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SENATE FINANCE COMMITTEE REPORT

* RETURNED TO FINANCE

DATE: 1/26/94

FURTHER:

DATE TURNED INTO OFFICE: 2-1-94

The Finance Committee considered **SENATE BILL NO. 247**

"An Act relating to state leases and to state lease-purchase and lease-financing agreements, and repealing a legislative authorization previously given for acquisition of a facility through a lease-purchase agreement; and providing for an effective date."

and recommends:

replace with CS SB 247 2d (FINANCE)
 or adopt previous CS _____
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts SFC (previous) Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
DOR	1-25-94	0	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
LAA	1-19-94	0	

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Co-Chair: Signature/Recommendation

Co-Chair: Signature/Recommendation



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

**SENATE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CSSB 247 (FINANCE)**

It is the intent of the legislature that future legislation authorizing the lease-purchase or lease-financing of real property should designate the Department of Transportation and Public Facilities as the appropriate agency to hold title to, and operate and maintain state facilities.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 247(FIN)

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to state leases and t, state BRU: Leasing & Facilities
lease-purchase and lease-financing agreements... Component: Leases
 Sponsor: Senate Rules Committee
 Requestor: Senate Finance COMPONENT SERIAL NO. 81

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (attach a separate page if necessary.)

This bill has minimal fiscal impact to the leasing budget.

Prepared By: Dugan Pettv, Director *D. Pettv* Phone: 465-2250
 Division: General Services Date: _____

Approved by Commissioner: Nancy Bear Usra *N. Usra* Date: 1/25/94
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. _____
Bill Version: SB 247
Publish Date: _____

Revision Date: _____
Title: "An Act relating to state leases and to state lease-purchase and lease-financing agreements. ..."
Sponsor: Senate Rules by Request of LB & A
Requestor: Senate Finance

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
----------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield Phone: 465-3852
Division: Administrative Services Date: 1/19/94

Approved By: Pamela A. Stoops
Agency: Legislative Affairs Agency Date: 1/19/94

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

8-LS1447X
Chenoweth
1/31/94

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(2d Fin)

CS FOR SENATE BILL NO. 247()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act making subject to prior legislative approval contracts entered into or
 2 renewed by the executive branch of state government, the legislative council, the
 3 Alaska Court System, and the University of Alaska for the lease of real property
 4 if the lease has an annual rent payable that is anticipated to exceed \$500,000
 5 or has total payments that exceed \$2,500,000 for the term of the lease, including
 6 any renewal options that are defined in the lease; prohibiting these entities from
 7 entering into or renewing a lease of real property if any or all renewal periods
 8 in the lease exceed the original term of the lease; making subject to prior
 9 legislative approval lease-purchase agreements that may be entered into by these
 10 entities to acquire real property, other than lease-purchase agreements to refinance
 11 outstanding balances on existing lease-purchase agreements and lease-purchase
 12 agreements secured by University of Alaska student fees and university receipts;

1 authorizing these entities to enter into lease-purchase agreements only in the
2 capacity of lessee under the proposed lease-purchase agreement; defining
3 procedures that these entities must follow when considering whether or not to
4 enter into lease-purchase agreements, and setting limits on the duration of these
5 agreements; providing definitions for applicable terms; and providing for an
6 effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * Section 1. AS 14.40.040 is amended to read:

9 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
10 created and established a corporation to be called the University of Alaska. It may in
11 that name

12 (1) sue and be sued;

13 (2) receive and hold real and personal property;

14 (3) contract and be contracted with; a contract entered into by the

15 University of Alaska for the

16 (A) rent or lease of premises for use and occupancy by the

17 University of Alaska is subject to AS 36.30.080(c);

18 (B) acquisition of property by a lease-purchase or lease-

19 financing agreement for the benefit of the University of Alaska is subject

20 to AS 36.30.085;

21 (4) adopt, use, and alter a corporate seal;

22 (5) borrow money, issue debt, or enter into long-term obligations [,] for
23 the purchase of facilities, goods, or services; the obligations may secure, in whole or
24 in part, debt issued by another party;

25 (6) do and have done all matters necessary for the purpose of any
26 function set out in this chapter.

27 * Sec. 2. AS 22.05.025(a) is amended to read:

28 (a) The [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

29 (1) all matters relating to the

1 (A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance,
2 occupancy, [LEASING,] and operation of all court facilities;

3 (B) rent or lease of facilities for court system purposes,
4 subject to AS 36.30.080(c); and

5 (C) acquisition of facilities for court system purposes by
6 lease-purchase or lease-financing agreements, subject to AS 36.30.085; and

7 (2) the planning, design, and construction of court facilities but, in
8 the exercise of its authority under this paragraph, the supreme court shall
9 cooperate and coordinate with the Department of Transportation and Public Facilities
10 so that court facility construction projects are carried out in accordance with the
11 statutes and regulations applicable to state public works projects.

12 * Sec. 3. AS 24.20.060 is amended to read:

13 Sec. 24.20.060. POWERS. The legislative council has the power

14 (1) to organize and adopt rules for the conduct of its business;

15 (2) to hold public hearings, administer oaths, issue subpoenas, compel
16 the attendance of witnesses and production of papers, books, accounts, documents, and
17 testimony, and to have the deposition of witnesses taken in a manner prescribed by
18 court rule or law for taking depositions in civil actions when consistent with the
19 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

20 (3) to call upon all state officials, agencies, and institutions to give full
21 cooperation to the council and its executive director by collecting and furnishing
22 information, conducting studies, and making recommendations;

23 (4) in addition to providing the administrative services required for the
24 operation of the legislative branch,

25 (A) to provide the technical staff assistance in research,
26 reporting, drafting, and counseling requested by standing, interim, and special
27 committees and spot research and drafting services for individual members in
28 conformity with law and legislative rules;

29 (B) to conduct a continuing program for the revision and
30 publication of the acts of the legislature;

31 (C) to execute a program for the oversight of the administration

1 and construction of laws by state agencies and the courts through regulations,
2 opinions, and rulings;

3 (D) to operate and maintain the state legislative reference
4 library;

5 (E) to do all things necessary to carry out legislative directives
6 and law, and the duties set out in the uniform codes of the legislature;

7 (F) to sue in the name of the legislature during the interim
8 between sessions if authorized by majority vote of the full membership of the
9 council;

10 (5) to exercise control and direction over all legislative space, supplies,
11 and equipment and permanent legislative help between legislative sessions; the
12 exercise of control over legislative space is subject to AS 36.30.080(c) if the
13 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
14 involves the acquisition of facilities by lease-purchase or lease-financing
15 agreement;

16 (6) to produce, publish, distribute, and to contract for the printing of
17 reports, memoranda, and other materials it finds necessary to the accomplishment of
18 its work;

19 (7) to take appropriate action for the preconvening and post-session
20 work of each legislative session including the employment one week in advance of
21 each session of not more than 10 temporary legislative employees; the continuing
22 employment of the temporary legislative employees is subject to legislative approval
23 when the session convenes;

24 (8) to establish a legislative internship program on a cooperative basis
25 with the University of Alaska that will provide for the assignment of interns to
26 standing committees of each house of the legislature during regular sessions of the
27 legislature; [,] and

28 (9) to establish reasonable fees for services and materials provided by
29 the Legislative Affairs Agency to entities outside of the legislative branch of state
30 government and charges for collecting the fees; all fees and charges collected under
31 this paragraph shall be deposited into the general fund.

1 * Sec. 4. AS 36.30.020 is amended to read:

2 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
3 publish procedures to govern the procurement of supplies, services, professional
4 services, and construction by the legislative branch. The procedures must be based on
5 the competitive principles consistent with this chapter and must be adapted to the
6 special needs of the legislative branch as determined by the Legislative Council. The
7 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
8 36.30.085 [AS 36.30.080(b) - (e)].

9 * Sec. 5. AS 36.30.030 is amended to read:

10 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
11 adopt and publish procedures to govern the procurement of supplies, services,
12 professional services, and construction by the judicial branch. The procedures must
13 be based on the competitive principles consistent with this chapter and must be adapted
14 to the special needs of the judicial branch as determined by the administrative director
15 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
16 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

17 * Sec. 6. AS 36.30.080(c) is amended to read:

18 (c) If the department, the Board of Regents of the University of Alaska, the
19 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
20 to enter into or renew a lease of real property with an annual rent to the department,
21 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
22 BRANCH] that is anticipated to exceed \$500,000 [\$1,000,000], or with total lease
23 payments that exceed \$2,500,000 [\$10,000,000] for the full term of the lease,
24 including any renewal options that are defined in the lease, the department, the
25 Board of Regents, the legislative council [BRANCH], or supreme court [JUDICIAL
26 BRANCH] shall provide notice to the legislature. [IF THE DEPARTMENT,
27 LEGISLATIVE BRANCH, OR JUDICIAL BRANCH INTENDS TO ENTER INTO
28 OR RENEW A LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR
29 REAL PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
30 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
31 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE

1 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
2 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
3 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
4 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
5 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
6 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
7 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
8 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
9 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
10 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
11 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
12 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
13 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
14 Board of Regents, the legislative council, and the supreme court may not enter into
15 or renew a lease of real property

16 (1) [AN AGREEMENT] requiring notice under this subsection unless
17 the proposed lease or renewal of a lease [PROJECT] has been approved by the
18 legislature by law; an [. AN] appropriation for the rent payable during the initial
19 period of the lease or the initial period of lease renewal [PROJECT] constitutes
20 approval of the proposed lease or renewal of a lease [PROJECT] for purposes of this
21 paragraph [SUBSECTION];

22 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN
23 AGREEMENT] under this subsection if the total of all optional renewal periods
24 provided for in [PERIOD ALLOWED UNDER] the lease [AGREEMENT] exceeds
25 the original term of the lease exclusive of the total period of all renewal options
26 [TWO YEARS. IN THIS SUBSECTION, "TERM" INCLUDES DEFINED
27 RENEWAL OPTIONS].

28 * Sec. 7. AS 36.30 is amended by adding a new section to read:

29 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
30 duties and statutory functions, the department, the Board of Regents of the University
31 of Alaska, the legislative council, or the supreme court may enter into lease-purchase

1 agreements. The department, the Board of Regents, the legislative council, or the
2 supreme court may enter into a lease-purchase agreement only if the department, the
3 Board of Regents, the legislative council, or the supreme court is the lessee under the
4 agreement.

5 (b) When evaluating proposals to acquire real property under a lease-purchase
6 agreement, the department, the Board of Regents, the legislative council, or the
7 supreme court shall consider

8 (1) in addition to lease costs, the life cycle costs, function, indoor
9 environment, public convenience, planning, design, appearance, and location of the real
10 property proposed for acquisition; and

11 (2) whether acquisition of the real property by lease-purchase
12 agreement is likely to be the least costly means to provide the space.

13 (c) A lease-purchase agreement

14 (1) may not provide for a period of occupancy under the full term of
15 the lease-purchase agreement that is greater than 40 years;

16 (2) must provide that lease payments made by the department, the
17 Board of Regents, the legislative council, or the supreme court are subject to annual
18 appropriation.

19 (d) If the department, Board of Regents, legislative council, or supreme court
20 intends to enter into or renew a lease-purchase agreement for real property, the
21 department, Board of Regents, legislative council, or supreme court shall provide
22 notice to the legislature. The notice must include the

23 (1) anticipated total construction, acquisition, or other costs of the
24 project;

25 (2) anticipated annual amount of the rental obligation; and

26 (3) total lease payments for the full term of the lease-purchase
27 agreement.

28 (e) The department, the Board of Regents, the legislative council, or the
29 supreme court may not enter into a lease-purchase agreement to acquire real property
30 unless the agreement has been approved by the legislature by law.

31 (f) The provisions of (d) and (e) of this section do not apply to a lease-

1 purchase agreement

2 (1) related to the refinancing of an outstanding balance owing on an
3 existing lease-purchase agreement; or

4 (2) by the University of Alaska if the lease-purchase agreement is
5 secured by student fees or university receipts as defined in AS 14.40.491.

6 (g) In this section,

7 (1) "full term of the lease-purchase agreement" includes all renewal
8 options that are defined within the lease-purchase agreement;

9 (2) "lease-purchase agreement" includes a lease-financing agreement.

10 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

11 (5) acquisitions or disposals of real property or interest in real property,
12 except as provided in AS 36.30.080 and 36.30.085;

13 * Sec. 9. AS 36.30.850(c) is amended to read:

14 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
15 36.30.790], this chapter does not apply to contracts between two or more agencies, the
16 state and its political subdivisions, or the state and other governments.

17 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

18 (g) This chapter does not authorize the commissioner or any employee of the
19 department to acquire title to real property through the use of lease-purchase
20 agreements or lease-financing agreements in which the department is the lessor. For
21 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
22 have the meanings given those terms in AS 36.30.990.

23 * Sec. 11. AS 36.30.080(b) is repealed.

24 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE COMMITTEE REPORT

DATE: 1/14/94

FURTHER:

Date of 5-Day Notice: 1-14-94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1-20-94

FINANCE Committee considered SB 247

"An Act relating to state leases and to state lease-purchase and lease-financing agreements, and repealing a legislative authorization previously given for acquisition of a facility through a lease-purchase agreement; and providing for an effective date."

and recommends:

- replace with _____ CS SB247 (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts SFC Letter of Intent

further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
<u>DOA</u>	<u>1-19-94</u>	<u>0</u>	
<u>Leg Affairs (copy)</u>	<u>1-19-94</u>	<u>0</u>	

rec'd 1-24

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

[Signature]
[Signature]

OTHER RECOMMENDATIONS:

[Signature] [Signature]

1. [Signature] - DO PASS

Co-Chair: Signature/Recommendation

2. _____

Co-Chair: Signature/Recommendation



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

**SENATE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CSSB 247 (FINANCE)**

It is the intent of the legislature that future legislation authorizing the lease-purchase or lease-financing of real property should designate the Department of Transportation and Public Facilities as the appropriate agency to hold title to, and operate and maintain state facilities.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. _____
Bill Version: SB 247
Publish Date: _____

Revision Date: _____
Title: "An Act relating to state leases and to state lease-purchase and lease-financing agreements. ..."
Sponsor: Senate Rules by Request of LB & A
Requestor: Senate Finance

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 1/19/94

Approved By: Pamela A. Stoops *Pamela A. Stoops*
Agency: Legislative Affairs Agency Date: 1/19/94

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 247

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to state leases and to state BRU: Leasing & Facilities
lease-purchase and lease-financing agreements... Component: Leasing
 Sponsor: Senate Rules Committee
 Requestor: Senate Finance COMPONENT SERIAL NO. 81

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (attach a separate page if necessary.)

This bill has minimal fiscal impact to the leasing budget.

Prepared By: Dugan Petty, Director
 Division: General Services

Phone: 465-2250
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Department of Administration

Date: 1/19/94

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8-LS1447E
amended 29
1-20-94
+ ltr of intent 6+

SENATE BILL NO. 247

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

Introduced: 1/14/94
Referred: FINANCE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state leases and to state lease-purchase and lease-financing
2 agreements, and repealing a legislative authorization previously given for acquisition
3 of a facility through a lease-purchase agreement; and providing for an effective
4 date."

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

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8 created and established a corporation to be called the University of Alaska. It may in
9 its name

- 10 (1) sue and be sued;
- 11 (2) receive and hold real and personal property;
- 12 (3) contract and be contracted with; a contract entered into by the
13 University of Alaska for the
14 (A) rent or lease of premises for use and occupancy by the

1 University of Alaska is subject to AS 36.30.080(c);

2 (B) acquisition of property by a lease-purchase or lease-
3 financing agreement for the benefit of the University of Alaska is subject
4 to AS 36.30.085;

5 (4) adopt, use, and alter a corporate seal;

6 (5) borrow money, issue debt, or enter into long-term obligations [,] for
7 the purchase of facilities, goods, or services; the obligations may secure, in whole or
8 in part, debt issued by another party;

9 (6) do and have done all matters necessary for the purpose of any
10 function set out in this chapter.

11 * Sec. 2. AS 22.05.025(a) is amended to read:

12 (a) The [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

13 (1) all matters relating to the

14 (A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance,
15 occupancy, [LEASING,] and operation of all court facilities;

16 (B) rent or lease of facilities for court system purposes,
17 subject to AS 36.30.080(c); and

18 (C) acquisition of facilities for court system purposes by
19 lease-purchase or lease-financing agreements, subject to AS 36.30.085; and

20 (2) the planning, design, and construction of court facilities but, in
21 the exercise of its authority under this subsection, the supreme court shall
22 cooperate and coordinate with the Department of Transportation and Public Facilities
23 so that court facility construction projects are carried out in accordance with the
24 statutes and regulations applicable to state public works projects.

25 * Sec. 3. AS 24.20.060 is amended to read:

26 Sec. 24.20.060. POWERS. The legislative council has the power

27 (1) to organize and adopt rules for the conduct of its business;

28 (2) to hold public hearings, administer oaths, issue subpoenas, compel
29 the attendance of witnesses and production of papers, books, accounts, documents, and
30 testimony, and to have the deposition of witnesses taken in a manner prescribed by
31 court rule or law for taking depositions in civil actions when consistent with the

1 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

2 (3) to call upon all state officials, agencies, and institutions to give full
3 cooperation to the council and its executive director by collecting and furnishing
4 information, conducting studies, and making recommendations;

5 (4) in addition to providing the administrative services required for the
6 operation of the legislative branch,

7 (A) to provide the technical staff assistance in research,
8 reporting, drafting, and counseling requested by standing, interim, and special
9 committees and spot research and drafting services for individual members in
10 conformity with law and legislative rules;

11 (B) to conduct a continuing program for the revision and
12 publication of the acts of the legislature;

13 (C) to execute a program for the oversight of the administration
14 and construction of laws by state agencies and the courts through regulations,
15 opinions, and rulings;

16 (D) to operate and maintain the state legislative reference
17 library;

18 (E) to do all things necessary to carry out legislative directives
19 and law, and the duties set out in the uniform rules of the legislature;

20 (F) to sue in the name of the legislature during the interim
21 between sessions if authorized by majority vote of the full membership of the
22 council;

23 (5) to exercise control and direction over all legislative space, supplies,
24 and equipment and permanent legislative help between legislative sessions; the
25 exercise of control over legislative space is subject to AS 36.30.080(c) if the
26 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
27 involves the acquisition of facilities by lease-purchase or lease-financing
28 agreement;

29 (6) to produce, publish, distribute, and to contract for the printing of
30 reports, memoranda, and other materials it finds necessary to the accomplishment of
31 its work;

1 (7) to take appropriate action for the preconvailing and post-session
2 work of each legislative session including the employment one week in advance of
3 each session of not more than 10 temporary legislative employees; the continuing
4 employment of the temporary legislative employees is subject to legislative approval
5 when the session convenes;

6 (8) to establish a legislative internship program on a cooperative basis
7 with the University of Alaska that will provide for the assignment of interns to
8 standing committees of each house of the legislature during regular sessions of the
9 legislature; [,] and

10 (9) to establish reasonable fees for services and materials provided by
11 the Legislative Affairs Agency to entities outside of the legislative branch of state
12 government and charges for collecting the fees; all fees and charges collected under
13 this paragraph shall be deposited into the general fund.

14 * Sec. 4. AS 36.30.020 is amended to read:

15 Sec. 36.30.020. LFGISLATURE. The Legislative Council shall adopt and
16 publish procedures to govern the procurement of supplies, services, professional
17 services, and construction by the legislative branch. The procedures must be based on
18 the competitive principles consistent with this chapter and must be adapted to the
19 special needs of the legislative branch as determined by the Legislative Council. The
20 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
21 36.30.085 [AS 36.30.080(b) - (e)].

22 * Sec. 5. AS 36.30.030 is amended to read:

23 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
24 adopt and publish procedures to govern the procurement of supplies, services,
25 professional services, and construction by the judicial branch. The procedures must
26 be based on the competitive principles consistent with this chapter and must be adapted
27 to the special needs of the judicial branch as determined by the administrative director
28 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
29 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

30 * Sec. 6. AS 36.30.080(c) is amended to read:

31 (c) If the department, the Board of Regents of the University of Alaska, the

1 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
2 to enter into or renew a lease of real property with an annual rent to the department,
3 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
4 BRANCH] that is anticipated to exceed \$1,000,000, or with total lease payments that
5 exceed \$10,000,000 for the full term of the lease, including any renewal options that
6 are defined in the lease, the department, the Board of Regents, the legislative
7 council [BRANCH], or supreme court [JUDICIAL BRANCH] shall provide notice
8 to the legislature. [IF THE DEPARTMENT, LEGISLATIVE BRANCH, OR
9 JUDICIAL BRANCH INTENDS TO ENTER INTO OR RENEW A
10 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR REAL
11 PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
12 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
13 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
14 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
15 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
16 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
17 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
18 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
19 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
20 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
21 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
22 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
23 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
24 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
25 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
26 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
27 Board of Regents, the legislative council, and the supreme court may not enter into
28 or renew an agreement

29 (1) requiring notice under this subsection unless the proposed
30 agreement or renewal of an agreement [PROJECT] has been approved by the
31 legislature by law; an [. AN] appropriation for the rent payable during the initial

1 period of the lease or the initial period of lease renewal [PROJECT] constitutes
2 approval of the proposed agreement or renewal of an agreement [PROJECT] for
3 purposes of this paragraph [SUBSECTION];

4 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN
5 AGREEMENT] under this subsection if the optional renewal period provided for
6 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
7 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

8 * Sec. 7. AS 36.30 is amended by adding a new section to read:

9 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
10 duties and statutory functions, the department, the Board of Regents of the University
11 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
12 agreements. The department, the Board of Regents, the legislative council, or the
13 supreme court may enter into a lease-purchase agreement only if the department, the
14 Board of Regents, the legislative council, or the supreme court is the lessee under the
15 agreement.

16 (b) When evaluating proposals to acquire ^{real} property under a lease-purchase
17 agreement, the department, the Board of Regents, the legislative council, or the
18 supreme court shall consider

19 (1) in addition to lease costs, the life cycle costs, function, indoor
20 environment, public convenience, planning, design, appearance, and location of the
21 property proposed for acquisition; and

22 (2) whether acquisition of the property by lease-purchase agreement is
23 likely to be the least costly means to provide the space.

24 (c) A lease-purchase agreement

25 (1) may not provide for a period of occupancy under the full term of
26 the lease-purchase agreement that is greater than 40 years;

27 (2) must provide that lease payments made by the department, the
28 Board of Regents, the legislative council, or the supreme court are subject to annual
29 appropriation.

30 (d) If the department, Board of Regents, legislative council, or supreme court
31 intends to enter into or renew a lease-purchase agreement for real property, the

1 department, Board of Regents, legislative council, or supreme court shall provide
2 notice to the legislature. The notice must include the

3 (1) anticipated total construction, acquisition, or other costs of the
4 project;

5 (2) anticipated annual amount of the rental obligation; and

6 (3) total lease payments for the full term of the lease-purchase
7 agreement.

8 (e) The department, the Board of Regents, the legislative council, or the
9 supreme court may not enter into a lease-purchase agreement ^{to acquire real property} unless the project has
10 been approved by the legislature by law.

11 (f) The provisions of (d) and (e) of this section do not apply to a lease-
12 purchase agreement

13 (1) related to the refinancing of an outstanding balance owing on an
14 existing lease-purchase agreement; or

15 (2) by the University of Alaska if the lease-purchase agreement is
16 secured by student fees or university receipts as defined in AS 14.40.491.

17 (g) In this section,

18 (1) "full term of the lease-purchase agreement" includes all renewal
19 options that are defined within the lease-purchase agreement:

20 (2) "lease-purchase agreement" includes a lease-financing agreement.

21 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

22 (5) acquisitions or disposals of real property or interest in real property,
23 except as provided in AS 36.30.080 and 36.30.085;

24 * Sec. 9. AS 36.30.850(c) is amended to read:

25 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
26 36.30.790], this chapter does not apply to contracts between two or more agencies, the
27 state and its political subdivisions, or the state and other governments.

28 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

29 (g) This chapter does not authorize the commissioner or any employee of the
30 department to acquire title to real property through the use of lease-purchase
31 agreements or lease-financing agreements in which the department is the lessor. For

- 1 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
2 have the meanings given those terms in AS 36.30.990.
- 3 * Sec. 11. AS 36.30.080(b) and sec. 2, ch. 92, SLA 1986 are repealed.
- 4 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

Final

CS FOR SENATE BILL NO. 247(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state leases and to state lease-purchase and lease-financing
2 agreements, and repealing a legislative authorization previously given for acquisition
3 of a facility through a lease-purchase agreement; and providing for an effective
4 date."

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

6 * Section 1. AS 14.40.040 is amended to read:

7 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
8 created and established a corporation to be called the University of Alaska. It may in
9 that name

- 10 (1) sue and be sued;
- 11 (2) receive and hold real and personal property;
- 12 (3) contract and be contracted with; a contract entered into by the

13 University of Alaska for the

14 (A) rent or lease of premises for use and occupancy by the

1 University of Alaska is subject to AS 36.30.080(c):

2 (B) acquisition of property by a lease-purchase or lease-
3 financing agreement for the benefit of the University of Alaska is subject
4 to AS 36.30.085:

5 (4) adopt, use, and alter a corporate seal;

6 (5) borrow money, issue debt, or enter into long-term obligations [,] for
7 the purchase of facilities, goods, or services; the obligations may secure, in whole or
8 in part, debt issued by another party;

9 (6) do and have done all matters necessary for the purpose of any
10 function set out in this chapter.

11 * Sec. 2. AS 22.05.025(a) is amended to read:

12 (a) The [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

13 (1) all matters relating to the

14 (A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance,
15 occupancy, [LEASING,] and operation of all court facilities;

16 (B) rent or lease of facilities for court system purposes,
17 subject to AS 36.30.080(c); and

18 (C) acquisition of facilities for court system purposes by
19 lease-purchase or lease-financing agreements, subject to AS 36.30.085; and

20 (2) the planning, design, and construction of court facilities but, in
21 the exercise of its authority under this subsection, the supreme court shall
22 cooperate and coordinate with the Department of Transportation and Public Facilities
23 so that court facility construction projects are carried out in accordance with the
24 statutes and regulations applicable to state public works projects.

25 * Sec. 3. AS 24.20.060 is amended to read:

26 Sec. 24.20.060. POWERS. The legislative council has the power

27 (1) to organize and adopt rules for the conduct of its business;

28 (2) to hold public hearings, administer oaths, issue subpoenas, compel
29 the attendance of witnesses and production of papers, books, accounts, documents, and
30 testimony, and to have the deposition of witnesses taken in a manner prescribed by
31 court rule or law for taking depositions in civil actions when consistent with the

1 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

2 (3) to call upon all state officials, agencies, and institutions to give full
3 cooperation to the council and its executive director by collecting and furnishing
4 information, conducting studies, and making recommendations;

5 (4) in addition to providing the administrative services required for the
6 operation of the legislative branch,

7 (A) to provide the technical staff assistance in research,
8 reporting, drafting, and counseling requested by standing, interim, and special
9 committees and spot research and drafting services for individual members in
10 conformity with law and legislative rules;

11 (B) to conduct a continuing program for the revision and
12 publication of the acts of the legislature;

13 (C) to execute a program for the oversight of the administration
14 and construction of laws by state agencies and the courts through regulations,
15 opinions, and rulings;

16 (D) to operate and maintain the state legislative reference
17 library;

18 (E) to do all things necessary to carry out legislative directives
19 and law, and the duties set out in the uniform rules of the legislature;

20 (F) to sue in the name of the legislature during the interim
21 between sessions if authorized by majority vote of the full membership of the
22 council;

23 (5) to exercise control and direction over all legislative space, supplies,
24 and equipment and permanent legislative help between legislative sessions; the
25 exercise of control over legislative space is subject to AS 36.30.080(c) if the
26 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
27 involves the acquisition of facilities by lease-purchase or lease-financing
28 agreement;

29 (6) to produce, publish, distribute, and to contract for the printing of
30 reports, memoranda, and other materials it finds necessary to the accomplishment of
31 its work;

1 (7) to take appropriate action for the preconvencing and post-session
2 work of each legislative session including the employment one week in advance of
3 each session of not more than 10 temporary legislative employees; the continuing
4 employment of the temporary legislative employees is subject to legislative approval
5 when the session convenes;

6 (8) to establish a legislative internship program on a cooperative basis
7 with the University of Alaska that will provide for the assignment of interns to
8 standing committees of each house of the legislature during regular sessions of the
9 legislature; [,] and

10 (9) to establish reasonable fees for services and materials provided by
11 the Legislative Affairs Agency to entities outside of the legislative branch of state
12 government and charges for collecting the fees; all fees and charges collected under
13 this paragraph shall be deposited into the general fund.

14 * Sec. 4. AS 36.30.020 is amended to read:

15 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
16 publish procedures to govern the procurement of supplies, services, professional
17 services, and construction by the legislative branch. The procedures must be based on
18 the competitive principles consistent with this chapter and must be adapted to the
19 special needs of the legislative branch as determined by the Legislative Council. The
20 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
21 36.30.085 [AS 36.30.080(b) - (e)].

22 * Sec. 5. AS 36.30.030 is amended to read:

23 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
24 adopt and publish procedures to govern the procurement of supplies, services,
25 professional services, and construction by the judicial branch. The procedures must
26 be based on the competitive principles consistent with this chapter and must be adapted
27 to the special needs of the judicial branch as determined by the administrative director
28 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
29 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

30 * Sec. 6. AS 36.30.080(c) is amended to read:

31 (c) If the department, the Board of Regents of the University of Alaska, the

1 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
2 to enter into or renew a lease of real property with an annual rent to the department,
3 Univer. ity of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
4 BRANCH] that is anticipated to exceed \$1,000,000, or with total lease payments that
5 exceed \$10,000,000 for the full term of the lease, including any renewal options that
6 are defined in the lease, the department, the Board of Regents, the legislative
7 council [BRANCH], or supreme court [JUDICIAL BRANCH] shall provide notice
8 to the legislature. [IF THE DEPARTMENT, LEGISLATIVE BRANCH, OR
9 JUDICIAL BRANCH INTENDS TO ENTER INTO OR RENEW A
10 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR REAL
11 PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
12 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
13 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
14 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
15 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
16 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
17 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
18 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
19 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
20 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
21 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
22 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
23 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
24 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
25 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
26 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
27 Board of Regents, the legislative council, and the supreme court may not enter into
28 or renew an agreement

29 (1) requiring notice under this subsection unless the proposed
30 agreement or renewal of an agreement [PROJECT] has been approved by the
31 legislature by law; an [. AN] appropriation for the rent payable during the initial

1 period of the lease or the initial period of lease renewal [PROJECT] constitutes
2 approval of the proposed agreement or renewal of an agreement [PROJECT] for
3 purposes of this paragraph [SUBSECTION];

4 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN
5 AGREEMENT] under this subsection if the optional renewal period provided for
6 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
7 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

8 * Sec. 7. AS 36.30 is amended by adding a new section to read:

9 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
10 duties and statutory functions, the department, the Board of Regents of the University
11 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
12 agreements. The department, the Board of Regents, the legislative council, or the
13 supreme court may enter into a lease-purchase agreement only if the department, the
14 Board of Regents, the legislative council, or the supreme court is the lessee under the
15 agreement.

16 (b) When evaluating proposals to acquire real property under a lease-purchase
17 agreement, the department, the Board of Regents, the legislative council, or the
18 supreme court shall consider

19 (1) in addition to lease costs, the life cycle costs, function, indoor
20 environment, public convenience, planning, design, appearance, and location of the
21 property proposed for acquisition; and

22 (2) whether acquisition of the property by lease-purchase agreement is
23 likely to be the least costly means to provide the space.

24 (c) A lease-purchase agreement

25 (1) may not provide for a period of occupancy under the full term of
26 the lease-purchase agreement that is greater than 40 years;

27 (2) must provide that lease payments made by the department, the
28 Board of Regents, the legislative council, or the supreme court are subject to annual
29 appropriation.

30 (d) If the department, Board of Regents, legislative council, or supreme court
31 intends to enter into or renew a lease-purchase agreement for real property, the

1 department, Board of Regents, legislative council, or supreme court shall provide
2 notice to the legislature. The notice must include the

3 (1) anticipated total construction, acquisition, or other costs of the
4 project;

5 (2) anticipated annual amount of the rental obligation; and

6 (3) total lease payments for the full term of the lease-purchase
7 agreement.

8 (e) The department, the Board of Regents, the legislative council, or the
9 supreme court may not enter into a lease-purchase agreement to acquire real property
10 unless the project has been approved by the legislature by law.

11 (f) The provisions of (d) and (e) of this section do not apply to a lease-
12 purchase agreement

13 (1) related to the refinancing of an outstanding balance owing on an
14 existing lease-purchase agreement; or

15 (2) by the University of Alaska if the lease-purchase agreement is
16 secured by student fees or university receipts as defined in AS 14.40.491.

17 (g) In this section,

18 (1) "full term of the lease-purchase agreement" includes all renewal
19 options that are defined within the lease-purchase agreement;

20 (2) "lease-purchase agreement" includes a lease-financing agreement.

21 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

22 (5) acquisitions or disposals of real property or interest in real property,
23 except as provided in AS 36.30.080 and 36.30.085;

24 * Sec. 9. AS 36.30.850(c) is amended to read:

25 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
26 36.30.790], this chapter does not apply to contracts between two or more agencies, the
27 state and its political subdivisions, or the state and other governments.

28 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

29 (g) This chapter does not authorize the commissioner or any employee of the
30 department to acquire title to real property through the use of lease-purchase
31 agreements or lease-financing agreements in which the department is the lessor. For

1 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
2 have the meanings given those terms in AS 36.30.990.

3 * **Sec. 11.** AS 36.30.080(b) and sec. 2, ch. 92, SLA 1986 are repealed.

4 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).

*Old -
updated by
"X" version.*

8-LS1447U
Chenoweth
1/31/94

CS FOR SENATE BILL NO. 247() *2-1-94*

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act making subject to prior legislative approval contracts entered into or
2 renewed by the executive branch of state government, the legislative council, the
3 Alaska Court System, and the University of Alaska for the lease of real property
4 if the lease has an annual rent payable that is anticipated to exceed \$500,000
5 or has total payments that exceed \$2,500,000 for the term of the lease, including
6 any renewal options that are defined in the lease; prohibiting these entities from
7 entering into or renewing a lease of real property if the renewal period in the
8 lease exceeds two years; making subject to prior legislative approval lease-purchase
9 agreements that may be entered into by these entities to acquire real property,
10 other than lease-purchase agreements to refinance outstanding balances on existing
11 lease-purchase agreements and lease-purchase agreements secured by University of
12 Alaska student fees and university receipts; authorizing these entities to enter into

1 lease-purchase agreements only in the capacity of lessee under the proposed lease-
 2 purchase agreement; defining procedures that these entities must follow when
 3 considering whether or not to enter into lease-purchase agreements, and setting
 4 limits on the duration of these agreements; providing definitions for applicable
 5 terms; and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. AS 14.40.040 is amended to read:

8 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
 9 created and established a corporation to be called the University of Alaska. It may in
 10 that name

11 (1) sue and be sued;

12 (2) receive and hold real and personal property;

13 (3) contract and be contracted with; a contract entered into by the

14 University of Alaska for the

15 (A) rent or lease of premises for use and occupancy by the

16 University of Alaska is subject to AS 36.30.080(c);

17 (B) acquisition of property by a lease-purchase or lease-

18 financing agreement for the benefit of the University of Alaska is subject

19 to AS 36.30.085;

20 (4) adopt, use, and alter a corporate seal;

21 (5) borrow money, issue debt, or enter into long-term obligations [,] for

22 the purchase of facilities, goods, or services; the obligations may secure, in whole or

23 in part, debt issued by another party;

24 (6) do and have done all matters necessary for the purpose of any

25 function set out in this chapter.

26 * Sec. 2. AS 22.05.025(a) is amended to read:

27 (a) The [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

28 (1) all matters relating to the

29 (A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance,

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occupancy, [LEASING,] and operation of all court facilities;

(B) rent or lease of facilities for court system purposes.
subject to AS 36.30.080(c); and

(C) acquisition of facilities for court system purposes by
lease-purchase or lease-financing agreements, subject to AS 36.30.085; and

(2) the planning, design, and construction of court facilities but, in
the exercise of its authority under this paragraph, the supreme court shall cooperate and coordinate with the Department of Transportation and Public Facilities so that court facility construction projects are carried out in accordance with the statutes and regulations applicable to state public works projects.

* Sec. 3. AS 24.20.060 is amended to read:

Sec. 24.20.060. POWERS. The legislative council has the power

(1) to organize and adopt rules for the conduct of its business;

(2) to hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents, and testimony, and to have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions when consistent with the powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

(3) to call upon all state officials, agencies, and institutions to give full cooperation to the council and its executive director by collecting and furnishing information, conducting studies, and making recommendations;

(4) in addition to providing the administrative services required for the operation of the legislative branch,

(A) to provide the technical staff assistance in research, reporting, drafting, and counseling requested by standing, interim, and special committees and spot research and drafting services for individual members in conformity with law and legislative rules;

(B) to conduct a continuing program for the revision and publication of the acts of the legislature;

(C) to execute a program for the oversight of the administration and construction of laws by state agencies and the courts through regulations,

1 opinions, and rulings;

2 (D) to operate and maintain the state legislative reference
3 library;

4 (E) to do all things necessary to carry out legislative directives
5 and law, and the duties set out in the uniform rules of the legislature;

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

9 (5) to exercise control and direction over all legislative space, supplies,
10 and equipment and permanent legislative help between legislative sessions; the
11 exercise of control over legislative space is subject to AS 36.30.080(c) if the
12 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
13 involves the acquisition of facilities by lease-purchase or lease-financing
14 agreement;

15 (6) to produce, publish, distribute, and to contract for the printing of
16 reports, memoranda, and other materials it finds necessary to the accomplishment of
17 its work;

18 (7) to take appropriate action for the preconvailing and post-session
19 work of each legislative session including the employment one week in advance of
20 each session of not more than 10 temporary legislative employees; the continuing
21 employment of the temporary legislative employees is subject to legislative approval
22 when the session convenes;

23 (8) to establish a legislative internship program on a cooperative basis
24 with the University of Alaska that will provide for the assignment of interns to
25 standing committees of each house of the legislature during regular sessions of the
26 legislature; [,] and

27 (9) to establish reasonable fees for services and materials provided by
28 the Legislative Affairs Agency to entities outside of the legislative branch of state
29 government and charges for collecting the fees; all fees and charges collected under
30 this paragraph shall be deposited into the general fund.

31 * Sec. 4. AS 36.30.020 is amended to read:

1 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
2 publish procedures to govern the procurement of supplies, services, professional
3 services, and construction by the legislative branch. The procedures must be based on
4 the competitive principles consistent with this chapter and must be adapted to the
5 special needs of the legislative branch as determined by the Legislative Council. The
6 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
7 36.30.085 [AS 36.30.080(b) - (e)].

8 * Sec. 5. AS 36.30.030 is amended to read:

9 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
10 adopt and publish procedures to govern the procurement of supplies, services,
11 professional services, and construction by the judicial branch. The procedures must
12 be based on the competitive principles consistent with this chapter and must be adapted
13 to the special needs of the judicial branch as determined by the administrative director
14 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
15 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

16 * Sec. 6. AS 36.30.080(c) is amended to read:

17 (c) If the department, the Board of Regents of the University of Alaska, the
18 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
19 to enter into or renew a lease of real property with an annual rent to the department,
20 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
21 BRANCH] that is anticipated to exceed \$500,000 [\$1,000,000], or with total lease
22 payments that exceed \$2,500,000 [\$10,000,000] for the full term of the lease,
23 including any renewal options that are defined in the lease, the department, the
24 Board of Regents, the legislative council [BRANCH], or supreme court [JUDICIAL
25 BRANCH] shall provide notice to the legislature. [IF THE DEPARTMENT,
26 LEGISLATIVE BRANCH, OR JUDICIAL BRANCH INTENDS TO ENTER INTO
27 OR RENEW A LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR
28 REAL PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
29 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
30 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
31 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR

1 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
2 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
3 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
4 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
5 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
6 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
7 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
8 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
9 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
10 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
11 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
12 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
13 Board of Regents, the legislative council, and the supreme court may not enter into
14 or renew an agreement

15 (1) requiring notice under this subsection unless the proposed
16 agreement or renewal of an agreement [PROJECT] has been approved by the
17 legislature by law; an [. AN] appropriation for the rent payable during the initial
18 period of the lease or the initial period of lease renewal [PROJECT] constitutes
19 approval of the proposed agreement or renewal of an agreement [PROJECT] for
20 purposes of this paragraph [SUBSECTION];

21 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN
22 AGREEMENT] under this subsection if the optional renewal period provided for
23 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
24 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

25 * Sec. 7. AS 36.30 is amended by adding a new section to read:

26 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
27 duties and statutory functions, the department, the Board of Regents of the University
28 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
29 agreements. The department, the Board of Regents, the legislative council, or the
30 supreme court may enter into a lease-purchase agreement only if the department, the
31 Board of Regents, the legislative council, or the supreme court is the lessee under the

1 agreement.

2 (b) When evaluating proposals to acquire real property under a lease-purchase
3 agreement, the department, the Board of Regents, the legislative council, or the
4 supreme court shall consider

5 (1) in addition to lease costs, the life cycle costs, function, indoor
6 environment, public convenience, planning, design, appearance, and location of the
7 property proposed for acquisition; and

8 (2) whether acquisition of the property by lease-purchase agreement is
9 likely to be the least costly means to provide the space.

10 (c) A lease-purchase agreement

11 (1) may not provide for a period of occupancy under the full term of
12 the lease-purchase agreement that is greater than 40 years;

13 (2) must provide that lease payments made by the department, the
14 Board of Regents, the legislative council, or the supreme court are subject to annual
15 appropriation.

16 (d) If the department, Board of Regents, legislative council, or supreme court
17 intends to enter into or renew a lease-purchase agreement for real property, the
18 department, Board of Regents, legislative council, or supreme court shall provide
19 notice to the legislature. The notice must include the

20 (1) anticipated total construction, acquisition, or other costs of the
21 project;

22 (2) anticipated annual amount of the rental obligation; and

23 (3) total lease payments for the full term of the lease-purchase
24 agreement.

25 (e) The department, the Board of Regents, the legislative council, or the
26 supreme court may not enter into a lease-purchase agreement to acquire real property
27 unless the project has been approved by the legislature by law.

28 (f) The provisions of (d) and (e) of this section do not apply to a lease-
29 purchase agreement

30 (1) related to the refinancing of an outstanding balance owing on an
31 existing lease-purchase agreement; or

1 (2) by the University of Alaska if the lease-purchase agreement is
2 secured by student fees or university receipts as defined in AS 14.40.491.

3 (g) In this section,

4 (1) "full term of the lease-purchase agreement" includes all renewal
5 options that are defined within the lease-purchase agreement;

6 (2) "lease-purchase agreement" includes a lease-financing agreement.

7 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

8 (5) acquisitions or disposals of real property or interest in real property,
9 except as provided in AS 36.30.080 and 36.30.085;

10 * Sec. 9. AS 36.30.850(c) is amended to read:

11 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
12 36.30.790], this chapter does not apply to contracts between two or more agencies, the
13 state and its political subdivisions, or the state and other governments.

14 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

15 (g) This chapter does not authorize the commissioner or any employee of the
16 department to acquire title to real property through the use of lease-purchase
17 agreements or lease-financing agreements in which the department is the lessor. For
18 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
19 have the meanings given those terms in AS 36.30.990.

20 * Sec. 11. AS 36.30.080(b) is repealed.

21 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

Saturday, 1/29/94

RE: MONDAY'S SENATE FINANCE MEETING

Sens. Pearce and Frank:

We have 5 items scheduled for Finance Monday morning. Rick and I suggest that they be taken in the following order:

1. CRA budget overview (because Remond is on his third trip to Juneau and members wanted an AEA briefing before acting on the Four-damn Pool bill.)
2. Governor's Office overview (professional courtesy.)
3. SB 243, Four-damn Pool Transfer Fund.
4. SB 247, Leases and Lease Purchasing (see below.)
5. Legislature budget overview.

Attached are a title change and amendments to SB 247 that came in Saturday as requested by Sen. Frank. Also attached is a CS requested by Sen. Phillips that lowers leasing thresholds from \$1 million to \$500,000 and total lease payments from \$10 million to \$2,500,000.

THE PROBLEM is that the title change and amendments are written to a prior version of the bill...therefore the numbers in the proposed new title are not in sync with the proposed new CS.

Therefore, prior to taking up the bill, I suggest an at-ease so Sens. Pearce and Frank can put their heads together for five minutes and figure out where they want to go. Someone will have to explain this to the committee.

I have the attached packet ready to be distributed but have told Kathy to hold up for the time being.

Sorry this has become so confused...it's just one of those bills that a lot of folks are interested in.

I've left a voice-mail message for Comm. Usera that we have new language and that we're hearing the bill Monday morning. I mercifully skipped trying to explain the above confusion to her just to start her week off right.

Billy

Outdated

*Kathy - F.V.I.
Pls. Hold off on
distr. buting. I further
these until further
notice.
204
B*

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

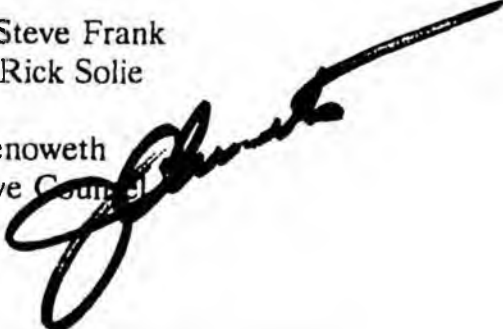
MEMORANDUM

January 28, 1994

SUBJECT: Amendments to CSSB 217 (2d Finance) (Work Order Nos. 8-LS1447\O.1 and O.2)

TO: Senator Steve Frank
ATTN: Rick Solie

FROM: Jack Chenoweth
Legislative Counsel



Of the two amendments that accompany this memo --

O.1 only tightens the title of the current bill;

O.2 tightens the title and attempts to cure a number of other drafting ills:

(1) The change, on page 2, at line 19, of reference from "subsection" to "paragraph" corrects my error.

(2) The changes of "agreement" to "lease" at the places indicated on pp. 5 and 6 make consistent the references in the opening sentences of that subsection which, as revised, mentioned only "lease" and say nothing of "agreement."

(3) Insertion of "real" before "property" on page 6 at line 20 conforms that reference to the reference set out at page 6, line 14.

(4) Substitution of "agreement" for "project" on page 7, at line 8 deletes an incorrect reference and substitutes a proper description of the thing that needs to have legislative approval.

JBC:pl:gc
94-079.plm

Enclosure

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 247(2d FIN)

Page 1, lines 1 and 2:

Delete all material and insert:

"" An Act making subject to prior legislative approval contracts entered into or renewed by the executive branch of state government, the legislative council, the Alaska Court System, and the University of Alaska for the lease of real property if the lease has an annual rent payable that is anticipated to exceed \$1,000,000 or has total payments that exceed \$10,000,000 for the term of the lease, including any renewal options that are defined in the lease, prohibiting these entities from entering into or renewing a lease of real property if the renewal period in the lease exceeds two years, and making subject to prior legislative approval lease-purchase agreements that may be entered into by these entities to acquire real property, other than lease-purchase agreements to refinance outstanding balances on existing lease-purchase agreements and lease-purchase agreements secured by University of Alaska student fees and university receipts; authorizing these entities to enter into lease-purchase agreements only in the capacity of lessee under the proposed lease-purchase agreement; defining procedures that these entities must follow when considering whether or not to enter into lease-purchase agreements, and setting limits on the duration of these agreements; and providing definitions for applicable terms; and providing for an effective date.""

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 247(2d FIN)

Page 1, lines 1 and 2:

Delete all material and insert:

""An Act making subject to prior legislative approval contracts entered into or renewed by the executive branch of state government, the legislative council, the Alaska Court System, and the University of Alaska for the lease of real property if the lease has an annual rent payable that is anticipated to exceed \$1,000,000 or has total payments that exceed \$10,000,000 for the term of the lease, including any renewal options that are defined in the lease, prohibiting these entities from entering into or renewing a lease of real property if the renewal period in the lease exceeds two years, and making subject to prior legislative approval lease-purchase agreements that may be entered into by these entities to acquire real property, other than lease-purchase agreements to refinance outstanding balances on existing lease-purchase agreements and lease-purchase agreements secured by University of Alaska student fees and university receipts; authorizing these entities to enter into lease-purchase agreements only in the capacity of lessee under the proposed lease-purchase agreement; defining procedures that these entities must follow when considering whether or not to enter into lease-purchase agreements, and setting limits on the duration of these agreements; and providing definitions for applicable terms; and providing for an effective date.""

Page 2, line 19:

Delete "subsection"

Insert "paragraph"

Page 5, line 26:

Delete "an agreement"

Insert "a lease of real property [AN AGREEMENT]"

Page 5, line 28:

Delete the first occurrence of "agreement"

Insert "lease"

Delete "an agreement"

Insert "a lease"

Page 5, line 31:

Delete the first occurrence of "agreement"

Insert "lease"

Delete "an agreement"

Insert "a lease"

Page 6, line 4:

Delete "agreement"

Insert "lease [AGREEMENT]"

Page 6, line 20, after "of the":

Insert "real"

Page 7, line 8:

Delete "project"

Insert "agreement"

Post-It brand fax transmittal memo 787		# of pages > 8
To <i>Dick Sebe</i>	From <i>Landy</i>	
Co.	Co.	
Dept.	Phone #	
Fax # <i>4714</i>	Fax # <i>2347</i>	

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8-LS1447R
Chenoweth
1/28/94

CS FOR SENATE BILL NO. 247()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state leases and to state lease-purchase and lease-financing
2 agreements; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 14.40.040 is amended to read:

5 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
6 created and established a corporation to be called the University of Alaska. It may in
7 that name

- 8 (1) sue and be sued;
9 (2) receive and hold real and personal property;
10 (3) contract and be contracted with; a contract entered into by the

11 University of Alaska for the
12 (A) rent or lease of premises for use and occupancy by the
13 University of Alaska is subject to AS 36.30.080(c):
14 (B) acquisition of property by a lease-purchase or lease-

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1 financing agreement for the benefit of the University of Alaska is subject
 2 to AS 36.30.085:

- 3 (4) adopt, use, and alter a corporate seal;
- 4 (5) borrow money, issue debt, or enter into long-term obligations [.] for
- 5 the purchase of facilities, goods, or services; the obligations may secure, in whole or
- 6 in part, debt issued by another party;
- 7 (6) do and have done all matters necessary for the purpose of any
- 8 function set out in this chapter.

9 * Sec. 2. AS 22.05.025(a) is amended to read:

10 (a) The [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

- 11 (1) all matters relating to the
 - 12 (A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance,
 - 13 occupancy, [LEASING,] and operation of all court facilities;
 - 14 (B) rent or lease of facilities for court system purposes,
 - 15 subject to AS 36.30.080(c); and
 - 16 (C) acquisition of facilities for court system purposes by
 - 17 lease-purchase or lease-financing agreements, subject to AS 36.30.085; and

18 (2) the planning, design, and construction of court facilities but, in
 19 the exercise of its authority under this subsection, the supreme court shall
 20 cooperate and coordinate with the Department of Transportation and Public Facilities
 21 so that court facility construction projects are carried out in accordance with the
 22 statutes and regulations applicable to state public works projects.

23 * Sec. 3. AS 24.20.060 is amended to read:

24 Sec. 24.20.060. POWERS. The legislative council has the power

- 25 (1) to organize and adopt rules for the conduct of its business;
- 26 (2) to hold public hearings, administer oaths, issue subpoenas, compel
- 27 the attendance of witnesses and production of papers, books, accounts, documents, and
- 28 testimony, and to have the deposition of witnesses taken in a manner prescribed by
- 29 court rule or law for taking depositions in civil actions when consistent with the
- 30 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;
- 31 (3) to call upon all state officials, agencies, and institutions to give full

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1 cooperation to the council and its executive director by collecting and furnishing
2 information, conducting studies, and making recommendations;

3 (4) in addition to providing the administrative services required for the
4 operation of the legislative branch,

5 (A) to provide the technical staff assistance in research,
6 reporting, drafting, and counseling requested by standing, interim, and special
7 committees and spot research and drafting services for individual members in
8 conformity with law and legislative rules;

9 (B) to conduct a continuing program for the revision and
10 publication of the acts of the legislature;

11 (C) to execute a program for the oversight of the administration
12 and construction of laws by state agencies and the courts through regulations,
13 opinions, and rulings;

14 (D) to operate and maintain the state legislative reference
15 library;

16 (E) to do all things necessary to carry out legislative directives
17 and law, and the duties set out in the uniform rules of the legislature;

18 (F) to sue in the name of the legislature during the interim
19 between sessions if authorized by majority vote of the full membership of the
20 council;

21 (5) to exercise control and direction over all legislative space, supplies,
22 and equipment and permanent legislative help between legislative sessions; the
23 exercise of control over legislative space is subject to AS 36.30.080(c) if the
24 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
25 involves the acquisition of facilities by lease-purchase or lease-financing
26 agreement;

27 (6) to produce, publish, distribute, and to contract for the printing of
28 reports, memoranda, and other materials it finds necessary to the accomplishment of
29 its work;

30 (7) to take appropriate action for the pre-convening and post-session
31 work of each legislative session including the employment one week in advance of

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1 each session of not more than 10 temporary legislative employees; the continuing
2 employment of the temporary legislative employees is subject to legislative approval
3 when the session convenes;

4 (8) to establish a legislative internship program on a cooperative basis
5 with the University of Alaska that will provide for the assignment of interns to
6 standing committees of each house of the legislature during regular sessions of the
7 legislature; [,] and

8 (9) to establish reasonable fees for services and materials provided by
9 the Legislative Affairs Agency to entities outside of the legislative branch of state
10 government and charges for collecting the fees; all fees and charges collected under
11 this paragraph shall be deposited into the general fund.

12 * Sec. 4. AS 36.30.020 is amended to read:

13 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
14 publish procedures to govern the procurement of supplies, services, professional
15 services, and construction by the legislative branch. The procedures must be based on
16 the competitive principles consistent with this chapter and must be adapted to the
17 special needs of the legislative branch as determined by the Legislative Council. The
18 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
19 36.30.085 [AS 36.30.080(b) - (e)].

20 * Sec. 5. AS 36.30.030 is amended to read:

21 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
22 adopt and publish procedures to govern the procurement of supplies, services,
23 professional services, and construction by the judicial branch. The procedures must
24 be based on the competitive principles consistent with this chapter and must be adapted
25 to the special needs of the judicial branch as determined by the administrative director
26 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
27 (e) and 36.30.085 [AS 36.30.080(b) - (e)].

28 * Sec. 6. AS 36.30.080(c) is amended to read:

29 (c) If the department, the Board of Regents of the University of Alaska, the
30 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
31 to enter into or renew a lease of real property with an annual rent to the department,

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1 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
 2 BRANCH] that is anticipated to exceed \$500,000 [\$1,000,000], or with total lease
 3 payments that exceed \$2,500,000 [\$10,000,000] for the full term of the lease,
 4 including any renewal options that are defined in the lease, the department, the
 5 Board of Regents, the legislative council [BRANCH], or supreme court [JUDICIAL
 6 BRANCH] shall provide notice to the legislature. [IF THE DEPARTMENT,
 7 LEGISLATIVE BRANCH, OR JUDICIAL BRANCH INTENDS TO ENTER INTO
 8 OR RENEW A LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR
 9 REAL PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
 10 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
 11 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
 12 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
 13 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
 14 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
 15 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
 16 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
 17 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
 18 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
 19 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
 20 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
 21 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
 22 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
 23 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
 24 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
 25 Board of Regents, the legislative council, and the supreme court may not enter into
 26 or renew an agreement

27 (1) requiring notice under this subsection unless the proposed
 28 agreement or renewal of an agreement [PROJECT] has been approved by the
 29 legislature by law: an [. AN] appropriation for the rent payable during the initial
 30 period of the lease or the initial period of lease renewal [PROJECT] constitutes
 31 approval of the proposed agreement or renewal of an agreement [PROJECT] for

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1 purposes of this paragrah [SUBSECTION];

2 (2) [THE DEPARTMENT MAY NOT ENTER INTO AN
3 AGREEMENT] under this subsection if the optional renewal period provided for
4 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
5 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

6 * Sec. 7. AS 36.30 is amended by adding a new section to read:

7 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
8 duties and statutory functions, the department, the Board of Regents of the University
9 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
10 agreements. The department, the Board of Regents, the legislative council, or the
11 supreme court may enter into a lease-purchase agreement only if the department, the
12 Board of Regents, the legislative council, or the supreme court is the lessee under the
13 agreement.

14 (b) When evaluating proposals to acquire real property under a lease-purchase
15 agreement, the department, the Board of Regents, the legislative council, or the
16 supreme court shall consider

17 (1) in addition to lease costs, the life cycle costs, function, indoor
18 environment, public convenience, planning, design, appearance, and location of the
19 property proposed for acquisition; and

20 (2) whether acquisition of the property by lease-purchase agreement is
21 likely to be the least costly means to provide the space.

22 (c) A lease-purchase agreement

23 (1) may not provide for a period of occupancy under the full term of
24 the lease-purchase agreement that is greater than 40 years;

25 (2) must provide that lease payments made by the department, the
26 Board of Regents, the legislative council, or the supreme court are subject to annual
27 appropriation.

28 (d) If the department, Board of Regents, legislative council, or supreme court
29 intends to enter into or renew a lease-purchase agreement for real property, the
30 department, Board of Regents, legislative council, or supreme court shall provide
31 notice to the legislature. The notice must include the

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1 (1) anticipated total construction, acquisition, or other costs of the
2 project;

3 (2) anticipated annual amount of the rental obligation; and

4 (3) total lease payments for the full term of the lease-purchase
5 agreement.

6 (e) The department, the Board of Regents, the legislative council, or the
7 supreme court may not enter into a lease-purchase agreement to acquire real property
8 unless the project has been approved by the legislature by law.

9 (f) The provisions of (d) and (e) of this section do not apply to a lease-
10 purchase agreement

11 (1) related to the refinancing of an outstanding balance owing on an
12 existing lease-purchase agreement; or

13 (2) by the University of Alaska if the lease-purchase agreement is
14 secured by student fees or university receipts as defined in AS 14.40.491.

15 (g) In this section,

16 (1) "full term of the lease-purchase agreement" includes all renewal
17 options that are defined within the lease-purchase agreement;

18 (2) "lease-purchase agreement" includes a lease-financing agreement.

19 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

20 (5) acquisitions or disposals of real property or interest in real property,
21 except as provided in AS 36.30.080 and 36.30.085;

22 * Sec. 9. AS 36.30.850(c) is amended to read:

23 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
24 36.30.790], this chapter does not apply to contracts between two or more agencies, the
25 state and its political subdivisions, or the state and other governments.

26 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

27 (g) This chapter does not authorize the commissioner or any employee of the
28 department to acquire title to real property through the use of lease-purchase
29 agreements or lease-financing agreements in which the department is the lessor. For
30 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
31 have the meanings given those terms in AS 36.30.990.

WORK DRAFT

WORK DRAFT

WORK DRAFT

- 1 * **Sec. 11.** AS 36.30.080(b) is repealed.
- 2 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).

CSSB 247()

-8-

New Text Underlined (DELETED TEXT BRACKETED)

1-28-94
SF - Adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

8-LS14470
Chenoweth
1/27/94

*Outdated
Replaced
by "X"
version
2-1-94*

CS FOR SENATE BILL NO. 247(2d FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

BILL

FOR AN ACT ENTITLED

1 "An Act relating to state leases and to state lease-purchase and lease-financing
2 agreements; and providing for an effective date."

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

4 * Section 1. AS 14.40.040 is amended to read:

5 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
6 created and established a corporation to be called the University of Alaska. It may in
7 that name

- 8 (1) sue and be sued;
- 9 (2) receive and hold real and personal property;
- 10 (3) contract and be contracted with; a contract entered into by the

11 University of Alaska for the

12 (A) rent or lease of premises for use and occupancy by the

13 University of Alaska is subject to AS 36.30.080(c);

14 (B) acquisition of property by a lease-purchase or lease-

1 **financing agreement for the benefit of the University of Alaska is subject**
2 **to AS 36.30.085:**

3 (4) adopt, use, and alter a corporate seal;

4 (5) borrow money, issue debt, or enter into long-term obligations [,] for
5 the purchase of facilities, goods, or services; the obligations may secure, in whole or
6 in part, debt issued by another party;

7 (6) do and have done all matters necessary for the purpose of any
8 function set out in this chapter.

9 * Sec. 2. AS 22.05.025(a) is amended to read:

10 (a) **The** [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

11 **(1)** all matters relating to the

12 **(A)** [PLANNING, DESIGN, CONSTRUCTION,] maintenance,
13 occupancy, [LEASING,] and operation of all court facilities;

14 **(B)** **rent or lease of facilities for court system purposes,**
15 **subject to AS 36.30.080(c); and**

16 **(C)** **acquisition of facilities for court system purposes by**
17 **lease-purchase or lease-financing agreements, subject to AS 36.30.085; and**

18 **(2)** **the planning, design, and construction of court facilities but, in**
19 **the exercise of its authority under this subsection, the supreme court** shall
20 cooperate and coordinate with the Department of Transportation and Public Facilities
21 so that court facility construction projects are carried out in accordance with the
22 statutes and regulations applicable to state public works projects.

23 * Sec. 3. AS 24.20.060 is amended to read:

24 Sec. 24.20.060. POWERS. The legislative council has the power

25 (1) to organize and adopt rules for the conduct of its business;

26 (2) to hold public hearings, administer oaths, issue subpoenas, compel
27 the attendance of witnesses and production of papers, books, accounts, documents, and
28 testimony, and to have the deposition of witnesses taken in a manner prescribed by
29 court rule or law for taking depositions in civil actions when consistent with the
30 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

31 (3) to call upon all state officials, agencies, and institutions to give full

1 cooperation to the council and its executive director by collecting and furnishing
2 information, conducting studies, and making recommendations;

3 (4) in addition to providing the administrative services required for the
4 operation of the legislative branch,

5 (A) to provide the technical staff assistance in research,
6 reporting, drafting, and counseling requested by standing, interim, and special
7 committees and spot research and drafting services for individual members in
8 conformity with law and legislative rules;

9 (B) to conduct a continuing program for the revision and
10 publication of the acts of the legislature;

11 (C) to execute a program for the oversight of the administration
12 and construction of laws by state agencies and the courts through regulations,
13 opinions, and rulings;

14 (D) to operate and maintain the state legislative reference
15 library;

16 (E) to do all things necessary to carry out legislative directives
17 and law, and the duties set out in the uniform rules of the legislature;

18 (F) to sue in the name of the legislature during the interim
19 between sessions if authorized by majority vote of the full membership of the
20 council;

21 (5) to exercise control and direction over all legislative space, supplies,
22 and equipment and permanent legislative help between legislative sessions; the
23 exercise of control over legislative space is subject to AS 36.30.080(c) if the
24 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
25 involves the acquisition of facilities by lease-purchase or lease-financing
26 agreement;

27 (6) to produce, publish, distribute, and to contract for the printing of
28 reports, memoranda, and other materials it finds necessary to the accomplishment of
29 its work;

30 (7) to take appropriate action for the preconvailing and post-session
31 work of each legislative session including the employment one week in advance of

1 each session of not more than 10 temporary legislative employees; the continuing
2 employment of the temporary legislative employees is subject to legislative approval
3 when the session convenes;

4 (8) to establish a legislative internship program on a cooperative basis
5 with the University of Alaska that will provide for the assignment of interns to
6 standing committees of each house of the legislature during regular sessions of the
7 legislature; [,] and

8 (9) to establish reasonable fees for services and materials provided by
9 the Legislative Affairs Agency to entities outside of the legislative branch of state
10 government and charges for collecting the fees; all fees and charges collected under
11 this paragraph shall be deposited into the general fund.

12 * Sec. 4. AS 36.30.020 is amended to read:

13 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
14 publish procedures to govern the procurement of supplies, services, professional
15 services, and construction by the legislative branch. The procedures must be based on
16 the competitive principles consistent with this chapter and must be adapted to the
17 special needs of the legislative branch as determined by the Legislative Council. The
18 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
19 36.30.085 [AS 36.30.080(b) - (e)].

20 * Sec. 5. AS 36.30.030 is amended to read:

21 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
22 adopt and publish procedures to govern the procurement of supplies, services,
23 professional services, and construction by the judicial branch. The procedures must
24 be based on the competitive principles consistent with this chapter and must be adapted
25 to the special needs of the judicial branch as determined by the administrative director
26 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
27 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

28 * Sec. 6. AS 36.30.080(c) is amended to read:

29 (c) If the department, the Board of Regents of the University of Alaska, the
30 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
31 to enter into or renew a lease of real property with an annual rent to the department,

1 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
2 BRANCH] that is anticipated to exceed \$1,000,000, or with total lease payments that
3 exceed \$10,000,000 for the full term of the lease, including any renewal options that
4 are defined in the lease, the department, the Board of Regents, the legislative
5 council [BRANCH], or supreme court [JUDICIAL BRANCH] shall provide notice
6 to the legislature. [IF THE DEPARTMENT, LEGISLATIVE BRANCH, OR
7 JUDICIAL BRANCH INTENDS TO ENTER INTO OR RENEW A
8 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR REAL
9 PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
10 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
11 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
12 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
13 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
14 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
15 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
16 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
17 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
18 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
19 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
20 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
21 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
22 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
23 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
24 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
25 Board of Regents, the legislative council, and the supreme court may not enter into
26 or renew an agreement

27 (1) requiring notice under this subsection unless the proposed
28 agreement or renewal of an agreement [PROJECT] has been approved by the
29 legislature by law; an [. AN] appropriation for the rent payable during the initial
30 period of the lease or the initial period of lease renewal [PROJECT] constitutes
31 approval of the proposed agreement or renewal of an agreement [PROJECT] for

1 purposes of this paragraph [SUBSECTION];

2 (2) [THE DEPARTMENT MAY NOT ENTER INTO AN
3 AGREEMENT] under this subsection if the optional renewal period provided for
4 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
5 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

6 * Sec. 7. AS 36.30 is amended by adding a new section to read:

7 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
8 duties and statutory functions, the department, the Board of Regents of the University
9 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
10 agreements. The department, the Board of Regents, the legislative council, or the
11 supreme court may enter into a lease-purchase agreement only if the department, the
12 Board of Regents, the legislative council, or the supreme court is the lessee under the
13 agreement.

14 (b) When evaluating proposals to acquire real property under a lease-purchase
15 agreement, the department, the Board of Regents, the legislative council, or the
16 supreme court shall consider

17 (1) in addition to lease costs, the life cycle costs, function, indoor
18 environment, public convenience, planning, design, appearance, and location of the
19 property proposed for acquisition; and

20 (2) whether acquisition of the property by lease-purchase agreement is
21 likely to be the least costly means to provide the space.

22 (c) A lease-purchase agreement

23 (1) may not provide for a period of occupancy under the full term of
24 the lease-purchase agreement that is greater than 40 years;

25 (2) must provide that lease payments made by the department, the
26 Board of Regents, the legislative council, or the supreme court are subject to annual
27 appropriation.

28 (d) If the department, Board of Regents, legislative council, or supreme court
29 intends to enter into or renew a lease-purchase agreement for real property, the
30 department, Board of Regents, legislative council, or supreme court shall provide
31 notice to the legislature. The notice must include the

- 1 (1) anticipated total construction, acquisition, or other costs of the
2 project;
- 3 (2) anticipated annual amount of the rental obligation; and
4 (3) total lease payments for the full term of the lease-purchase
5 agreement.

6 (e) The department, the Board of Regents, the legislative council, or the
7 supreme court may not enter into a lease-purchase agreement to acquire real property
8 unless the project has been approved by the legislature by law.

9 (f) The provisions of (d) and (e) of this section do not apply to a lease-
10 purchase agreement

11 (1) related to the refinancing of an outstanding balance owing on an
12 existing lease-purchase agreement; or

13 (2) by the University of Alaska if the lease-purchase agreement is
14 secured by student fees or university receipts as defined in AS 14.40.491.

15 (g) In this section,

16 (1) "full term of the lease-purchase agreement" includes all renewal
17 options that are defined within the lease-purchase agreement;

18 (2) "lease-purchase agreement" includes a lease-financing agreement.

19 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

20 (5) acquisitions or disposals of real property or interest in real property,
21 except as provided in AS 36.30.080 and 36.30.085;

22 * Sec. 9. AS 36.30.850(c) is amended to read:

23 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
24 36.30.790], this chapter does not apply to contracts between two or more agencies, the
25 state and its political subdivisions, or the state and other governments.

26 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

27 (g) This chapter does not authorize the commissioner or any employee of the
28 department to acquire title to real property through the use of lease-purchase
29 agreements or lease-financing agreements in which the department is the lessor. For
30 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
31 have the meanings given those terms in AS 36.30.990.

- 1 * **Sec. 11.** AS 36.30.080(b) is repealed.
- 2 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).

8-LS1447K
Chenoweth
1/26/94

*Defective
Draft
Does not
contain
SFC Awards
of 1-20-94*

CS FOR SENATE BILL NO. 247()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state leases and to state lease-purchase and lease-financing
2 agreements; and providing for an effective date."

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

4 * Section 1. AS 14.40.040 is amended to read:

5 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
6 created and established a corporation to be called the University of Alaska. It may in
7 that name

8 (1) sue and be sued;

9 (2) receive and hold real and personal property;

10 (3) contract and be contracted with; a contract entered into by the

11 University of Alaska for the

12 (A) rent or lease of premises for use and occupancy by the

13 University of Alaska is subject to AS 36.30.080(c);

14 (B) acquisition of property by a lease-purchase or lease-

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financing agreement for the benefit of the University of Alaska is subject to AS 36.30.085:

(4) adopt, use, and alter a corporate seal;

(5) borrow money, issue debt, or enter into long-term obligations [,] for the purchase of facilities, goods, or services; the obligations may secure, in whole or in part, debt issued by another party;

(6) do and have done all matters necessary for the purpose of any function set out in this chapter.

* Sec. 2. AS 22.05.025(a) is amended to read:

(a) The [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

(1) all matters relating to the

(A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance, occupancy, [LEASING,] and operation of all court facilities;

(B) rent or lease of facilities for court system purposes, subject to AS 36.30.080(c); and

(C) acquisition of facilities for court system purposes by lease-purchase or lease-financing agreements. subject to AS 36.30.085; and

(2) the planning, design, and construction of court facilities but, in the exercise of its authority under this subsection, the supreme court shall cooperate and coordinate with the Department of Transportation and Public Facilities so that court facility construction projects are carried out in accordance with the statutes and regulations applicable to state public works projects.

* Sec. 3. AS 24.20.060 is amended to read:

Sec. 24.20.060. POWERS. The legislative council has the power

(1) to organize and adopt rules for the conduct of its business;

(2) to hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents, and testimony, and to have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions when consistent with the powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

(3) to call upon all state officials, agencies, and institutions to give full

1 cooperation to the council and its executive director by collecting and furnishing
2 information, conducting studies, and making recommendations;

3 (4) in addition to providing the administrative services required for the
4 operation of the legislative branch,

5 (A) to provide the technical staff assistance in research,
6 reporting, drafting, and counseling requested by standing, interim, and special
7 committees and spot research and drafting services for individual members in
8 conformity with law and legislative rules;

9 (B) to conduct a continuing program for the revision and
10 publication of the acts of the legislature;

11 (C) to execute a program for the oversight of the administration
12 and construction of laws by state agencies and the courts through regulations,
13 opinions, and rulings;

14 (D) to operate and maintain the state legislative reference
15 library;

16 (E) to do all things necessary to carry out legislative directives
17 and law, and the duties set out in the uniform rules of the legislature;

18 (F) to sue in the name of the legislature during the interim
19 between sessions if authorized by majority vote of the full membership of the
20 council;

21 (5) to exercise control and direction over all legislative space, supplies,
22 and equipment and permanent legislative help between legislative sessions; the
23 exercise of control over legislative space is subject to AS 36.30.080(c) if the
24 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
25 involves the acquisition of facilities by lease-purchase or lease-financing
26 agreement;

27 (6) to produce, publish, distribute, and to contract for the printing of
28 reports, memoranda, and other materials it finds necessary to the accomplishment of
29 its work;

30 (7) to take appropriate action for the preconvailing and post-session
31 work of each legislative session including the employment one week in advance of

1 each session of not more than 10 temporary legislative employees; the continuing
2 employment of the temporary legislative employees is subject to legislative approval
3 when the session convenes;

4 (8) to establish a legislative internship program on a cooperative basis
5 with the University of Alaska that will provide for the assignment of interns to
6 standing committees of each house of the legislature during regular sessions of the
7 legislature; [,] and

8 (9) to establish reasonable fees for services and materials provided by
9 the Legislative Affairs Agency to entities outside of the legislative branch of state
10 government and charges for collecting the fees; all fees and charges collected under
11 this paragraph shall be deposited into the general fund.

12 * Sec. 4. AS 36.30.020 is amended to read:

13 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
14 publish procedures to govern the procurement of supplies, services, professional
15 services, and construction by the legislative branch. The procedures must be based on
16 the competitive principles consistent with this chapter and must be adapted to the
17 special needs of the legislative branch as determined by the Legislative Council. The
18 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
19 36.30.085 [AS 36.30.080(b) - (e)].

20 * Sec. 5. AS 36.30.030 is amended to read:

21 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
22 adopt and publish procedures to govern the procurement of supplies, services,
23 professional services, and construction by the judicial branch. The procedures must
24 be based on the competitive principles consistent with this chapter and must be adapted
25 to the special needs of the judicial branch as determined by the administrative director
26 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
27 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

28 * Sec. 6. AS 36.30.080(c) is amended to read:

29 (c) If the department, the Board of Regents of the University of Alaska, the
30 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
31 to enter into or renew a lease of real property with an annual rent to the department,

1 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
2 BRANCH] that is anticipated to exceed \$1,000,000, or with total lease payments that
3 exceed \$10,000,000 for the full term of the lease, including any renewal options that
4 are defined in the lease, the department, the Board of Regents, the legislative
5 council [BRANCH], or supreme court [JUDICIAL BRANCH] shall provide notice
6 to the legislature. [IF THE DEPARTMENT, LEGISLATIVE BRANCH, OR
7 JUDICIAL BRANCH INTENDS TO ENTER INTO OR RENEW A
8 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR REAL
9 PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
10 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
11 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
12 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
13 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
14 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
15 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
16 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
17 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
18 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
19 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
20 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
21 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
22 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
23 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
24 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
25 Board of Regents, the legislative council, and the supreme court may not enter into
26 or renew an agreement

27 (1) requiring notice under this subsection unless the proposed
28 agreement or renewal of an agreement [PROJECT] has been approved by the
29 legislature by law; an [. AN] appropriation for the rent payable during the initial
30 period of the lease or the initial period of lease renewal [PROJECT] constitutes
31 approval of the proposed agreement or renewal of an agreement [PROJECT] for

1 purposes of this paragraph [SUBSECTION];

2 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN
3 AGREEMENT] under this subsection if the optional renewal period provided for
4 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
5 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

6 * Sec. 7. AS 36.30 is amended by adding a new section to read:

7 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
8 duties and statutory functions, the department, th Board of Regents of the University
9 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
10 agreements. The department, the Board of Regents, the legislative council, or the
11 supreme court may enter into a lease-purchase agreement only if the department, the
12 Board of Regents, the legislative council, or the supreme court is the lessee under the
13 agreement.

14 (b) When evaluating proposals to acquire property under a lease-purchase
15 agreement, the department, the Board of Regents, the legislative council, or the
16 supreme court shall consider

17 (1) in addition to lease costs, the life cycle costs, function, indoor
18 environment, public convenience, planning, design, appearance, and location of the
19 property proposed for acquisition; and

20 (2) whether acquisition of the property by lease-purchase agreement is
21 likely to be the least costly means to provide the space.

22 (c) A lease-purchase agreement

23 (1) may not provide for a period of occupancy under the full term of
24 the lease-purchase agreement that is greater than 40 years;

25 (2) must provide that lease payments made by the department, the
26 Board of Regents, the legislative council, or the supreme court are subject to annual
27 appropriation.

28 (d) If the department, Board of Regents, legislative council, or supreme court
29 intends to enter into or renew a lease-purchase agreement for real property, the
30 department, Board of Regents, legislative council, or supreme court shall provide
31 notice to the legislature. The notice must include the

1 (1) anticipated total construction, acquisition, or other costs of the
2 project;

3 (2) anticipated annual amount of the rental obligation; and

4 (3) total lease payments for the full term of the lease-purchase
5 agreement.

6 (e) The department, the Board of Regents, the legislative council, or the
7 supreme court may not enter into a lease-purchase agreement unless the project has
8 been approved by the legislature by law.

9 (f) The provisions of (d) and (e) of this section do not apply to a lease-
10 purchase agreement

11 (1) related to the refinancing of an outstanding balance owing on an
12 existing lease-purchase agreement; or

13 (2) by the University of Alaska if the lease-purchase agreement is
14 secured by student fees or university receipts as defined in AS 14.40.491.

15 (g) In this section,

16 (1) "full term of the lease-purchase agreement" includes all renewal
17 options that are defined within the lease-purchase agreement;

18 (2) "lease-purchase agreement" includes a lease-financing agreement.

19 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

20 (5) acquisitions or disposals of real property or interest in real property,
21 except as provided in AS 36.30.080 and 36.30.085;

22 * Sec. 9. AS 36.30.850(c) is amended to read:

23 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
24 36.30.790], this chapter does not apply to contracts between two or more agencies, the
25 state and its political subdivisions, or the state and other governments.

26 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

27 (g) This chapter does not authorize the commissioner or any employee of the
28 department to acquire title to real property through the use of lease-purchase
29 agreements or lease-financing agreements in which the department is the lessor. For
30 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
31 have the meanings given those terms in AS 36.30.990.

- 1 * Sec. 11. AS 36.30.080(b) is repealed.
- 2 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

MEMORANDUM

TO: The Honorable Steve Frank, Co-Chair
The Honorable Drue Pearce, Co-Chair
Senate Finance Committee

FROM: Randy S. Welker *Randy*
Legislative Auditor

DATE: January 19, 1994

RE: Lease-Financing Legislation - SB 247

We have prepared the following to assist in your deliberations on the proposed amendments to statutes governing lease-financing acquisitions of real property by the State. This legislation is in response to our ongoing review and concern over lease-purchases of the Wildwood Correctional Center and the Court Plaza Building and the proposed purchase of the Anchorage Times Complex.

AS 36.30.080 permits the Department of Administration (DOA) to lease space for the use of the State. It also provides DOA, the legislature, and the judicial branch the authority to enter lease-purchase or lease-financing agreements for the acquisition of real property. AS 36.30.080(c), before SLA 1993 amendments became effective, required that for planned leases or lease-financing that exceed payments of \$1,000,000 annually or \$10,000,000 over the life of the lease or lease-financing notice must be provided to the legislature and a planned lease or lease-financing acquisition by the department must be approved by the legislature by law. Leases or lease-purchases less than \$1,000,000 annually or \$10,000,000 over the life of the lease did not require notice to, or approval by, the legislature.

After numerous failed attempts to obtain capital appropriations to acquire the leased Wildwood Correctional Center, in December 1992 the administration exercised its option under the lease, and acquired the facility under the authority of AS 36.30.080(c) by issuing Certificates of Participation (COP). However, the purchase price exceeded the dollar limitations requiring legislative approval imposed by statute. To circumvent legislative approval, the administration "split" the COP issue into two — each one falling below the \$10,000,000 ceiling, thereby not requiring approval. The deal was also structured so that the annual debt service requirements under each COP debt issue would be slightly below the \$1,000,000 limitation — again avoiding the need for legislative approval, and resulting in

the legislature having to consider annual appropriations for the next eight years until debt service of approximately \$13 million is paid. Non-appropriation — which is an option under this type of arrangement — would result in a detrimental impact to the State's general obligation credit rating.

A Division of Legislative Audit review of the Wildwood acquisition raised serious questions regarding the legality of the financing scheme employed to acquire the facility and the legality of the role of the Department of Natural Resources (DNR) in the process.

In the opinion of Legislative Counsel, the funds raised through the issuance of COPs are subject to legislative appropriation and were of a governmental and public purpose which under the Constitution requires legislative sanction before disbursement. Additionally, both Legislative Counsel and independent counsel engaged by the Legislative Budget and Audit Committee are of the opinion that DNR does not have the authority to issue debt to acquire real property.

Because of the purchase of the Wildwood facility in this manner, intentionally avoiding legislative approval — particularly at a time when the continuance of the facility itself was subject to intense legislative debate — legislation was adopted last session to specifically mandate legislative involvement in this debt issuance/property acquisition process.

Chapter 37, SLA 93 (SB 129) amended AS 36.30.080(c) requiring that "*if the department, legislative branch, or judicial branch intends to enter into or renew a lease-purchase or lease-financing agreement for real property . . .*" then "*. . . the department, legislative branch, or judicial branch shall provide notice to the legislature.*" The statute also requires that "*the department may not enter into or renew an agreement requiring notice under this subsection unless the project has been approved by the legislature.*" (Emphasis added.)

In the most recent attempt to utilize lease-purchase COP financing to purchase the Anchorage Times Complex, the Court System did provide notice to the legislature of its intentions, however, under the wording of the statute the Court System was not required to obtain legislative approval. SB 247 amends statute to require legislative approval **by law** for any real property acquisitions via lease-financing by the executive branch, the board of regents of the University of Alaska, the legislative council, and the supreme court.

Senate Bill 247 also amends AS 38.05.030 to specifically prohibit DNR from acquiring real property through the use of lease-purchase agreements or lease-financing agreements in which DNR is the lessor. We believe that there is clear authority under the statutory provisions of the Alaska Housing Finance Corporation to issue lease-backed revenue bonds in accordance with the Housing Project and Public Building Assistance Act (AS 18.55.010-.290) for the acquisition of public buildings. These statutes were previously Alaska State Housing Authority laws but were amended with the merger of ASHA with AHFC.

The Honorable Steve Frank
The Honorable Drue Pearce

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January 19, 1994

We have also included language in this bill to clearly **include** the University. If the legislature agrees with us that the provisions of leasing should apply to the University, I also recommend that the legislature reconsider an exemption placed in statute last session which we have kept in this bill. Specifically, on page 7, lines 15 and 16, exempt University lease-purchase agreements secured by student fees or other university receipts from the legislative notification and approval requirements of the legislation.

Finally, the bill proposes the repeal of a temporary act, sec. 2, chapter 92, SLA 1986, which gives the court system the authority to enter into a lease-purchase agreement not to exceed \$29.9 million for construction of a court facility in Fairbanks.

We have enclosed a copy of AS 36.30.080 as it is currently written for reference. We have also included a copy of Chapter 92, SLA 86 and a sectional analysis.

Enclosures

Sec. 36.30.080. Leases. (a) The department shall lease space for the use of the state or an agency wherever it is necessary and feasible, subject to compliance with the requirements of this chapter. A lease may not provide for a period of occupancy greater than 40 years. An agency requiring office, warehouse, or other space shall lease the space through the department.

(b) The department, legislative branch, or judicial branch may enter into lease-purchase agreements, including lease-financing agreements. A lease-purchase agreement must provide that lease payments are subject to annual appropriation.

(c) If the department, legislative branch, or judicial branch intends to enter into or renew a lease of real property with an annual rent to the department, legislative branch, or judicial branch that is anticipated to exceed \$1,000,000, or with total lease payments to exceed \$10,000,000 for the full term of the lease, the department, legislative branch, or judicial branch shall provide notice to the legislature. If the department, legislative branch, or judicial branch intends to enter into or renew a lease-purchase or lease-finance agreement for real property, other than (1) an agreement related to the refinancing of an outstanding balance owing or (2) a lease-purchase or lease-financing agreement by the University of Alaska that is secured by student fees or university receipts as defined in AS 14.40.491, that has annual lease payments of less than \$1,000,000, and for which the total lease payments for the full term will not exceed \$10,000,000, the department, legislative branch, or judicial branch shall provide notice to the legislature. The notice must include the anticipated annual lease obligation amount, the anticipated total construction, acquisition, or other costs of the project, and the total lease payments for the full term of the lease, if the agreement is a lease other than a lease-purchase or lease-financing agreement and the total lease payments for the full term of the lease exceed \$10,000,000. The department may not enter into or renew an agreement requiring notice under this subsection unless the project has been approved by the legislature. An appropriation for the project constitutes approval of the project for purposes of this subsection. The department may not enter into an agreement under this subsection if the optional renewal period allowed under the agreement exceeds two years. In this subsection, "term" includes defined renewal options.

(d) When the department is evaluating proposals for a lease of space, the department shall consider, in addition to lease costs, the life cycle costs, function, indoor environment, public convenience, planning, design, appearance, and location of the proposed building.

(e) When the department is considering leasing space, the department should consider whether leasing is likely to be the least costly means to providing space. (§ 2 ch 106 SLA 1986; am § 1 ch 58 SLA 1990; am §§ 8, 9 ch 181 SLA 1990; am §§ 2, 3 ch 73 SLA 1992; am § 3 ch 37 SLA 1993)

AN ACT

Relating to a court facility in Fairbanks; and providing for an effective date.

* Section 1. The legislature finds that a need exists for a new court facility in Fairbanks and that the needed facility must be acquired in as economical manner as possible. In acquiring the necessary court facility the supreme court should

- (1) investigate the feasibility of using state land in the Fairbanks area as a site for a court facility;
- (2) investigate the feasibility of contracting with the Alaska State Housing Authority or with a local government utilizing municipal revenue bonds to provide the space necessary for a Fairbanks court facility; and
- (3) coordinate space acquisition in Fairbanks with other state agencies.

* Sec. 2. The supreme court may enter into a lease-purchase agreement not to exceed a cost of \$29,900,000 for construction and all other related costs of a court facility in Fairbanks, it

(1) a private licensed day-care facility for the use of employees, jurors, witnesses and the public is included in the project, and the space is rented to the private licensed day-care provider at a market rate; and

(2) 15 percent of parking spaces for the court facility are reserved for the public.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

SECTIONAL ANALYSIS OF SENATE BILL NO. 247

An Act relating to state leases and to state lease-purchase and lease-financing agreements, and repealing a legislative authorization previously given for acquisition of a facility through a lease-purchase agreement; and providing for an effective date.

- Section 1.** Clarifies university statutes to show that leases, lease-purchases, and lease-financing of property by the university is subject to the provisions of procurement code being revised by this bill.
- Section 2.** Clarifies the supreme court's statutes to show that leases, lease-purchases, and lease-financing of property by the court system is subject to the provisions of procurement code being revised by this bill.
- Section 3.** Clarifies the legislative council's statutes to show that leases, lease-purchases, and lease-financing of property by the legislature is subject to the provisions of procurement code being revised by this bill.
- Section 4.** Amends the section of the Procurement Code for the Legislature to specify that the procurement procedures adopted by the Council for the legislature must be consistent with the provisions being revised by this bill.
- Section 5.** Amends the section of the Procurement Code for the court system to specify that the procurement procedures adopted by the court system must be consistent with the provisions being revised by this bill.
- Section 6.** Amends the current provisions by deleting provisions dealing with lease-purchases and lease-financing. After discussion with legal counsel, we decided it would be preferable to have two distinct sections of the leasing statute; one dealing exclusively with leases, and the other dealing only with lease-purchases (section 7 of this bill).

The substantive change is on page 5, line 26 through page 6, line 3. This language now adds the provision of prior legislative approval by law for leases of the Board of Regents, the legislative council and the supreme court. It also provides that, for leases, an appropriation for the lease is approval for the purpose of this paragraph.

- Section 7.** This section adds a new section to the procurement code. It basically contains the lease-purchase and lease-financing language moved out of the previous section. In addition, it provides that the department, Board of Regents, the legislative council, or the supreme court may only enter these agreements as the lessee. Like the leasing section above, this section adds the prior legislative approval by law requirement to lease-purchases and lease-financing by the Board of Regents, the legislative council and the supreme court.
- Section 8.** Makes a technical amendment to the procurement code to recognize the addition of the new section of the procurement code provided in Section 7 above.
- Section 9.** Makes a technical amendment to the procurement code to recognize the addition of the new section of the procurement code provided in Section 7 above.
- Section 10.** This section specifically prohibits the Department of Natural Resources from acquiring title to real property through lease financing in which the department is the lessor.
- Section 11.** Repeals the temporary act authorizing the court system to enter a lease-purchase agreement not to exceed \$29.9 million.
- Section 12.** Effective date clause.

Prepared by the Division of Legislative Audit on 1/19/94.

SB 247

Chapter 92

AN ACT

Relating to a court facility in Fairbanks; and providing,
for an effective date.

* Section 1. The legislature finds that a need exists for a new court facility in Fairbanks and that the needed facility must be acquired in as economical manner as possible. In acquiring the necessary court facility the supreme court should

- (1) investigate the feasibility of using state land in the Fairbanks area as a site for a court facility;
- (2) investigate the feasibility of contracting with the Alaska State Housing Authority or with a local government utilizing municipal revenue bonds to provide the space necessary for a Fairbanks court facility; and
- (3) coordinate space acquisition in Fairbanks with other state agencies.

* Sec. 2. The supreme court may enter into a lease-purchase agreement not to exceed a cost of \$29,900,000 for construction and all other related costs of a court facility in Fairbanks, if

- (1) a private licensed day-care facility for the use of employees, jurors, witnesses and the public is included in the project, and the space is rented to the private licensed day-care provider at a market rate; and
- (2) 15 percent of parking spaces for the court facility are reserved for the public.

Chapter 92

1 * Sec. 3. This Act takes effect immediately in accordance with AS 01.
2 10.070(c).
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INTENT FOR SB 247 (LEASE-FINANCING)

It is the intent of the legislature that future legislation authorizing the lease-purchase or lease-financing of real property should designate the Department of Transportation and Public Facilities as the appropriate agency to hold title to, and operate and maintain state facilities.

A F A X

Alaska State Legislature

Date: 2-2-94

To: Karen Procter

Fax #: 276-5093 Phone #: 276-6401

From: Kathy - Senate Finance

Phone #: 465-2618

Re: CSB 247 (2d Fin)

Note: SEC letter of intent published
in Senate Journal 1-24-94

Following this page, please find 11 pages(s). If this does not reach you in full, please inform us ASAP.

*Faxed copy of CSB 247 (2d Fin)
to DOA
to LAR.
Committee report*



THANK YOU