laws, primarily because legal interpretations view the obligations to pay rent as an annual budget item, and not a long term debt with a continuing appropriation. The fact remains, however, that the debt is still outstanding, and payable for as long as the property is being used by the lessee. While many leases permit non-payment of rent and cancellation of lease obligations, Standard & Poor's would be very concerned about an issuer's general obligation rating, in those cases where leases were cancelled as a ploy to avoid paying debt obligations.

I've enclosed some information regarding our approach to rating lease-rental debt obligations. If you have any further questions, feel free to contact Vladimir Stadnyk or myself at (212) 201-1767.

Very Truly Yours,

Richard P. Larkin
Managing Vice President
Municipal Finance Department

cc: V. Stadnyk
T. Arthur

issued for each July. The percentage increase, if any, in the CPI issued for July 1989 and July 1994 over the CPI issued for July 1984 will determine the maximum allowable adjustment of variable costs over the original Rent. The adjustment is not cumulative; it is to be computed from the base CPI, July 1984 for both the 1990 and the 1995 adjustment actions. Adjusted annual Rental Rate will be computed as follows:

$$[(10\% \times \text{Rent}) \times \% \text{ of change in CPI}] + \text{Rent} = \text{Adjusted Annual Rental Rate}$$

No retroactive adjustments will be allowed:

5.3. State's Obligations and Remedies

State's obligation to pay Rent due with respect to the Premises and to perform and observe all other covenants and agreements of State contained herein shall be absolute and unconditional except for the failure of the Legislature to appropriate funds; and the Rent due and payable hereunder shall be made without notice or demand and without set-off, counterclaim, abatement, deduction or defense except that State may offset against the Rent an amount not to exceed \$60,000 for claims due to State by Landlord under this Lease and the Ground Lease. However, nothing herein shall be construed to release Landlord from the performance of its obligation and State may institute such legal action against Landlord as State may deem necessary to compel the performance of such obligation.

5.4. Nonsubstitution

If this Lease is terminated by State in accordance with Section 3.1, State agrees for a period of one year that its Department of Education will not to construct, purchase, lease, operate, contract for or use any facilities which are functionally similar to the Premises or any of the uses which are functionally similar to any of the uses of the Premises, and agrees not to permit functions similar to those performed through the use of the Premises to be performed by an agency or entity affiliated with or hired by or for the Department of Education.

5.5. Budget Request and Appropriation

State will, prior to the commencement of each fiscal year for which this Lease is in effect, include the Rent due in such fiscal year in its annual budget request to the Legislature. State agrees to use any appropriation legally available for the Rent and to immediately encumber available appropriations for such payments prior to allocating or encumbering funds for the projects or costs for which no legal obligation to pay exists.

5.6. Consideration for Advance Rent

Concurrently with the payment by State of the Annual Rent, Landlord shall pay to State the sum of \$39,115.40 as consideration for payment of the Rent one year in advance, except that such payment shall be proportionately reduced to the extent that State exercises a right of offset pursuant to Section 5.3.



January 12, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

The assistance of the Alaska State Building Authority has been requested by the Alaska Department of Administration to provide lease-financing for a public building--the Seward Student Service Center. The project is being submitted for review by the legislature pursuant to AS 18.55.100(d).

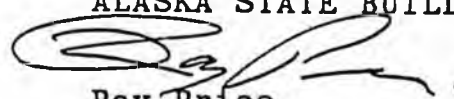
The project is essentially a refinancing of an existing State lease-financed project. The refinancing would result in substantial savings in lease rental payments over the payment schedule to which the State is now committed. The refinancing contemplates a purchase by the Authority of the facility from the current lessor, Delta Fox, Ltd. (formerly Dick Fischer Development, Inc.). The Authority would issue financing in an amount sufficient to provide the \$4,988,016 needed for the purchase as well as a reserve fund and costs of issuance. The Department of Revenue has estimated an issuance of \$5,600,000 for the Student Center. The new lease of the facility to the State is estimated by the Department of Revenue to result in present value savings in State rental payments of \$1,203,001. The enclosed letter from Commissioner John Andrews contains information in more detail concerning this refinancing.

Under AS 18.55.100(d), approval by law of the project is a prerequisite to the undertaking of any public building project by the Authority.

The Alaska State Building Authority welcomes this opportunity to serve the State in realizing cost savings in the financing of public building projects.

Sincerely,

ALASKA STATE BUILDING AUTHORITY



Ray Price
Executive Director

Enclosure

jt:ss:c:\wp50\rp\l\,rpse.1

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1989

SUBJECT: Separation of powers doctrine and HB 74
TO: Representative H.A. "Red" Boucher
FROM: Theresa Bannister *TB*
Legislative Counsel

You have requested our views regarding the constitutional issue raised by Governor Cowper in his transmittal letter for HB 74. In that letter he maintains that the position of the executive branch is that the legislative approval requirement of AS 18.55.100(d) and AS 36.30.080(c) violates the separation of powers doctrine in the state constitution. He does not challenge the statutory provisions but is content with expressing the position while complying with the statutes.

The purpose of the separation of powers doctrine is to avoid too great a concentration of power in one branch of government. The doctrine precludes one branch from exercising the powers of another branch or intruding into the functions of another branch. This separation of powers doctrine has been held to be implicit in the state constitution. Alaska State-Operated School System v. Mueller, 536 P.2d 99 (Alaska 1975); Public Defender Agency v. Superior Court, 534 P.2d 947 (Alaska 1975); State v. Carlson, 555 P.2d 269 (Alaska 1976). The separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The issue that is raised here is whether the legislature can require the executive branch to obtain the legislature's approval before proceeding with certain projects. AS 18.55.100(d) prohibits the Alaska State Building Authority from proceeding with a public building project unless the project has been approved by the legislature. AS 36.30.080(c) prohibits the executive branch from entering into a lease or lease-financing agreement over \$1,000,000 without legislative approval.

Representative H. A. "Red" Boucher

Page 2

February 21, 1989

The governor can argue that the decision whether to proceed with these projects is committed to the discretion of the executive branch, and, that, therefore, the legislature has no right to interfere. This is based on the governor being charged constitutionally with executing the laws. Sec. 16, art. III, Constitution of the State of Alaska. Once the legislature establishes the criteria for the projects by statute, the executive branch applies the criteria and makes the decisions. The governor can then argue that by reserving to itself the power to decide whether to implement a project, the legislature is actually administering the statutes.

The legislature's response to such an argument would be that the approval requirement serves the important purpose of legislative oversight over large projects. Since the projects are the type that will require continuing budget appropriations by the legislature, initial legislative approval will help to insure that the projects will continue to receive legislative appropriations in the future. The legislature could also argue that the approval is just an adjunct to the legislature's undisputed power to provide for the appropriation of money. Enourato v. New Jersey Building Authority, 448 A.2d 449, 453-455 (N.J. 1982); Baliles v. Mazur, 297 S.E.2d 695, 700-701 (Va. 1982).

The Alaska supreme court has not decided this exact issue, and it would be difficult to predict what it would do. However, as you can see, there is precedent in other states for the legislative position proposed above.

If I may be of further assistance, please advise.

TB:kb
wkk2/029

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



P.O. BOX V, JUNEAU 99811
(907) 465-3759

LETTER TO ACCOMPANY HB 74

The HESS Committee respectfully requests that the State Affairs Committee review the constitutional issue discussed in the Governor's transmittal letter and the wisdom of lease financing agreements as a method of financing.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

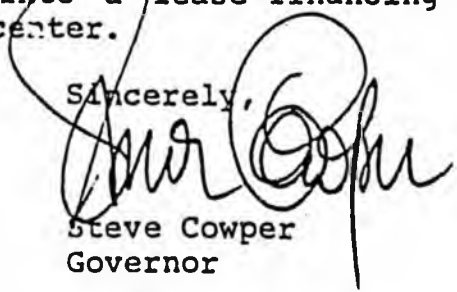
Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that gives legislative approval to a lease-financing project: the acquisition and refinancing of the Seward Student Service Center by the Alaska State Building Authority (ASBA). The terms of AS 36.30.080(c) and AS 18.55.100(d) require this legislative approval.

Provisions such as those in AS 18.55.100(d) and AS 36.30.-080(c), requiring specific executive-branch activities to be submitted to the legislature for approval before they may proceed, raise a substantial question of constitutionality under the separation-of-powers doctrine. It has long been the Administration's position that such provisions are invalid. However, like my predecessors, I am aware of the legislature's interest in projects such as these and am, as a courtesy to the legislature, submitting these projects for approval.

Under AS 18.55.100(d), the bill authorizes ASBA to acquire the Seward Service Center and to provide financing for the acquisition. Under AS 36.30.080(c), the Department of Administration may enter into a lease-financing agreement with ASBA for the student center.

Sincerely,



Steve Cowper
Governor

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: CS HB 74 (Finance)
Publish Date: _____

FISCAL NOTE

REQUEST: _____

Revision Date: _____ Agency Affected: State Bond Committee

Title: Seward Student Service Center BRU: _____

Financing _____

Sponsor: House Finance Components: _____

Requestor: Senate Finance _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	(603.9)	(87.8)	(88.1)	(90.8)	(95.9)	(98.5)
TOTAL OPERATING	(603.9)	(87.8)	(88.1)	(90.8)	(95.9)	(98.5)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	(603.9)	(87.8)	(88.1)	(90.8)	(95.9)	(98.5)
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	(603.9)	(87.8)	(88.1)	(90.8)	(95.9)	(98.5)

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: attach a separate page for analysis. Fiscal year 1990 effect is zero. Assumes financing for acquisition of Center at 7.06 percent on \$5,490.00 bonds with final maturity in fiscal year 1999. See attached analysis.

Prepared By: Milt Barker ^{MB}
Division: Treasury

Phone: 465-2350
Date: February 22, 1990

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 2/23/90

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

Fiscal Note Analysis
CS HB 74 (Finance)

The Department of Administration intends to enter into a lease-financing agreement for the Seward Student Service Center. The agreement is expected to be with the Alaska State Housing Authority (ASHA) as lessor. The State would assign its purchase option under an existing lease-financing agreement to ASHA. ASHA would issue debt and use the proceeds to exercise the purchase option. State lease rental payments under the new lease-financing agreements with ASHA would pay the debt service on ASHA debt. The reason for this undertaking is that the State's lease rental payments would decrease significantly under the new lease-financing agreement as a result of declines in interest rates. The current lessor's proceeds from sale of the leased facilities to ASHA will be used to payoff currently outstanding debt issued by the current lessor.

Under the proposed lease-financing agreement, ASHA would acquire the Seward Student Service Center from Delta Fox, Ltd. (formerly Dick Fischer Development, Inc.) at one of the prices listed below:

Seward Student Service Center

<u>Closing Date of Property Sale</u>	<u>Price</u>
July 1 - July 30, 1990	\$4,717,860.00
July 1 - July 30, 1991	\$4,422,324.00
July 1 - July 30, 1992	\$4,094,640.00
July 1 - July 30, 1993	\$3,778,756.00
July 1 - July 30, 1994	\$3,360,876.00
July 1 - July 30, 1995	\$2,942,952.00
July 1 - July 30, 1996	\$2,474,832.00
July 1 - July 30, 1997	\$1,952,004.00
July 1 - July 30, 1998	\$1,370,520.00
July 1 - July 30, 1999	\$ 722,484.00

The Seward Student Service Center is a student lounge and recreation complex for the Alaska Vocational-Technical (Vo-Tec) Center at Seward. The Vo-Tec Center is the only State-operated adult vocational training facility in the State. The Center was completed and occupied by the State in April 1985.

Assuming the sale is closed during July 1 to July 30, 1990, the purchase price would be \$4,717,860. The anticipated amount of the ASHA financing for this project would be \$5,490,000 including the costs of issuance. The resulting anticipated annual lease rental payments by the State compared to existing payments would be:

Seward Student Service Center

<u>Fiscal Year</u>	<u>Anticipated Rent</u>	<u>Existing Rent</u> ^{1/2/}	<u>Savings</u>
1991	\$202,417 ^{3/}	\$806,348	\$603,931
1992	721,704	809,550	87,846
1993	724,614	812,763	88,149
1994	725,174	815,990	90,816
1995	723,324	819,230	95,906
1996	724,004	822,482	98,478
1997	726,819	825,747	98,928
1998	726,359	829,025	102,666
1999	674,347	832,317	157,970
2000	-	(812,254) ^{4/}	(812,254)
TOTAL	<u>\$5,948,762</u>	<u>\$6,561,198</u>	<u>\$612,436</u>

Notes to Seward Student Service Center Table:

1. 1990 and later existing rents are reduced by the credit for payment one year in advance.
2. 1991 and later existing rents have been escalated by the July 1984 to July 1986 increase in the Anchorage CPI pursuant to inflation adjustment provision of the lease.
3. Includes \$548,633 rebate under existing lease calculated as follows: June 10, 1990 Existing Rent Payment of \$845,463 - \$39,115 credit for payment one year advance - (\$5,705,000 certificates outstanding + 1.5% call premium of \$85,575 - \$4,717,860 purchase price - \$815,000 reserve fund).
4. Upon final payment of debt, return of \$815,000 reserve fund to State less \$2,746, the amount by which the debt service due July 1, 1999 and January 1, 2000 exceeds the final rent payment due on June 10, 1999.

The present value of the savings to the State is estimated at \$711,042 using the estimated 7.0601 percent true interest cost on the proposed ASHA financing.