

**HB**

**468**

**HFIN**

**FILE**

BY:

Adopted

A M E N D M E N T 2

TO: CSHB 468 (FIN) draft

Section 1. Dept. of Administration

(c) Office of Public Advocacy

Delete "\$335,100"

Insert "\$356,400"

1 (b) Delete \$217. PD  
Insert \$195. PD

This authorization would be in GF/PR allowing OPA to collect PFD checks of incarcerated felons to pay for OPA services through Court Rule 39.

*First three months (July, Aug, Sept) of FY'96, OPA had 65% increase in criminal caseload. For ten of the last eleven years of its existence, OPA has been dependent on supplemental funding. OPA's costs are dictated by the quantity of its court assigned caseload. All OPA services are provided pursuant to court orders of appointment. OPA has no control over the number of such appointments which are mandated by Statute and Rules of Court. OPA, unlike most other state agencies, cannot decide to modify, curtail, or terminate a program in order to save money. The mission of OPA is to protect the rights of vulnerable Alaskans by providing legal and guardian representation to abused and neglected children, incapacitated adults, and others.*

BY: Rep. Navarre

Adopted

AMENDMENT 3

TO: CSHB 468 (Fin)

Add a new section:

Section \_\_. Department of Commerce and Economic Development.  
The sum of \$61,200 is appropriated from the general fund to the Department of Commerce and Economic Development to lease less expensive office space in Tokyo, for the fiscal years ending June 30, 1996 and June 30, 1997.

## HOUSE BILL NO. 468

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/2/96

Referred: Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act making supplemental appropriations for the expenses of state  
 2 government and making and amending appropriations; ratifying certain state  
 3 expenditures; and providing for an effective date."

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

5 \* Section 1. DEPARTMENT OF ADMINISTRATION. (a) To meet increased caseloads  
 6 at the public defender agency in Bethel, the following are amended to read:

7 (1) Section 47, ch. 94, SLA 1995, page 16, line 5:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
10 Centralized Administrative	<u>26,146,200</u>	<u>14,765,000</u>	11,381,200
11 Services	[26,195,200]	[14,814,000]	

12 (2) Section 47, ch. 94, SLA 1995, page 15, line 38:

	APPROPRIATION	GENERAL
	ITEMS	FUND

1 Public Defender Agency 8,153,300 8,153,300  
 2 [8,104,300] [8,104,300]

3 (b) The sum of \$217,000 is appropriated from general fund/program receipts to the  
 4 Department of Administration, public defender agency, for increased operating costs for the  
 5 fiscal year ending June 30, 1996.

6 (c) The sum of \$356,400 is appropriated from the general fund to the Department of  
 7 Administration office of public advocacy, for increased operating costs for the fiscal year  
 8 ending June 30, 1996.

9 (d) The sum of \$870,000 is appropriated from the general fund to the Department of  
 10 Administration for the leasing program for the fiscal year ending June 30, 1996.

11 (e) The sum of \$450,000 is appropriated from benefits systems receipts to the  
 12 Department of Administration, retirement and benefits program, for increased investment  
 13 management and record keeping fees due to higher than projected growth in retirement system  
 14 assets, for the fiscal year ending June 30, 1996.

15 (i) To meet increased costs of the longevity bonus program for the fiscal year ending  
 16 June 30 1995, the following are amended to read:

17 (1) Section 42, ch. 3, FSSLA 1994, page 13, line 34, as amended by sec. 44,  
 18 ch. 4, SLA 1995:

	APPROPRIATION	GENERAL
	ITEMS	FUND
21 Longevity Bonus Grants	<u>72,733,000</u>	<u>72,733,000</u>
	[72,709,900]	[72,709,900]

23 (2) Section 42, ch. 3, FSSLA 1994, page 13, line 35:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
26 Senior Services	<u>43,905,100</u>	<u>36,983,900</u>	6,921,200
	[43,928,200]	[37,007,000]	

28 \* Sec. 2. DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT. The  
 29 sum of \$61,200 is appropriated from the general fund to the Department of Commerce and  
 30 Economic Development to lease less expensive office space in Tokyo, for the fiscal years  
 31 ending June 30, 1996 and June 30, 1997.

1 \* Sec. 3. DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. (a) To pay  
2 for prior year revenue sharing costs for the village of Kluti-Kaah, the following are amended  
3 to read:

4 (1) Section 47, ch. 94, SLA 1995, page 39, line 9:

5	APPROPRIATION	GENERAL	OTHER
6	ITEMS	FUND	FUNDS
7	Local Government	<u>6,166,400</u>	<u>3,187,600</u> 2,978,800
8	Assistance	[6,174,700]	[3,195,900]

9 (2) Section 47, ch. 94, SLA 1995, page 39, line 5:

10	APPROPRIATION	GENERAL
11	ITEMS	FUND
12	Municipal Revenue	<u>58,239,000</u> <u>58,239,000</u>
13	Sharing	[58,230,700] [58,230,700]

14 (b) The unexpended and unobligated balance of the appropriation made to  
15 Employment Training/Rural Development in the Department of Community and Regional  
16 Affairs in sec. 47, ch. 94, SLA 1995, page 39, line 21 that is allocated to Rural Development  
17 Grants in sec. 47, ch. 94, SLA 1995, page, 39, line 29 lapses into the general fund June 30,  
18 1997.

19 (c) Subject to (e) of this section, all right, title, and interest in loans not to exceed a  
20 value of \$650,000 acquired or made by the Department of Community and Regional Affairs,  
21 division of community and rural development, and held by the rural development initiative  
22 fund (AS 44.47.800), and interest in all mortgages, notes, and other instruments of security  
23 made in connection with those loans are appropriated to the enterprise development account  
24 (AS 44.88.155) of the Alaska Industrial Development and Export Authority.

25 (d) Subject to (e) of this section, the cost of acquiring loans described in (c) of this  
26 section, not to exceed the sum of \$650,000, is appropriated from the general fund to the rural  
27 development initiative fund (AS 44.47.800) to recapitalize the fund.

28 (e) The appropriations in (c) and (d) of this section take effect only if the Alaska  
29 Industrial Development and Export Authority authorizes payment to the general fund from the  
30 assets of the authority to purchase the loans described in (c) of this section.

31 (1) Subject to (g) of this section, the sum of \$200,000 is appropriated from the general

1 fund to the Department of Community and Regional Affairs for a grant (AS 37.05.316) to the  
2 Alaska Legal Services Corporation for the fiscal year ending June 30, 1996.

3 (g) The appropriation made by (f) of this section is contingent upon the attorney  
4 general's notification to the revisor of statutes and the office of management and budget that  
5 no pending issues exist on the payment of attorney's fees, including any interest on those fees,  
6 in the following cases involving the state in which Alaska Legal Services Corporation  
7 provided legal services:

8 (1) Native Village of Quinhagak, et. al. v. United States of America, et. al.  
9 (A93-023 CI);

10 (2) Ken Sorenson, et. al. v. State of Alaska, et. al. (3AN-91-10649 CI);

11 (3) Walter Decker v. State of Alaska, Department of Health and Social  
12 Services, Division of Medical Assistance (3AN-94-9994 CI).

13 \* Sec. 4. DEPARTMENT OF CORRECTIONS. (a) Subject to (b) of this section, the sum  
14 of \$712,500 is appropriated from the general fund to the Department of Corrections to pay  
15 court-ordered fines in Cleary, et al. v. Smith, et al. (3AN-81-5274 CI) for the fiscal years  
16 ending June 30, 1995 and June 30, 1996.

17 (b) The appropriation made by this section is contingent upon the attorney general's  
18 notification to the revisor of statutes and the office of management and budget that no pending  
19 issues exist on the status of payment of fines and no court order has been entered in Cleary, et  
20 al. v. Smith, et al. (3AN-81-5274 CI) that precludes the Alaska Court System from depositing  
21 the fines collected under (a) of this section in the general fund.

22 \* Sec. 5. DEPARTMENT OF EDUCATION. (a) To meet federal compliance  
23 requirements under Public Law 81-874 for educational support,

24 (1) Section 104(a), ch. 103, SLA 1995, is amended to read:

25 (a) The sum of 709,925,170 [\$711,150,120] is appropriated from the general  
26 fund and from other funds in the amounts listed to the Department of Education for  
27 the purposes expressed and allocated in the amounts listed for operating expenditures  
28 for the fiscal year ending June 30, 1996:

29	FUND SOURCE	AMOUNT
30	General fund	<u>\$651,010,870</u> [\$652,235,820]
31	General fund/mental health	8,073,600

1	Public school trust fund (AS 37.14.110)	5,394,700
2	School fund (AS 43.50.140)	2,655,000
3	Federal receipts - P.L. 81-874	20,791,000
4	Federal receipts - other than	22,000,000
5	P.L. 81-874	

6	PURPOSE	ALLOCATION AMOUNT
7	Foundation program	<u>\$642,176,950</u> [\$643,401,900]
8	Child nutrition/student lunch program	22,000,000
9	Cigarette tax distribution	2,655,000
10	Tuition students	1,731,200
11	Boarding home grants	185,900
12	Youth in detention	800,000
13	Public pupil transportation	32,842,190
14	Schools for the handicapped	3,705,200
15	Community schools	600,000
16	Additional district support	3,228,730.

17           (2) The sum of \$1,224,950 is appropriated from the general fund to the  
18 Department of Education for the fiscal year ending June 30, 1996 and allocated to the  
19 following school districts in the amounts listed:

20	SCHOOL DISTRICT	ALLOCATION AMOUNT
21	Alaska Gateway School District	\$ 43,735
22	Aleutian Region School District	5,005
23	Annette Island School District	22,795
24	Bering Straight School District	159,600
25	Chatham School District	26,840
26	Chugach School District	15,190
27	Copper River School District	44,900
28	Delta/Greely School District	49,090
29	Iditarod School District	47,895
30	Kashunamiut School District	18,100
31	Kuspuk School District	46,345

1	Lower Kuskokwim School District	335,370
2	Lower Yukon School District	138,310
3	Pribilof Islands School District	18,415
4	Southeast Island School District	35,995
5	Southwest Region School District	59,465
6	Yukon Flats School District	51,780
7	Yukon/Koyukuk School District	66,610
8	Yupitit School District	39,510

9 (b) The unexpended and unobligated balance of the appropriation from the general  
10 fund to the Department of Education for K-12 education support made in sec. 104(a), ch. 103,  
11 SLA 1995, page 28, line 6, as amended by (a) of this section, lapses into the general fund  
12 June 30, 1997.

13 \* Sec. 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION. (a) The amount  
14 equal to the unexpended and unobligated balance of the appropriation for Spill Prevention and  
15 Response made in sec. 47, ch. 94, SLA 1995, page 38, line 18, that is allocated to  
16 Underground Storage Tanks in sec. 47, ch. 94, SLA 1995, page 38, line 22, lapses into the  
17 general fund June 30, 1998.

18 (b) The existing encumbered balances, set out below, of prior year storage tank  
19 assistance grant appropriations, identified by state accounting system AR numbers, are  
20 reappropriated to the Department of Environmental Conservation for the same purposes, for  
21 the fiscal year ending June 30, 1997:

22	(1) AR 48340-93	\$ 47,300
23	(2) AR 48700-93	415,800
24	(3) AR 48550-94	691,700
25	(4) AR 48550-95	1,343,500

26 \* Sec. 7. EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL. The appropriation to  
27 implement Trustee Council restoration projects for federal fiscal year 1996, which was made  
28 under the program review procedures of AS 37.07.080(h) and set out in revised program  
29 11-6-9990, lapses into the funds from which it was appropriated June 30, 1997. *sum 30,961*

30 \* Sec. 8. DEPARTMENT OF FISH AND GAME. (a) The sum of \$32,700 is  
31 appropriated from the fish and game fund (AS 16.05.100) to the Department of Fish and

1 Game for vendor compensation for the increased sale of fish and game licenses for the fiscal  
2 year ending June 30, 1996.

3 (b) Section 10, ch. 4, FSSLA 1994, page 11, lines 26 - 28 are amended to read:

	APPROPRIATION	GENERAL
	ITEMS	FUND
6 Arctic - Yukon - Kuskowim Salmon	\$300,000	\$300,000
7 Fisheries Stock Assessment <u>Projects</u>		
8 [EQUIPMENT] (ED99)		

9 \* Sec. 9. DEPARTMENT OF HEALTH AND SOCIAL SERVICES. (a) To meet the  
10 costs of welfare reform, the following are amended to read:

11 (1) Section 47, ch. 94, SLA 1995, page 21, line 32:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
14 Assistance Payments	<u>171,870,300</u>	<u>97,631,100</u>	<u>74,239,200</u>
15	[176,370,300]	[101,631,100]	[74,739,200]

16 (2) Section 47, ch. 94, SLA 1995, page 22, line 21:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
19 Public Assistance	<u>40,753,800</u>	<u>19,660,900</u>	<u>21,092,900</u>
20 Administration	[39,753,800]	[19,160,900]	[20,592,900]

21 (b) To implement changes necessary for welfare reform, the sum of \$3,500,000 is  
22 appropriated from the general fund to the Department of Health and Social Services for capital  
23 upgrades to the eligibility information system for public assistance programs.

24 (c) To meet increased operating costs for youth facilities of the Department of Health  
25 and Social Services, the following are amended to read:

26 (1) Section 47, ch. 94, SLA 1995, page 23, line 16:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
29 Family and Youth	<u>24,746,800</u>	<u>20,609,500</u>	4,137,300
30 Services	[24,996,800]	[20,859,500]	

31 (2) Section 47, ch. 94, SLA 1995, page 23, line 24:

1	APPROPRIATION	GENERAL	OTHER
2	ITEMS	FUND	FUNDS
3	Youth Facility Services	<u>15,064,900</u>	<u>14,599,900</u> 465,000
4		[14,814,900]	[14,349,900]

5 (3) Section 47, ch. 94, SLA 1995, page 22, line 10:

6	APPROPRIATION	GENERAL	OTHER
7	ITEMS	FUND	FUNDS
8	Medical Assistance	<u>339,167,300</u>	<u>146,855,800</u> 192,311,500
9		[342,667,300]	[150,355,800]

10 (d) The sum of \$3,500,000 is appropriated from the general fund to the Department  
 11 of Health and Social Services, Alaska Family Independence Program emergency account  
 12 (AS 47.27.075) to provide public assistance to eligible families.

13 (e) The sum of \$426,900 is appropriated from the general fund/mental health to the  
 14 Department of Health and Social Services to pay a judgment against the state in Helmuth v.  
 15 Alaska Psychiatric Institute (3AN-93-1046 CI), for the fiscal year ending June 30, 1996.

16 \* Sec. 10. DEPARTMENT OF LAW. (a) The sum of \$369,300 is appropriated to the  
 17 Department of Law to pay judgments and claims against the state for the fiscal year ending  
 18 June 30, 1996 from the following sources:

19	General fund receipts	\$130,415
20	International airports revenue fund	225,300
21	General fund mental health account	13,585

22 (b) The sum of \$1,285,000 is appropriated from the general fund to the Department  
 23 of Law to pay for the judgment in City of Toksook Bay, et. al. v. Lower Kuskokwim School  
 24 District and State of Alaska (4BE-52-426 CI), for the fiscal year ending June 30, 1996.

25 (c) The sum of \$4,141,100 is appropriated from the general fund to the Department  
 26 of Law to pay ~~for settlement in lieu of judgment~~ <sup>for the judgment</sup> in Roger Berger, d/b/a Frontier Financial  
 27 Services v. The State of Alaska, Department of Revenue (3AN-89-8710 CI), for the fiscal year  
 28 ending June 30, 1996.

29 (d) To meet increased caseloads at the Bethel prosecution office of the Department  
 30 of Law,

31 (1) Section 26(a), ch. 94, SLA 1995, is amended to read:

1 (a) The sum of \$19,933,400 [\$20,000,000] is appropriated to the Department  
 2 of Law from the following sources, for costs relating to legal proceedings and audit  
 3 activity involving oil and gas revenue due or paid to the state or state title to oil and  
 4 gas land, for the fiscal year ending June 30, 1996:

5	State corporation receipts	\$ 3,160,000
6	Budget reserve fund	
7	(art. IX, sec. 17, Constitution of	
8	the State of Alaska)	<u>16,773,400</u>
9		[16,840,000]

10 (2) Section 47, ch. 94, SLA 1995, page 17, line 25, is amended to read:

11	APPROPRIATION	GENERAL	OTHER
12	ITEMS	FUND	FUNDS
13	Prosecution	<u>12,116,200</u>	<u>11,658,200</u> 458,000
14		[12,049,600]	[11,591,600]

15 \* Sec. 11. DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS. (a) The sum  
 16 of \$1,480,500 is appropriated from the general fund to the Department of Military and  
 17 Veterans' Affairs for deposit in the military retirement trust fund established under  
 18 AS 26.05.228, for increased costs for national guard retirement for the fiscal year ending  
 19 June 30, 1996.

20 (b) The sum of \$557,300 is appropriated from the general fund to the disaster relief  
 21 fund (AS 26.23.300) for costs associated with declared disasters.

22 \* Sec. 12. DEPARTMENT OF NATURAL RESOURCES. The sum of \$5,258,600 is  
 23 appropriated from the general fund to the Department of Natural Resources for fire  
 24 suppression activities for the fiscal year ending June 30, 1996.

25 \* Sec. 13. DEPARTMENT OF REVENUE. (a) The sum of \$198,189 is appropriated  
 26 from the general fund receipts of the Alaska Housing Finance Corporation to the Department  
 27 of Revenue, Alaska Housing Finance Corporation, to cover unanticipated lease costs for the  
 28 fiscal year ending June 30, 1996.

29 (b) To change funding sources for the appropriations made to the Department of  
 30 Revenue, Revenue Operations, and allocated to the Alaska State Pension Investment Board,  
 31 the following are amended:

1 (1) Section 49, ch. 94, SLA 1995, page 47, line 15:

2 Benefits Systems Receipts 112,900

3 [ 45,900]

4 (2) Section 49, ch. 94, SLA 1995, page 47, line 17:

5 Public Employees 12,818,100

6 Retirement Fund [12,885,100]

7 \* Sec. 14. DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. (a)

8 The sum of \$4,010,000 is appropriated to the Department of Transportation and Public  
9 Facilities from the following sources for highway and bridge repair resulting from the  
10 southcentral flood disaster:

11 General fund receipts \$ 1,010,000

12 Federal receipts 3,000,000

13 (b) The sum of \$720,000 is appropriated from the general fund to the Department of  
14 Transportation and Public Facilities for Copper River Highway restoration and other costs  
15 required by the consent decree in United States v. State of Alaska Department of  
16 Transportation and Public Facilities (A92-24CIV).

17 \* Sec. 15. UNIVERSITY OF ALASKA. (a) The sum of \$462,279 is appropriated from  
18 the following fund sources to the University of Alaska to satisfy the monetary terms of the  
19 1995 collective bargaining agreement between the University of Alaska and the Alaska  
20 Classified Employees Association (CEA):

21 General fund receipts \$ 455,565

22 Federal receipts 2,576

23 U/A dormitory/ food/ auxiliary service 1,550

24 U/A student tuition/fees/services 1,188

25 University receipts 1,400

26 (b) The sum of \$506,422 is appropriated from the following fund sources to the  
27 University of Alaska to satisfy the monetary terms of the 1995 collective bargaining agreement  
28 between the University of Alaska and the Alaska Community College Federation of Teachers  
29 (ACCFT):

30 General fund receipts \$ 473,039

31 Federal receipts 2,129

1 U/A student tuition/fees/services 26,688  
 2 University receipts 4,566

3 \* Sec. 16. DISASTER AND FIRE FUNDING. The sum of \$1,500,000 is appropriated  
 4 from the general fund to the Office of the Governor, office of management and budget, for  
 5 emergency funding for disasters and fires for the fiscal years ending June 30, 1996 and  
 6 June 30, 1997.

7 \* Sec. 17. MISCELLANEOUS CLAIMS. (a) The following amounts are appropriated  
 8 from the general fund to the following departments to pay miscellaneous claims and stale-  
 9 dated warrants for the fiscal year ending June 30, 1996:

10 DEPARTMENT	11 APPROPRIATION
12 Administration	\$ 12,565
13 Community and Regional Affairs	468
14 Corrections	11,188
15 Education	526
16 Fish and Game	1,615
17 Health and Social Services	64,260
18 Labor	46
19 Law	160
20 Public Safety	1,657
21 Transportation and Public Facilities	2,909

22 (b) The sum of \$6,336 is appropriated from the following sources to the Department  
 23 of Transportation and Public Facilities to pay miscellaneous claims and stale-dated warrants  
 24 for the fiscal year ending June 30, 1996:

24 Highway Working Capital Fund	\$4,490
25 Alaska Marine Highway System Fund	1,846

26 (c) The sum of \$277 is appropriated from Exxon Valdez spill settlement funds to the  
 27 Department of Environmental Conservation to pay miscellaneous claims and stale-dated  
 28 warrants for the fiscal year ending June 30, 1996.

29 \* Sec. 18. RATIFICATIONS OF THE ACCOUNTING SYSTEM. The following  
 30 departmental expenditures made in fiscal years 1985 to 1994 are ratified to reverse the  
 31 negative account balances in the Alaska state accounting system in the amounts listed for each

1 AR number. The appropriations from which these expenditures were actually paid are  
2 amended by increasing them by the amount listed as follows:

3	(1) Department of Administration - AR 78496-86 University of Alaska	\$ 914.25
4	(2) Department of Commerce and Economic Development	
5	(A) AR 29583-89 Division of Occupational Licensing/ Real Estate	27,351.48
6		
7	(B) AR 30027-89 Division of Measurement Standards - Weigh Station Upgrade Receipts	237.47
8		
9	(C) AR 29568-91 AIDEA/Operations	29.06
10	(D) AR 29636-93 AEA/Operations	7,017.91
11	(E) AR 30056-93 Office of International Trade/coal study	434.90
12	(3) Department of Community and Regional Affairs	
13	(A) AR 55350-90 WX/Energy Conservation	1,306.68
14	(4) Department of Corrections	
15	(A) AR 50901-85 NIC Grant	349.60
16	(B) AR 50955-86 RSA-DHSS-Manilaq	415.20
17	(C) AR 50525-92 Facility Capital improvement unit	4,296.00
18	(D) AR 50545-92 Statewide programs	89,480.53
19	(5) Department of Education	
20	(A) AR 18025-86 PSEC - Federal student aid	25.00
21	(B) AR 18005-86 PSEC - Veteran's Administration	1,126.12
22	(C) AR 19031-88 PSEC - Student loan program	40,000.00
23	(D) AR 18041-90 PSEC - Governor's Council on Vocational and Career Education	653.56
24		
25	(E) AR 17666-92 School Lunch Admin	44.06
26	(F) AR 17716-94 Special and supplemental services	225.00
27	(6) Department of Environmental Conservation	
28	(A) AR 48704-87 Water quality 205 J Grant	172.90
29	(B) AR 48617-87 Placer Mining Audit Management	1,653.00
30	(C) AR 48791-90 Alaska Coastal Zone Management	
31	RSA with Office of the Governor	1,533.76

1	(D) AR 49622-92 Health and Human Services Utility	
2	Management Grant	3,282.00
3	(E) AR 49750-92 Superfund Amendment Authorization	
4	Grant Title III training	194.00
5	(F) AR 49632-92 Alaska Coastal Zone Management	
6	RSA with Office of the Governor	1,711.00
7	(7) Department of Law	
8	(A) AR 13806-85 Dept. of Revenue	1,239.94
9	(B) AR 13809-85 Alaska Railroad Corp	39,574.88
10	(C) AR 13604-86 Civil Div - Operations	215,234.62
11	(D) AR 13604-87 Civil Div - Operations	99,028.38
12	(E) AR 13874-87 Perm Fund Invest	7,188.65
13	(F) AR 13892-87 CFEC Adjudicants	424.60
14	(G) AR 13904-87 PERS Class Study	370.00
15	(H) AR 13922-88 Telecom Misc Legl	54,414.93
16	(I) AR 13948-88 Function Sep Opin	1,854.03
17	(J) AR 13604-90 Civil Div - Operations	55,232.61
18	(K) AR 13615-90 Admin & Support	15,111.09
19	(L) AR 13701-90 Oil & Gas Operations	145.00
20	(M) AR 13831-91 Osair Restoration	6,290.00
21	(N) AR 13821-92 Medical Assistance	1,925.75
22	(O) AR 13826-92 AIDEA DeLong Leg	55.69
23	(P) AR 13701-93 Oil & Gas Operations	18.28
24	(Q) AR 13772-93 Agency Coop Agree	958.25
25	(R) AR 13895-93 Agency Coop Agree	487.81
26	(8) Department of Natural Resources	
27	(A) AR 36911-85 Historic Res Mgmt	91,011.52
28	(B) AR 36601-86 Land & Water Public	39,372.00
29	(C) AR 36780-86 Petroleum Management	430.61
30	(D) AR 36860-87 Minerals/Mat Develop	38,999.03
31	(E) AR 36870-87 Land & Public Safety	43,883.85

1	(F) AR 36960-87 Direct Charge/OH CIP	74,335.15
2	(G) AR 36650-88 Land Conveyances	18,239.97
3	(H) AR 36898-88 Survey Dir Chg CIP	12,550.52
4	(I) AR 36670-88 Minerals/Mat Develop	310.95
5	(J) AR 37700-89 Historic Resource Mg	1,708.11
6	(K) AR 37880-89 AG/Direct Charge CIP	1,004.80
7	(L) AR 36893-90 Law Valdez Oil Spill	117,735.35
8	(M) AR 37733-90 RS1080068 Thunderbir	47.18
9	(9) Department of Revenue	
10	(A) AR 15545-85 Permanent Fund Corporation	1,822.62
11	(B) AR 15573-86 Petroleum Revenue - Data	
12	and Work Processing	10.98
13	(C) AR 15550-89 Alaska Housing	
14	Finance Corporation	7.00
15	(D) AR 15545-90 Permanent Fund Corporation	9.30
16	(E) AR 15550-90 Alaska Housing	
17	Finance Corporation	8.00
18	(F) AR 15585-90 Treasury Management	15,176.74
19	(G) AR 15585-92 Treasury Management	20,230.42
20	(10) Department of Transportation and Public Facilities	
21	(A) AR 57746-85 Headquarters Planning	
22	Payroll Suspense	109,144.63
23	(B) AR 57701-86 Headquarters Planning	
24	Payroll Suspense	459,354.77
25	(C) AR 57702-90 Northern Region	
26	Planning Payroll Suspense	354.77
27	(D) AR 57744-85 Internal Review	
28	Payroll Suspense	2,489.08
29	(E) AR 57703-87 Internal Review	
30	Payroll Suspense	36,225.04
31	(F) AR 57704-87 Northern Region Internal Review	

1	Payroll Suspense	20,269.90
2	(G) AR 57704-88 Northern Region Internal Review	
3	Payroll Suspense	28.99
4	(H) AR 57751-85 Central Region	
5	Planning Payroll Suspense	11,404.56
6	(I) AR 57705-86 Central Region	
7	Planning Payroll Suspense	133,660.43
8	(J) AR 57705-91 Central Region	
9	Planning Payroll Suspense	17,255.14
10	(K) AR 57707-91 EEO/Disadvantage	
11	Business Enterprise	5,881.11
12	(L) AR 57711-91 Statewide Aviation	
13	Payroll Suspense	9,519.53
14	(M) AR 58051-91 Statewide Information Systems	
15	Payroll Suspense	4,284.03
16	(N) AR 62095-91 Office of Strategic Management	
17	Payroll Suspense	5,220.88
18	(O) AR 57592-85 Southeast Region CIP Program	783,676.72
19	(P) AR 57532-86 Central Region CIP Program	744,332.17
20	(Q) AR 57561-86 Northern Region CIP Program	1,028,144.55
21	(R) AR 57592-86 Southeast Region CIP Program	932,666.02
22	(S) AR 57532-87 Central Region CIP Program	819,032.47
23	(T) AR 57505-85 Internal Review	3,543.70
24	(U) AR 57549-85 Western District	
25	Administration Services	94.47
26	(V) AR 57591-85 Data and Word Processing	4,961.28
27	(W) AR 57602-85 Southeast Shore Facilities	443,720.31
28	(X) AR 57512-87 Statewide Information System	26,234.70
29	(Y) AR 63191-86 Fish Creek Rehabilitation	2,000.00
30	(Z) AR 65157-87 Kodiak Armory Roof	489.40
31	(AA) AR 65123-15 MYC Floor/Lavatory Repair	754.84

1	(BB) AR 65214-92 Beaver Creek Hatchery	2,403.13
2	(CC) AR 65229-94 Hatchery Expansion	2,585.81
3	(DD) AR 63679-94 Technical Mainframe FY86	108,020.13
4	(EE) AR 61643-88 Technical Mainframe FY88	169,724.46
5	(FF) AR 63419-86 Juneau Mining Site Property	5.47
6	(GG) AR 65388-87 Fairbanks Armory	.02
7	(HH) AR 58686-15 PJ 56504 Chignik	
8	Road Improvements	827.45
9	(II) AR 58686-15 PJ 56506 Homer	
10	Asphalt Inspection	1,214.10
11	(JJ) AR 58904-15 PJ 56005 Matanuska	
12	Electric Association	1,434.99
13	(KK) AR 58904-15 PJ 56009 City of Kenai	
14	Utility Inspection	137.55
15	(LL) AR 58904-15 PJ 53587 Kodiak Near Island	
16	Bridge Telephone	24,999.89
17	(MM) AR 58904-15 PJ 53991 Dimond Boulevard	
18	Multivision	1,375.82
19	(NN) AR 58904-15 PJ 56049 Municipality	
20	of Anchorage Boniface Interchange	520.00
21	(OO) AR 60278-15 PJ 53828 Wasilla Urban Sewer	244.72
22	(PP) AR 61942-15 PJ 58594 Soldotna Senior Center	209.51
23	(QQ) AR 64790-15 PJ 57930 Anchorage Sewer Utility	143.59
24	(RR) AR 64790-15 PJ 53964 Church Road	
25	Improvements	3,992.00
26	(SS) AR 66209-15 PJ 55996 City of Homer	
27	Utility Permit	

28 \* Sec. 19. LAPSE PROVISIONS. (a) The appropriations made by secs. 9(b) and 14 of  
29 this Act are for capital projects and lapse under AS 37.25.020.

30 (b) The appropriations made by secs. 3(d) and 11 of this Act are for the capitalization  
31 of funds and do not lapse under AS 37.25.010.

1 (c) The appropriation made by sec. 9(d) of this Act lapses to the general fund  
2 June 30, 1997.

3 \* Sec. 20. EFFECTIVE DATES. (a) Section 3(f) of this Act takes effect on the date that  
4 the attorney general provides the notification described in sec. 3(g) of this Act to the revisor  
5 of statutes and the office of management and budget.

6 (b) Section 4 of this Act takes effect on the date that the attorney general provides the  
7 notification described in sec. 4(b) of this Act to the revisor of statutes and the office of  
8 management and budget.

9 (c) Section 9(d) of this Act takes effect on the effective date of a bill passed during the  
10 Second Session of the Nineteenth Legislature and enacted into law establishing the Alaska  
11 Family Independence Program emergency account (AS 47.27.075).

12 (d) Except as provided in (a) - (c) of this section, this Act takes effect immediately  
13 under AS 01.10.070(c).

Adopted

Am 1

~~Ado~~ Reincorporate Amended 10 c

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
1 Youth Facility Services	<u>15,064,900</u>	<u>14,599,900</u>	465,000
4	[14,814,900]	[14,349,900]	

(3) Section 47, ch. 94, SLA 1995, page 22, line 10:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
8 Medical Assistance	<u>339,167,300</u>	<u>146,855,800</u>	192,311,500
9	[342,667,300]	[150,355,800]	

(d) The sum of \$3,500,000 is appropriated from the general fund to the Department of Health and Social Services, Alaska Family Independence Program emergency account (AS 47.27.075) to provide public assistance to eligible families.

(e) The sum of \$426,900 is appropriated from the general fund/mental health to the Department of Health and Social Services to pay a judgment against the state in Helmuth v. Alaska Psychiatric Institute (3AN-93-1046 CI), for the fiscal year ending June 30, 1996.

\* Sec. 10. DEPARTMENT OF LAW. (a) The sum of \$369,300 is appropriated to the Department of Law to pay judgments and claims against the state for the fiscal year ending June 30, 1996 from the following sources:

19	General fund receipts	\$130,415
20	International airports revenue fund	225,300
21	General fund mental health account	13,585

(b) The sum of \$1,285,000 is appropriated from the general fund to the Department of Law to pay for the judgment in City of Toksook Bay, et. al. v. Lower Kuskokwim School District and State of Alaska (4BE-92-426 CI), for the fiscal year ending June 30, 1996.

In ~~set~~ <sup>83,605.18</sup> (c) The sum of ~~\$4,111,100~~ is appropriated from the general fund to the Department of Law to pay for ~~settlement in lieu~~ <sup>the</sup> of judgment in Roger Berger, d/b/a Frontier Financial Services v. The State of Alaska, Department of Revenue (3AN-89-8710 CI), for the fiscal year ending June 30, 1996.

(d) To meet increased caseloads at the Bethel prosecution office of the Department of Law,

(1) Section 26(a), ch. 94, SLA 1995, is amended to read:

Adopt  
Am  
1

## Sec. 26.23.050. FINANCING.

(a) It is the intent of the legislature, and declared to be the policy of the state, that funds to meet disaster emergencies will always be available.

(b) Whenever, and to the extent that, money is needed to cope with a disaster, the first recourse shall be to money regularly appropriated to state and local agencies. The second recourse shall be to money available in the disaster relief fund or, for oil or hazardous substances discharges, the oil and hazardous substance release response fund, as the governor determines appropriate. If money available from these sources is insufficient, and if the governor finds that other sources of money to cope with the disaster are not available or are insufficient, the governor may, notwithstanding the limitations imposed by AS 37.07.080(e),

(1) transfer and spend money appropriated for other purposes; or

(2) borrow money for a term not to exceed two years.

(c) Nothing in this section limits the governor's authority to apply for, receive, administer, and spend grants, gifts, or payments from any source, to aid in disaster prevention, preparedness, response, or recovery.

*CS*

2/16/96

REPRESENTATIVE  
**TERRY MARTIN**  
CHAIRMAN  
BUDGET & AUDIT COMMITTEE  
MEMBER  
HOUSE FINANCE COMMITTEE

# Alaska State Legislature



MAY 15 - JAN 15 258-8169  
716 W. 4TH, SUITE 650  
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783  
STATE CAPITOL  
JUNEAU, AK 99801-1182

HOME 333-6990  
355 DONNA DRIVE, #11  
ANCHORAGE, AK 99504

## SECTIONAL ANALYSIS

HB 525

Proposing changes to the statute which describes how Permanent Fund monies may be invested, to allow the Corporation more flexibility to take advantage of changing market situations.

### Section 1.

Amends AS 37.13.120(g)(7) to allow investment in "investment grade" domestic corporate debt securities (bonds) by the Permanent Fund. The current statute allows investment only in A-rated or better bonds. Investment grade is from BBB to AAA (Standard and Poor's Corporation rating service). The bill allows the Fund to invest in BBB-rated bonds, which is currently not allowed.

### Section 2.

Amends AS 37.13.120(g)(19) to allow investment in "investment grade" taxable municipal or state debt securities (bonds) by the Permanent Fund. The current statute allows investment only in A-rated or better bonds. Investment grade is from BBB to AAA (Standard and Poor's Corporation rating service). The bill allows the Fund to invest in BBB-rated bonds, which is currently not allowed.

### Section 3.

Amends AS 37.13.120(i) to remove foreign bonds from a category containing foreign bonds and domestic corporate stocks. This action increases the limit of investment by the Permanent Fund on domestic corporate stocks to 50 percent, compared to the previous 45 percent. This section also eliminates the five percent limitation for investment in A-rated bonds.



**Section 4.**

Adds a new subsection to AS 37.13.900 which defines (for the purposes of this (g) of this section) "investment grade" and the commonly used domestic corporate bond rating system.

**Section 5.**

Allows for the act to take effect immediately upon passage.

*Amended  
pgs 3, 5*

CS FOR HOUSE BILL NO. 468(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act making supplemental appropriations for the expenses of state government  
2 and making and amending appropriations; ratifying certain state expenditures; and  
3 providing for an effective date."

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

5 \* Section 1. DEPARTMENT OF ADMINISTRATION. (a) To meet increased caseloads  
6 at the public defender agency in Bethel

7 (1) sec. 47, ch. 94, SLA 1995, page 16, lines 5 - 6, is amended to read:

8	APPROPRIATION	GENERAL	OTHER
9	ITEMS	FUND	FUNDS
10	Centralized Administrative <u>26,146,200</u>	<u>14,765,000</u>	11,381,200
11	Services [26,195,200]	[14,814,000]	

12 (2) sec. 47, ch. 94, SLA 1995, page 15, line 38, is amended to read:

13	APPROPRIATION	GENERAL
14	ITEMS	FUND

1	Public Defender Agency	<u>8,153,300</u>	<u>8,153,300</u>	
2		[8,104,300]	[8,104,300]	

3 (b) The sum of \$217,000 is appropriated from general fund/program receipts to the  
 4 Department of Administration, public defender agency, for increased operating costs for the  
 5 fiscal year ending June 30, 1996.

6 (c) The sum of \$335,100 is appropriated from the general fund to the Department of  
 7 Administration office of public advocacy, for increased operating costs for the fiscal year  
 8 ending June 30, 1996.

9 (d) The sum of \$870,000 is appropriated from the general fund to the Department of  
 10 Administration for the leasing program for the fiscal year ending June 30, 1996.

11 (e) The sum of \$450,000 is appropriated from benefits systems receipts to the  
 12 Department of Administration, retirement and benefits program, for increased investment  
 13 management and record keeping fees due to higher than projected growth in retirement system  
 14 assets, for the fiscal year ending June 30, 1996.

15 (f) To meet increased costs of the longevity bonus program for the fiscal year ending  
 16 June 30, 1995,

17 (1) the sum of \$23,100 is appropriated from the general fund to the Department  
 18 of Administration to increase the appropriation to the Department of Administration for  
 19 longevity bonus grants made in sec. 42, ch. 3, FSSLA 1994, page 13, line 34, as amended by  
 20 sec. 44, ch. 4, SLA 1995, and sec. 80(a), ch. 103, SLA 1995;

21 (2) sec. 42, ch. 3, FSSLA 1994, page 13, line 35, is amended to read:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
24 Senior Services	<u>43,905.100</u>	<u>36,983.900</u>	6,921,200
25	[43,928,200]	[37,007,000]	

26 \* Sec. 2. DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. (a) To pay  
 27 for prior year revenue sharing costs for the village of Kluti-Kaah,

28 (1) sec. 47, ch. 94, SLA 1995, page 39, line 9, is amended to read:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
31 Local Government	<u>6,166.400</u>	<u>3,187,600</u>	2,978,800

1	Assistance	[6,174,700]	[3,195,900]
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2 (2) sec. 47, ch. 94, SLA 1995, page 39, line 5, is amended to read:

3	APPROPRIATION	GENERAL
---	---------------	---------

4	ITEMS	FUND
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5	Municipal Revenue	<u>58,239,000</u>	<u>58,239,000</u>
---	-------------------	-------------------	-------------------

6	Sharing	[58,230,700]	[58,230,700]
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7 (3) sec. 47, ch. 94, SLA 1995, page 39, line 6, is amended to read:

8 ALLOCATIONS

9	State Revenue Sharing	<u>26,280,000</u>	
---	-----------------------	-------------------	--

10		[26,271,700]	
----	--	--------------	--

11 (b) The unexpended and unobligated balance of the appropriation made in sec. 47, ch.  
 12 94, SLA 1995, page 39, lines 21 - 22, and allocated on line 29 (Department of Community  
 13 and Regional Affairs, Employment training/rural development, rural development grants)  
 14 lapses into ~~the general fund~~ June 30, 1997, *on into the fund from which it was appropriated*

15 \* Sec. 3. DEPARTMENT OF CORRECTIONS. (a) Subject to (b) of this section, the sum  
 16 of \$936,600 is appropriated from the general fund to the Department of Corrections to pay  
 17 court-ordered fines in Cleary, et al. v. Smith, et al. (3AN-81-5274 CI) for the fiscal years  
 18 ending June 30, 1995, and June 30, 1996.

19 (b) The appropriation made by this section is contingent upon the attorney general's  
 20 notification to the revisor of statutes and the office of management and budget that no pending  
 21 issues exist on the status of payment of fines and no court order has been entered in Cleary, et  
 22 al. v. Smith, et al. (3AN-81-5274 CI) that precludes the Alaska Court System from depositing  
 23 the fines collected under (a) of this section in the general fund.

24 \* Sec. 4. DEPARTMENT OF EDUCATION. To meet federal compliance requirements  
 25 under P.L. 81-874 for educational support,

26 (1) sec. 104(a), ch. 103, SLA 1995, is amended to read:

27 (a) The sum of \$709,925,170 [\$711,150,120] is appropriated from the general  
 28 fund and from other funds in the amounts listed to the Department of Education for  
 29 the purposes expressed and allocated in the amounts listed for operating expenditures  
 30 for the fiscal year ending June 30, 1996:

31	FUND SOURCE	AMOUNT
----	-------------	--------

1	General fund	<u>\$651,010,870</u> [\$652,235,820]
2	General fund/mental health	8,073,600
3	Public school trust fund (AS 37.14.110)	5,394,700
4	School fund (AS 43.50.140)	2,655,000
5	Federal receipts - P.L. 81-874	20,791,000
6	Federal receipts - other than	22,000,000
7	P.L. 81-874	

8	PURPOSE	ALLOCATION AMOUNT
9	Foundation program	<u>\$642,176,950</u> [\$643,401,900]
10	Child nutrition/student lunch program	22,000,000
11	Cigarette tax distribution	2,655,000
12	Tuition students	1,731,200
13	Boarding home grants	185,900
14	Youth in detention	800,000
15	Public pupil transportation	32,842,190
16	Schools for the handicapped	3,705,200
17	Community schools	600,000
18	Additional district support	3,228,730.

19 (2) the sum of \$1,224,950 is appropriated from the general fund to the  
 20 Department of Education for additional district support for the fiscal year ending  
 21 June 30, 1996, and allocated to the following school districts in the amounts listed:

22	SCHOOL DISTRICT	ALLOCATION AMOUNT
23	Alaska Gateway School District	\$ 43,735
24	Aleutian Region School District	5,005
25	Annette Island School District	22,795
26	Bering Straight School District	159,600
27	Chatham School District	26,840
28	Chugach School District	15,190
29	Copper River School District	44,900
30	Delta/Greely School District	49,090
31	Iditarod School District	47,895

1	Kashunamiut School District	18,100
2	Kuspuk School District	46,345
3	Lower Kuskokwim School District	335,370
4	Lower Yukon School District	138,310
5	Pribilof Islands School District	18,415
6	Southeast Island School District	35,995
7	Southwest Region School District	59,465
8	Yukon Flats School District	51,780
9	Yukon/Koyukuk School District	66,610
10	Yupitit School District	39,510.

11 \* Sec. 5. DEPARTMENT OF ENVIRONMENTAL CONSERVATION. (a) The  
 12 unexpended and unobligated balance of the appropriation made in sec. 47, ch. 94, SLA 1995,  
 13 page 38, line 18, and allocated on line 22 (Spill prevention and response, underground storage  
 14 tanks) lapses ~~into the general fund~~ June 30, 1997. *into the fund from*

15 (b) The existing encumbered balances, set out below, of prior year storage tank  
 16 assistance grant appropriations, identified by state accounting system AR numbers, are  
 17 reappropriated to the Department of Environmental Conservation for the same purposes, for  
 18 the fiscal year ending June 30, 1997:

19	(1) AR 48340-93	\$ 47,300
20	(2) AR 48700-93	415,800
21	(3) AR 48550-94	691,700
22	(4) AR 48550-95	1,343,500.

23 \* Sec. 6. DEPARTMENT OF FISH AND GAME. The sum of \$32,700 is appropriated  
 24 from the fish and game fund (AS 16.05.100) to the Department of Fish and Game for vendor  
 25 compensation for the increased sale of fish and game licenses for the fiscal year ending  
 26 June 30, 1996.

27 \* Sec. 7. DEPARTMENT OF HEALTH AND SOCIAL SERVICES. (a) To meet the  
 28 costs of welfare reform,

29 (1) sec. 47, ch. 94, SLA 1995, page 21, line 32, is amended to read:

30	APPROPRIATION	GENERAL	OTHER
31	ITEMS	FUND	FUNDS

WORK DRAFT

WORK DRAFT

WORK DRAFT

1	Assistance Payments	<u>171,870,300</u>	<u>97,631,100</u>	<u>74,239,200</u>
2		[176,370,300]	[101,631,100]	[74,739,200]

(2) sec. 47, ch. 94, SLA 1995, page 22, line 21, is amended to read:

4		APPROPRIATION	GENERAL	OTHER
5		ITEMS	FUND	FUNDS

6	Public Assistance	<u>40,753,800</u>	<u>19,660,900</u>	<u>21,092,900</u>
7	Administration	[39,753,800]	[19,160,900]	[20,592,900]

(3) sec. 47, ch. 94, SLA 1995, page 22, line 28, is amended to read:

ALLOCATIONS

10	Child Care Benefits	<u>6,838,800</u>		
11		[5,838,800]		

(b) To implement changes necessary for welfare reform, the sum of \$3,500,000 is appropriated to the Department of Health and Social Services for capital upgrades to the eligibility information system for public assistance programs from the following sources:

15	General fund	\$1,900,000		
16	Federal receipts	1,600,000.		

(c) To meet increased operating costs for youth facilities of the Department of Health and Social Services,

(1) sec. 47, ch. 94, SLA 1995, page 23, line 16, is amended to read:

20		APPROPRIATION	GENERAL	OTHER
21		ITEMS	FUND	FUNDS

22	Family and Youth	<u>24,746,800</u>	<u>20,609,500</u>	4,137,300
23	Services	[24,996,800]	[20,859,500]	

(2) sec. 47, ch. 94, SLA 1995, page 23, line 24, is amended to read:

25		APPROPRIATION	GENERAL	OTHER
26		ITEMS	FUND	FUNDS

27	Youth Facility Services	<u>15,064,900</u>	<u>14,599,900</u>	465,000
28		[14,814,900]	[14,349,900]	

(3) sec. 47, ch. 94, SLA 1995, page 22, line 10, is amended to read:

30		APPROPRIATION	GENERAL	OTHER
31		ITEMS	FUND	FUNDS

1	Medical Assistance	<u>339,167,300</u>	<u>146,855,800</u>	192,311,500
2		[342,667,300]	[150,355,800]	

3 (d) The sum of \$426,900 is appropriated from the general fund/mental health to the  
4 Department of Health and Social Services to pay a judgment against the state in Helmuth v.  
5 Alaska Psychiatric Institute (3AN-93-1046 CI), for the fiscal year ending June 30, 1996.

6 \* Sec. 8. DEPARTMENT OF LAW. (a) The sum of \$369,300 is appropriated to the  
7 Department of Law to pay judgments and claims against the state for the fiscal year ending  
8 June 30, 1996, from the following sources:

9	General fund	\$130,415
10	International airports revenue fund	225,300
11	General fund mental health account	13,585

12 (b) The sum of \$1,285,000 is appropriated from the general fund to the Department  
13 of Law to pay for the judgment in City of Toksook Bay, et. al. v. Lower Kuskokwim School  
14 District and State of Alaska (4BE-92-426 CI), for the fiscal year ending June 30, 1996.

15 (c) To meet increased caseloads at the Bethel prosecution office of the Department of  
16 Law,

17 (1) sec. 26(a), ch. 94, SLA 1995, is amended to read:

18 (a) The sum of \$19,933,400 [\$20,000,000] is appropriated to the Department  
19 of Law from the following sources, for costs relating to legal proceedings and audit  
20 activity involving oil and gas revenue due or paid to the state or state title to oil and  
21 gas land, for the fiscal year ending June 30, 1996:

22	State corporation receipts	\$ 3,160,000
23	Budget reserve fund	
24	(art. IX, sec. 17, Constitution of	
25	the State of Alaska)	<u>16,773,400</u>
26		[16,840,000]

27 (2) sec. 47, ch. 94, SLA 1995, page 17, line 25, is amended to read:

28	APPROPRIATION	GENERAL	OTHER
29	ITEMS	FUND	FUNDS
30	Prosecution	<u>12,116,200</u>	458,000
31		[12,049,600]	[11,591,600]

1 (3) sec. 47, ch. 94, SLA 1995, page 17, line 29, is amended to read:

2 ALLOCATIONS

3 Fourth Judicial District 2,029,700

4 [1,963,100]

5 \* Sec. 9. DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS. (a) The sum  
6 of \$1,480,500 is appropriated from the general fund to the Department of Military and  
7 Veterans' Affairs for deposit in the military retirement trust fund (AS 26.05.228) for increased  
8 costs for national guard retirement for the fiscal year ending June 30, 1996.

9 (b) The sum of \$557,300 is appropriated from the general fund to the disaster relief  
10 fund (AS 26.23.300) for costs associated with declared disasters.

11 \* Sec. 10. DEPARTMENT OF NATURAL RESOURCES. The sum of \$5,258,600 is  
12 appropriated from the general fund to the Department of Natural Resources for fire  
13 suppression activities for the fiscal year ending June 30, 1996.

14 \* Sec. 11. DEPARTMENT OF REVENUE. (a) The sum of \$198,189 is appropriated from  
15 the corporate receipts of the Alaska Housing Finance Corporation to the Department of  
16 Revenue, Alaska Housing Finance Corporation, to cover unanticipated lease costs for the fiscal  
17 year ending June 30, 1996.

18 (b) To change funding sources for the appropriations made to the Department of  
19 Revenue, Revenue Operations, and allocated to the Alaska State Pension Investment Board,

20 (1) sec. 49, ch. 94, SLA 1995, page 47, line 15, is amended to read:

21 Benefits Systems Receipts 112,900

22 [ 45,900]

23 (2) sec. 49, ch. 94, SLA 1995, page 47, line 17, is amended to read:

24 Public Employees 12,818,100

25 Retirement Trust Fund [12,885,100]

26 \* Sec. 12. DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. (a)  
27 The sum of \$4,010,000 is appropriated to the Department of Transportation and Public  
28 Facilities for highway and bridge repair resulting from the southcentral flood disaster from the  
29 following sources:

30 General fund \$1,010,000

31 Federal receipts 3,000,000.

1 (b) The sum of \$720,000 is appropriated from the general fund to the Department of  
 2 Transportation and Public Facilities for Copper River Highway restoration and other costs  
 3 required by the consent decree in United States v. State of Alaska Department of  
 4 Transportation and Public Facilities (A92-24CIV).

5 \* Sec. 13. MISCELLANEOUS CLAIMS. (a) The following amounts are appropriated  
 6 from the general fund to the following departments to pay miscellaneous claims and stale-  
 7 dated warrants for the fiscal year ending June 30, 1996:

8	DEPARTMENT	APPROPRIATION
9	Administration	\$ 12,565
10	Community and Regional Affairs	468
11	Corrections	11,188
12	Education	526
13	Fish and Game	1,615
14	Health and Social Services	64,260
15	Labor	46
16	Law	160
17	Public Safety	1,657
18	Transportation and Public Facilities	2,909.

19 (b) The sum of \$6,336 is appropriated from the following sources to the Department  
 20 of Transportation and Public Facilities to pay miscellaneous claims and stale-dated warrants  
 21 for the fiscal year ending June 30, 1996:

22 Highway Working Capital Fund \$4,490

23 Alaska Marine Highway System Fund 1,846.

24 (c) The sum of \$277 is appropriated from Exxon Valdez spill settlement funds to the  
 25 Department of Environmental Conservation to pay miscellaneous claims and stale-dated  
 26 warrants for the fiscal year ending June 30, 1996.

27 \* Sec. 14. RATIFICATIONS OF THE ACCOUNTING SYSTEM. The following  
 28 departmental expenditures made in fiscal years 1985 to 1994 are ratified to reverse the  
 29 negative account balances in the Alaska state accounting system in the amounts listed for each  
 30 AR number. The appropriations from which these expenditures were actually paid are  
 31 amended by increasing them by the amount listed as follows:

## WORK DRAFT

## WORK DRAFT

## WORK DRAFT

1	(1) Department of Administration - AR 78496-86 University of Alaska	\$ 914.25
2	(2) Department of Commerce and Economic Development	
3	(A) AR 29583-89 Division of Occupational Licensing/	
4	Real Estate	27,351.48
5	(B) AR 30027-89 Division of Measurement Standards -	
6	Weigh Station Upgrade Receipts	237.47
7	(C) AR 29568-91 AIDEA/Operations	29.06
8	(D) AR 29636-93 AEA/Operations	7,017.91
9	(E) AR 30056-93 Office of International Trade/coal study	434.90
10	(3) Department of Community and Regional Affairs - AR 55350-90	
11	WX/Energy Conservation	1,306.68
12	(4) Department of Corrections	
13	(A) AR 50901-85 NIC Grant	349.60
14	(B) AR 50955-86 RSA-DHSS-Manilaq	415.20
15	(C) AR 50525-92 Facility Capital improvement unit	4,296.00
16	(D) AR 50545-92 Statewide programs	89,480.53
17	(5) Department of Education	
18	(A) AR 18025-86 PSEC - Federal student aid	25.00
19	(B) AR 18005-86 PSEC - Veteran's Administration	1,126.12
20	(C) AR 19031-88 PSEC - Student loan program	40,000.00
21	(D) AR 18041-90 PSEC - Governor's Council	
22	on Vocational and Career Education	653.56
23	(E) AR 17666-92 School Lunch Admin	44.06
24	(F) AR 17716-94 Special and supplemental services	225.00
25	(6) Department of Environmental Conservation	
26	(A) AR 48704-87 Water quality 205 J Grant	172.90
27	(B) AR 48617-87 Placer Mining Audit Management	1,653.00
28	(C) AR 48791-90 Alaska Coastal Zone Management	
29	RSA with Office of the Governor	1,533.76
30	(D) AR 49622-92 Health and Human Services Utility	
31	Management Grant	3,282.00

WORK DRAFT

WORK DRAFT

WORK DRAFT

1	(E) AR 49750-92 Superfund Amendment Authorization	
2	Grant Title III training	194.00
3	(F) AR 49632-92 Alaska Coastal Zone Management	
4	RSA with Office of the Governor	1,711.00
5	(7) Department of Fish and Game - AR 42702-85 NOAA/US Canada	1,655.05
6	(8) Department of Law	
7	(A) AR 13806-85 Dept. of Revenue	1,239.94
8	(B) AR 13809-85 Alaska Railroad Corp	39,574.88
9	(C) AR 13604-86 Civil Div - Operations	215,234.62
10	(D) AR 13604-87 Civil Div - Operations	99,028.38
11	(E) AR 13874-87 Perm Fund Invest	7,188.65
12	(F) AR 13892-87 CFEC Adjudicants	424.60
13	(G) AR 13904-87 PERS Class Study	370.00
14	(H) AR 13922-88 Telecom Misc Legl	54,414.93
15	(I) AR 1394 <sup>o</sup> -88 Function Sep Opin	1,854.03
16	(J) AR 13604-90 Civil Div - Operations	55,232.61
17	(K) AR 13615-90 Admin & Support	15,111.09
18	(L) AR 13701-90 Oil & Gas Operations	145.00
19	(M) AR 13831-91 Osair Restoration	6,290.00
20	(N) AR 13821-92 Medical Assistance	1,925.75
21	(O) AR 13826-92 AIDEA DeLong Leg	55.69
22	(P) AR 13701-93 Oil & Gas Operations	18.28
23	(Q) AR 13772-93 Agency Coop Agree	958.25
24	(R) AR 13895-93 Agency Coop Agree	487.81
25	(9) Department of Natural Resources	
26	(A) AR 36601-86 Land & Water Public	222.02
27	(B) AR 36860-87 Minerals/Mat Develop	15,630.76
28	(C) AR 36870-87 Land & Public Safety	43,883.85
29	(D) AR 36960-87 Direct Charge/OH CIP	55,930.75
30	(E) AR 37880-89 AG/Direct Charge CIP	51.62
31	(F) AR 36893-90 Law Valdez Oil Spill	117,435.35

WORK DRAFT

WORK DRAFT

WORK DRAFT

1	(G) AR 37733-90 RS1080068 Thunderbir	47.18
2	(10) Department of Revenue	
3	(A) AR 15545-85 Permanent Fund Corporation	1,822.62
4	(B) AR 15573-86 Petroleum Revenue - Data	
5	and Word Processing	10.98
6	(C) AR 15550-89 Alaska Housing	
7	Finance Corporation	7.00
8	(D) AR 15545-90 Permanent Fund Corporation	9.30
9	(E) AR 15550-90 Alaska Housing	
10	Finance Corporation	8.00
11	(F) AR 15585-90 Treasury Management	15,176.74
12	(G) AR 15585-92 Treasury Management	20,230.42
13	(11) Department of Transportation and Public Facilities	
14	(A) AR 57746-85 Headquarters Planning	
15	Payroll Suspense	109,144.63
16	(B) AR 57701-86 Headquarters Planning	
17	Payroll Suspense	459,354.77
18	(C) AR 57702-90 Northern Region	
19	Planning Payroll Suspense	354.77
20	(D) AR 57744-85 Internal Review	
21	Payroll Suspense	2,489.08
22	(E) AR 57703-87 Internal Review	
23	Payroll Suspense	36,225.04
24	(F) AR 57704-87 Northern Region Internal Review	
25	Payroll Suspense	20,269.90
26	(G) AR 57704-88 Northern Region Internal Review	
27	Payroll Suspense	28.99
28	(H) AR 57751-85 Central Region	
29	Planning Payroll Suspense	11,404.56
30	(I) AR 57705-86 Central Region	
31	Planning Payroll Suspense	133,660.43

## WORK DRAFT

## WORK DRAFT

## WORK DRAFT

1	(J) AR 57705-91 Central Region	
2	Planning Payroll Suspense	17,255.14
3	(K) AR 57707-91 EEO/Disadvantage	
4	Business Enterprise	5,881.11
5	(L) AR 57711-91 Statewide Aviation	
6	Payroll Suspense	9,519.53
7	(M) AR 58051-91 Statewide Information Systems	
8	Payroll Suspense	4,284.03
9	(N) AR 62095-91 Office of Strategic Management	
10	Payroll Suspense	5,220.88
11	(O) AR 57592-85 Southeast Region CIP Program	783,676.72
12	(P) AR 57532-86 Central Region CIP Program	744,332.17
13	(Q) AR 57561-86 Northern Region CIP Program	1,028,144.55
14	(R) AR 57592-86 Southeast Region CIP Program	932,666.02
15	(S) AR 57532-87 Central Region CIP Program	819,032.47
16	(T) AR 57505-85 Internal Review	3,543.70
17	(U) AR 57549-85 Western District	
18	Administration Services	94.47
19	(V) AR 57591-85 Data and Word Processing	4,961.28
20	(W) AR 57602-85 Southeast Shore Facilities	443,720.31
21	(X) AR 57512-87 Statewide Information System	26,234.70
22	(Y) AR 63191-86 Fish Creek Rehabilitation	2,000.00
23	(Z) AR 65157-87 Kodiak Armory Roof	489.40
24	(AA) AR 65123-15 MYC Floor/Lavatory Repair	754.84
25	(BB) AR 65214-92 Beaver Creek Hatchery	2,403.13
26	(CC) AR 65229-94 Hatchery Expansion	2,585.81
27	(DD) AR 63679-94 Technical Mainframe FY86	108,020.13
28	(EE) AR 61643-88 Technical Mainframe FY88	169,724.46
29	(FF) AR 63419-86 Juneau Mining Site Property	5.47
30	(GG) AR 65388-87 Fairbanks Armory	.02
31	(HH) AR 58686-15 PJ 56504 Chignik	

1	Road Improvements	827.45
2	(II) AR 58686-15 PJ 56506 Homer	
3	Asphalt Inspection	1,214.10
4	(JJ) AR 58904-15 PJ 56005 Matanuska	
5	Electric Association	1,434.99
6	(KK) AR 58904-15 PJ 56009 City of Kenai	
7	Utility Inspection	137.55
8	(LL) AR 58904-15 PJ 53587 Kodiak Near Island	
9	Bridge Telephone	24,999.89
10	(MM) AR 58904-15 PJ 53991 Dimond Boulevard	
11	Multivision	1,375.82
12	(NN) AR 58904-15 PJ 56049 Municipality	
13	of Anchorage Boniface Interchange	520.00
14	(OO) AR 60278-15 PJ 53828 Wasilla Urban Sewer	244.72
15	(PP) AR 61942-15 PJ 58594 Soldotna Senior Center	209.51
16	(QQ) AR 64790-15 PJ 57930 Anchorage Sewer Utility	143.59
17	(RR) AR 64790-15 PJ 53964 Church Road	
18	Improvements	3,992.00
19	(SS) AR 66209-15 PJ 55996 City of Homer	
20	Utility Permit	806.42

21 \* Sec. 15. LAPSE PROVISIONS. (a) The appropriations made by secs. 7(b) and 12 of  
22 this Act are for capital projects and lapse under AS 37.25.020.

23 (b) The appropriation made by sec. 9 of this Act is for the capitalization of a fund and  
24 does not lapse under AS 37.25.010.

25 \* Sec. 16. EFFECTIVE DATES. (a) Section 3(a) of this Act takes effect on the date that  
26 the attorney general provides the notification described in sec. 3(b) of this Act to the revisor  
27 of statutes and the office of management and budget.

28 (b) Except as provided in (a) of this section, this Act takes effect immediately under  
29 AS 01.10.070(c).

## Summary of Governor's FY 96 Supplemental Requests

(House Bill 468 / Senate Bill 260 Sectional)

Sec	Sub	Dept	Program/Description	General Fund Match	General Fund	General Fund Program Receipts	General Fund Mental Health	Federal Funds	Other Funds	TOTAL
✓	1	(a) Admin	Reduce Centralized Admin Services, Finance (49.0), to shift to Bethel Public Defender Office to meet increased caseloads \$49.0							0.0
✓	1	(b) Admin	Increased operating costs for Public Defender agency (Rule 39 receipts for representation)			217.0				217.0
✓	1	(c) Admin	Increased operating costs for the Office of Public Advocacy			356.4				356.4
✓	1	(d) Admin	Lease costs - \$1.2 million shortfall was anticipated during conference committee. Reduced need of approximately \$700.0 and \$96.0 to lease the Juneau subport from the Mental Health Trust Authority			870.0				870.0
✓	1	(e) Admin	Retirement and Benefits Program - Investment Management fees due to higher than expected asset growth (benefit system receipts)						450.0	450.0
✓	1	(f) Admin	Ratify FY 95 expenditure of \$23.1 for Longevity Bonus Grants from Senior Services, Administration							0.0
✓	2	Commerce	Office space costs in Tokyo for FY 96 and FY 97. The security deposit plus interest for existing lease will be refunded and deposited into GF 6/30/97. New lease will save state approx. \$50.0 annually.			61.2				61.2
✓	3	(a) Comm & Reg Aff	Decrease Training and Development to cover Revenue Sharing costs for Native Village of Kluti-Kaah for FY 95 (\$8.3)							0.0
✓	3	(b) Comm & Reg Aff	Lapse date extension for Rural Development Grants							0.0
✓	3	(c) Comm & Reg Aff	AIDEA purchase of Rural Development Initiative Loan Fund (RDILF) portfolio			650.0			-650.0	0.0
✓	3	(d) Comm & Reg Aff	Recapitalize RDILF			-650.0			650.0	0.0
✓	3	(e) Comm & Reg Aff	AIDEA authority to purchase RDILF loans							0.0

Sec	Sub	Dept	Program/Description	General Fund Match	General Fund	General Fund Program Receipts	General Fund Mental Health	Federal Funds	Other Funds	TOTAL
3	(f) & (g)	Comm & Reg Aff	Alaska Legal Services Grant in lieu of pending legal fees		200.0					200.0
4	(a)	Corr	Contempt of Court Fines for Cleary case for FY 95 and FY 96 (amount as of 10/95; to be updated)		712.5					712.5
4	(b)	Corr	Effective date language for fines							0.0
5	(a)(1)	Educ	Reduce School Foundation Program's anticipated lapse to fund federal disparity test grants		-1,224.9					-1,224.9
5	(a)(2)	Educ	Grants to 19 school districts to meet federal disparity test		1,224.9					1,224.9
5	(b)	Educ	Extend lapse date for K-12 education support to reduce need for one-time funds in FY 97							0.0
6	(a)	Env Cons	Storage Tank Assistance FY 96 grants - extend lapse date through FY 97							0.0
6	(b)	Env Cons	Storage Tank Assistance FY 93-95 prior year encumbered grants (\$2,498.0) - Extend lapse date through FY 97							0.0
7		Fish & Game	Exxon Valdez Oil Spill Trustee Council - Extend lapse date for approved EVOS projects to end of FY 97							0.0
8	(a)	Fish & Game	Additional vendor compensation for increased sales of fish and game licenses (Fish and Game fund)						32.7	32.7
8	(b)	Fish & Game	Change scope of Arctic-Yukon-Kuskokwim Salmon Fisheries Stock Assessment from "Equipment" to "Projects"							0.0
9	(a)(1)	Health & Social Svcs	Reduce Aid to Families with Dependent Children to fund other welfare reform programs (Public Assistance eligibility tracking system \$3,500; Child Care Benefits, Jobs Program \$1,000)	-4,000.0				-500.0		-4,500.0
9	(a)(2)	Health & Social Svcs	Increase Child Care Benefits - Jobs program support (funds shifted from AFDC)	500.0				500.0		1,000.0
9	(b)	Health & Social Svcs	Capital upgrades for the Eligibility Information System to meet federal welfare reform requirements (funds shifted from AFDC)							3,500.0
9	(c)(1)	Health & Social Svcs	Decrease Family and Youth Services (Southcentral \$110.0; Northern \$50.0; Southeastern \$80.0; Central Office \$10.0) to fund Youth Facilities							-250.0
9	(c)(2)	Health & Social Svcs	Increase Youth Facility Services (McLaughlin \$150.0; Johnson \$100.0)							250.0

Sec	Sub	Dept	Program Description	General Fund Match	General Fund	General Fund Program Receipts	General Fund Mental Health	Federal Funds	Other Funds	TOTAL
9	(c)(3)	Health & Social Svcs	Medicaid Facilities caseload reduction to fund the welfare reform proposal for Alaska Family Independence program	-3,500.0						-3,500.0
9	(d)	Health & Social Svcs	Alaska Family independence program emergency funds for FY 96 and FY 97 (part of Governor's welfare reform bill)		3,500.0 <i>Out</i>					3,500.0
9	(e)	Health & Social Svcs	Judgment in Helmuth v. State (API Employee Settlement)				426.9			426.9
10	(a)	Law	Judgments and Claims		130.4		13.6		225.3	369.3
10	New	Law	Toksook Bay v. State judgment		1,285.0					1,285.0
10	New	Law	Burger v. State judgment - case on sale of PFD checks (\$3,971.9 principal & interest of \$169.2 through 6/30/96)		4,141.1 <i>Out</i>					4,141.1
10	(b)	Law	Reduce FY 96 Oil and Gas Litigation to fund additional prosecutor in Bethel		-66.6					-66.6
10	(c)	Law	Bethel Prosecutor position for increased caseloads		66.6					66.6
11	(a)	Military & Vet Aff	Increased costs for the National Guard Retirement Fund based on updated actuarial reports		1,480.5					1,480.5
11	(b)	Military & Vet Aff	Disaster Relief - pay for disasters which have already been declared		557.3					557.3
12		Natural Resources	Fire Suppression - cover spring fire contracts and anticipated fire activity through end of fiscal year		5,258.6					5,258.6
13	(a)	Rev	Unanticipated lease costs for AHFC (since new consolidated office building construction wasn't authorized)						198.2	198.2
13	(b)	Rev	Alaska State Pension Investment Board (Increase Benefits Systems Receipts by \$67.0 / Reduce Public Employees Retirement Fund by \$67.0)							0.0
14	(a)	Trans	Highway and Bridge repair costs related to South-central flood disaster - Capital expenditure		1,010.0			3,000.0		4,010.0
14	(b)	Trans	Copper River Highway restoration per recent settlement - Capital expenditure		720.0					720.0

Sec	Sub	Dept	Program/Description	General Fund Match	General Fund	General Fund Program Receipts	General Fund Health	Federal Funds	Other Funds	TOTAL
15	(a)	Univ	<del>1995 Monetary terms agreement with CEA</del> * TO SATISFY THE FY96 collective bargaining monetary terms of The Collective		455.6	out		2.6	4.1	462.3
15	(b)	Univ	<del>1995 Monetary terms agreement with ACCFT</del> ↳		473.0	out	1500.0	2.2	31.2	506.4
16			Appropriation to OMB for small reserve to allow immediate response to anticipated FY 96 & FY 97 disasters and fires		1,500.0	out				1,500.0
17	(a)	MISC	Miscellaneous Claims - general funds		95.5					95.5
17	(b) & (c)	MISC	Miscellaneous Claims - other funds						6.6	6.6
18		ALL	Prior Year Ratifications							0.0
19	(a)		Lapse Provisions for secs. 9(b) DHSS EIS; 14 Copper River Highway - Capital Projects							
19	(b)		Lapse Provisions for secs. 3(d) RDILF recapitalization and 11 DMVA Retirement and Disaster Relief funds							
19	(c)		Lapse provisions for sec. 9(d) Alaska Family Independence program emergency funds							
20	(a)		Effective date of 3(f) Alaska Legal Services Grant							
20	(b)		Effective date for sec. 4 relating to contempt of court fines							
20	(c)		Effective date for sec. 9(d) Alaska Family Independence Program emergency account							
20	(d)		Effective date for all sections not listed in (a)-(c) of this section.							
<b>Total</b>					<b>General Funds</b>	<b>19,964.6</b>		<b>3,004.8</b>	<b>948.1</b>	<b>23,917.5</b>

D

2/19/96

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 2, 1996

FURTHER REFERRALS:

Re

Date of Committee Action: 2/16/96

The FINANCE Committee considered:

HB 468

HOUSE BILL NO. 468

APPROP: SUPPLEMENTAL & OTHERS

"An Act making supplemental appropriations for the expenses of state government and making and amending appropriations; ratifying certain state expenditures; and providing for an effective date."

recommends it be replaced with the following committee substitute [ ] the same title [ ] a new title

CSHB 468 (Fin)

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [ ] fiscal note(s) [ ] fiscal note(s)

[ ] zero fiscal note(s) [ ] zero fiscal note(s)

Table with columns: SIGNING WITH RECOMMENDATIONS, DP (7), DNP, NR, AM (3). Rows include signatures and names: Richard J. Foster, Hanky, Cunnendorf, Parnell, Martin, Navarro, Brown, Kelly, Therriault, Kohring.

CO-CHAIR'S SIGNATURE Mark Hanky Richard J. Foster

**WILLIAM M. MERCER**  
INCORPORATED

February 15, 1996

Mr. Bill Church  
Retirement Supervisor  
State of Alaska  
Department of Administration  
Division of Retirement & Benefits  
P.O. Box 110203  
Juneau, AK 99811-0203

Re: NGNMRS

Dear Bill:

As you requested, we have estimated the effect on the FY97/98 recommended contribution for the National Guard and Naval Militia Retirement System (NGNMRS) should a lump sum contribution be made to the System.

The following table presents the results:

Lump Sum Contribution	FY87/88 Recommended Contribution	Accumulated Benefit Funding Ratio
\$5 million	\$1.9 million	53%
\$10 million	\$1.2 million	88%

For the purposes of this calculation, we have assumed that the lump sum injection was made as of July 1, 1994, the most recent valuation date.

Please note, Bill, that the recommended contribution amounts for FY99 and later may be higher or lower than these estimates. The System's actual experience will ultimately determine the recommended contribution amounts for future fiscal years.

Feel free to call with any questions or comments.

Sincerely,

James W. Jacobson, ASA, MAAA  
Actuarial Analyst

JWJ/PLG/jls  
AKA/CHURCH/WJ

Post-it* Fax Note	7671	Date	# of pages ▶
To	MAJ Capobianco	From	Bill Church
Co./Capt.		Co.	Ret & Ben
Phone #	4692	Phone #	5700
Fax #	3008	Fax #	3086

One Union Square Suite 3200  
600 University Street  
Seattle WA 98101 2137

206 292 7000

A Marsh & McLennan Company

# MEMORANDUM

STATE OF ALASKA

Office of Management and Budget  
Division of Budget Review

To: Administrative Services Directors

Date: January 22, 1996

From: Nancy J. Slagle  
Director

Phone: 465-4681

Subject: Zero balance report

I am pleased to provide you with a copy of a Division of Audit and Management Services' report on the ratification process and on the outstanding requests for ratification of prior year overexpenditures or undercollection of revenues. The process to deal with these problems is very time consuming and we appreciate the time your fiscal staff spends on cleaning up the books. We hope to work with the Division of Finance to find some improvements to the system and I encourage you to also make recommendations on finding efficiencies where ever possible.

The Division of Finance has recently sent to you the current zero balance report. We are very interested in clearing terminated appropriations which did not zero balance and we would like to establish a timeline for accomplishing that action. Our desire is to determine the amount of time and the research necessary to eliminate the non-zero balances. It is our preference that these be done via revised program first, and then, only where necessary, submit prior year ratifications to the Legislature. I believe that it is not cost-effective to research the three years following the conversion to AKSAS due to a lack of documentation. I therefore would recommend ratification for any non-zero balances that occurred from FY85 through FY87.

We are drafting the supplemental bill to include the ratifications submitted to the Legislature last year with adjustments recommended by the Division of Audit and Management Services. As you may note in the attached report there is a potential for a great many more ratifications. As you come forward with requests for ratification, we will submit them to the Legislature as amendments to the supplemental bill.

Please provide this office with your estimated time frame for clearing these items. We appreciate the work you and your staff have put into this area.

cc: Don Wanie, Division of Finance  
Gary Anderson, DAMS Director  
Department Finance Officers

# MEMORANDUM

# STATE OF ALASKA

Office of the Governor  
Office of Management and Budget  
Division of Audit and Management Services  
Phone: 465-3568  
Fax: 465-3640

January 16, 1996

TO: Nancy Slagle, Director  
Division of Budget Review

THRU: Gary Anderson, Director  
Division of Audit & Management Services

FROM: Sandy Jones, Internal Auditor  
Ervin Jones, Internal Auditor  
Division of Audit & Management Services

SUBJECT: 1995 Ratification Review

In response to your request, we have conducted a review of the 1995 ratification request (Appendix A). This memo is intended to serve as a summary of our findings, with appendices providing detailed discussion of the ratification process in general, legal and management controls (citations), our shortfall testing of appropriations and the Department of Transportation and Public Facilities ratification request (including payroll suspense).

The overall purpose of our review was to determine if the underlying cause(s) of the \$8.1 million in overexpenditures and uncollected receipts submitted for ratification in 1995 were resolved. The 1995 ratification request mainly represented appropriations for FYs 85 - 93 that agencies identified as out of balance, and which they were unable to correct without legislative action. During our review, we also considered whether the 1995 ratification request included all out of balance conditions for all agencies for FYs 85 - 93 and whether these requests were indicative of a statewide problem.

While recognizing the effort put forth by agencies' finance staff in preparing the 1995 request, the Office of Management and Budget was not comfortable pursuing a ratification request of this size without having 1) a thorough understanding of the cause and magnitude of the accounting problems and 2) some reasonable assurance that the agencies corrected these problems and would not request similar ratifications in future years.

Before discussing our findings, we would like to acknowledge the efforts of the agencies and in particular the finance officers and staff who have been working to address the erred accounts. In particular, we commend the departments of Revenue (DOR) and Transportation and Public Facilities (DOTPF), whose 1995 requests were all-inclusive and who pursued every available means for correction prior to requesting ratification. We also noted that the Department of Public Safety maintained clean accounts without the need for ratification. In addition, the State Finance Officers Association and the Administrative Services Directors have formed a committee that is addressing outstanding appropriations and revising procedures to prevent future occurrences.

## FINDINGS

In its simplest form, a ratification is a retroactive supplemental. Its purpose is to increase authorization in *terminated* operating or capital budget appropriations reflected in the Alaska State Accounting System as overexpended. A ratification is often referred to as a 'paper transaction,' one which requires 'no new money,' or a request to correct 'an accounting error.' This is a true characterization in terms of the dollar affect on the current year's budgeted general fund authority; however, it is frequently not the case at the time the error occurred. Often, when the overexpenditure/undercollection of revenue took place, it resulted in an unauthorized expenditure of general fund dollars.<sup>1</sup>

In FY 92, the Office of Management and Budget (OMB) established the term 'ratification' to distinguish this type of transaction from a supplemental appropriation because each requires similar legislative action and accounting transactions. The important distinction is that ratifications are to cover expenditures that occurred in a terminated appropriation, whereas supplementals are a request for additional funding for *anticipated* expenditures. The ratification will not increase the current year budget's general fund authority as would a supplemental, instead it will increase the general fund authorization in AKSAS (in a terminated appropriation) by the amount of the overexpenditure. Appendix B provides a detailed review of the ratification process, including the accounting transactions involved.

It should be recognized that each agency is directly responsible for controlling expenditures and for collecting budgeted revenues. OMB and the Department of Administration's Division of Finance (DOF) each have their respective roles to play, but it is the departments—their management and their finance staff—that are responsible for management of the appropriations (see Appendix C for constitutional, statutory and administrative citations). The statutes, budget act and

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<sup>1</sup> In most cases, the general fund is used to balance accounts that have overexpenditures or revenue shortfalls. However, the fund affected depends on the appropriation funding source(s).

administrative manual envision an ongoing monitoring of the appropriations; however, they do not tell the manager or finance officer how to accomplish this task.

Our general conclusions are that:

1. DOR and DOTPF's 1995 ratification requests include all outstanding appropriations needing ratification. Our current estimate of the minimum ratification required to correct all other departments' outstanding appropriations is in the range of \$3.0 - 6.5 million.
2. The 1995 ratification request includes corrections of appropriation imbalances over a 10 year period beginning with the implementation of AKSAS. Although balancing appropriations was not given adequate attention in the past and a significant number of accounts still do not balance, the causes of the problems have been largely corrected. Department finance officers are more aware of the importance of timely review and correction of appropriation imbalances. If appropriations are properly managed there should not be any future ratification requests once this backlog and FY 94 and FY 95 are cleared.
3. The 1995 ratification request includes a significant number of out of balance appropriations which apparently resulted from the accounting system conversion in 1985. It is not practicable to research such errors to determine whether they could be corrected administratively. In fact, time spent researching allocations to determine whether an out of balance appropriation can be resolved with a revised program through OMB instead of a legislative ratification is probably not cost effective after several years have passed.

For a number of years, the Division of Legislative Audit has recommended that the State Accountant and the various agencies take action to balance appropriations. In FY 92, the Division of Finance created the 'zero balance' report. This report and what the finance officers and the DOF staff refer to as 'zero balancing' is at the very heart of solving the ratification problem. The report is run each year in December and provides the status for every outstanding appropriation. Appropriations with the error 'net available balance not equal to zero' are those needing timely correction, because they represent potential ratifications.

The DOF distributes the zero balance report to the departments accompanied by a memo outlining administrative measure(s) that may be taken to adjust the account to zero balance. These are the same steps the respective agencies could have taken earlier, sometimes on their own and sometimes with approval by OMB and/or DOF. This report is basically an annual reminder. After all administrative measures outlined are taken, and if there is still a balance in the terminated account, a ratification request is prepared by the department. We believe that the clean-up effort has and will result in each agency gaining a better understanding of how to balance accounts, thus minimizing future ratifications.

An accounting system cannot guarantee that agencies will properly record expenditures or revenues, or spend as appropriated by the Legislature. The Alaska State Accounting System does, however, provide the tools a manager needs to monitor compliance. These tools are adequate as long as agencies zero balance appropriations on an annual basis.

### CAUSE FOR RATIFICATION

In general, a department's failure to address issues before they become a problem and to *timely* correct accounting errors cause the need for a ratification (there are a few exceptions). This is not to say that researching the problems and determining the necessary corrective measures is an easy task—it is not. There are a number of scenarios that cause the zero balance report to state 'net available balance not equal to zero.' In most cases, it is impossible to determine the reason for the error message by reviewing on-line computer information. However, the overall cause can be determined by analyzing the appropriations' tolerance adjusted net available balance (TANAB), which will indicate that:

1. The expenditures exceed the authorization,
2. There is an undercollection of revenue, or
3. There are outstanding open items.

Additional research and analysis will be required in order to determine the exact cause of the problem. Based on our review, the main cause for this error message was an undercollection of revenue. In addition, we found that the need for agency ratifications was also a result of the following: (1) lack of training and procedures for FYE balancing, (2) errors caused by automated processes in AKSAS and (3) accounting system conversion problems.

### PROPOSED CHANGES TO THE 1995 RATIFICATION REQUEST

Based on our review, we are suggesting changes to the 1995 ratification request for the departments of Law and Natural Resources.

#### Department of Law

The Department of Law requested ratification in the amount of \$709,955.98. This amount represents outstanding DOTPF accounts as shown in Law's billing system. Law's current billing system does not reconcile with AKSAS, nor was it intended to do so. Therefore, the amount requested would not necessarily correct Law's authorizations in AKSAS.

Based on our AKSAS review, we have identified 38 appropriations (FY 85 - 93) that do not zero balance, eighteen of which will need legislative ratification totaling \$499,544.51 (given that no administrative remedy is sought). This represents a reduction of approximately \$210,000 in the 1995 ratification request. We are currently assisting the Department of Law in making improvements to their billing system.

### **Department of Natural Resources**

In FY 95, DNR submitted a ratification request for \$1,457,973.68. This amount represented unexpected firefighter overtime and standby pay for fighting fires on federal land as a result of a U.S. Department of Labor ruling (FLSA) in 1989. The department paid the mandated extra pay with every expectation that the above amount attributed to the federal agencies involved (BLM and USFS) would be reimbursed. During several years of discussion between DNR, the federal agencies and the Alaska Department of Law, the federal agencies have denied responsibility for the wage payments.

The state's collection efforts, however, are far from over. On September 29, 1995 the Attorney General filed a complaint in the U.S. Court of Claims, asking the court to order the federal agencies to pay the amounts in question. At the same time, the Attorney General served the two federal agencies with formal administrative claims. At this point, collection of the entire \$1.45 million is entirely possible, and it is premature to consider writing off any of the receivables as uncollectible. We believe and the department agrees that ratification is not appropriate while the complaint is in the U.S. Court of Claims.

### **SHORTFALL TESTING RESULTS**

To determine whether the FY 95 ratification request included all outstanding appropriations in need of ratification, we reviewed the status of each FY 85 - 93 terminated appropriation with the error 'net available balance not equal zero' listed on the FYE 94 zero balance report. We have not yet reviewed FY 94 or 95 appropriations, but we anticipate providing ratification information for these years during the next 30 days.

The following table presents the results of our FY 85 - 93 review, categorizing departments by the number of appropriations with shortfalls. A more detailed analysis appears in Appendix D.

TABLE 1  
FY 85 - 93 Appropriation Shortfalls by Department

Shortfall Appns	Departments	Characterization
0 - 10	DOA, DOC, DOE, DOR, DFG, DMVA, OOG and DPS	Had DOR's 1995 ratification request been approved, all outstanding appropriations would now be zero balanced (\$37,300). DPS does not have any appropriations with shortfalls.  These agencies have relatively few outstanding appropriations that do not balance. However, the shortfall amounts associated with the various departments potentially needing ratification range from \$0 to \$390,000 with a cumulative total of approximately \$892,000.
11 - 20	DCED, DCRA, LAW and DNR	The shortfall amounts associated with the various departments potentially needing ratification range from \$106,700 to \$2.4 million with a cumulative total of approximately \$3.7 million.
21 - 30	DEC, DOL and DOTPF	Had DOTPF's 1995 ratification and revised program requests been approved, all outstanding appropriations would now be zero balanced (\$5.9 million).  Even though the other two agencies have several appropriations with shortfalls their total potential ratification is approximately \$648,300.
62	DHSS	The number of erred appropriations indicates that this agency does not actively analyze and correct appropriations that do not zero balance in AKSAS. In this case the potential ratification exceeds \$5.0 million.

Except for DCRA, DHSS, DNR and Law, we did not research possible administrative solutions to shortfalls.

Based on our review, there are only three departments that have addressed all shortfall appropriations—DPS, DOR and DOTPF. The other departments have appropriations potentially needing ratification.

We characterize the ratification needs as 'potential' because we did not conduct all the research necessary to quantify the remaining ratification needs. The totals we did identify represent the maximum amount requiring ratification if agencies do not seek an administrative solution. Therefore, based on our findings, the total ratification necessary to balance all FY 85 - 93 outstanding appropriations could potentially reach \$16.2 million.

If agencies have exhausted all administrative remedies using information still appearing in AKSAS without identifying sufficient lapse, there is one additional step that can be taken. The departments need to determine if allocations that have dropped off AKSAS lapsed sufficient general fund dollars to cover the shortfall in remaining allocations reporting to the same appropriation. We did conduct such research on four allocations (in three departments) with apparent revenue

shortfalls. For these allocations the total apparent shortfall of \$3,060,000 could be offset by identified general fund lapse of \$891,000. The remaining \$2,169,000 will require legislative ratification to balance the appropriations.

### **DOTPF CONCERNS**

In response to your request, we followed up with DOTPF on the FY 93 Legislative Audit findings and recommendations as well as the questions raised in your memo.

In general, we found that DOTPF has made real progress in correcting long-standing problems. DOTPF has researched all of their out of balance accounts from 1985 forward; their 1995 ratification request represents those accounts for which there is no other solution. They have since established a process for annual zero balancing, and have completed that exercise for FYs 94 - 95, without need for ratification.

DOTPF's payroll suspense system is a workable method to allocate and properly charge payroll costs for capital improvement projects, as long as the necessary attention and priority is given to the time and equipment (T&E) information processing, and to the need to clear the suspense account each year. Their system, however, does appear unnecessarily cumbersome, with some duplication of effort. We believe that direct charging of the T&E information through the state payroll system would result in less effort and more timely reporting. According to the department finance officer, DOTPF is considering such a change as part of its administrative services initiative. Appendix E provides a detailed discussion and flowchart of the payroll suspense system. This appendix also includes a more complete discussion of DOTPF's progress in meeting the concerns raised by Legislative Audit and in your request.

**Appendix A**  
**1995 Ratification Request**

DEPT	YEAR(S)	DESCRIPTION	REQUESTED RATIFICATION		
			EXPENDITURE	REVENUE	TOTAL
DOA	FY94	Overexpenditure	\$ 3,215.00		\$ 3,215.00
DCRA <sup>1</sup>	FY90	Capital AR conversion problem	1,306.68		1,306.68
DOE	FY86-90	Overexpenditure	1,804.68		
	FY88	Conversion problem	40,000.00		
	FY94	Accounting error	225.00		
		Subtotal DOE	42,029.68		42,029.68
LAW	FY85-92	Accounts receivable—DOTPF		\$ 709,955.98	709,955.98
DNR <sup>2</sup>	FY91	Accounts receivable —BLM &USFS		1,457,973.93	1,457,973.93
DOR	FY85-92	Acctg, conversion and/or overexpenditure	37,265.06		37,265.06
DOTPF	FY85-92	Unbudgeted payroll suspense RSAs	517,455.22	297,637.64	815,092.86
	FY85-92	Budgeted CIP operating ARs		4,307,851.93	4,307,851.93
	FY85-92	Operating ARs (net of CIP)	12,258.48	466,295.98	478,554.46
	FY86	Unbudgeted RSA (net of payroll suspense RSAs)	2,000.00		2,000.00
	FY85-94	Unbudgeted capital RSAs	5.47	283,977.79	283,983.26
	FY 2015	Capital ARs, includes unpaid utility agreements		35,906.04	35,906.04
		Subtotal DOTPF	531,719.17	5,391,669.38	5,923,388.55
U of A	FY86	Overexpenditure	914.25		914.25
<b>Total 1995 Ratification Request</b>			<b>\$ 616,449.84</b>	<b>\$ 7,559,599.29</b>	<b>\$ 8,176,049.13</b>

<sup>1</sup> DCRA was requesting correction in wrong AR and term year.

<sup>2</sup> We do not believe ratification should go forward until the state's complaint in the U.S. Court of Claims is resolved.

## Appendix B Ratification Process in General

The following discussion provides background information to assist the reader in understanding what has come to be known as the 'ratification process.'

### Process

In FY 92, the Division of Finance, with the support of OMB developed a process for agencies to follow in order to minimize ratification requests. The majority of these steps can be avoided to the extent that agencies zero balance their appropriations timely. Agencies should exhaust the following steps prior to requesting a ratification:

1. Identify all terminated appropriations that do not zero balance (obtain chart of accounts on-line or use DOF zero balance report).
2. Perform the following test to determine if a shortfall exists:

Shortfall Test			
Step 1:	Total Authorization	— Revenue Estimate	= GF Authorization
Step 2:	Total Expenditures	— Revenue Actuals	= GF Expenditures
Step 3:	GF Authorization	— GF Expenditures	= Surplus or (Shortfall)

3. If shortfall is identified, determine cause and initiate correction for erred appropriation. The following are the most common reasons for erred appropriations and the recommended corrective action:

#### Cause

- a) Agency posted revenue incorrectly

#### Necessary Agency Action

If appropriations involved are still on-line, prepare adjusting journal entries to correct error (430-40).

If an appropriation that has dropped off the books is involved, provide DOF written justification and copies of the original accounting documents that illustrate incorrect posting and corrective action.

Cause (cont.)	Necessary Agency Action
b) Agency did not restrict revenue estimate to receipts	Submit AB 520-10 to DOF for RD 120 override correcting restricted amount to the exact amount necessary.
c) Agency did not liquidate or change retention on outstanding open item	Liquidate open items, changing retention to 'no'.  NOTE: Do not use same open item number each year for operating accounts. This prevents prior year appropriations from dropping off books.
d) System error due to conversion from PBA to AKSAS	Provide written justification to OMB along with request for ratification.
e) Agency overexpended appropriation	If overexpended at appropriation level, provide OMB written justification and request ratification.  If overexpended at allocation level, see step 4.

4. There are two causes of an 'overexpended appropriation': 1) the agency expended more than total authorization, and 2) the agency failed to collect sufficient revenue and, in effect, overexpended GF authorization. As discussed above, the correction is to request ratification. However, if the overexpenditure took place in an appropriation with *multiple* allocations and funding sources, and expenditures do not exceed total authorized, the following additional steps may be taken to correct the error:
- a) Determine if allocation(s) reporting to the same appropriation are on or off the system by obtaining chart of accounts for year in question. This may require copying DOF microfiche for allocations that dropped off the system.
  - b) Perform shortfall test on all allocations to identify any lapsed GF dollars.

For allocations that have dropped off the system, agencies must review DOF lapse reports to determine GF lapse amount. Once original lapse entry is identified, it is important to review the succeeding two years to verify any additional lapse amounts (expenditures or revenues). If

expenditure lapse entry only, assume 100% GF lapse; if there are entries for expenditures and revenue (regardless of lapsing year), the difference between the entries is characterized as follows:

Equation	Lapse Result
Expenditure Authorization Lapse > Revenue Estimate Lapse	Difference is GF
Expenditure Authorization Lapse = Revenue Estimate Lapse	Zero GF

- c) If through this exercise, the agency identifies sufficient GF lapse dollars to cover, in whole or in part, the overexpended/uncollected amount in the erred allocation, the agency can request OMB to approve a retroactive revised program authorized budget transaction (AB 520-60) to move the funds between the allocations.

If insufficient lapse was identified, the agency would have to request ratification for the remaining overexpended balance.

### Recording Approved Ratification in AKSAS

When approved, the agency enters the ratifications in AKSAS the same as when a supplemental is booked—it is done with an authorized budget entry. Specifically,

1. The department processes an AB (520-60) with OMB signature approval and DOF transaction approval (RD 120 override) for terminated appropriation. This entry increases the terminated appropriation's GF authorization by the amount of the ratification.
2. The department restricts and defers the unrealized revenue (AB 520-10) with DOF approval (RD 120). This restricts the uncollected revenue authorization. In essence, the agency is restricting the revenue estimate by the ratification amount. Prior to DOF approving transaction, they conduct the shortfall test to determine if the agency overexpended general fund dollars. At this point the *total* authorization is higher by the amount of the ratification.
3. The final step to zero balance a terminated appropriation is that DOF lapses the revenue estimate (amount agency restricted in step 2). At this point, the net expenditure authority is back to the level of original authorization, thus authorization equals expenditures and revenue estimate equals collections (they zero balance).

## Appendix C Citations

There are both legal controls and management controls in place to help reduce the need for ratifications.

### Legal Controls

The primary legal control, based on the Alaska Constitution and statute, is the level at which the legislature sets appropriations. Although agencies, with OMB approval, can amend allocations within an appropriation through the revised program process, only the legislature can amend an appropriation. The general rule against "crossing appropriation lines" is a strong budgetary control.

### Alaska Statute

The Alaska Constitution, Article IX, Section 13 addresses the proper expenditure of state funds as follows:

No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

AS 37.25.010(b) states:

An indebtedness arising from a prior year for which the appropriation has lapsed shall be paid from the current year's appropriation, if (1) this expenditure does not exceed the balance lapsed; and (2) the original obligation date is not more than two years from the requested date of disbursement.

AS 37.05.170 prohibits payment of or obligations incurred unless the Department of Administration certifies a sufficient unencumbered balance is available in the fund for which appropriated.

### Budget Act

FY 96 Budget Act, Secs. 4 and 5 state:

Sec. 4 - Except as provided in sec. 5 of the Act, if federal or other program receipts as defined under AS 37.05.146 fall short of the estimates appropriated by this Act, the affected appropriation is reduced by the amount of the shortfall in receipts.

Sec. 5 - If the federal receipts under 42 U.S.C. 1397 - 1397f (Title XX of the Social Security Act) fall short of the estimate, the amount of the shortfall, not to exceed \$6,310,800, is appropriated from the general fund.

**Alaska Administrative Manual**

AAM 25.040 defines the annual appropriated budget as the expenditure authority created by appropriation bills that are signed into law, including related estimated revenues. This budget authorizes and provides the basis for control of financial operations during the fiscal year. The appropriations cannot legally be exceeded unless amended by the Legislature.

AAM 10.060 states that agencies are responsible for monitoring their appropriations to ensure overexpenditures do not occur.

## Appendix D Shortfall Testing Results

We reviewed whether 1) those departments participating in the FY 1995 ratification, requested accurate amounts and included all their outstanding appropriations and 2) those departments that did not submit a request were in need of ratification. We verified amounts by reviewing the status of all outstanding appropriations with the error 'net available balance not equal zero' listed on the FYE 1994 zero balance report with termination years 1985 - 1993. The following table provides the number of appropriations with such an error by department and those reflecting a shortfall:

Dept	Erred Appns	Shortfall Appns	Total FY 85 - 93 Shortfalls
DPS	1	0	\$ 0.00
DFG	1	1	1,655.05
DOC	5	4	94,541.33
DOE	5	5	42,073.74
DOA <sup>1</sup>	5	5	391,401.19
DOR	7	6	37,265.06
OOG	10	3	3,358.23
DCED	24	16	106,729.86
DMVA	29	10	286,963.39
DEC	30	26	226,068.46
LAW	38	18	499,554.51
DOL	42	26	422,349.08
DCRA	48	12	2,365,676.58
DNR	67	14	751,966.80
DOTPF	68	30	5,923,388.55
DHSS	279	62	5,038,613.35
Total Shortfall:			\$16,191,605.18

The difference between the erred appropriations and the shortfall appropriations are those that can be balanced by revenue restrictions.

<sup>1</sup> DOA's total shortfall amount includes \$914.25 that is needed to balance the University of Alaska's accounts.

The total shortfall represents the maximum amount requiring ratification if agencies do not seek an administrative solution. The method for administratively correcting shortfalls involves identifying sufficient lapse balances in other allocations within the same appropriation to offset the overexpended/undercollected allocation and then requesting retroactive revised programs. To the extent that insufficient lapsed funds are available within the same appropriation, then ratification of the remaining amount by the Legislature will be required.

Based on our review, the only department included in the FY 1995 ratification request that addressed all outstanding appropriations is the Department of Transportation and Public Facilities. Additionally, the only department that balanced all of their accounts without requiring a ratification is the Department of Public Safety. See attached schedule (page D-3) comparing the original 1995 ratification request, our recommended adjustments and our estimate of additional amounts requiring ratification for the period of FY 85 - 93.

FY 85 - 93 STATEWIDE SHORTFALLS

1995 RATIFICATION REQUEST

APPN TERM YR	DOA <sup>1</sup>	DCED	DCRA	DOC	DOE	DEC	DFG	DHSS	DOL	LAW	DMVA	DNR	OOG	DPS	DOR	DOTPF	TOTAL
1985										69,730.26					1,822.62	1,359,034.75	1,430,587.63
1986	914.25				1,151.12					86,111.22					10.98	3,300,163.41	3,387,436.73
1987										176,830.35						902,251.53	1,079,081.88
1988					40,000.00					112,385.19						169,753.45	322,138.64
1989										16,534.64					7.00		16,541.64
1990			1,306.68		653.56					19,093.13		400,000.00		15,194.04		354.77	436,602.18
1991										27,067.00		1,009,723.98				42,160.69	1,078,951.67
1992										163,111.14				20,230.42		2,403.13	185,744.69
1993										39,093.05		48,249.95					87,343.00
1994	3,215.00				225.00											110,605.94	110,830.94
2015																36,660.88	36,660.88
95 Ratify	4,129.25		1,306.68		42,029.68					709,955.98		1,457,973.93			37,265.06	5,923,388.55	8,176,049.13

FY 85 - 93 ADDITIONAL SHORTFALLS

APPN TERM YR	DOA <sup>1</sup>	DCED	DCRA	DOC	DOE	DEC	DFG	DHSS	DOL	LAW	DMVA	DNR	OOG	DPS	DOR	DOTPF	TOTAL
1985	47,182.23	68,381.10	1,942,243.63	349.60			1,655.05	4,457.34	1,059.50	40,814.82	182,814.32	91,011.52					2,379,969.11
1986	654.29	1,707.71	998.32	415.20		43.50		620,948.06	23,026.59	215,234.62	1,419.79	39,892.61					904,250.69
1987		956.03	0.00			9,245.82		1,059,607.08	54.52	107,011.63	91,120.76	157,218.03					1,425,213.87
1988		0.00	73.17			60,186.64		1,092,071.28	20,443.12	56,268.96	7,500.00	31,101.44	3,358.23				1,271,002.84
1989		27,555.21	417,128.10			0.58		239,480.89	26,235.12	0.00	144.10	315,050.67					1,025,594.67
1990	1,980.56	645.87	0.00			15,494.59		549,892.78	14,139.71	70,488.70	3,964.42	117,782.53					774,389.16
1991	330,733.98	29.06	0.00			105,258.51		456,750.31	46,664.01	6,290.00		0.00					945,725.87
1992	6,720.88	2.07	640.68	93,776.53	44.06	10,005.62	2.07	190,407.11	32,106.70	1,981.44		0.00					335,685.09
1993		7,452.81	3,286.00			25,833.20		824,998.50	258,619.81	1,464.34		0.00					1,121,654.66
FY85-93:	387,271.94	106,729.86	2,364,369.90	94,541.33	44.06	226,068.46	1,655.05	5,038,613.35	422,349.08	499,554.51	286,963.35	751,966.80	3,358.23	0.00	0.00	0.00	10,183,485.96
ADJUSTMENTS:										(709,955.98) <sup>2</sup>		(1,457,973.93) <sup>3</sup>					(2,167,929.91)
TOTALS:	391,401.19	106,729.86	2,365,676.58	94,541.33	42,073.74	226,068.46	1,655.05	5,038,613.35	422,349.08	499,554.51	286,963.39	751,966.80	3,358.23	0.00	37,265.06	5,923,388.55	16,191,605.18

<sup>1</sup> DOA's FY 85 - 93 ratification need for TERM YR 1991 at \$330,733.98 is an ISF shortfall as opposed to CI shortfall and 1995 ratification includes \$914.25 needed to balance U of A accounts

<sup>2</sup> TOTAL S line does not include LAW's 1995 ratification request because it was based on their billing system as opposed to AKSAS shortfalls

<sup>3</sup> TOTAL S line does not include DNR's 1995 ratification request because it represents a claim pending in the U.S. Court of Claims

TOTAL S line DOES NOT take into consideration possible administrative actions (i.e. retro HIP's, ALE's)

## **Appendix E DOTPF Ratification**

In response to your request, we reviewed the progress made by the Department of Transportation and Public Facilities (DOTPF) on the following FY 93 Legislative Audit findings and recommendations. We also addressed the questions raised in your request. Our findings are keyed to the listing below:

### **FY 93 Legislative Audit findings**

1. Lack of monitoring appropriations,
2. Inadequate tracking of appropriate PCNs charged to RSAs,
3. Not charging payroll to capital appropriations,
4. Re-examination of labor rate calculations for non-budgeted payroll suspense accounts, and
5. Inadequate collection of revenues.

### **Additional Questions:**

6. What allows over expenditures to occur?
7. Has the system been fixed so that this (FY 93 Legislative Audit findings) will not occur again?
8. Have procedures been changed in the use of payroll suspense accounts?
9. Is the use of payroll suspense accounts and RSAs really the most appropriate method for tracking payroll costs charged to the capital budget?

### **1. Lack of monitoring appropriations**

In the three years following the implementation of AKSAS, like most agencies, DOTPF had problems with appropriation monitoring. Since FY 93, DOTPF has made real progress in balancing their appropriations. Their headquarters finance staff examined all appropriations still on the books as of the zero balance report in January 1995. They took all possible steps to correct accounting errors, transfer funds, initiate revised programs etc. to balance the appropriations. In some cases shortfalls remained after exhausting all administrative remedies, thus the ratification request. Approximately ninety percent of the request is due to a failure to reduce expenditure authorizations in circumstances where there is an undercollection of revenue. However, DOTPF staff states that:

Approximately \$4.3 million of the request is due to overcharging the federal government in earlier years. DOTPF agreed to compensate the federal government by deliberately undercharging them in later years but the

conversion from PBA to AKSAS left the department unable to transfer the revenues from the earlier years to the undercharged years.

Through the process of clearing out the FY 85 - 93 accounts, the staff has become very knowledgeable about the zero balancing process. The department indicated that they have zero balanced for both FY 94 and FY 95. We independently reviewed the 1994 zero balance report for the department, identifying 39 accounts that were out of balance and not covered by the ratification request. When provided with the list, DOTPF confirmed that each of these accounts was the subject of prior year revised programs, currently pending before OMB/DBR. The zero balance report for 1995 was distributed early January 1996. DOTPF had already taken all necessary actions to zero balance their accounts prior to the report coming out, in order to minimize the appropriations listed on the report as in error.

One area where DOTPF has consistently experienced problems is reconciling Department of Law bills for legal services. In an attempt to address such problems, DOTPF's Headquarters Finance has begun tracking Department of Law billings, implemented an aging report, and developed procedures to address bills that are not processed timely. DOTPF has also been working with the Department of Law to minimize future problems. Additionally, the Department of Law is working to improve their billing system.

## **2. Inadequate Tracking of PCNs to RSAs**

We did not conduct tests in this area because of the immaterial amounts involved. Although this is a problem that will potentially reoccur at any time, DOTPF has taken several steps to monitor and improve compliance. Headquarters Finance met with regional staff last year to explain and stress the importance of accurate time reporting. DOTPF internal review has begun sampling timesheets as part of their review of field operations, verifying that the appropriate employees are being charged to projects. Headquarters Finance now receives bimonthly reports of erred timesheets from the regions, enabling them to spot trouble areas and take prompt remedial action.

## **3. Not charging payroll to capital appropriations**

DOTPF is improving the process used to annually liquidate payroll suspense accounts (see later discussion of payroll suspense).

## **4. Re-examine labor rate calculations for non-budgeted payroll suspense accounts**

Headquarters Finance provided us a draft copy of their revised procedures for calculating the labor rate. DOTPF stated that they annually set the rate to undercollect, based on federal rules prohibiting overcharging. They then incorporate the undercharged amount (the payroll suspense balance) into the rate for the next year, theoretically clearing the accounts every year.

The rate methodology is annually verified by DOTPF internal review and the federal agencies. Due to a labor rate methodology error (corrected in the FY 96 rate), timesheet processing errors resulted in FY 93 - 95 payroll suspense shortfalls exceeding \$3 million. This represents undercollections of three percent compared to their total expenditures—generally, the undercollection is 1 - 2% of total expenditures. DOTPF has decided to recover this through adjustments to the rate over the next 3 years. Headquarters Finance now reviews the rate process and the results on a monthly basis, so that errors can be detected earlier—an important improvement.

#### **5. Inadequate collection of revenues**

In the past, DOTPF has not addressed undercollections in a timely manner. However, through their latest clean-up effort, they have gained the necessary knowledge to minimize future occurrence and clearly understand the importance of performing this exercise timely.

#### **6. What allows over expenditures to occur?**

Most of DOTPF's apparent overexpenditures fall into three categories: 1) those that resulted from AKSAS conversion problems, 2) payroll suspense problems, and 3) failure to adjust authorizations when anticipated revenues do not materialize.

#### **7. Has the system been fixed so that this (FY 93 Legislative Audit findings) will not occur again?**

We believe that the staff has made real progress. At the same time, they have special circumstances with their federal receipts, multiple projects, payroll suspense, etc. that most departments do not deal with. The DOTPF staff believes that although the amounts should be small, they may need an occasional ratification in the future. We believe that as long as the department monitors and clears the accounts annually, there should not be any significant future ratifications.

#### **8. Have procedures been changed in the use of payroll suspense accounts?**

The only change is that Headquarters Finance now monitors account balances on a regular basis. According to the finance officer, this topic is included in the department's internal administrative initiative for possible streamlining.

#### **9. Is the use of payroll suspense accounts and RSAs really the most appropriate method for tracking payroll costs charged to the capital budget?**

The payroll suspense RSA is the mechanism used to identify which personnel are supposed to be charged to projects and who is actually being charged. If Time and Equipment reports (T&Es) are input timely and accurately, erred T&Es are corrected timely, proper personnel are charged against the RSAs and the accounts are monitored such that they are zero balanced annually, then suspense accounts are an acceptable means of charging personal services to capital projects. We did note,

however, that the system is time-consuming and cumbersome, and have recommended to the finance officer that they pursue direct charging by account through the state payroll system (AKPAY). The rate process, whereby employees' time is charged at a rate different than that paid through AKPAY, makes this a complex undertaking, but as mentioned above, the subject is under discussion as part of the department's administrative review.

The following narrative and flowchart are provided to document the payroll suspense system—the accounts, the RSAs, the T&E system and the accounting entries.

### PAYROLL SUSPENSE RSAs

In accordance with AS 37.07.050(a)(3), agencies are required to list *all* positions and personal service costs in their operating budget, including those requested for capital improvement projects (CIP receipts).

Agencies with split funded positions submit unbudgeted reimbursable service agreements (KSAs) to DBR once the capital budget is approved. RSAs are set up for each budget component that has split funded positions, identifying those positions that are budgeted and paid from an operating component and are split funded. The RSA serves as a payroll clearing account where the actual personal services costs are charged and then cleared through the timesheet process (hours worked times hourly billing rate).

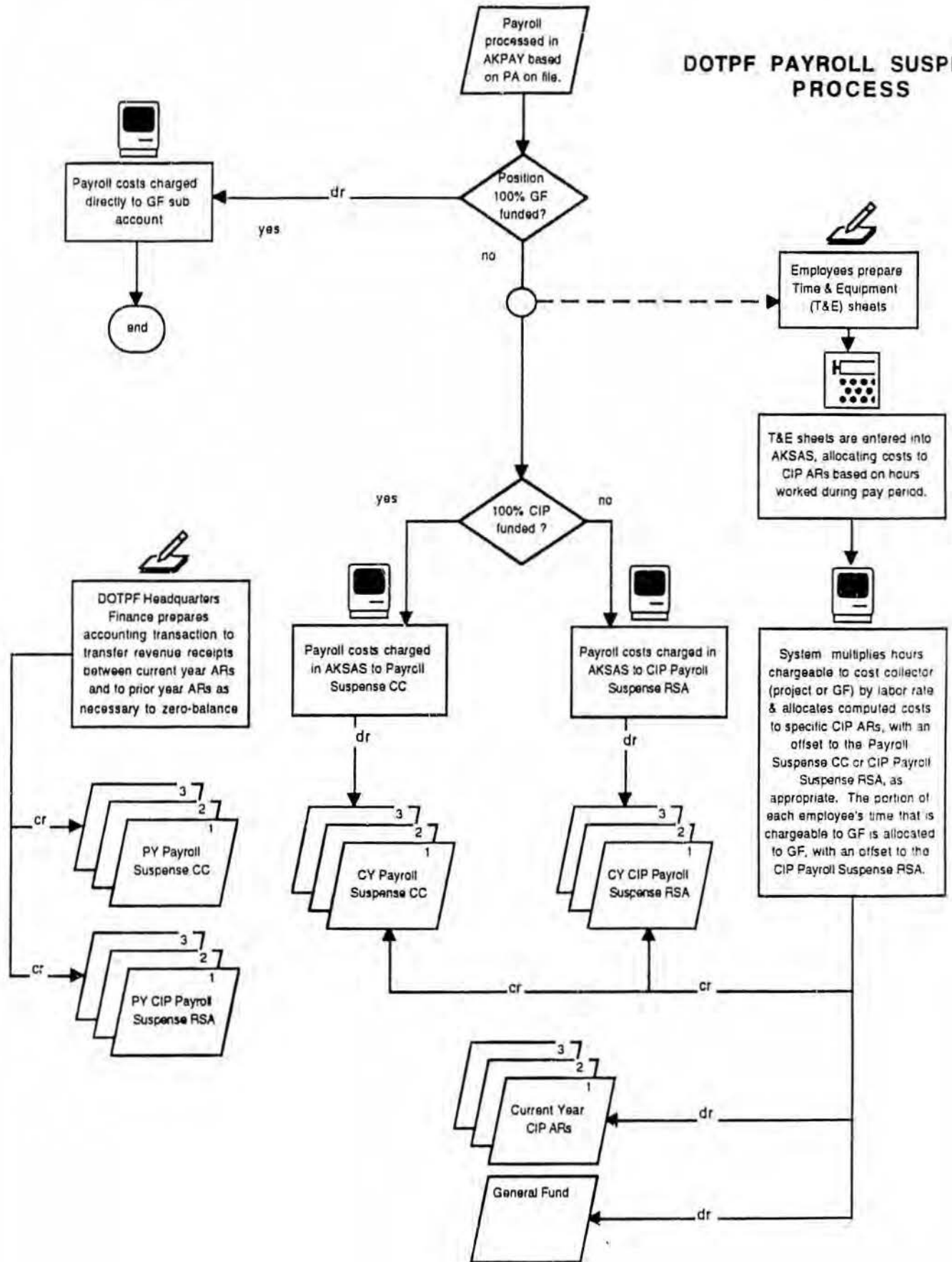
Positions that are 100% budgeted with CIP receipts do not require an RSA, but are budgeted in payroll suspense accounts (*collocation code*) which point to the operating appropriation.

The hours on the timesheets are charged out at a labor distribution rate approved by the federal government. DOTPF defines the labor rate as follows:

A cost distribution percentage which is developed according to Federal Highway Administration and Federal Aviation Authority guidelines for allowable personal service cost elements which can be distributed out to projects.

The rate includes base pay, benefits, health insurance, leave costs and an over/under variance for regular hours worked. DOTPF intentionally develops the rate so that an underrecovery occurs in the year in which it is applied. They believe this is necessary to guarantee that an overcollection does not occur. The resulting undercollection is used as a variance in calculating the next year's rate, with the related collected revenue being posted to the prior fiscal year. In theory, the account should clear after the second year.

### DOTPF PAYROLL SUSPENSE PROCESS



**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
1	DOA	03583	1985	PPTY Mgmt Gen Fund	47,182.23
2	DOA	03581	1986	Retire & Bnfts Gen FD	654.29
3	DOA	03879	1990	Program Receipts	1,980.56
4	DOA	03589	1991	Telecommun Services	330,733.98
5	DOA	03879	1992	Program Receipts	6,720.88
6	DOA	03581	1994	Alaska Oil and Gas	3,215.00
	UofA	78496	1986	University of Alaska	914.25
<b>DOA &amp; UofA:</b>					<u>391,401.19</u>
1	OOG	01915	1988	Giccy RSA	417.42
2	OOG	01916	1988	APA/Policy RSA	2,827.45
3	OOG	01920	1988	DOTPF/OEEO RSA	113.36
<b>OOG:</b>					<u>3,358.23</u>
1	DOR	15545	1985	Permanent Fund Corp	1,822.62
2	DOR	15573	1986	Pet Rev/Data & Word	10.98
3	DOR	15550	1989	AK Housing Fin Corp	7.00
4	DOR	15545	1990	Permanent Fund Corp	9.30
5	DOR	15550	1990	AK Housing Fin Corp	8.00
6	DOR	15585	1990	Treasury Management	15,176.74
7	DOR	15585	1992	Treasury Management	20,230.42
<b>All ARs included in 95 Rat</b>					<u>DOR: 37,265.06</u>
1	DOE	18005	1986	PSEC - Veteran's Admin	1,126.12
2	DOE	18025	1986	PSEC - Federal Student Aid	25.00
3	DOE	19031	1988	PSEC - Student Loan Prgm	40,000.00
4	DOE	18041	1990	PSEC - Governor's Council	653.56
5	DOE	17666	1992	School Lunch Admin	44.06
6	DOE	17716	1994	Special & Supl Services	225.00
<b>DOE:</b>					<u>42,073.74</u>
1	DOL	27615	1985	Wage and Hour	1,059.50
2	DOL	27540	1986	Worker's Incentive	12,811.71
3	DOL	27570	1986	Management Services	10,175.80
4	DOL	27655	1986	Alaska Hire	39.08

**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
5	DOL	27623	1987	U.I. Investigations	54.52
6	DOL	27505	1988	Emply Svcs Reg	243.00
7	DOL	27540	1988	Worker's Incentive	4,264.87
8	DOL	27585	1988	OSHA	15,935.24
9	DOL	27623	1988	U.I. Investigations	0.01
10	DOL	27505	1989	Emply Svcs Reg	5,997.74
11	DOL	27575	1989	Labor Market Info	4,553.38
12	DOL	27622	1989	OSHA	4,806.38
13	DOL	27657	1989	Unbudgeted DP OP's	10,877.62
14	DOL	27545	1990	Data Processing	533.73
15	DOL	27596	1990	Workers Comp Regular	166.76
16	DOL	27622	1990	OSHA	13,439.22
17	DOL	27540	1991	Worker's Incentive	22,280.28
18	DOL	27575	1991	Labor Market Info	4,705.75
19	DOL	27622	1991	OSHA	19,677.98
20	DOL	27505	1992	Emply Svcs Reg	12,749.47
21	DOL	27535	1992	U.I. Regular	19,015.14
22	DOL	27849	1992	AK Work Prog Reg	342.09
23	DOL	27505	1993	Emply Svcs Reg	10,009.38
24	DOL	27535	1993	U.I. Regular	228,832.72
25	DOL	27575	1993	Labor Market Info	11,431.15
26	DOL	27849	1993	AK Work Prog Reg	8,346.56
<b>DOL:</b>					<b>422,349.08</b>
1	DCED	29567	1985	AK Industrial Dev	16,513.00
2	DCED	30511	1985	08 Mining Loan Fund	427.10
3	DCED	31505	1985	21 Sterling Engine	51,441.00
4	DCED	30509	1986	08 APA Alt Engy Plan	23.41
5	DCED	31509	1986	21 Pt Alexander Wind	1,683.55
6	DCED	31517	1986	21 Solar Panel Demo	0.61
7	DCED	32111	1986	Kodiak Elect Plan	0.14
8	DCED	29527	1987	AK Real Estate Comm	956.03
9	DCED	29583	1989	OL AREC Satety Fund	27,351.48
10	DCED	30027	1989	Weigh Station Operation	203.73
11	DCED	29563	1990	AK Tourism Mktg Council	645.87

**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
12	DCED	29568	1991	AK Seafood Mktg Inst	29.06
13	DCED	29561	1992	Tourism Development	2.07
14	DCED	29636	1993	AEA Agency Operation	7,017.91
15	DCED	30056	1993	Mongolian Coal-Fired	434.90
16	DCED	32383	1994	Bethel-Napaskiak Lin	89.00
94 AR not included in SS (pg D-3)					<b>DCED:</b> 106,818.86
1	DMVA	34512	1985	Fed Emerg Mgmt Pgm	40,844.18
2	DMVA	34532	1985	Fac Mntc/Army	126,661.01
3	DMVA	34537	1985	Air Training Support	15,218.98
4	DMVA	34538	1985	AK Military Academy	90.15
5	DMVA	34537	1986	Air Training Support	1,419.79
6	DMVA	34532	1987	Fac Mntc/Army	75,326.20
7	DMVA	34537	1987	Air Training Support	15,794.56
8	DMVA	34565	1988	Fed Community Asst	7,500.00
9	DMVA	34538	1989	State Active Duty	144.10
10	DMVA	34532	1990	Army Guard Fac/Maint	3,964.42
					<b>DMVA:</b> 286,023.39
1	DEC	48742	1986	WQM UST	0.05
2	DEC	48743	1986	PIO UST	11.81
3	DEC	48751	1986	A&SW Superfund	0.32
4	DEC	48757	1986	A&SW Air SP Proj 86	30.17
5	DEC	48761	1986	A&SW Spec Proj 85	0.65
6	DEC	48815	1986	RS 280 PM Student IN	0.50
7	DEC	48704	1987	WQM 205J	7,591.85
8	DEC	48732	1987	SCRO UST	0.31
9	DEC	48733	1987	PIO UST	0.66
10	DEC	48817	1987	RS 281 PM Audit Mgmt	1,653.00
11	DEC	48555	1988	CIP Allocation	60,186.52
12	DEC	48740	1988	WQ Non-PT 205J	0.12
13	DEC	48712	1989	CAA 105 Air Grant	0.06
14	DEC	48713	1989	Lust Trust RPL SFY89	0.14
15	DEC	48714	1989	EH/Pest Enf/RPF0159	0.38
16	DEC	48689	1990	SEC 28 SB 264 Corps	0.92

**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
17	DEC	48789	1990	FY90 Xerox Costs RSA	13,959.91
18	DEC	48791	1990	RS: 00006 DEC/GOV	1,533.76
19	DEC	48550	1991	Env Quality Projects	105,258.51
20	DEC	48660	1992	EH Palmer Laboratory	4,818.62
21	DEC	49622	1992	FCO/HHS Util Mgmt Gr	3,282.00
22	DEC	49632	1992	RPL 18920086 - Coast	1,711.00
23	DEC	49750	1992	RS0920104 DMVA/SPAR	194.00
24	DEC	48130	1993	Regional Management	1,606.46
25	DEC	48380	1993	Air Quality Manageme	23,883.55
26	DEC	48660	1993	EH Palmer Laboratory	343.19
<b>DEC:</b>					<b>226,068.46</b>
1	DOC	50901	1985	NIC Grant	349.60
2	DOC	50955	1986	RSA DHSS Manilaq/PO	415.20
3	DOC	50525	1992	Fac-Cap Imp Unit	4,296.00
4	DOC	50545	1992	Statewide Programs	89,480.53
<b>DOC:</b>					<b>94,541.33</b>
1	Court	76600	1985	AASAP Services	800.00
2	Court	76650	1987	DWI Adjudication/Pub	21.41
<b>COURT:</b>					<b>821.41</b>
1	DCRA	52578	1985	National Forest Rece	320,806.28
2	DCRA	52609	1985	Grants Admin	1,621,085.35
3	DCRA	52740	1985	II-A SDA Training	352.00
4	DCRA	52533	1986	Trng/Field Ofc Alloc	998.32
5	DCRA	52580	1988	Statewide Assistance	73.17
6	DCRA	52630	1989	Admin Services	4,239.66
7	DCRA	52902	1989	Liheap RSA, FFY89	412,888.44
8	DCRA	55350	1990	WX/Energy Conservati	1,306.68
9	DCRA	52689	1992	Block Grants CIP	516.68
10	DCRA	52933	1992	REAA's School Board	124.00
11	DCRA	52566	1993	Training and Develop	300.36
12	DCRA	52573	1993	Statewide Assistance	2,985.64
<b>DCRA:</b>					<b>2,365,676.58</b>

**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
1	DHSS	22750	1985	Fbnks DOE Food Svc	3,236.50
2	DHSS	22751	1985	Johnson Center Doc	151.84
3	DHSS	22783	1985	Laboratories 84	1,069.00
4	DHSS	22515	1986	Energy Assist Progm	0.82
5	DHSS	22521	1986	Medicaid	498,756.92
6	DHSS	22532	1986	Claims Process Oper	84,719.11
7	DHSS	22543	1986	Preventive Services	37,399.34
8	DHSS	22648	1986	Regional Administrat	71.64
9	DHSS	22640	1986	Gov Council Hand/Gft	0.23
10	DHSS	22515	1987	Energy Assist Progm	9,504.13
11	DHSS	22519	1987	Medicaid Facilities	1,012,390.37
12	DHSS	22646	1987	Administration	37,712.58
13	DHSS	22519	1988	Medicaid Facilities	1,026,636.69
14	DHSS	22557	1988	Work Incentive	45,178.52
15	DHSS	22612	1988	Communicable Disease	20.51
16	DHSS	22640	1988	Gov Council Hand/Gft	0.42
17	DHSS	22649	1988	Harborview Dev Ctr	20,024.57
18	DHSS	22752	1988	Substance Abuse Res	10.00
19	DHSS	22755	1988	Epidemiology-Traffic	200.56
20	DHSS	22788	1988	Fbks MH Facil Maint	0.01
21	DHSS	23031	1989	S Reg EMS Life-Pak	0.07
22	DHSS	22885	1989	EIS Phase I-Capital AR	0.80
23	DHSS	25061	1989	Medicaid Facilities	194,581.75
24	DHSS	25063	1989	PFD Hold Harmless	1,700.00
25	DHSS	25065	1989	General Relief Med	23,399.50
26	DHSS	25066	1989	State Facilities	16,513.78
27	DHSS	24649	1989	Harborview Dev Ctr	3,284.99
28	DHSS	22557	1990	Work Incentive	20,243.51
29	DHSS	22556	1990	Central Office	72,324.74
30	DHSS	22612	1990	Women, Infants&Child	98,736.15
31	DHSS	22617	1990	EMS Training&Licens	34,522.50
32	DHSS	24105	1990	Alcohol Abuse GT-GF	32,888.39
33	DHSS	24649	1990	Harborview Dev Ctr	274,938.80
34	DHSS	22753	1990	AK Trauma Registry	0.45

**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
35	DHSS	22792	1990	MH Intervention Prog	80.00
36	DHSS	22796	1990	Human Svc Valdez Oil	11,853.13
37	DHSS	22797	1990	Child Nutrition Prog	4,305.11
38	DHSS	25060	1991	Medicaid Non-Facility	56,969.91
39	DHSS	25062	1991	Indian Health Service	0.11
40	DHSS	25066	1991	Medicaid State Prog	25,923.83
41	DHSS	22534	1991	Fraud Investigation	36,979.86
42	DHSS	22530	1991	Cert & Licensing	218,532.43
43	DHSS	22613	1991	Maternal,Child&FAMIL	76,944.06
44	DHSS	22615	1991	PH Admin Svcs	37,566.05
45	DHSS	22616	1991	Epidemiology	3,834.06
46	DHSS	25062	1992	Indian Health Service	0.56
47	DHSS	22528	1992	Eligibility Determin	14,130.80
48	DHSS	22556	1992	Central Office	13,947.49
49	DHSS	22576	1992	MNLQ-ED & Staff Dev	2,827.00
50	DHSS	22611	1992	Nursing	1,500.00
51	DHSS	22617	1992	EMS Training&Licens	54,440.20
52	DHSS	22618	1992	Aids Services	21,597.27
53	DHSS	24649	1992	Harborview Dev Ctr	67,463.77
54	DHSS	22713	1992	FY92 OAC Nutrition	0.02
55	DHSS	22724	1992	Inmate Hlt Care Xray	14,500.00
56	DHSS	25061	1993	Medicaid Facilities	725,838.01
57	DHSS	22532	1993	Ofc Hearings/Appeals	4,546.87
58	DHSS	22543	1993	Delinquency Prevent	7,785.38
59	DHSS	22552	1993	Northern Region	15,110.33
60	DHSS	22556	1993	DFYS Central Office	26,773.11
61	DHSS	22616	1993	Epidemiology	18,895.74
62	DHSS	22621	1993	Hlth Svcs/Medicaid	26,049.06
<b>DHSS:</b>					<b>5,038,613.35</b>
1	DNR	36911	1985	Historic Res Mgmt	91,011.52
2	DNR	36601	1986	Land & Water Public	39,372.00
3	DNR	36780	1986	Petroleum Management	430.61
4	DNR	36860	1987	Minerals/Mat Develop	38,999.03
5	DNR	36870	1987	Land & Public Safety	43,883.85

**FY 85 - 93 STATEWIDE SHORTFALLS**

#	DEPT	APPN/ ALLOC	TERM YR	DESCRIPTION	RATIFY
6	DNR	36960	1987	Direct Charge/OH CIP	74,335.15
7	DNR	36650	1988	Land Conveyances	18,239.97
8	DNR	36898	1988	Survey Dir Chg CIP	12,550.52
9	DNR	36670	1988	Minerals/Mat Develop	310.95
10	DNR	37700	1989	Historic Resource Mg	1,708.11
11	DNR	37880	1989	AG/Direct Charge CIP	1,004.80
12	DNR	36893	1990	Law Valdez Oil Spill	117,735.35
13	DNR	37733	1990	RS1080068 Thunderbir	47.18
DNR ZB AR 36593-89 @ \$312,337					<b>DNR:</b> 439,629.04
1	LAW	13806	1985	Dept of Revenue	1,239.94
2	LAW	13809	1985	Alaska Railroad Corp	39,574.88
3	LAW	13604	1986	Civil Div - Operations	215,234.62
4	LAW	13604	1987	Civil Div - Operations	99,028.38
5	LAW	13874	1987	Perm Fund Invest	7,188.65
6	LAW	13892	1987	CFEC Adjudicatns	424.60
7	LAW	13904	1987	PERS Class Study	370.00
8	LAW	13922	1988	Telecom Misc Legl	54,414.93
9	LAW	13948	1988	Function Sep.Opin	1,854.03
10	LAW	13604	1990	Civil Div - Operations	55,232.61
11	LAW	13615	1990	Admin & Support	15,111.09
12	LAW	13701	1990	Oil & Gas Operations	145.00
13	LAW	13831	1991	Osair Restoration	6,290.00
14	LAW	13821	1992	Medical Assistnce	1,925.75
15	LAW	13826	1992	Aidea Delong Leg	55.69
16	LAW	13701	1993	Oil & Gas Operations	18.28
17	LAW	13772	1993	Agency Coop Agree	958.25
18	LAW	13895	1993	Agency Coop Agree	487.81
					<b>LAW:</b> 499,554.51
1	DFG	42702	1985	NOAA US Canada #2 DFG:	1,655.05
					<b>GRAND TOTAL:</b> 9,956,789.28

From OMB to House Finance 1/31/96

# MEMORANDUM

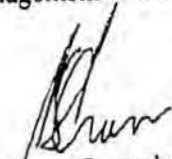
State of Alaska  
Department of Education

To: Annalee McConnell, Director  
Office of the Governor  
Office of Management & Budget

Date: January 31, 1996

Phone: 465-2800

File:

From:  Rick Cross, Deputy Commissioner  
Department of Education  
Division of School Finance

Subject: FY96 Projected lapse balances

This memorandum is in response to your request for information regarding FY96 projected lapse balances, if any, in the K-12 support appropriation and the FY96 school debt appropriation. Anticipated lapse projections for the K-12 Support appropriation are as follows:

\$643,401.9	FY96 authorized
<u>638,739.4</u>	FY96 actual based on first student count
4,662.5	Difference
(1,000.0)	Less optional count
(500.0)	Less Anchorage vocational adjustment
(123.0)	Less tuition RP
<u>(1,200.0)</u>	Less FY96 disparity fix
\$1,839.5	Anticipated foundation lapse to be carried forward and used to reduce funding from School Trust Fund

The FY96 projection for the school debt program will utilize the entire appropriation.

Please let me know if you require additional information.

cc: Jim Elliott, Acting Director  
DOE School Finance  
  
Karen Rehfeld, Director  
DOE Administrative Services

Post-It <sup>®</sup> Fax Note 7671		Date	# of pages 1
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# STATE OF ALASKA

## DEPARTMENT OF EDUCATION ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

GOLDBELT PLACE  
801 WEST 10TH STREET, SUITE 200  
JUNEAU, ALASKA 99801-1894

(907) 465-2800  
FAX (907) 465-4156

February 14, 1996

The Honorable Mark Hanley, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol, Room 507  
Juneau, AK 99801-1182

Dear Representative Hanley:

The following information is provided in response to questions of the department during the February 12 House Finance Committee meeting regarding HB468, the FY96 supplemental bill.

**Disparity** - The enclosed position paper outlines the disparity issue and various alternatives to address the issue. The Department of Education has requested a supplemental appropriation of \$1,224,950 in FY96 to provide named recipient grants to REAA school districts in order to bring the state within the 20% variance to comply with the federal standard. Funding for these grants is available in the current year Foundation Program appropriation based on the first student count data. The FY96 supplemental is a one-time "fix" for the problem. In FY97, the department has proposed legislation that will provide supplementary aid to REAA's while at the same time increasing the impact aid deduct from 90 to 95% which reduces the "windfall" to these districts at the low end of the disparity table.

Also enclosed is a spreadsheet that illustrates the impact of failing to meet the disparity standard by prorating the instructional unit value by \$2,750 based on FY96 first count data and the FY97 projection for the Foundation Program.

**Foundation Program** - The department discussed the issue of disparity with the legislature last year. At that time, the department proposed rewriting the current foundation formula to address disparity and several other areas. As you know, the State Board of Education appointed a School Funding Task Force that worked over the summer to rewrite the state's existing Foundation Program to deal with this and other issues. The Task Force was not able to reach consensus on a number of areas. In order to resolve some of the immediate issues, the State Board of Education has requested legislation to make short term changes to the Foundation Program that are included in HB 452 and SB 244. The State Board of Education is continuing their work on developing long term changes to the Foundation Program to ensure equity and adequacy of funding for all school districts.

Letter, Representative Hanley  
February 14, 1996  
Page 2 of 2

**Public School Trust Fund** - The FY97 budget request for the Foundation Program includes approximately \$3,400,000 in one-time revenues to the Public School Trust Fund. At the time the budget was prepared, the department did not have the first student count data analysis completed to determine if there would be funding available in the current year appropriation for carryforward. Since that time, the department has estimated that approximately \$1,800,000 would be available and the supplemental bill includes language to provide for that carryforward. If the department is able to reduce the revenue demand on the Public School Trust Funds in FY97, that funding will be available to offset the general fund need in FY98.

**Pupil Transportation** - During our overview before the House Finance Committee, you requested information on the 8% reduction to the Pupil Transportation component. The enclosed schedule provides an estimated allocation by school district based on the FY97 request.

I would be happy to discuss this information at your convenience. Please contact me if you have any questions.

Sincerely,

Karen J. Rehfeld  
Director

Enclosures

cc: House Finance Committee Members

ALASKA DEPARTMENT OF EDUCATION  
FOUNDATION PROGRAM

	Without Impact Aid	Change in Revenue	Without Impact Aid	Change in Revenue
FY96 FOUNDATION STATE AID	FY96 Prorated at \$58,220	FY96 Prorated less Actual FY96	FY97 FOUNDATION STATE AID	FY97 Prorated at \$58,630
ADAK	0	0	0	0
ALASKA GATEWAY	4,947,237	5,092,503	145,266	5,055,414
ALEUTIAN REGION	551,662	582,782	31,120	518,430
ALEUTIANS EAST	3,640,174	3,717,230	77,056	3,743,146
ANCHORAGE	179,345,277	174,169,534	(5,175,743)	181,243,565
ANNETTE ISLANDS	1,794,308	2,654,250	859,942	1,833,348
BERING STRAIT	15,590,932	18,583,824	2,992,892	16,969,751
BRISTOL BAY	1,703,279	1,763,106	59,827	1,873,234
CHATHAM	2,755,220	3,125,250	370,030	2,751,502
CHUGACH	1,699,778	1,768,724	68,946	1,729,510
COPPER RIVER	5,376,442	5,228,156	(148,286)	5,370,508
CORDOVA	2,534,470	2,403,112	(131,358)	2,684,679
CRAIG	2,355,229	2,270,923	(84,306)	2,335,826
DELTA/GREELY	5,212,513	5,716,040	503,527	4,571,810
DENALI	2,977,917	2,858,863	(119,054)	3,021,537
DILLINGHAM	3,089,488	3,228,230	138,742	3,839,005
FAIRBANKS	65,507,599	65,399,549	(108,050)	66,371,794
GALENA	1,376,768	1,404,111	27,343	1,537,153
HAINES	2,279,644	2,161,086	(118,558)	2,266,876
HOONAH	1,931,988	1,921,187	(10,801)	1,963,241
HYDABURG	957,444	917,124	(40,320)	977,873
IDITAROD	5,274,534	5,576,894	302,360	5,496,233
JUNEAU	22,176,639	20,874,095	(1,302,544)	21,852,487
KAKE	1,308,345	1,314,628	6,283	1,265,711
KASHUNAMIUT	1,793,366	2,107,564	314,198	1,980,254
KENAI	44,210,146	41,586,678	(2,623,468)	44,210,660
KETCHIKAN	9,911,225	9,291,820	(619,405)	9,754,055
KLAWOCK	1,499,611	1,578,400	78,789	1,506,757
KODIAK	13,391,816	13,632,947	241,131	13,742,286
KUSPUK	5,008,089	5,396,412	388,323	5,426,635
LAKE AND PENINSULA	6,764,787	6,654,750	(110,037)	6,789,934
LOWER KUSKOKWIM	36,346,582	39,050,483	2,703,901	38,315,241
LOWER YUKON	12,873,784	16,104,816	3,231,032	13,851,625
MAT-SU	56,461,364	53,511,051	(2,950,313)	56,163,766
NENANA	1,474,409	1,408,450	(65,959)	1,528,611
NOME	4,813,263	4,599,054	(214,209)	4,589,588
NORTH SLOPE	10,305,374	10,163,885	(141,489)	11,289,387
NORTHWEST ARCTIC	16,461,299	16,635,296	173,997	17,606,207
PELICAN	596,214	566,496	(29,718)	569,066
PETERSBURG	3,146,017	2,976,077	(169,940)	3,227,769
PRIBILOF	1,929,213	2,144,243	215,030	2,011,494
SITKA	6,845,632	6,511,014	(334,618)	6,666,245
SKAGWAY	712,196	663,296	(48,900)	761,123
SOUTHEAST	3,981,308	4,191,258	209,950	3,737,413
SOUTHWEST	6,313,927	6,924,105	610,178	6,758,688
ST. MARY'S	1,336,734	1,352,365	15,631	1,399,655
TANANA	1,083,964	1,085,119	1,155	1,178,033
UNALASKA	1,696,392	1,581,780	(114,612)	1,637,671
VALDEZ	3,411,802	3,196,617	(215,185)	3,419,496
WRANGELL	2,542,672	2,401,733	(140,939)	2,625,110
YAKUTAT	1,306,817	1,266,863	(39,954)	1,387,078
YUKON FLATS	5,664,489	6,029,263	364,774	5,515,969
YUKON/KOYUKUK	7,269,447	7,756,068	486,621	7,054,395
YUPIIT	3,951,742	4,600,544	648,802	4,266,823
STATE CCS	3,815,520	3,641,632	(173,887)	3,918,213
Mt. EDGE CUMBE	1,676,280	1,599,886	(76,394)	1,650,660
<b>TOTALS</b>	<b>\$612,982,368</b>	<b>\$612,941,166</b>	<b>(\$41,201)</b>	<b>\$623,812,540</b>
				<b>\$623,722,738</b>
				<b>(\$89,802)</b>

Note: This spreadsheet represents the prorated allocation of foundation state aid if the federal Impact Aid funds are not considered in the foundation formula program. The "Change in Revenue" column indicates the total change in revenue by district.

**Department of Education**  
**Briefing Paper**  
**PL81-874 Impact Aid: Disparity Requirement**  
**January 30, 1996**

**Summary of Issue**

Alaska's total receipt of federal Impact Aid is in excess of \$70,000,000 annually. The Alaska Public School Foundation Formula reduces the amount of state aid and limits local aid which a district can receive in accordance with a federally certified system of equalized support. The recognition of federal aid in the foundation formula reduced the FY95 state general fund requirement by over \$43,000,000. The estimated FY96 reduction in general fund obligation as result of recognition of Impact Aid received by districts is \$35,000,000.

**Statement of Why the Issue is Timely or Important**

The Impact Aid Program was reauthorized by Congress in 1994. The new statutes require calculation of current year disparity utilizing revenue data from two years prior. Because Alaska uses an instructional unit as the method of determining districts' foundation entitlements, disparity is a measure of relative value of each adjusted unit, ignoring the top and bottom 5%. In FY98 the maximum disparity allowed will be reduced from 25% to 20% and will rely on FY96 data. The Department's preliminary disparity test calculation for FY96 is over the maximum 20% allowed by federal law. Unless the federal statutorily required disparity test is met in FY98, it will take a general fund increment of about \$35,000,000 to replace the eligible Impact Aid recognized currently in the school foundation formula.

**Alternative Ways of Addressing Issue**

1. Seek Congressional relief from the FY98 disparity standard.
2. Prorate the instructional unit value in FY98 by \$2,850 under the existing statute due to state's failure to meet disparity test for FY96.
3. Devise method of increasing unit value of REAA districts to reduce disparity. The method recommended by the State Board of Education Task Force on School Funding and approved by the State Board is the proposed supplemental aid of \$500 per instructional unit to the REAAs for FY96 and the legislation proposed by Governor Knowles for subsequent fiscal years that changes the foundation formula by: (a) raising the Impact Aid deduct from present 90% to 95% for REAAs and (b) ensuring the state meets federal disparity requirements in the future by giving the Department of Education statutory authority to increase the amount of supplementary aid to these same districts *through the foundation formula*, an important federal criterion.

	A	B	C	D	E	F	G	H	I	J	K
1	ALASKA DEPARTMENT OF EDUCATION										
2	SCHOOL OPERATING FUND REVENUES										
3	COMPILED FROM FISCAL YEAR 1995 Budgets										
4	Impact aid disparity test computations based on FY95 Budgeted data and on foundation distributions and calculations.										
5	Includes single site appropriations.										
6	<b>Preliminary Disparity Test FY95 - Excludes Supplemental \$500 Unit Allocation to REAs</b>										
7	SCHOOL DISTRICT	FY95 Actual Foundation Payments	Adjustments Based on budget	Budgeted State Tuition	Budgeted Other State Revenue	SUB-TOTAL STATE REVENUE	Budgeted City/Borough Appropriations	Budgeted Earnings on Investments	Budgeted Other Local Revenue	Budgeted In-Kind Services	SUB-TOTAL LOCAL REVENUE
10	NORTH SLOPE	10,003,231	0	0	40,000	10,043,231	27,063,000	0	50,000	0	27,913,000
11	VALDEZ	3,296,449	6,703	0	0	3,303,152	3,946,990	80,000	42,000	0	4,074,990
12	HOONAH	1,856,774	0	0	126,270	1,983,044	538,779	25,000	15,000	0	578,779
13	UNALASKA	1,686,016	5,552	0	200,690	1,892,258	1,385,800	20,000	35,936	0	1,441,736
14	HYDABURG	977,491	0	0	108,080	1,085,571	57,711	4,000	27,500	0	89,211
15	WRANGELL	2,638,591	0	0	151,890	2,790,481	1,086,168	5,000	15,000	29,000	1,135,168
16	SKAGWAY	656,726	0	0	119,560	816,286	488,574	6,000	0	0	494,574
17	KAKE	1,285,536	0	0	136,640	1,422,176	80,000	20,000	8,585	150,000	258,585
18	JUNEAU	22,481,943	0	110,000	0	22,591,943	12,776,000	0	83,032	0	12,859,032
19	SITKA	6,923,549	0	40,000	447,130	7,410,679	3,766,524	0	22,000	0	3,788,524
20	KENAI	44,172,161	0	272,800	0	44,444,961	20,601,573	0	75,000	5,995,064	26,671,637
21	PETERSBURG	3,196,745	0	1,818	199,470	3,398,033	1,429,406	15,000	4,000	0	1,448,406
22	HAINES	2,055,774	0	0	0	2,055,774	1,030,311	17,000	11,000	0	1,058,311
23	KETCHIKAN	9,624,799	0	40,000	28,500	9,693,299	6,347,993	14,000	10,154	280,000	6,652,147
24	BRISTOL BAY	1,522,798	0	0	0	1,522,798	933,421	20,000	15,000	200,000	1,168,421
25	NOME	4,724,803	0	13,645	264,740	5,003,188	1,117,906	30,000	117,290	0	1,265,196
26	KLAWOCK	1,520,331	0	0	166,460	1,686,791	97,500	35,000	56,452	32,400	221,352
27	FAIRBANKS	62,314,043	0	1,249,500	0	63,563,543	25,380,000	0	250,000	0	25,630,000
28	ALEUTIANS EAST	3,577,702	0	0	15,000	3,592,702	797,670	0	7,000	161,000	965,670
29	DILLINGHAM	2,944,758	0	10,000	250,100	3,204,858	685,054	30,000	157,000	0	872,054
30	TANANA	1,130,861	0	9,368	122,000	1,262,229	0	10,000	1,000	98,000	109,000
31	YAKUTAT	1,290,931	0	0	126,270	1,417,201	176,620	2,000	9,362	0	187,982
32	ANNETTE ISLAND	1,373,918	0	0	166,530	1,540,448	0	0	0	0	0
33	ANCHORAGE	179,878,890	0	960,000	983,500	181,822,390	71,773,335	1,751,500	1,099,000	0	74,623,835
34	GALENA	1,386,517	0	0	156,160	1,542,677	25,000	20,000	3,000	77,925	125,925
35	NENANA	1,497,731	0	0	164,090	1,661,821	58,514	5,000	5,272	0	68,786
36	CRAIG	2,275,901	0	0	151,890	2,427,791	296,273	20,000	2,395	40,618	359,286
37	MAT-SU	55,397,110	0	0	0	55,397,110	15,462,862	0	75,203	0	15,538,065
38	KASHUNAMIUT	1,728,969	0	0	206,180	1,935,149	0	0	0	0	0
39	PELICAN	544,061	0	0	56,730	600,791	53,179	3,000	10,500	0	66,679
40	ST. MARY'S	1,212,187	0	0	119,560	1,331,747	0	5,000	0	17,753	22,753
41	LAKE AND PENN.	6,741,477	0	0	0	6,741,477	50,000	135,000	20,000	0	905,000
42	CORDOVA	2,581,326	0	0	217,160	2,798,486	699,529	10,341	8,500	0	718,370
43	KODIAK	12,300,474	0	46,787	879,582	13,226,843	3,200,000	0	36,400	452,500	3,688,900
44	ADAK	0	0	0	0	0	0	0	0	0	0
45	NW ARCTIC	16,268,410	0	0	0	16,268,410	846,708	275,000	300,000	758,212	2,179,920
46	BERING STRAIT	14,408,678	0	0	0	14,408,678	0	0	0	0	0
47	CHATHAM	2,628,517	0	0	0	2,628,517	0	0	0	0	0
48	YUKON FLATS	5,619,605	0	0	0	5,619,605	0	0	0	0	0
49	AK GATEWAY	4,916,797	0	0	0	4,916,797	0	0	0	0	0
50	YUPIIT	3,769,090	0	0	0	3,769,090	0	0	0	0	0
51	DELTA/GREELY	5,646,127	0	0	0	5,646,127	0	0	0	0	0
52	SOUTHWEST	6,041,928	0	0	0	6,041,928	0	0	0	0	0
53	IDITAROD	5,193,156	0	0	0	5,193,156	0	0	0	0	0
54	PRIBILOF	1,821,059	0	0	0	1,821,059	0	0	0	0	0
55	YUKON/KOYUKUI	6,884,158	0	0	0	6,884,158	0	0	0	0	0
56	LOWER YUKON	11,558,409	0	0	0	11,558,409	0	0	0	0	0
57	LOWER KUSKO.	32,863,714	0	0	0	32,863,714	0	0	0	0	0
58	DENALI	3,046,313	0	0	0	3,046,313	346,011	12,000	0	0	358,011
59	COPPER RIVER	5,223,578	0	0	0	5,223,578	0	0	0	0	0
60	CHUGACH	1,577,779	0	0	0	1,577,779	0	0	0	0	0
61	ALEUTIAN REGIC	563,747	0	0	0	563,747	0	0	0	0	0
62	SOUTHEAST	4,194,007	0	0	0	4,194,007	0	0	0	0	0
63	KUSPUK	4,759,302	0	0	0	4,759,302	0	0	0	0	0
64	MI. EDGE CUMBE	1,727,520	0	0	0	1,727,520	0	0	0	0	0
65											
66											
67	TOTALS	\$595,552,467	\$12,255	\$2,753,918	\$5,604,182	\$603,922,822	\$204,098,411	\$2,569,841	\$2,578,581	\$8,292,472	\$217,539,305
68											
69											
70											

	L	M	N	O	P	Q	R	S	T	U											
1	ALASKA DEPARTMENT OF EDUCATION																				
2	SCHOOL OPERATING FUND REVENUES																				
3	COMPILED FROM FISCAL YEAR 1995 Budgets																				
4																					
5		<table border="1"> <tr> <th>REAA's</th> <th>Adjusted</th> </tr> <tr> <th>Budgeted</th> <th>Deductible</th> </tr> <tr> <th>Other</th> <th>Federal</th> </tr> <tr> <th>Revenue</th> <th>PL81-874</th> </tr> </table>		REAA's	Adjusted	Budgeted	Deductible	Other	Federal	Revenue	PL81-874	<b>Excludes Supplemental \$500 Unit Allocation to REAAs</b>									
REAA's	Adjusted																				
Budgeted	Deductible																				
Other	Federal																				
Revenue	PL81-874																				
6																					
7	SCHOOL																				
8	DISTRICT																				
9																					
10	NORTH SLOPE		448,387	0	448,387	0	38,404,618	257.13	149,359												
11	VALDEZ		24,269	0	24,269	0	7,402,411	83.81	83,324												
12	HOONAH		99,705	0	99,705	0	2,661,528	33.59	79,236												
13	UNALASKA		7,100	0	7,100	0	3,341,094	43.17	77,394												
14	HYDABURG		2,603	0	2,603	89,272	1,266,657	16.44	77,047												
15	WRANGELL		1,775	0	1,775	21,500	3,948,924	52.01	75,926												
16	SKAGWAY		0	0	0	0	1,310,860	17.30	75,772												
17	KAKE		63,179	0	63,179	6,684	1,750,624	23.24	75,328												
18	JUNEAU		5,588	0	5,588	50,000	35,506,563	471.89	75,243	High											
19	SITKA		96,865	0	96,865	0	11,296,068	150.53	75,042												
20	KENAI		41,122	0	41,122	0	71,157,720	949.63	74,932												
21	PETERSBURG		13,125	0	13,125	0	4,859,564	65.20	74,533												
22	HAINES		9,815	0	9,815	0	3,123,900	42.01	74,361												
23	KETCHIKAN		3,419	0	3,419	0	16,348,865	220.42	74,171												
24	BRISTOL BAY		208,893	0	208,893	81,860	2,981,972	40.28	74,031												
25	NOME		31,997	0	31,997	67,000	6,367,381	86.03	74,013												
26	KLAWOCK		38,766	0	38,766	8,500	1,955,409	26.53	73,706												
27	FAIRBANKS		4,279,980	125,000	4,404,980	100,000	93,698,523	1,313.15	71,354												
28	ALEUTIANS EAST		334,692	0	334,692	64,000	4,957,064	69.95	70,866												
29	DILLINGHAM		423,126	0	423,126	0	4,500,038	63.55	70,811												
30	TANANA		63,775	0	63,775	0	1,435,004	20.32	70,620												
31	YAKUTAT		38,638	0	38,638	0	1,643,821	23.43	70,159												
32	ANNETTE ISLAND	60,000	1,263,722	160,000	1,423,722	0	3,024,170	43.24	69,939												
33	ANCHORAGE		6,336,237	265,000	6,601,237	0	263,047,462	3,818.88	68,881												
34	GALENA		135,368	0	135,368	0	1,803,970	26.22	68,801												
35	NENANA		1,695	0	1,695	12,740	1,745,042	25.54	68,326												
36	CRAIG		23,296	0	23,296	20,000	2,830,373	41.47	68,251												
37	MAT-SU		13,725	0	13,725	150,000	71,098,900	1,042.00	68,233												
38	KASHUNAMIUT	50,000	478,011	0	478,011	0	2,463,160	36.18	68,081												
39	PELICAN		0	0	0	0	667,470	9.84	67,832												
40	ST. MARY'S		85,830	0	85,830	0	1,440,330	21.57	66,775												
41	LAKE AND PENN.		270,323	0	270,323	0	7,916,800	119.43	66,288												
42	CORDOVA		24,734	0	24,734	35,000	3,576,590	54.19	66,001												
43	KODIAK		1,448,364	0	1,448,364	64,000	18,423,107	280.71	65,648												
44	ADAK	140,100	2,298,424	0	2,298,424	0	2,438,524	37.16	65,622												
45	NW ARCTIC		1,193,884	0	1,193,884	415,168	20,057,382	306.43	65,455												
46	BERING STRAIT	1,070,100	4,467,162	0	4,467,162	225,000	20,170,940	309.44	65,185												
47	CHATHAM	40,000	588,013	100,000	688,013	24,000	3,380,530	52.73	64,110												
48	YUKON FLATS	160,000	570,065	0	570,065	150,000	6,499,670	101.47	64,055												
49	AK GATEWAY	95,000	444,493	0	444,493	140,000	5,596,290	87.89	63,674												
50	YUPIIT	110,000	998,670	0	998,670	90,000	4,967,760	78.16	63,559												
51	DELTA/GREELY	100,000	893,073	75,000	968,073	75,000	6,789,200	107.20	63,332												
52	SOUTHWEST	235,000	967,582	0	967,582	0	7,244,510	114.91	63,045												
53	IDITAROD	86,300	527,424	0	527,424	80,000	5,886,880	93.78	62,773												
54	PRIBILOF	56,000	337,731	0	337,731	0	2,214,790	35.39	62,582												
55	YUKON/KOYUKUK	105,000	979,352	0	979,352	80,000	8,048,510	128.91	62,435												
56	LOWER YUKON	380,000	4,609,641	0	4,609,641	0	16,548,050	265.05	62,434												
57	LOWER KUSKO.	850,000	5,240,546	0	5,240,546	0	38,954,260	624.66	62,361	Low											
58	DENALI		37,307	0	37,307	0	3,441,631	55.31	62,224												
59	COPPER RIVER	93,000	126,732	0	126,732	7,500	5,450,810	87.71	62,146												
60	CHUGACH	15,000	177,191	8,000	185,191	0	1,777,970	28.77	61,799												
61	ALEUTIAN REGION	8,000	66,993	0	66,993	0	638,740	10.34	61,774												
62	SOUTHEAST	47,800	483,473	0	483,473	10,669	4,735,949	76.68	61,763												
63	KUSPUK	43,949	752,048	0	752,048	0	5,555,299	90.35	61,486												
64	MI. EDGE CUMBE		0	0	0	0	1,727,520	28.32	61,000												
65																					
66																					
67	TOTALS	\$3,745,249	\$42,077,928	\$733,000	\$42,810,928	\$2,067,893	\$870,086,197	12,309.54		HIGH 75,243											
68								5%		LOW 62,361											
69								615.48		DIFF 12,882											
70										DISPARITY 20.66%											

	A	B	C	D	E	F	G	H	I	J	K
1	ALASKA DEPARTMENT OF EDUCATION										
2	SCHOOL OPERATING FUND REVENUES										
3	COMPILED FROM FISCAL YEAR 1995 Budgets										
4											
5	<b>Preliminary Disparity Test FY95 - Includes Supplemental \$500 Unit Allocation to REAAs</b>										
6		FY95 Actual	Adjustments	Budgeted	Budgeted	SUB-TOTAL	Budgeted	Budgeted	Budgeted	Budgeted	SUB-TOTAL
7	SCHOOL	Foundation	Based on	State	Other State	STATE	City/Borough	Earnings on	Other Local	In-Kind	LOCAL
8	DISTRICT	Payments	budget	Tuition	Revenue	REVENUE	Appropriations	Investments	Revenue	Services	REVENUE
9											
10	NORTH SLOPE	10,003,231	0	0	40,000	10,043,231	27,863,000	0	50,000	0	27,913,000
11	VALDEZ	3,296,449	6,703	0	0	3,303,152	3,946,990	80,000	48,000	0	4,074,990
12	HOONAH	1,856,774	0	0	126,270	1,983,044	538,779	25,000	15,000	0	578,779
13	UNALASKA	1,686,016	5,552	0	200,690	1,892,258	1,385,800	20,000	35,936	0	1,441,736
14	HYDABURG	977,491	0	0	108,080	1,085,571	57,711	4,000	27,500	0	89,211
15	WRANGELL	2,638,591	0	0	151,890	2,790,481	1,086,168	5,000	15,000	29,000	1,135,168
16	SKAGWAY	696,726	0	0	119,560	816,286	488,574	6,000	0	0	494,574
17	KAKE	1,285,536	0	0	136,640	1,422,176	80,000	20,000	8,585	150,000	258,585
18	JUNEAU	22,481,943	0	110,000	0	22,591,943	12,776,000	0	83,032	0	12,859,032
19	SITKA	6,923,549	0	40,000	447,130	7,410,679	3,766,524	0	22,000	0	3,788,524
20	KENAI	44,172,161	0	272,800	0	44,444,961	20,601,573	0	75,000	5,995,064	26,671,637
21	PETERSBURG	3,196,745	0	1,818	199,470	3,398,033	1,429,406	15,000	4,000	0	1,448,406
22	HAINES	2,055,774	0	0	0	2,055,774	1,030,311	17,000	11,000	0	1,058,311
23	KETCHIKAN	9,624,799	0	40,000	28,500	9,693,299	6,347,993	14,000	10,154	280,000	6,652,147
24	BRISTOL BAY	1,522,798	0	0	0	1,522,798	933,421	20,000	15,000	200,000	1,168,421
25	NOME	4,724,803	0	13,645	264,740	5,003,188	1,117,906	30,000	117,290	0	1,265,196
26	KLAWOCK	1,520,331	0	0	166,460	1,686,791	97,500	35,000	56,452	32,400	221,352
27	FAIRBANKS	62,314,043	0	1,249,500	0	63,563,543	25,380,000	0	250,000	0	25,630,000
28	ALEUTIANS EAST	3,577,702	0	0	15,000	3,592,702	797,670	0	7,000	161,000	965,670
29	DILLINGHAM	2,944,758	0	10,000	250,100	3,204,858	685,054	30,000	157,000	0	872,054
30	TANANA	1,130,861	0	9,368	122,000	1,262,229	0	10,000	1,000	98,000	109,000
31	ANNETTE ISLAND	1,373,918	0	0	188,150	1,562,068	0	0	0	0	0
32	YAKUTAT	1,290,931	0	0	126,270	1,417,201	176,620	2,000	9,362	0	187,982
33	ANCHORAGE	179,878,890	0	960,000	983,500	181,822,390	71,773,335	1,751,500	1,099,000	0	74,623,835
34	GALENA	1,386,517	0	0	156,160	1,542,677	25,000	20,000	3,000	77,925	125,925
35	KASHUNAMIUT	1,728,969	0	0	224,270	1,953,239	0	0	0	0	0
36	NENANA	1,497,731	0	0	164,090	1,661,821	58,514	5,000	5,272	0	68,786
37	CRAIG	2,275,901	0	0	151,890	2,427,791	296,273	20,000	2,395	40,618	359,286
38	MAT-SU	55,397,110	0	0	0	55,397,110	15,462,862	0	75,203	0	15,538,065
39	PELICAN	544,061	0	0	56,730	600,791	53,179	3,000	10,500	0	66,679
40	ST. MARY'S	1,212,187	0	0	119,560	1,331,747	0	5,000	0	17,753	22,753
41	LAKE AND PENN.	6,741,477	0	0	0	6,741,477	750,000	135,000	20,000	0	905,000
42	ADAK	0	0	0	18,580	18,580	0	0	0	0	0
43	CORDOVA	2,581,326	0	0	217,160	2,798,486	699,529	10,341	8,500	0	718,370
44	BERING STRAIT	14,408,678	0	0	154,720	14,563,398	0	0	0	0	0
45	KODIAK	12,300,474	0	46,787	879,582	13,226,843	3,200,000	0	36,400	452,500	3,688,900
46	NW ARCTIC	16,268,410	0	0	0	16,268,410	846,708	275,000	300,000	758,212	2,179,920
47	CHATHAM	2,628,517	0	0	26,365	2,654,882	0	0	0	0	0
48	YUKON FLATS	5,619,605	0	0	50,735	5,670,340	0	0	0	0	0
49	AK GATEWAY	4,916,797	0	0	43,945	4,960,742	0	0	0	0	0
50	YUPIIT	3,769,090	0	0	39,080	3,808,170	0	0	0	0	0
51	DELTA/GREELY	5,646,127	0	0	53,600	5,699,727	0	0	0	0	0
52	SOUTHWEST	6,041,928	0	0	57,455	6,099,383	0	0	0	0	0
53	IDITAROD	5,193,156	0	0	46,890	5,240,046	0	0	0	0	0
54	PRIBILOF	1,821,059	0	0	17,695	1,838,754	0	0	0	0	0
55	YUKON/KOYUKUI	6,884,158	0	0	64,455	6,948,613	0	0	0	0	0
56	LOWER YUKON	11,538,409	0	0	132,525	11,690,934	0	0	0	0	0
57	LOWER KUSKO.	32,863,714	0	0	312,330	33,176,044	0	0	0	0	0
58	COPPER RIVER	5,223,578	0	0	43,855	5,267,433	0	0	0	0	0
59	CHUGACH	1,577,779	0	0	14,385	1,592,164	0	0	0	0	0
60	ALEUTIAN REGIC	563,747	0	0	5,170	568,917	0	0	0	0	0
61	SOUTHEAST	4,194,007	0	0	38,340	4,232,347	0	0	0	0	0
62	DENALI	3,046,313	0	0	0	3,046,313	346,011	12,000	0	0	358,011
63	KUSPUK	4,759,302	0	0	45,175	4,804,477	0	0	0	0	0
64	MI. EDGE CUMBE	1,727,520	0	0	0	1,727,520	0	0	0	0	0
65											
66											
67	TOTALS	\$595,552,467	\$12,255	\$2,753,918	\$6,809,192	\$605,127,832	\$204,098,411	\$2,569,841	\$2,578,581	\$8,292,472	\$217,539,305
68											
69											
70											

	L	M	N	O	P	Q	R	S	T	U
1	ALASKA DEPARTMENT OF EDUCATION									
2	SCHOOL OPERATING FUND REVENUES									
3	COMPILED FROM FISCAL YEAR 1995 Budgets									
4										
5		REAA's	Adjusted	<b>Includes Supplemental \$500 Unit Allocation to REAAs</b>						
6		Budgeted	Deductible	Budgeted	SUB-TOTAL	Budgeted	FY95 Budgeted	FY95	Revenue	
7	SCHOOL	Other	Federal	Other Federal	FEDERAL	Fund	TOTAL	Adjusted	per Adjusted	
8	DISTRICT	Revenue	PL81-874	Revenue	REVENUE	Transfers In	REVENUES	Units	Unit	
9										
10	NORTH SLOPE		448,387	0	448,387	0	38,404,618	257.13	149,359	
11	VALDEZ		24,269	0	24,269	0	7,402,411	83.81	88,324	
12	HOONAH		99,705	0	99,705	0	2,661,528	33.59	79,236	
13	UNALASKA		7,100	0	7,100	0	3,341,094	43.17	77,394	
14	HYDABURG		2,603	0	2,603	89,272	1,266,657	16.44	77,047	
15	WRANGELL		1,775	0	1,775	21,500	3,948,924	52.01	75,926	
16	SKAGWAY		0	0	0	0	1,310,860	17.30	75,772	
17	KAKE		63,179	0	63,179	6,684	1,750,624	23.24	75,328	
18	JUNEAU		5,588	0	5,588	50,000	35,506,563	471.89	75,243	High
19	SITKA		96,865	0	96,865	0	11,296,068	150.53	75,042	
20	KENAI		41,122	0	41,122	0	71,157,720	949.53	74,932	
21	PETERSBURG		13,125	0	13,125	0	4,859,564	65.20	74,533	
22	HAINES		9,815	0	9,815	0	3,123,900	42.01	74,361	
23	KETCHIKAN		3,419	0	3,419	0	16,348,865	220.42	74,171	
24	BRISTOL BAY		208,893	0	208,893	81,860	2,981,972	40.28	74,031	
25	NOME		31,997	0	31,997	67,000	6,367,381	86.03	74,013	
26	KLAWOCK		38,766	0	38,766	8,500	1,955,409	26.53	73,706	
27	FAIRBANKS		4,279,980	125,000	4,404,980	100,000	93,698,523	1,313.15	71,354	
28	ALEUTIANS EAST		334,692	0	334,692	64,000	4,957,064	69.95	70,866	
29	DILLINGHAM		423,126	0	423,126	0	4,500,038	63.55	70,811	
30	TANANA		63,775	0	63,775	0	1,435,004	20.32	70,620	
31	ANNETTE ISLAND	60,000	1,263,722	160,000	1,423,722	0	3,045,790	43.24	70,439	
32	YAKUTAT		38,638	0	38,638	0	1,643,821	23.43	70,159	
33	ANCHORAGE		6,336,237	265,000	6,601,237	0	263,047,462	3,818.88	68,881	
34	GALENA		135,368	0	135,368	0	1,803,970	26.22	68,801	
35	KASHUNAMIUT	50,000	478,011	0	478,011	0	2,481,250	36.18	68,581	
36	NENANA		1,695	0	1,695	12,740	1,745,042	25.54	68,326	
37	CRAIG		23,296	0	23,296	20,000	2,830,373	41.47	68,251	
38	M.T-SU		13,725	0	13,725	150,000	71,098,900	1,042.00	68,233	
39	PELICAN		0	0	0	0	667,470	9.84	67,832	
40	ST. MARY'S		85,830	0	85,830	0	1,440,330	21.57	66,775	
41	LAKE AND PENN.		270,323	0	270,323	0	7,916,800	119.43	66,288	
42	ADAK	140,100	2,298,424	0	2,298,424	0	2,457,104	37.16	66,122	
43	CORDOVA		24,734	0	24,734	35,000	3,576,590	54.19	66,001	
44	BERING STRAIT	1,070,100	4,467,162	0	4,467,162	225,000	20,325,660	309.44	65,685	
45	KODIAK		1,448,364	0	1,448,364	64,000	18,428,107	280.71	65,648	
46	NW ARCTIC		1,193,884	0	1,193,884	415,168	20,057,382	306.43	65,455	
47	CHATHAM	40,000	588,013	100,000	688,013	24,000	3,406,895	52.73	64,610	
48	YUKON FLATS	160,000	570,065	0	570,065	150,000	6,550,405	101.47	64,555	
49	AK GATEWAY	95,000	444,493	0	444,493	140,000	5,640,235	87.89	64,174	
50	YUPIIT	110,000	998,670	0	998,670	90,000	5,006,840	78.16	64,059	
51	DELTA/GREELY	100,000	893,073	75,000	968,073	75,000	6,842,800	107.20	63,832	
52	SOUTHWEST	235,000	967,582	0	967,582	0	7,301,965	114.91	63,545	
53	IDITAROD	86,300	527,424	0	527,424	80,000	5,933,770	93.78	63,273	
54	PRIBILOF	56,000	337,731	0	337,731	0	2,232,485	35.39	63,082	
55	YUKON/KOYUKUK	105,000	979,352	0	979,352	80,000	8,112,965	128.91	62,935	
56	LOWER YUKON	280,000	4,609,641	0	4,609,641	0	16,680,575	265.05	62,934	
57	LOWER KUSKO.	850,000	5,240,546	0	5,240,546	0	39,266,590	624.66	62,861	Low
58	COPPER RIVER	93,000	126,732	0	126,732	7,500	5,494,665	87.71	62,646	
59	CHUGACH	15,000	177,191	8,000	185,191	0	1,792,355	28.77	62,299	
60	ALEUTIAN REGION	8,000	66,993	0	66,993	0	643,910	10.34	62,274	
61	SOUTHEAST	47,800	483,473	0	483,473	10,669	4,774,289	76.68	62,263	
62	DENALI		37,307	0	37,307	0	3,441,631	55.31	62,224	
63	KUSPUK	43,949	752,048	0	752,048	0	5,600,474	90.35	61,986	
64	MI. EDGE CUMBE		0	0	0	0	1,727,520	28.32	61,000	
65										
66										
67	TOTALS	\$3,745,249	\$42,077,928	\$733,000	\$42,810,928	\$2,067,893	\$871,291,207	12,309.54	HIGH 75,243	
68								5%	LOW 62,861	
69								615.48	DIFF 12,382	
70									DISPARITY 19.70%	

DEPARTMENT OF EDUCATION  
PUPIL TRANSPORTATION  
FY97 PROJECTION  
UPDATED 2/13/96

DISTRICT	FY96 ESTIMATED ENTITLEMENT	FY97 ESTIMATED ENTITLEMENT	FY97 GOVERNOR'S BUDGET	DIFFERENCE
ADAK	\$0.00	\$0.00	\$0.00	\$0.00
ALASKA GATEWAY	482,824.89	485,660.95	441,406.90	(44,254.05)
ALEUTIANS EAST	46,574.91	46,848.49	42,579.60	(4,268.89)
ANCHORAGE	9,538,628.55	9,594,657.31	8,720,379.80	(874,277.51)
ANNETTE ISLAND	12,069.72	12,140.62	11,034.35	(1,106.27)
BERING STRAITS	37,094.59	37,312.48	33,912.52	(3,399.96)
BRISTOL BAY	208,129.47	209,352.00	190,275.57	(19,076.42)
CHATHAM	7,542.27	7,586.57	6,895.27	(691.30)
COPPER RIVER	548,300.85	551,521.50	501,266.15	(50,255.35)
CORDOVA	56,305.62	56,636.35	51,475.58	(5,160.78)
CRAIG	17,324.69	17,426.45	15,838.53	(1,587.92)
DELTA/GREELY	907,729.32	913,061.21	829,861.90	(83,199.31)
DENALI	285,967.01	287,646.75	261,436.01	(26,210.74)
DILLINGHAM	311,176.31	313,004.13	284,482.79	(28,521.34)
FAIRBANKS	4,990,899.93	5,259,875.88	4,780,589.23	(479,286.65)
GALENA	36,622.42	36,837.54	33,480.86	(3,356.68)
HAINES	162,070.03	163,022.01	148,167.23	(14,854.77)
HOONAH	36,366.21	36,579.82	33,246.62	(3,333.20)
HYDABURG	3,917.45	3,940.46	3,581.40	(359.06)
IDITAROD	44,733.50	44,996.26	40,896.14	(4,100.12)
JUNEAU	1,492,586.39	1,501,353.66	1,364,548.39	(136,805.28)
KAKE	26,407.61	26,562.72	24,142.29	(2,420.43)
KASHUNAMIUT	2,922.63	2,939.80	2,671.92	(267.88)
KENAI PENINSULA	3,217,102.75	3,235,999.62	2,941,131.18	(294,868.45)
KETCHIKAN	839,004.09	843,932.30	767,032.11	(76,900.20)
KLAWOCK	7,219.58	7,261.99	6,600.27	(661.72)
KODIAK	625,609.42	629,284.17	571,942.99	(57,341.18)
KUSPUK	104,782.44	105,397.92	95,793.93	(9,603.99)
LAKE & PENINSULA	104,888.14	105,504.24	95,890.56	(9,613.68)
LOWER KUSKOKWIM	258,665.79	260,185.16	236,476.76	(23,708.41)
LOWER YUKON	24,235.92	24,378.28	22,156.90	(2,221.38)
MAT-SU	5,686,803.40	5,692,439.00	5,173,736.64	(518,702.36)
NENANA	109,315.19	109,957.29	99,937.84	(10,019.45)
NOME	206,943.18	208,158.74	189,191.04	(18,967.69)
NORTH SLOPE	352,675.51	354,747.09	322,422.08	(32,325.01)
PELICAN	1,624.10	1,633.64	1,484.78	(148.86)
PETERSBURG	120,252.70	120,959.05	109,937.11	(11,021.94)
SITKA	370,355.05	372,530.47	338,585.01	(33,945.46)
SKAGWAY	5,964.47	5,999.50	5,452.82	(546.68)
SOUTHEAST ISLAND	166,426.30	167,403.87	152,149.82	(15,254.06)
SOUTHWEST REGION	61,844.61	62,207.88	56,539.42	(5,668.46)
TANANA	19,706.26	19,822.02	18,015.81	(1,806.21)
UNALASKA	165,246.62	166,217.26	151,071.33	(15,145.93)
VALDEZ	291,668.53	293,381.75	266,648.43	(26,733.32)
WRANGELL	121,758.96	122,474.16	111,314.16	(11,160.00)
YAKUTAT	55,748.82	56,076.29	50,966.54	(5,109.74)
YUKON FLATS	63,905.86	64,281.23	58,423.84	(5,857.39)
YUKON/KOYUKUK	104,247.93	104,860.27	95,305.27	(9,555.00)
GROWTH FACTOR*	500,000.00	500,000.00	454,439.36	(45,560.64)
TOTALS	\$32,842,190.00	\$33,244,056.14	\$30,214,815.00	(\$3,029,241.14)

\* GROWTH FACTOR IS AN ESTIMATED AMOUNT TO COVER ADDITIONAL COSTS DUE  
TO ENROLLMENT INCREASES, POPULATION SHIFTS AND NEW CONTRACTS.  
FAIRBANKS PROJECTED COST INCLUDES ONE NONPUBLIC BUS.

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

DIVISION OF ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110208  
JUNEAU, ALASKA 99811-0208  
PHONE: (907) 465-2277  
FAX: (907) 465-2135

February 15, 1996

The Honorable Mark Hanley, Co-Chair  
House Finance Committee  
Alaska State Capitol  
Juneau, Ak 99801

Dear Representative Hanley:

You have asked for additional information about the Office of Public Advocacy supplemental request. You noted that our supplemental request added to FY 96 Authorized exceeds our FY 97 request by \$20.0. I appreciate the opportunity to correct what I believe is a misunderstanding.

In fact the numbers are as follows:

FY 96 Authorized	7,239.6
FY 97 Gobs Request	7,605.6
Variance	366.0
FY 96 Supplemental request	356.4

The misunderstanding may arise from the shortform. The pink sheets in front of the shortform correct or add to certain information in the white pages. Read alone the white pages would lead to your conclusion.

Our best projections at this time do indicate the need for the full \$356.4 supplemental request.

As to your question about whether the Governor's budget will fully fund OPA for FY 97, we are still carefully monitoring caseload trends, particularly in Anchorage and the MatSu. While we are not ready to request an additional increase to the OPA budget for FY 97, OPA may need additional funding if current trends continue.

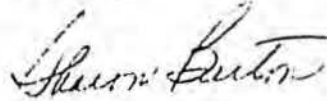
Representative Mark Hanley

-2-

February 15, 1996

Please let me know if you need any additional information.

Sincerely,



Sharon Barton  
Director

cc: House Finance Committee members

Mark Boyer  
Commissioner

Annalee McConnell  
Director  
Office of Management & Budget

Brant McGee  
Director/Office of Public Advocacy

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
ANCHORAGE AND STATEWIDE OFFICE  
1016 WEST SIXTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1963  
TELEPHONE (907) 278-6282  
FAX (907) 279-7417

February 15, 1996

Honorable Mark Hanley  
House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Mail & Telefax

Re: Alaska Legal Services Corporation - Supplemental Appropriations HB 468

Dear Representative Hanley:

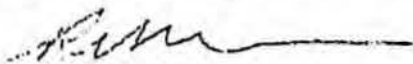
The presentation to the committee and apparently the back-up provided to the committee regarding the appropriation at Section 3(f) & (g) of the Supplemental were misleading.

The only issue in this bill is the willingness of both parties to agree to a reduced sum of money that will eliminate ongoing litigation. The liability to pay the fees and costs is not in question and the settlement of the fee dispute will have no bearing on other matters raised in any of the cases. The idea of the appropriation is to reduce the State's potential liability for fees and costs from about \$306,000 to \$200,000. The bargain from Alaska Legal Services Corporation's point of view, is that the work of representing other poor clients in other cases, can continue more quickly if the fee issues in *Sorenson*, *Quinhagak*, and *Decker* are bundled in a one time resolution. Also, if the federal government shares liability with the state for a portion of the fees in *Quinhagak*, the apportionment would be totally unaffected by this agreement.

I am unable to attend your hearing, if you have additional questions please call me at (907) 276-6282.

Very truly yours,

ALASKA LEGAL SERVICES CORPORATION



Robert K. Hickerson  
Executive Director

/rkh

**NATIONAL AVERAGE  
FACULTY SALARY FOR PUBLIC TO YEAR COLLEGES  
1994-1995\***

	NATIONAL AVG SALARY	NATIONAL AVG COMPENSATION
AAUP Category III (Two Year w/rank)	\$41,230	\$52,820

UA - ACCFT	UA AVERAGE SALARY	NATIONAL AVG. SAL	DIF	UA AVG. COMP	NATIONAL AVG. COMP	DIF
Anchorage (116)	\$50,139	\$41,230	122%	\$65,080	\$52,820	123%
Kenai (26)	\$50,288	\$41,230	122%	\$65,274	\$52,820	124%
Homer (3)	\$42,703	\$41,230	104%	\$55,428	\$52,820	105%
Kodiak (8)	\$55,977	\$41,230	136%	\$72,658	\$52,820	138%
Mat-Su (13)	\$51,405	\$41,230	125%	\$66,724	\$52,820	126%
PWSCC (6)	\$55,878	\$41,230	136%	\$72,530	\$52,820	137%
Bristol Bay (3)	\$45,416	\$41,230	110%	\$58,950	\$52,820	112%
Chukchi (3)	\$55,103	\$41,230	134%	\$71,524	\$52,820	135%
Kuskokwim (16)	\$54,202	\$41,230	131%	\$70,354	\$52,820	133%
Northwest (7)	\$53,835	\$41,230	131%	\$69,878	\$52,820	132%
Tanana Valley (18)	\$44,575	\$41,230	108%	\$57,858	\$52,820	110%
Juneau (7)	\$43,831	\$41,230	106%	\$56,893	\$52,820	108%
Ketchikan (5)	\$48,009	\$41,230	116%	\$62,316	\$52,820	118%
Fairbanks (1)	\$41,336	\$41,230	100%	\$53,654	\$52,820	102%
Interior/Aleutian (1)	\$35,771	\$41,230	87%	\$46,431	\$52,820	88%
Military (1)	\$28,285	\$41,230	69%	\$36,714	\$52,820	70%
<b>TOTAL - ACCFT (242)</b>	<b>\$49,661</b>	<b>\$41,230</b>	<b>120%</b>	<b>\$64,460</b>	<b>\$52,820</b>	<b>122%</b>

WILLIAM L. CORBETT, ARBITRATOR

IN THE MATTER OF THE ARBITRATION	)	
BETWEEN:	)	
	)	
ALASKA COMMUNITY COLLEGES'	)	
FEDERATION OF TEACHERS,	)	
LOCAL 2404,	)	
	)	DECISION AND AWARD
THE UNION,	)	
	)	
AND	)	
	)	
UNIVERSITY OF ALASKA,	)	
	)	
THE UNIVERSITY/EMPLOYER.	)	

Appearances:

For the Union:

William K. Jermain  
 Jermain, Dunnagan & Owens, P.C.  
 3000 A Street, Suite 300  
 Anchorage, AK 99503

For the Employer:

Thomas P. Owens Jr.  
 Owens & Turner, P.C.  
 1500 W. 33rd Avenue, #200  
 Anchorage, AK 99503

The arbitration hearing in this matter was held during a portion of the week of January 9-14, 1995, in Anchorage, Alaska. The parties stipulated to the jurisdiction of the arbitrator, presented evidence, argument, and agreed to file post-hearing briefs. Timely briefs were received from both parties.

## I. Issue and Background

### A. The Issue

The parties stipulated to the issue:

Did the adoption by the Board of Regents of Policies/Regulations regarding program assessment, financial exigency, compensation and governance violate the collective bargaining agreement and, if so, what is the appropriate remedy?

### B. Background

The University of Alaska is governed by a Board of Regents and administered by a president. In the 1970s the University of Alaska system consisted of three major campuses at Fairbanks, Anchorage and Juneau, as well as the community college system. Since the early 1970s, the Alaska Community Colleges' Federation of Teachers, Local 2404 ("the Union") has represented faculty at the community colleges.

In 1987, the Board of Regents was faced with a financial crisis and reorganized the University system. Of significance to the current dispute was the Regent's merger of twelve (12) of the thirteen (13) community colleges into the University system. The one exception was the Prince William Sound Community College located at Valdez, where there were seven bargaining unit members. The Board continued to recognize the Union as the bargaining representative of the seven Valdez employees, but after the reorganization, the Board considered the remainder of the community college faculty to be merged into the non-represented University faculty. The result of the reorganization was that the bargaining unit was reduced from three hundred (300)

to seven (7) employees.

The Union filed a series of grievances after the reorganization. The arbitrations of these grievances were conducted by Arbitrator Tim Bornstein and are referred to as Bornstein I, II and III.

In Bornstein I, the Union challenged the right of the Board to merge or eliminate the twelve (12) community college campuses, arguing that this change of policy conflicted with the collective bargaining agreement. In the old agreement, a provision existed similar to the one contained in the current agreement, Article 12, precluding policy changes which conflict with the agreement.

In Bornstein I, Arbitrator Bornstein ruled that the Board could change policy which resulted in the elimination of twelve (12) community colleges because the Union had agreed to a provision in the contract authorizing the Board to delete any community college campus.

In Bornstein II, the arbitrator ruled that the Board had violated the agreement by withdrawing recognition of the three hundred (300) community college faculty, and ordered the University to again bargain with the Union. Bornstein identified the bargaining group as a "teaching unit."

Bornstein III dealt with remedies resulting from the decision in Bornstein II.

Considerable time elapsed between these Bornstein decisions and it was not until May 8, 1992, that a new collective bargaining agreement was reached between the University and the

Union. Because no successor agreement has been negotiated, that contract remains in effect.

In 1994, the Board perceived another financial crisis. The Board adopted a process for evaluation from the report of a University task force. The process was incorporated into new Board policies (and regulations). In the current dispute, the Union challenges those new Board policies and regulations which affect: (1) program assessment, (2) financial exigency, (3) campus governance, and (4) compensation.

## II. Discussion

### A. Program Assessment and Financial Exigency---The Challenged Policies and/or Regulations--Changes Relating to Chapter IV of the Board's Policies and Regulations Referenced therein Are Permitted Under the Collective Agreement.

The Board's new policies affecting program assessment and financial exigency involve a portion of the collective agreement that incorporates specific Board policies.

The relevant portions of the collective agreement are Articles 6.1 and 6.5. The first, Article 6.1, titled "Faculty Member Appointment, Review, Promotion, Tenure and Sabbatical Leave," states:

The parties agree that the terms of Chapter IV of the Board of Regents policy entitled "Faculty Appointment, Review, Promotion, Tenure, and Sabbatical Leave" and all Regents policies and University regulations referenced there in as contained in the policies of the Board of Regents dated July 1, 1989, as amended to the date of this Agreement, shall apply to the Faculty Members. Additionally, the policies and regulations of the respective campuses implementing Chapter IV as approved by the Board of Regents as of the date of this Agreement shall apply to the Faculty Members based on the Faculty Member's corresponding campus assignment.

Notwithstanding the foregoing, the appeal processes provided for in such procedures shall not apply to Faculty Members, but instead, the provisions of Article 4 of the Agreement shall control.

The second provision, Article 6.5, titled "Nonretention and Termination," is identical to Article 6.1. The parties simply twice agreed to adopt Chapter IV of the Board's policies and all referenced policies and regulations.

The reason for repeating the paragraph was to make clear that Chapter IV governs both Faculty Member appointment, review, promotion, tenure and sabbatical leave and Faculty Member nonretention and termination. Both of these issues are affected by program assessment and by a declaration of financial exigency.

The relevant portions of Chapter IV which govern program assessment references, and thereby incorporates into the collective agreement, regulation 10.02.07. The relevant portion of Chapter IV which addresses financial exigency references, and thereby incorporates into the collective agreement, policy 04.06.09 and relevant regulations.

Chapter IV of the Board's policies, as it existed on the date the collective agreement was executed, May 8, 1992, contained a provision that specifically allowed the Board to amend the policies at its sole discretion:

Construction. These Policies shall constitute rules of the Board of Regents for the governance of the university system and the institutions therein, regulating the matters contained herein as authorized by law. Nothing contained in these Policies shall be construed to restrict the power of the Board of Regents to periodically alter, amend, revise or repeal the provisions hereof in whole or in part from time to time. (emphasis added).

The University argues that by agreeing to include a provision that authorizes the Board to periodically alter, amend, revise or repeal Chapter IV in whole or in part from time to time, the University and the Union agreed that the Board could make changes in Chapter IV. The University acknowledges that, pursuant to Article 12.1(B) of the collective agreement, any changes in Board policy may not "conflict" with the collective agreement.

Article 12.1(B) provides:

The University shall make no change of policy, regulation or rule conflicting with matters in this Agreement during the period that this Agreement is in force, except through agreement with the Union.

Thus, the University argues that the Board may change Article IV but that such changes may not "conflict" with the specific provisions of the collective agreement. Absent a specific conflict with contract language, the Board may change Article IV of its policies and the changes are, pursuant to Articles 6.1 and 6.5 of the collective agreement, read into the collective agreement.

The University argues that the purpose of the Article 12.1(B) language providing that the University may not make any "change of policy, regulation, or rule conflicting with matters in this Agreement . . ." meant only that where there was specific contract language, the Board could not change its policies, regulations or rules in a manner that conflicted with that contract language. It cited as an example of such a potential conflict, the provision in Articles 6.1 and 6.5 of the collective

agreement that states that the collectively bargained "appeal procedure" of Article 4 of the contract shall apply rather than the "appeal procedure" of Chapter IV of the Board's policy. The University acknowledges that the Board could not change its policies, regulations or rules in any manner that would conflict with this specific contract mandate.

The Union's interpretation of Articles 6.1, 6.5 and 12.1(B) of the collective agreement substantially differ from that of the University. The Union argued that Articles 6.1 and 6.5 were intended to incorporate Chapter IV of the Board's policies as it existed on the date the collective agreement was entered, and, while consistent with that language, the Board thereafter could make changes in Chapter IV policies only as long as such changes did not conflict with the existing language. Thus, the redrafting of Board policies and regulations could occur, and clarifications could be made, but the new language in the policies/regulations could not conflict with the prior language.

It is determined that the University's interpretation is correct.

Frequently, public sector collective bargaining agreements incorporate state or federal law, including policies and regulations of administrative agencies. This is done because the collective agreement must conform with state or federal law, or because the parties desire to incorporate external law as part of their collective agreement. When parties incorporate external law as part of their agreement, absent clear intent to the

contrary, the incorporated law should be construed in the same manner as in the absence of the contract. This assures that the external law, whether incorporated in a contract or not, is given a consistent construction.

In the instant case, it is undisputed that Chapter IV of the Board's policies allowed the Board to amend the policies at its sole discretion. When the parties incorporated Chapter IV into their collective agreement, the incorporation did not change that construction. Thus, Articles 6.1 and 6.5 of the parties' collective agreement, which incorporates Chapter IV of the Board's policies, are to be read to authorize the Board to amend its policies at its sole discretion. The intent of the parties was that whenever the Board changes Chapter IV, the collective agreement will automatically conform to those changes and be read consistent with those changes.

The parties, in Article 12(B) of their agreement, provided that the University may not make any change in policy, regulation or rule "conflicting with matters in this Agreement . . . ." When generally applied to the parties' collective agreement, the intent of this provision was to assure that the University could not, by policy, regulation or rule, unilaterally withdraw or nullify any rights accorded to unit members by the collective agreement. However, when the provision is applied to Articles 6.1 and 6.5, a slightly different interpretation is required because those two articles specifically provide that the Regents may change the policies contained in Chapter IV. The only

limitation on such a change is that the change may not conflict with specific provisions contained in the collective agreement. An example is the contract provision that states the method of "appeal" is to be pursuant to the contract grievance procedure rather than the appeal procedure established by Chapter IV.

Even if the collective agreement did not allow the University to change Chapter IV of its policies, it is determined that the new policy on Program Assessment does not conflict with the old. Alternatively, it is determined that the new policy on Financial Exigency does conflict, in part, with the former policy. These two issues will be discussed separately.

**1. Program Assessment**

Even assuming that the above construction is incorrect, it is determined that the Board action regarding Program Assessment did not conflict with prior Board action.

As noted above, Article 6.5 of the collective agreement deals with faculty "Nonretention and Termination." That article adopts in whole (with the exception for grievances) Chapter IV of the Board's policies "and all Regent policies and University regulations referenced therein." Section 04.04.04(C)(5) of Chapter IV references Regulation 10.02.07, which is incorporated into Article 6.5 of the parties' collective agreement.

On June 3, 1994, the Board adopted Policy 10.02.07. It is undisputed that the Policy is to take precedence over Regulation 10.02.07, and constitutes an alternative to the program review process set forth in the Regulation. The issue is whether,

pursuant to Article 12.1(b) of the collective agreement, the Policy "conflicts" with the Regulation.<sup>1</sup>

While the words "conflict" and "conflicting" have, depending on their usage, many definitions, reference to Webster's Third New International Dictionary, Ballentine's Law Dictionary and Black's Law Dictionary reveals as synonymous "incompatible" or "irreconcilable." Using these terms, the issue is whether the Policy is incompatible or irreconcilable with the Regulation.

The Union argued that the Policy and the Regulation conflicted. The University acknowledged that while the Policy was more detailed than the Regulation it argued there was no conflict between the two. The University asserted that the only way a conflict could appear is if the Policy authorized something prohibited by the Regulation, or if the Policy prohibited something authorized by the Regulation. It claims that the Policy does neither.

The Union argued that the documents conflict because: (1) The purpose of the original regulation was for "budgeting and planning" whereas the purpose of the new policy is to achieve "sustainable spending reductions"; (2) The original regulation provided for review campus by campus, whereas the new policy includes systemwide review; (3) The process or review was

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<sup>1</sup> As noted, Article 12.1(B) of the collective agreement provides that "the University shall make no change of policy, regulation or rule conflicting with matters in this Agreement." The collective agreement incorporated the regulation. Any change in Board policy or regulation that conflicts with that regulation is prohibited by Article 12.1(B) of the collective agreement.

initiated by the Chancellors under the original regulation, whereas the new policy places that authority in the President;

(4) The stages of review, rather than mandated by each Chancellor, are now directed in the policy; (5) The criteria used in a review are different in the policy than those in the regulation; (6) apart from procedural changes, the substantive change is that the new policy will affect people differently than the regulation. While everything the Union alleges is to some extent true, it is determined that the policy does not authorize something prohibited by the regulation, nor does the policy prohibit something authorized by the regulation. Indeed, everything permitted by the policy may be accomplished under the regulation. The two are not incompatible or irreconcilable.

It is true that the purpose of the regulation was for "budgeting and planning," but included within the concept of "budgeting and planning" is the necessity, as stated in the regulation of "bring[ing] the University's programs into balance with its resources and enabl[ing] it to continue to meet its responsibilities to the people of the Alaska. . . ." The policy merely recognizes that "[t]he demands on the University of Alaska . . . have grown steadily during the last few years, while income has not kept pace. . . ." Because of this budgetary imbalance there is a need to "identify sustainable spending reductions." Given the current budgetary imbalance, achieving spending reductions is nothing more than "budgeting and planning" in the context of the current economic climate.

While the policy provides that the review process is initiated by the President, rather than the Chancellors, and that the review process now specifically includes a systemwide element, these changes do not authorize something prohibited by the regulation. The regulation placed the responsibility for program review with the Board of Regents. The policy continues to place this responsibility with the Board. Under the regulation the Board delegated the initial action to the Chancellors and directed the Chancellors to report their findings and recommendations to the Board, and the Board could have used those findings and conclusions as the basis for a systemwide review. Indeed, the suggested elements from the regulation that guide the review process require the Chancellors to address the program review "to the mission, needs and purpose of the university and the unit," "the statewide system," "the needs of the state and/or nation," and "comparable programs." Clearly, the Regents could use the Chancellors' reports to assess the entire system. The policy merely recognizes this fact and states a procedural process for doing so. The fact that the policy specifically draws upon the President to direct the process rather than the individual Chancellors is due to the increased awareness that "budgeting and planning" by the Regents must include systemwide review. Nothing in the regulation prohibits the Regents from engaging in such a review.

The Union correctly states that the stages of the review process are directed in the policy, and not, as under the

regulation, left to the Chancellors, and that the policy directs different review criteria than that specified in the regulation. However, these changes do not authorize something prohibited by the regulation or prohibit something authorized by the regulation.

The regulation states that "[e]ach chancellor shall be responsible for setting an academic program review process in place at his/her campus or unit." The policy specifically states that "[e]ach MAU is expected to adopt a review process that is appropriate . . . ." Thus, the review process under both the regulation and the policy is to be tailored on need. The only thing that the policy does that the regulation does not is to provide that there are four stages in the review process: Preparation, MAU Review and Recommendation, Systemwide Review and Recommendation, and Board of Regents' Action. Nothing in these steps authorize something prohibited by the regulation or prohibit something authorized by the regulation.

The preparation step is just that, preparation. The identification of programs, issues, and common data elements to be considered in the review. There is nothing in this step that is incompatible or irreconcilable with the regulation. The second step is the MAU review. The only direction regarding process at this step is that it should be "appropriate" and consider the recommendations of the constituents of the MAU. There is nothing incompatible or irreconcilable with the regulation.

The next step requires Systemwide Review and Recommendation. As noted above, the regulations authorize the Regents to consider systemwide review as an element of "budgeting and planning." A step in the review process that speaks to this activity is consistent with systemwide budgeting and planning.

The final step is "Board of Regents' Action." Clearly, there is nothing required by this step that is not required by the regulations. In total, the four step process from the policy is not incompatible or irreconcilable with the regulation.

There is no conflict between the regulation and the policy regarding the elements for evaluating academic programs. The regulation "suggests" certain elements that should be employed in the review process. Each of these suggested elements have been incorporated in the policy.<sup>2</sup> Thus, it can not be argued that the policy does not address the criteria from the regulation. Also the policy does not limit the consideration of other relevant criteria, because the policy notes that its criteria do "not include all considerations which may be applicable to individual programs." Therefore, the policy neither under represents the suggested criteria from the regulation, nor does

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<sup>2</sup> Suggested Element A from the regulation is incorporated into Elements 1(a), 1(b), 3(b) and 3(f) of the policy. Suggested Element B of the regulation is incorporated into Elements 1(d), 3(a), 3(e), 3(f), and 4(a) of the policy. Suggested Element C of the regulation is incorporated into Elements 1(c), 2(c), 2(d), 3(b), 3(c) and 4(b) of the policy. Suggested Element D of the regulation is incorporated into Element 1(e) of the policy. Suggested Element E of the regulation is incorporated into Elements 1(b), 2(d), 3(d) and 4(c) of the policy. Suggested Element F of the regulation is incorporated into Elements 1(e) and 3(b) of the policy.

it eliminate the flexibility found in the regulation to develop and apply appropriate criteria not specifically found in the policy.

Finally, the Union argued that apart from the procedural differences in the regulation and the policy, substantial substantive differences will result from the policy as compared to the regulation. While there may be substantive outcome differences under the policy compared with how the regulation was previously administered, the regulation contained enough flexibility that if it were administered to address sustained budgetary shortfalls, the outcome under the regulation could be identical or substantially similar to that under the policy. Anything that may be accomplished under the regulation, may be accomplished under the policy, and vice versa. There is no conflict.

## 2. Financial Exigency

The Board revised its financial exigency policy which is incorporated in the collective agreement under Articles 6.1 and 6.5. As discussed above, contract Articles 6.1 and 6.5 incorporate Chapter IV, and Policy 04.04.04(C)(7) incorporates Policy 04.09, the financial exigency policy. The other provisions of the collective agreement that are relevant to the revision of policies and regulations on financial exigency are: (1) Article 12.1(B)--the University shall make no change in policy or regulation that conflicts with the collective agreement; (2) Article 6.2(C)--employees terminated in the event

of financial exigency shall retain but no accrue seniority for the first three years following the termination; and (3) Article 6.2(D)--that an employee terminated based on financial exigency shall lose seniority and all reemployment rights after three years.

The changes begin with section 04.09.06.<sup>3</sup> This section, which was incorporated in to the collective agreement through Chapter IV, was rewritten to add a section emphasizing that the policy was controlling in the case of financial exigency, and to eliminate the requirement that the General Assembly be consulted 45 days prior to declaring a financial exigency.<sup>4</sup> Other changes include substituting the Board as the entity that determines financial exigency rather than the president;<sup>5</sup> recognition that financial exigency may exist in a major administrative unit or an academic or other unit of a major administrative unit;<sup>6</sup> revising

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<sup>3</sup> The Union cited the following changes: (1) who declared a financial exigency; (2) who was consulted in declaring a financial exigency; (3) what findings were necessary to declare a financial exigency; (4) the timing of such declaration; (5) the order of termination of positions; and (6) the grievance rights of terminated faculty.

<sup>4</sup> The new policy contains no notice to governing bodies.

<sup>5</sup> Whether the Board or the president declares financial exigency is not significant. It is very, very unlikely that a president would declare financial exigency without the backing of the Board.

<sup>6</sup> While the new policy provided that in addition to the "University," financial exigency may exist within a "unit" of the University, this change is not inconsistent with the prior policy. A determination that financial exigency exists within the University, does not necessarily result in the conclusion that any reduction must be systemwide. Even under the former policy a reduction may "impact" one unit more severely than others. The

the action that may be taken after a declaration of financial exigency;<sup>7</sup> modification regarding the "declaration" of financial exigency;<sup>8</sup> rewriting order for termination based on financial exigency;<sup>9</sup> and revising when and how the president may depart from the order for termination<sup>10</sup>.

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new policy merely give recognition to the conclusion.

<sup>7</sup> In addition to the reduction or elimination of services, programs or positions in a financial exigency, the new policy provides for modification, reduction or closure of major administrative units, academic or administrative units of major administrative units, and the recognition that such modifications, reduction and closures by require the unilateral reduction of employee salaries and modification of the terms of employee appointments. These changes certainly go beyond that previously provided.

<sup>8</sup> Of potential concern is the elimination of the word "appropriate" from 04.09.06(4). The prior policy required that prior to a reduction in services, programs and positions a "declaration" shall make a finding that "appropriate efforts" have been made to reduce costs without any such reductions. The new policy requires a declaration that "shall describe the efforts" taken to reduce costs. While the word "appropriate" is not included in the new policy, it is reasonable that the new policy language "description of efforts taken" implicitly speaks to "appropriate" efforts.

<sup>9</sup> The prior policy specifically included "persons employed less than 50% of full time" with in the first group facing elimination, the new policy does not specifically address this group of employees. The new policy groups together "term appointments" and "continuing appointments," groups that were treated separately and consecutively under the old policy. The last group facing elimination under the old policy was "full-time employees who have tenure," whereas, under the new policy the last group is "tenured faculty." Additionally, under the old policy the elimination of positions and the order in which employees would be terminated was not limited to "affected units."

<sup>10</sup> In the bargained policy, the order of priorities could be changed for "good cause," and that term was specifically defined. The new policy makes drafting changes regarding the right to depart from the priority order, but they do not conflict

Some of these changes certainly conflict with the prior policy. However, except for changes involving the grievance rights of terminated faculty, including the rights of faculty terminated because of financial exigency to retain but not accrue seniority, the changes do not conflict with specific provisions of the collective agreement. With regard to grievance rights, the specific provisions of the collective agreement prevail over the Regents' policy.

The University also revised the regulations implementing Policy 04.09. The Union argued that a conflict existed between the new and old regulations because the new regulation eliminated that portion titled "Determination of Financial Exigency." While the new regulation eliminates the three part test, the test is not critical. The first part of the test merely states that "financial exigency may result from many different causes" and lists examples. The elimination of this language is not significant. The second test provides that "financial exigency may originate anywhere within the University," and that it "affects the entire University." The recognition that financial exigency may originate anywhere within the University, merely states the obvious. The statement that financial exigency affects the entire University, may be properly construed as the recognition that exigency has an impact on the entire university. Not that financial exigency must be dealt with solely from the prospective of the university system, as opposed to a specific

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with the prior policy.

unit within the system. Finally, the test provides that financial exigency will be declared only after a determination that taking prudent management steps will not be sufficient to assure that services and programs may be continued in a sound and responsible manner within the budget. This step requires nothing that is not required in the Policy.

The Union also argued that the University made changes in that portion of the regulation providing for re-employment. Specifically it argued that the University eliminated those provision relating to "seniority for purpose of retrenchment and prior service credit."

The regulation does delete the clause which provides that an employee rehired in the first three years after a declaration of financial exigency retains seniority. The new regulation does not say that a rehired employee does not retain seniority: it is silent on the matter. There is no conflict. Clearly, the collective bargaining provision prevails on this issue. The collective agreement explicitly states that an employee who is terminated because of financial exigency will retain but not accrue seniority for the first three years following such termination,<sup>11</sup> and will lose seniority and all re-employment rights after three years.<sup>12</sup>

Alternatively, the Union appears to correctly state that the

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<sup>11</sup> Article 6.2(C)(3).

<sup>12</sup> Article 6.2(D)(4)

new regulation eliminated the "Prior Service Credit."

Regarding any alleged changes in the grievance procedure, Article 4 of the collective agreement sets out the procedure for grievances. The Article, however, applies only to:

any dispute or controversy between the University and the Union or between the University and any Faculty Member with respect to matters arising out of the application or interpretation of this Agreement. No other matters are subject to the grievance procedure.

A grievance such as is contemplated by Policy 04.09.08 or 04.09.09, challenging either a financial exigency declaration or a position elimination resulting from a financial exigency declaration, would not arise out of the application or interpretation of the collective agreement because the agreement does not address the declaration of a financial exigency or a position elimination following such a declaration. Such a grievance would be subject to the policy grievance procedures. On the other hand a grievance concerning a dispute about the right to retain seniority would clearly follow the grievance procedure, because this is a matter addressed in the collective agreement.

In total, while it is determined that some of the policy changes conflict with the prior policy, as noted above pursuant to Chapter IV or the Board's Policies, the Board could amend its policies to the extent that the new policies do not conflict with other specific contract provisions. No such conflict is found.

Those changes in policy that conflict with a specific contract provision are clearly superseded by a provision in the

contract. Thus the retention of seniority for Faculty members is controlled by section 6.2(C)(3). The grievance procedure for any dispute about section 6.2(D)(4) is governed by Article 4. There simply is no conflict between the collective agreement and the new financial exigency policy and regulation.

#### B. Campus Governance

Article 5.5 of the collective agreement, titled "Governance" provides: ". . . Faculty members will follow the procedure and practice in place on their respective campuses." At the time the collective agreement was reached, the Board of Regents had a policy titled, "Faculty, Staff and Student Governance." As previously noted, Article 12.1(B) of the collective agreement provides that the University shall make no change in policy "conflicting" with this agreement. In June 1994, the Regents adopted a new policy on governance. The issue is whether this new policy conflicts with the prior policy.

The former policy recognized a single constituent body at each major administrative unit and a systemwide governance body. At the local level, the local General Assembly consisted of representatives from the faculty, administrators, staff, students and alumni. The systemwide General Assembly consisted of representatives from the local General Assemblies. The local General Assembly conveyed its interests and recommendations to the statewide General Assembly. If the statewide General Assembly found those recommendations unacceptable, the Local Assembly could make a recommendation directly to the President of

the University.

The new policy continues to recognize local and systemwide governing bodies. The difference is that the new policy recognizes somewhat different bodies. The new policy recognizes four constituent bodies statewide: Systemwide organization for faculty, staff and students; an alliance of faculty senates; an alliance of classified and APT staff; an intercampus student network. The policy also recognizes appropriate local constituent organizations. Thus, faculty senates at each major administrative unit of the system report to the "Alliance of Faculty Senates, which reports to the President; the student governments at the local level report to the Coalition of Student Leaders, which reports to the President; the Classified Employees Council report to the Staff Alliance, which reports to the President; and finally, the local Assembly reports to the System Governance Council.

Under the old policy the local General Assembly spoke with one voice for faculty, administrators, staff, students, and alumni to the one statewide General Assembly. The new policy recognizes four separate statewide governing bodies, and separate local governing bodies. However, regardless of the organizational change, every campus governance group that existed under the old policy exists under the new policy, and every issue that previously could be addressed at the local and systemwide level of governance may be addressed under the new policy. The only difference is that there is a shift in the way the information is

carried forward.

The collective agreement recognizes that while the Regents may change the system of governance, the only limitation is that the new system of governance may not conflict with the prior system. Only if the new system of governance is incompatible or irreconcilable with the old, is there a conflict. Because the only real difference between the two systems of governance is the way information is carried forward, the new policy is not incompatible or irreconcilable with the old.

#### C. Compensation

Article 7.1 of the collective agreement states that "Faculty Members shall be compensated in a manner consistent with the provisions of Regents Policy and University Regulation 04.05.01 - 03 in effect as of the date of this Agreement." It is undisputed that, on the date the collective agreement was reached, Regents' policies 04.05.01 - 03 provided for an annual three percent (3%) raise.

At their June 3-4, 1993 meeting, the Regents suspended policy 04.05.01(B). Thereafter, on August 20, 1993, the Regents suspended indefinitely all the provisions of policy 04.05 concerning annual pay increases, including the three percent (3%) pay increase.

It is undisputed that the Union was aware of this Board action. However, this change in policy did not have any direct impact on unit members until July 1994 when the three percent (3%) pay increase became due and owing and was not paid. In

August 1993 the only faculty affected by the change in policy were those not within the bargaining unit.

The Union did not file a grievance protesting the failure of bargaining unit faculty to receive the pay raise until July 8, 1994. The contract grievance procedure requires that any grievance must be filed "within thirty (30) days from the time the aggrieved became aware or reasonably should have become aware of the event which gave rise to the alleged grievance."

The University argued that the grievance was untimely because it was filed approximately a year after the Board announced its suspension of the three percent (3%) pay raise policy.

The Union argued that its grievance was timely. It asserted that there was good reason why it waited until July 1994 to file the grievance, and that the thirty (30) day contract grievance period did not commence to run until the change in the Board policy "affected" the bargaining unit members, i.e. July 1, 1994, when they did not receive the pay raise provided for in their collective agreement.

The Union persuasively argued that at the time the Regents suspended policy 04.05, the effect was to merely suspend the pay raises for non-bargaining unit faculty. As for bargaining unit members, their collective agreement provided that they were entitled to the 3% pay increase effective in July 1994. Thus, the August 1993 suspension of the policy did not negate the University's obligation under the collective agreement to pay the

bargaining unit members a three percent (3%) pay increase.

At some time after the August 1993 suspension of the policy and before July 1, 1994, when the contract pay increase for bargaining unit members was to be paid, it became apparent to the Union that the Board intended to repudiate its pay increase obligation under the collective agreement. However, it is not clear when the Union first became aware that the University was not going to abide with the collective agreement and pay the unit members the 3% pay increase.

The parties correctly state the issue as whether the effective date of the action that gave raise to grievance occurred in August 1993 or on July 1, 1994.

As recognized by Elkouri and Elkouri, "It has been held that doubts as to the interpretation of contractual time limits or as to whether they have been met should be resolved against forfeiture of the right to process the grievance." See Elkouri and Elkouri, How Arbitration Works, 4th ed., p. 914. The authors also acknowledge that arbitrators have held that the date on which a contractual time limitation for filing a grievance commences is the date on which the "effect" of the employer's decision is felt rather than the date the decision is announced. Id. at 196, citing numerous cases. They state "[a] party sometimes announces its intention to do a given act but does not do or culminate that act until a later date." "Similarly, a party may do an act whose adverse effect upon another does not result until a later date." In such cases, it is the latter date

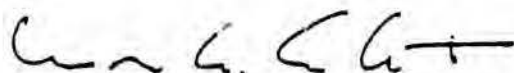
from which the time limitation for filing a grievance commences to run. Id.

Apart from this authority, in the instant case the Union has presented a reasonable explanation regarding why it waited to file the grievance. At the time the Board announced its decision not to pay the three percent (3%) increase, the Union reasonably believed that the decision would not affect the bargaining unit employees because their entitlement to a wage increase was governed by the collective agreement. The entitlement of the bargaining unit to that raise did not occur for some twelve months hence. Given this situation, it is reasonable that the Union did not file a grievance in August 1993.

#### AWARD

The University of Alaska prevails with regard to the issues of Program Assessment, Financial Exigency and Campus Governance; the Union prevails with regard to the issue of Compensation. Therefore, the University shall pay the bargaining unit members the pay increase provided by the collective agreement.<sup>13</sup>

DATED this 14th day of April, 1995.



William L. Corbett, Arbitrator

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<sup>13</sup> Jurisdiction is retained for 60 days.

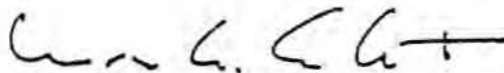
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Apart from this authority, in the instant case the Union has presented a reasonable explanation regarding why it waited to file the grievance. At the time the Board announced its decision not to pay the three percent (3%) increase, the Union reasonably believed that the decision would not affect the bargaining unit employees because their entitlement to a wage increase was governed by the collective agreement. The entitlement of the bargaining unit to that raise did not occur for some twelve months hence. Given this situation, it is reasonable that the Union did not file a grievance in August 1993.

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DATED this 14th day of April, 1995.



William L. Corbett, Arbitrator

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<sup>13</sup> Jurisdiction is retained for 60 days.

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Finance



P.O.Box 113200  
Juneau, A. 99811-3200  
(907) 465-3795  
FAX (907) 463-4885

MEMORANDUM

DATE: February 12, 1996

TO: Representative Terry Martin, Chairman  
House Subcommittee-University of Alaska

FROM: David Tonkovich, Fiscal Analyst  
Division of Legislative Finance

SUBJECT: University Issues and Questions

Jeanne Larson asked me to examine the FY97 University budget for issues which would help her prepare for your upcoming meeting with the Board of Regents. The following analysis highlights items which I believe are significant.

SALARY AND LABOR ISSUES

FY96 Supplemental

The University has requested supplemental funding to cover FY96 salary increases for the Classified Employees Association (CEA) and the Alaska Community College Federation of Teachers (ACCFT). The requests are \$462.3 total funds (\$455.6 GF) for CEA and \$506.4 total funds (\$473.0 GF) for the ACCFT. Funding was requested during the 1995 Legislature but it was not approved.

## FY97 Salary Adjustments

The salary adjustments in the Governor's FY97 budget include \$1,750.0 for the University of Alaska. The University submitted two requests for general fund increments related to salary issues. The first, for \$3,431.0, would provide funding for a staff salary schedule and a faculty compensation plan. The plans been approved by the Board of Regents with the intention of replacing an across the board approach to salar increases. This funding is directed to non-union employees, both faculty and non-faculty. The second increm for \$401.7, relates to monetary provisions of an agreement with the Alaska Classified Employees Associatio. The increment covers the FY97 costs of the CEA contract. The Governor's budget does not include funding to cover the FY97 costs for the Alaska Community College Federation of Teachers (ACCFT).

That agreement is being renegotiated and the FY97 impact is unknown at this time. While these increases are included in the University request the Governor's budget includes an offset in the form of an unallocated \$19,678.8. This reflects the denial of all general fund inc.ements (\$17,638.7) and an additional 1.2% unalloc reduction (\$2040.1).

## CAMPUS ALLOCATION

In the overview sessions before both the House and Senate Finance Committees members raised issues concerning the allocation of resources among the campuses. An underlying issue was the high cost of providing services at some campuses. While it is hard to know the fairest way to make these comparisons the costs per student appear to vary widely among campuses.

## STUDENT FEES AND TUITION

The "red book" that summarizes the Board of Regents budget request includes interesting statistics comparing trends in funding between FY91 and FY95. Over this period undergraduate tuition rates have increased by 63 percent while revenues have increased 52 percent. It would be interesting to explore why revenues have not kept pace with fee increases. Is it being driven by demographics or is it a response to the higher price of attending the University.

It would also be interesting to explore how the University has directed this increased fee revenue. For instance, direct instructional expense has increased much less in dollars terms than the increase in fees.

## MAINTENANCE AND EQUIPMENT REPLACEMENT

Budget documents indicate that the total building maintenance budget in FY96 was \$14.6 Million. They indicate that the calculated annual budget need is \$25 million. The Board of Regents has implemented a multi-year plan to fully fund building maintenance in the operating budget by the end of 2001. In the FY97 budget about \$6.3 million in general funds was requested for this purpose but funding was removed via the unallocated reduction.

If the \$25 million figure is adjusted by assuming 3 % inflation it would increase to about 30 million by 2001. Over that 5 year period the annual increase to current maintenance levels would have to be roughly 15% each year. The question is where will those resources come from?

### DENIED INCREMENTS

One of the GF increments (funding removed via the unallocated reduction) was for Legally mandated access for students with learning disabilities at UAA. The amount of funding involved was \$81.5. It would be useful to explore the consequences of not funding the request.

### NON-GENERAL FUNDS

One item that subcommittees were asked to examine was authorization of non-general funds. While general funds have declined, other fund sources have increased significantly since FY95. It would be helpful to talk to the University about possible reductions in any of these sources that are not needed.

Two attachments are included. One provides a description of University funding sources. The other shows a comparison of the Governor's proposal with FY95 Actual figures.

Post-It Fax Note	7671	Date	3/28/70
To	Dave Tomberich	From	Marylou Burton
Co./Dept.		Co.	UA
Phone #		Phone #	463-3086
Fax #	463-4885	Fax #	

March 6, 1995

**To:** Royce Weller, OMB  
**From:** Marylou Burton, SW Budget Development  
**Subject:** Description of University Revenues

- Federal Receipts:** These cover all revenues received from the federal government. Usually in the form of federal grants and from various restricted federal programs funded by agencies such as the National Science Foundation, National Institute of Mental Health, Small Business Administration, Department of Education, etc.
- Intra-Agency Receipts:** This revenue consists of internal charges between departments to accommodate appropriate accounting practices to place operational expenditure authority at the most effective level and to centralize various services for efficiency and cost savings. The central service departments are reimbursed by charging the user departments internally by journal voucher. It is used to pay for and distribute charges for telephone services, postage, printing services, physical plant work orders, computer repair services and also to cover administrative costs for certain functions.
- Interest Income:** Income generated from short-term investments from grant receipts.
- Auxiliary Receipts:** Auxiliary, food, and dorm revenues consist of revenue received from Bookstore sales, housing rental, food service operations and the parking fee.
- Student Fees/Tuition:** Student fees consist of four types of revenues: 1. Academic tuition. 2. Self-support and non-credit courses like workshops and conferences. 3. Lab and materials fees charged to students to cover the cost of special materials and equipment for some courses. 4. Student fees charged to students for attendance to athletic events, P.E. facilities use and student government fees. Admissions, add/drop, and late registration fees are also included in this category.
- Indirect Cost Recovery:** Indirect cost recovery is received from a variety of restricted programs. These funds help offset increased workloads in support areas like the Physical Plant, Library, Administrative Services, and SW Administration.
- University Receipts:** University receipts are revenues received from sources such as: State Agencies, Athletic, Theatre, Music and Dance ticket sales, general use fees for P.E. facilities, Publication sales, Library use fees, vending machine sales and testing fees. Also included are revenues received from corporate and private donations that are intended for specific uses as well as Reimbursable Service Agreements (RSA) with other State Agencies.
- CIP Receipts:** CIP revenue is generated by chargebacks to Facilities Planning and Construction from capital improvement projects for administration and coordination of the project.

## Agency Totals - FY97 Operating Budget

Agency: University of Alaska

	FY95 Act	FY96 CC	FY96Auth	FY97 Adj	Gov	FY95 Act to Gov	
<b>Totals for Agency</b>	<b>373,175.4</b>	<b>442,611.6</b>	<b>442,511.6</b>	<b>444,304.7</b>	<b>449,492.7</b>	<b>76,317.3</b>	<b>20.5 %</b>
<u>Objects of Expenditure:</u>							
Personal Services	219,131.2	242,792.2	234,510.8	237,970.0	246,337.0	27,205.8	12.4 %
Travel	9,264.0	9,402.1	9,257.5	9,209.2	9,853.9	589.9	6.4 %
Contractual	77,708.4	113,323.0	106,421.0	107,133.7	118,270.9	40,562.5	52.2 %
Commodities	31,770.6	40,226.2	38,781.6	39,220.7	41,393.5	9,622.9	30.3 %
Equipment	11,714.5	14,290.0	13,987.9	13,919.0	14,594.1	2,879.6	24.6 %
Lands/Buildings	15.0	15.0	15.0	15.0	15.0	0.0	0.0 %
Grants, Claims	14,508.8	16,510.2	16,505.2	15,952.2	17,622.2	3,113.4	21.5 %
Miscellaneous	9,062.9	6,052.9	23,032.8	20,884.9	1,406.1	-7,656.8	-84.5 %
<u>Funding Sources:</u>							
1002 Fed Rcpts	50,826.9	81,431.2	81,431.2	81,431.2	82,462.3	31,635.4	62.2 %
1003 G/F Match	2,779.8	2,779.8	2,779.8	2,779.8	2,779.8	0.0	0.0 %
1004 Gen Fund	166,532.9	164,381.1	164,381.1	166,174.2	164,384.1	-2,148.8	-1.3 %
1006 GF/MHTIA	200.8					-200.8	-100.0 %
1007 I/A Rcpts	34,834.6	44,395.9	44,395.9	44,395.9	43,800.9	8,966.3	25.7 %
1010 UA/INT INC	2,620.5	2,801.4	2,801.4	2,801.4	3,001.4	380.9	14.5 %
1015 UA/DFA SVC	20,408.5	23,984.3	23,984.8	23,984.8	24,449.2	4,040.7	19.8 %
1025 Sci/Tech	3,119.9	3,000.0	2,900.0	2,900.0	2,650.0	-469.9	-15.1 %
1037 GF/MH		200.8	200.8	200.8	200.8	200.8	
1038 UA/STF SVC	44,281.9	53,842.2	53,842.2	53,842.2	54,020.9	9,739.0	22.0 %
1039 UA/ICR	11,204.1	16,273.0	16,273.0	16,273.0	19,364.7	8,160.6	72.8 %
1048 Univ Rcpt	34,080.9	46,570.3	46,570.3	46,570.3	49,450.7	15,369.8	45.1 %
1061 CIP Rcpts	2,284.6	2,951.1	2,951.1	2,951.1	2,927.9	643.3	28.2 %
<u>Positions:</u>							
Perm Full Time	3,464.0	3,464.0	3,464.0	3,464.0	3,469.0	5.0	0.1 %
Perm Part Time	243.0	243.0	243.0	245.0	244.0	1.0	0.4 %
Non-Perm						0.0	

UNIVERSITY OF ALASKA

February 13, 1996

Representative Terry Martin, Chair  
House Finance University Subcommittee  
State Capital  
Juneau, Ak 99801

Dear Representative Martin:

Responses to your questions concerning the supplemental requests for the Alaska Community College Federation of Teachers (ACCFT) and the Classified Employees Association (CEA) are included below:

1. *What employee groups are represented by these two units?*

The ACCFT represents a group of approximately 270 faculty throughout the UA system (out of a total of approximately 1030 faculty). The ACCFT was the bargaining unit for the community colleges prior to the reorganization of the colleges and the universities in 1987. Following a lengthy arbitration, the successor unit definition for the ACCFT is all faculty, librarians, and counselors whose primary assignment is at a community college or an extended campus; faculty whose principal assignment is vocational-technical instruction; and faculty who are employed to teach exclusively at the lower division level (200 and below).

The CEA represents a group of approximately 270 employees throughout the UA system who work in the areas of maintenance, trades, crafts and custodial (out of a total of approximately 2454 classified staff).

2. *Briefly explain the arbitration ruling that resulted in the 3% ACCFT salary request included in the supplemental?*

Following the 1987 reorganization and a lengthy arbitration that resulted in the re-establishment of the ACCFT, a new collective bargaining agreement was reached in 1992. Because no successor agreement has been reached, the 1992 agreement remains in place today. The 1992 agreement contains provisions that state that policies of the Board of Regents regarding faculty appointment, review, promotion, tenure, sabbatical leave, and faculty governance will apply to the members of the ACCFT as they do to non-organized faculty. The cited policies contain a provision that states that the "...nothing in the policies shall be construed to restrict the power of the Board of Regents to periodically alter, amend, revise or repeal the provisions hereof in whole or in part from time to time." In 1993 and 1994, in response to reductions in University funding, the Board of Regents implemented several changes in the above referenced policies including the implementation of a program assessment process, the development of a financial exigency policy, a new systemwide faculty governance structure, and the elimination of a compensation policy that provided for an annual 3% salary increase. Because the policies, referenced as part of the contract, contain the language providing for changes, The Board assumed that the suspension would also apply to the ACCFT.

After the implementation of the new policies, the ACCFT filed a series of grievances claiming that the changes in the policies were a violation of the collective bargaining agreement, specifically a provision that states that, "...the University shall make no change of policy, regulation or rule conflicting with matters in this Agreement during the period that this Agreement is in force, except through agreement with the Union." The issues were combined and ultimately sent to arbitration (a copy of the ruling is included as Attachment #1) where it was determined that the changes in Board policy relating to program assessment, faculty governance and financial exigency do not represent a "conflict with matters in the Agreement" and the arbitrator ruled in favor of the University. At the same time, the arbitrator also determined that the 1993 suspension of the annual 3% pay increase for the ACCFT was a conflict with the Agreement, and that the contract requires the University to continue that provision of Board Policy regarding an annual 3% increase in force for the ACCFT until a successor agreement is reached.

The contract includes language that states: "....any compensation increases [for the ACCFT] shall be subject to legislative appropriation in accordance with the provisions of AS 23.40.215 and shall be requested separately from compensation increases requested for other employees of the University." The policy further states that if funding is not received, "....the University agrees to submit to the Legislature at the beginning of the next regular session following the increase for University employees an amount necessary to permit [ACCFT] faculty members to receive a salary increase of the same level received by University employees."

In effect, the arbitration ruling froze in place the 1993 Board of Regents policy regarding a 3% annual increase for the ACCFT that is referenced in the contract, regardless of whether such a policy is in place for other employees (which it is not) until such time as a new agreement is negotiated. The University's obligation under the terms of the contract is to request a separate appropriation from the Legislature for the ACCFT salary increase. A request for the FY95 salary increase was requested as a supplemental during the 1995 session. The Legislature failed to fund the request for the FY95 supplemental and in fact, reduced the overall UA budget by over \$ 2.0 million from the FY95 base. Because of the late date of the arbitration ruling, it was too late to include the FY96 request for a 3% salary increase in the budget and a decision was made to seek the funding as a FY96 supplemental request. This is the request before you now.

3. *How do the ACCFT salaries compare with community college salaries nationally?*

A detailed summary of average ACCFT faculty salaries by campus is included as Attachment #2. The systemwide average salary is \$49,661 compared with the national average (based on the 1994-95 AAUP annual faculty survey) of \$41,230 for two year college faculty with rank. The systemwide average total compensation is \$64,460 compared with the national average of \$52,820. Stated another way, the ACCFT average annual salaries and average total compensation are approximately 20% above the national average.

4. *Explain the compensation program negotiated with the CEA.*

The compensation program negotiated with the CEA parallels the step and range system of the rest of the University staff (classified and professionals, not faculty) and is the same kind of salary placement and movement process used by the State. Once CEA members are placed in the negotiated salary grid on their appropriate step, they

will move one step a year until they reach the top of their assigned range. The steps range from 3% to 0% depending on longevity. Approximately 15% of current CEA members exceed the top of their assigned range, and will receive only the one time payment of \$600 and will have no other salary movement for the life of the agreement (12/31/97).

The CEA contract negotiations were concluded in February, 1995. The FY95 and FY96 salary provisions for the CEA were submitted to the Legislature and included in HB 305. The Legislature failed to act on this legislation, and failed to provide an appropriation in the University budget for the requested salary funds. As required by the contract, the FY96 portion of that request is being resubmitted in the supplemental bill before you now.

5. *How do the CEA salaries compare with other similar positions in state government and/or the private sector?*

A summary of six of the most common CEA positions is included as Attachment #3. As you will see, the hourly CEA salaries negotiated in this contract are below those of the same state positions from \$2 to \$6. Stated differently, the hourly wage rates for University CEA employees are a minimum of 11% below their state counterparts.

6. *What is the status of the lawsuit that has been brought by the ACCFT and the CEA against the University regarding the failure to pay the FY96 salary increase?*

The CEA and the ACCFT have each filed lawsuits claiming that the University is obligated to pay the negotiated salary increases in FY96 regardless of legislative funding. Their suits attempt to compel the University to make program reductions and reallocations from its existing budget to pay the full cost of the funding requests not acted upon by the Legislature during the 1995 session. While the 1995 Legislature adopted specific language rejecting the state contracts presented to them, as well as failing to fund the monetary requests to implement the state and university contract salary provisions, they did not include the contract rejection language for the University. The ACCFT suit attempts to make this a significant issue in assuming that the legislature, in not adopting such language, intended that the University fund the contracts through internal program reductions. The University contends that the language of the contracts and of AS. 23.14.205 are clear in stating that provisions of the contract requiring legislative funding do not become effective until the Legislature has appropriated the necessary funding. The University has a long history with the ACCFT and has never implemented a contract provision that required funding without the specific appropriation of additional funds by the Legislature. As you recall, the University did not receive any additional funds or increments in FY96, but rather an unallocated reduction of over \$ 2 million below their FY95 base budget. The University is preparing a brief to the Superior Court on this issue and it is expected that arguments will be heard within the next few months.

I hope this information will be helpful to you as you review our requests for supplemental funding for our ACCFT and CEA contracts. If I can provide any additional information, please don't hesitate to ask.

Sincerely,



Jerome Komisar, President

<b>A COMPARISON OF STARTING HOURLY WAGES BETWEEN TRADES</b>						
1. University of Alaska negotiated wages per collective bargaining agreement.						
2. State of Alaska - Local 71.						
TRADE	STATE OF ALASKA			UNIVERSITY OF ALASKA		Percent Disparity
	Local 71			UACEA CBA	Disparity	
Plumber (CT2)	Step A	\$18.98		Entry Level	\$14.96	(\$4.02) 26.87%
	Step B	\$22.62	after 6 months	Step A	\$16.46	(\$6.16) 37.42%
Electrician (CT2)	Step A	\$18.98		Entry Level	\$14.96	(\$4.02) 26.87%
	Step B	\$22.62	after 6 months	Step A	\$16.46	(\$6.16) 37.42%
Maint. Mechanic (CT2)	Step A	\$18.98		Entry Level	\$14.96	(\$4.02) 26.87%
	Step B	\$22.62	after 6 months	Step A	\$16.46	(\$6.16) 37.42%
Carpenter (CT2)	Step A	\$16.65		Entry Level	\$14.96	(\$1.69) 11.30%
	Step B	\$19.95	after 6 months	Step A	\$16.46	(\$3.49) 21.20%
Painter (CT1)	Step A	\$16.65		Entry Level	\$13.29	(\$3.36) 25.28%
	Step B	\$19.95	after 6 months	Step A	\$14.62	(\$5.33) 36.46%
General Laborer (MSW1)	Step A	\$13.32		Entry Level	\$8.28	(\$5.04) 60.87%
	Step B	\$15.67	after 6 months	Step A	\$9.11	(\$6.56) 72.01%
Source: 1. Collective Bargaining Agreement between University of Alaska & University of Alaska Classified Employees Association dated 2/20/95.						
2. Local 71 as of 2/6/96.						

**NATIONAL AVERAGE  
FACULTY SALARY FOR PUBLIC TO YEAR COLLEGES  
1994-1995\***

	NATIONAL AVG SALARY	NATIONAL AVG COMPENSATION
AAUP Category III (Two Year w/rank)	\$41,230	\$52,820

UA - ACCFT	UA AVERAGE SALARY	NATIONAL AVG. SAL	DF	UA AVG. COMP	NATIONAL AVG. COMP	DF
Anchorage (116)	\$50,139	\$41,230	122%	\$65,080	\$52,820	123%
Kenai (26)	\$50,288	\$41,230	122%	\$65,274	\$52,820	124%
Homer (3)	\$42,703	\$41,230	104%	\$55,428	\$52,820	105%
Kodiak (8)	\$55,977	\$41,230	136%	\$72,658	\$52,820	138%
Mat-Su (13)	\$51,405	\$41,230	125%	\$66,724	\$52,820	126%
PWSCC (6)	\$55,878	\$41,230	136%	\$72,530	\$52,820	137%
Bristol Bay (3)	\$45,416	\$41,230	110%	\$58,950	\$52,820	112%
Chukchi (3)	\$55,103	\$41,230	134%	\$71,524	\$52,820	135%
Kuskokwim (16)	\$54,202	\$41,230	131%	\$70,354	\$52,820	133%
Northwest (7)	\$53,835	\$41,230	131%	\$69,878	\$52,820	132%
Tanana Valley (18)	\$44,575	\$41,230	108%	\$57,858	\$52,820	110%
Juneau (7)	\$43,831	\$41,230	106%	\$56,893	\$52,820	108%
Ketchikan (5)	\$48,009	\$41,230	116%	\$62,316	\$52,820	118%
Fairbanks (1)	\$41,336	\$41,230	100%	\$53,654	\$52,820	102%
Interior/Aleution (1)	\$35,771	\$41,230	87%	\$46,431	\$52,820	88%
Military (1)	\$28,285	\$41,230	69%	\$36,714	\$52,820	70%
<b>TOTAL - ACCFT (242)</b>	<b>\$49,661</b>	<b>\$41,230</b>	<b>120%</b>	<b>\$64,460</b>	<b>\$52,820</b>	<b>122%</b>

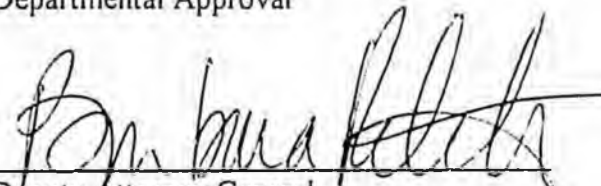
Department of Law

JUDGMENTS/CLAIMS FOR PAYMENT

1. Case Name: *Berger v. State*
2. Case Number: Superior Court: 3AN-89-8710 Supreme Court: S-6078 Civil
3. Date Judgment entered: Supreme Court decision - December 1, 1995  
Revised opinion issued January 25, 1996<sup>1</sup>
4. Amount to be paid: \$3,500,000
5. Interest Rate: 10.5% Effective Date: February 16, 1996
6. Payable to: Inslee, Best, Doezie & Ryder, In Trust  
ATTN: Andrew Symons, Esq.  
Security Pacific Plaza, Suite 1900  
777 108th Avenue N.E.  
Bellevue, Washington 98009-9016
7. SSN or EIN: To be provided.
8. Send check to:  above address  Departmental contact

Departmental contact: Vincent L. Usera  
Telephone Number 465-4118

Departmental Approval

  
Deputy Attorney General

Date: February 16, 1996

This form will be used for the purpose of standardizing the submission of claims and will expedite the payments to the claimants, thereby reducing the amount of lost interest to the state. If any of the information changes, please advise the Deputy Director, Administrative Services division, P.O. Box 110300, Juneau, Alaska, 99811, or call (907)465-3672 as soon as any changes are known.

- 
1. The revised opinion merely clarified the Court's ruling, substantively there was no change in the decision

## DEPARTMENT OF LAW

### Judgment/Claims for Payment

**CASE NAME:** *Roger Berger d/b/a Frontier Financial Services v. State of Alaska, Department of Revenue* (Anchorage Superior Court and Alaska Supreme Court).

**CASE No.:** AN-89-8710 and Supreme Court No. S-6078 (Civil)

1. Describe the circumstances or events resulting in this case and ultimately this judgment against the state.

In early 1989, Roger Berger, doing business as Frontier Financial Services (Frontier), entered into transactions with persons eligible for Alaska Permanent Fund dividends (PFDs) in which a person received between \$325 and \$400 in exchange for the person's assignment of rights to the 1989 PFD. That year the PFD was valued \$873.16. The individual was required to complete a fairly extensive process establishing not only a present expectation of a PFD, but also general creditworthiness. The documentation required of the applicant included a purchase agreement which obligated the individual, in any event, to repay to Frontier the amount of the 1989 PFD. This obligation was further secured by the execution of a Confession of Judgment for that amount.

Faced with both an extraordinary logistical burden because of the escalation of assignments and an alarming increase in multiple applications from individuals entering into these transactions, the Department of Revenue adopted a regulation<sup>1</sup> under which it would decline to honor PFD assignments to other than governmental agencies. For that reason, Frontier altered its handling of these transactions opting instead to have the PFDs for which it had transacted sent directly to it. This was accomplished by having the applicant complete a change of address form instructing the Department of Revenue to send his or her PFD to Frontier. The person then executed a Power of Attorney authorizing Frontier to negotiate the PFD warrant when it was received.

The volume of address changes soon caused the department to realize

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1. 15 AAC 23.220 also repealing 15 AAC 23.715.

that this was simply a means of circumventing the anti-assignment regulation and to decide, therefore, that it would not implement these address changes. Parties were notified accordingly.

Frontier brought an action in December, 1989, challenging the anti-assignment regulation and the department's refusal to implement address changes. The Superior Court declared the regulation to be invalid as beyond the scope and authority of the department. In addition to opposing the challenge to the regulation, the State raised the defenses of usury and violation of the Alaska Small Loans Act as barring any recovery. Frontier asserted that the State lacked standing to raise these defenses. The Superior Court held that the State lacked standing to raise the defense of usury, based on the premise that this defense is personal to the borrower, but that the State did have standing to raise a violation of the Small Loans Act in defense of Frontier's action.

After the Superior Court invalidated the regulation and dismissed the defense of usury, briefing was had on the State's standing to raise the Small Loans Act as a defense. The Court ruled that the State did, in fact, have standing. On subsequent cross-motions for summary judgment, the Court ruled that the transactions were loans within the meaning of the Small Loans Act, that the terms of repayment called for excessive interest, and that the Small Loans Act made these transactions unenforceable. An appeal to the Alaska Supreme Court followed.

The Supreme Court in December, 1995, overturned the Superior Court ruling in a three-to-two decision. The Court held that these transactions were not loans, advancing the unique view that 1) to find a loan, the borrower must be shown to have an unconditional expectation to repay, and 2) that that expectation is lacking where the value of the collateral does not exceed the amount to be repaid. In this case, since the individual who sold his rights to the 1989 PFD promised to repay the same amount as the PFD if it were not transferred from the Department of Revenue to Frontier, it made no difference to the person whether the repayment came from the PFD itself or from the person. From this, the Court reasoned that there existed no unconditional expectation to repay, hence there was a sale rather than a loan. Since there was no loan, the interest restrictions contained in the Small Loan Act did not apply.

The State moved for a rehearing pointing out certain dangers in the Court's adoption of this very narrow construction of a loan. In a two-to-two decision, the motion was denied.

Copies of the Supreme Court decision and the State's Motion for rehearing are attached to this questionnaire.

2. Describe issues of state policy or law involved in this case, if they are relevant to and resulted in substantial effort and expense for the department to bring or defend this lawsuit.

The issues considered in this lawsuit were unique and not likely to recur. In 1992 the Legislature enacted AS 43.23.069 which prohibits assignments of PFDs to other than state agencies and the courts. Unless this statute were to be changed, the buying and selling of PFDs could not be "supported" by the availability of assignments.

The suit was carried on over an extensive period of time with a variety of issues being decided on a piecemeal basis. The first decision revolved around the department's regulation. This was found to be outside statutory authority and, therefore, unconstitutional. Had the regulation been upheld, the suit would have ended there. Next came a summary judgment motion dealing with the State's proffered defense of usury. The State had to concede that it was not entitled to raise this defense as the United States Supreme Court, in a factually similar matter, had ruled relatively recently that a government could not use the defense of usury as it was personal to the borrower.

At this point the State moved to add the defense of violation of the Small Loans Act by amending its answer to the complaint. The Superior Court ruled in favor of the State and allowed the defense to be added. Frontier countered with a summary judgment motion charging the Attorney General could not enforce the Small Loans Act. The Superior Court -- and later the Supreme Court -- held that it was perfectly appropriate that the Attorney General undertake enforcement of this statute. This cleared the way for final motion for summary judgment.

3. Did the State prevail on any issues; if so describe those.

The State prevailed on the issue of the Attorney General having authority to enforce the terms of the Small Loans Act and, therefore, to raise that as a defense to Frontier's claims. The Court reaffirmed prior rulings that the Attorney General has the power to intervene in cases in the public interest.

4. Did we challenge plaintiff's request for costs and fees or in other ways seek to reduce the costs to the state? If so describe to what extent they were successful.

The Supreme Court remanded this case to the Superior Court for a determination of the amount of the judgment, including costs and attorney's fees. The State contacted the plaintiff's attorney and discussed settling at a figure below

what might be predictable were the matter to go to trial, in exchange for not having to incur the time and expense of having to go through a trial.

The Plaintiff claimed payment for the full value of some 2,600 PFDs and partial payment for 330 PFDs against which prior claims had been exercised. Claims for PFDs under review or otherwise unaccounted for in 1989 and 1990 could have raised this total. This could have resulted in a total potential judgment of well over \$5 million, including principal, pre-judgment interest for 74 months, and attorney's fees.

Negotiation has resulted in a settlement and judgment in the total amount of \$3.5 million. This amount includes principal, pre-judgment interest through February 15, 1996, and attorney's fees.

**5. Any recommendations concerning cases of this type in the future?**

Given the statute change in 1992 concerning PFD assignments, this type of case should be repeated.

Attorney completing form: Vincent L. Usera

Date: February 15, 1996

IN THE SUPREME COURT OF THE STATE OF ALASKA

ROGER BERGER, d/b/a FRONTIER  
FINANCIAL SERVICES,

Appellant,

v.

STATE OF ALASKA, Department  
of Revenue,

Appellee.

Supreme Court No. S-6078

O R D E R

Superior Court No. 3AN-89-8710 Civil

Before: Compton, Chief Justice, Rabinowitz, Matthews, and  
Eastaugh, Justices. [Moore, Justice, not  
participating.]

IT IS ORDERED:

1. Opinion No. 4289, published on December 1, 1995, is  
WITHDRAWN.

2. Opinion No. 4316 is issued on this date in its  
place. The major changes to the opinion can be found on pages 4,  
5 and 9.

Entered by direction of the Court at Anchorage, Alaska  
on January 26, 1996.

CLERK OF THE SUPREME COURT

  
\_\_\_\_\_  
JAN HANSEN

Notice: This opinion is subject to correction before publication in the Pacific Reporter. Readers are requested to bring errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, phone (907) 264-0607, fax (907) 276-5808.

THE SUPREME COURT OF THE STATE OF ALASKA

ROGER BERGER, d/b/a FRONTIER )	
FINANCIAL SERVICES, )	
Appellant, )	Supreme Court No. S-6078
v. )	Superior Court No.
STATE OF ALASKA, Department )	3AN-89-8710 CI
of Revenue, )	<u>O P I N I O N</u>
Appellee. )	[No. 4316 - January 26, 1996]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Dana A. Fabe, Judge.

Appearances: Mark A. Sandberg, Sandberg, Smith, Wuestenfeld & Corey, Anchorage, for Appellant. Vincen L. Usera, Assistant Attorney General, Bruce M. Botelho, Attorney General, Juneau, for Appellee.

Before: Moore, Chief Justice, Rabinowitz, Matthews, Compton and Eastaugh, Justices.

MATTHEWS, Justice.  
COMPTON, Justice, with whom RABINOWITZ, Justice, joins, dissenting in part.

I. BACKGROUND

A. Facts and Proceedings

In 1989, Roger Berger bought the rights to approximately 3000 permanent fund dividends (PFDs). He paid sellers between \$325

and \$400 for their PFDs.<sup>1</sup> To guarantee that he would receive the purchased PFDs, Berger had the sellers send the State a PFD change of address form with Berger's address on it and sign a power of attorney permitting Berger to cash the PFD check. In addition, each seller agreed to pay Berger the amount of the 1989 PFD if the State refused to honor the change of address request or the purchase. Finally, Berger had each seller sign a confession of judgment form so that he could collect the PFD amount from each seller if the State refused to honor the change of address request or the purchase.

Berger went to these lengths to guarantee collection because he knew that the Department of Revenue (DOR) did not favor PFD assignments. During the 1980s, DOR proposed regulations that would have prohibited PFD assignments. In each instance, the Attorney General advised DOR that the proposed regulation violated state law. Nonetheless, in 1989 a regulation was promulgated banning assignments "unless the assignee named is a government agency." 15 Alaska Administrative Code 23.220 (1989). Berger continued to purchase PFDs.

In October 1989, the sellers received a letter from DOR saying DOR would not honor the change of address forms and that DOR would mail PFDs to the sellers. In response, Berger filed suit, requesting damages, an injunction to force the State to honor the

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<sup>1</sup> Each PFD was estimated to be worth \$840, and turned out to be worth \$873.16.

PFD assignments, and a declaratory judgment that the regulation barring PFD assignments is invalid.

The superior court denied injunctive relief, and this court denied Berger's petition for review. In 1991, the superior court found that the regulation was beyond the scope of DOR's authority and invalid.<sup>2</sup> Consequently, the superior court granted partial summary judgment for Berger. The court declined, however, to address whether the transactions were usurious, as claimed by DOR. In 1992, the superior court refused to grant either party summary judgment; it found that the State could not raise the defense of usury because the defense of usury is personal to a borrower, but found that the State could raise the Alaska Small Loans Act (ASLA) as a defense. Finally, in 1993, the superior court found that the PFD purchases were illegal and unenforceable under ASLA, and granted summary judgment for the State. Berger appeals.

B. Usury and the Small Loan Laws

The American colonies adopted English usury laws prior to independence to limit the amount of interest a lender could charge on a loan. See generally Howard J. Alperin & Roland F. Chase, Consumer Law: Sales Practices and Credit Regulation § 497 (1986). While usury laws prevented one evil, they fostered another: loansharking. Usury interest limits were so low that small loans were not profitable. Many people needed to take out

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<sup>2</sup> In 1992 the legislature amended AS 43.23.069(a) to prohibit PFD assignments. This amendment has no effect on the 1989 assignments.

small loans, and turned to loansharks for small loans at illegal interest rates. Because these loans could not legally be enforced, lenders used extra-legal means for collection. 54 Am. Jur. 2d Moneylenders & Pawnbrokers § 7 (1971); National Consumer Law Center, Usury and Consumer Credit Regulation §§ 2.3.3.1, 9.3.5.2 (1987).

In an attempt to curb the loanshark problem, legislatures began passing small loan acts in the early 1900s. These acts often were modeled after the Uniform Small Loan Law drafted by the Russell Sage Foundation. National Consumer Law Center, supra, §§ 2.3.3.1, 9.3.5.2. Small loan laws were special usury statutes, intended to be an exception to the general usury laws. Small loan laws primarily provided a licensing framework by which lenders could become licensed to offer small loans at interest rates higher than those allowed under general usury laws. These laws also prohibited unlicensed lenders from making small loans at rates higher than the general usury rates. Barbara A. Curran, Trends in Consumer Credit Legislation 15-45 (1965); F.B. Hubachek, Small Loan Series: Annotations on Small Loan Laws - Based on the Sixth Draft of the Uniform Small Loan Law (1938).

Alaska followed this general trend. Alaska's usury laws are codified at AS 45.45.010-.090. Under AS 45.45.010(a) the rate of interest is "10.5 percent a year and no more . . . except as provided in (b) of this section." Subsection (b) provides that interest charged by express agreement may not exceed "five percentage points above the annual rate charged member banks for

advances by the 12th Federal Reserve District" on the day the agreement is made, and that an agreement greater in amount than \$25,000 "is exempt from the limitation of this subsection."<sup>3</sup> Borrowers are provided with civil remedies if their lender charges too much interest. AS 45.45.010, .030. In 1955 the legislature passed the Alaska Small Loans Act, modeled after the sixth draft of the Uniform Small Loan Law.<sup>4</sup> Ch. 73 SLA 1955. ASLA describes the licensing process, AS 06.20.010-.220, and provided civil and criminal<sup>5</sup> penalties for both licensed and unlicensed lenders who violate its provisions. AS 06.20.320. ASLA also prohibits unlicensed lenders from lending less than \$25,000 with interest higher than the legal rate. AS 06.20.300. It is this clause that the State claims Berger violated. However, before discussing whether Berger violated ASLA, we must first address whether the State can raise ASLA as a defense.

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<sup>3</sup> Subsection (b) was passed at a time when the rate it permitted was substantially higher than the 10.5 percent rate allowed under subsection (a). At this writing, however, the rate charged by the Federal Reserve is 5.25 percent and the permissible rate under subsection (b) is therefore 10.25 percent. This obviously paradoxical situation would appear to be worthy of legislative attention.

<sup>4</sup> The legislative history does not state this, but the Uniform Small Loan Law and the original Alaska Small Loan Act are nearly identical. Compare Ch. 73 SLA 1955 with Hubachek, supra, at 181.

<sup>5</sup> In 1993 the legislature repealed ASLA's criminal penalty provision. Ch. 26, § 102, SLA 1993.

## II. DISCUSSION

### A. The State May Raise the Alaska Small Loans Act as a Defense<sup>6</sup>

Berger contends that the State cannot raise ASLA as a defense. Berger points out that ASLA is a form of usury statute. Traditionally, only borrowers (or their trustees) could raise usury as a defense. Because ASLA is a special usury statute, he argues that only the "borrower" (or, in this case, original PFD holder) can raise it as a defense.

The State addresses Berger's contention as a standing issue.<sup>7</sup> The State first points out that ASLA is not the State usury statute. And, contrary to the usury statute, ASLA had provisions for criminal enforcement by the Attorney General.<sup>8</sup> Additionally, the Attorney General has the power to intervene in cases in the public's interest. Since the Attorney General can affirmatively act to enforce ASLA, the State argues that he can raise ASLA as a defense.

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<sup>6</sup> Whether the State can raise ASLA as a defense is a question of law. We review questions of law using our independent judgment and apply the "rule of law which is most persuasive in light of precedent, policy and reason." Summers v. Hagen, 852 P.2d 1165, 1169 (Alaska 1993).

<sup>7</sup> The State also argues that the doctrine of "estoppel" does not apply. Berger does not use the term estoppel, but claims that because the State did not raise ASLA until other claims failed, "the State's position is one of convenience rather than conviction." He does not cite any legal authority or explain why this is legally significant. Therefore, we do not address the estoppel argument. Adamson v. University of Alaska, 819 P.2d 886, 889 n.3 (Alaska 1991).

<sup>8</sup> Although the State speaks in the present tense, the legislature repealed ASLA's criminal penalty provision in 1993. Ch. 26, § 102, SLA 1993.

The superior court found that the State had standing to raise ASLA as a defense:

[ASLA] provides that violation of certain of its requirements . . . constitutes a misdemeanor. This court agrees with the State's argument that if the attorney general has the power to bring an action to enforce a state law it must follow that the attorney general has standing to raise [a] violation of that statute in an action for damages against the state.

We agree with the superior court and the State. We have held that the State, through the Attorney General, can act to enforce certain statutes. For example, in Public Defender Agency v. Superior Court, 534 P.2d 947, 949-50 (Alaska 1975), we held that the Attorney General may enforce child support orders. The Attorney General's authority to enforce the support orders stems, in part, from the fact that "willful non-support [is] a misdemeanor." Id. at 949. Additionally, the Attorney General has the common law power "to bring any action which he thinks necessary to protect the public interest." Id. at 950. We reaffirmed Public Defender Agency in State v. First National Bank of Anchorage, 660 P.2d 406 (Alaska 1982). In First National the Attorney General brought suit against several fraudulent real estate developers. Id. at 408-09. The State sought an injunction against further fraudulent sales and restitution for fifty-three defrauded purchasers. Id. at 408. The developers argued "that the State was without authority to enforce the common law rights of these purchasers." Id. at 420. We held that the Attorney General could

bring a suit even "in the absence of express statutory authority."  
Id. at 421.

This case is similar to Public Defender Agency. The legislature has expressed an interest in protecting Alaskans from usurious small loans by making such transactions misdemeanors. Additionally, the State argues that invalidating the transactions is in the public interest. Thus, as in Public Defender Agency, we hold that the State can act to enforce a statute, in this case by raising ASLA as a defense to Berger's suit.

B. The Alaska Small Loans Act Does Not Prohibit These Transactions

1. The scope of the Alaska Small Loans Act.

Alaska Statute 06.20.300(a) prohibits unlicensed persons from making small loans, or similar transactions, at a greater interest rate than that allowed under Alaska's general usury statute. The statute states:

Except as authorized in this chapter, a person may not directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than that which the person would be permitted by law to charge if the person were not a licensee, upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of \$25,000 or less.

AS 06.20.300(a).

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<sup>9</sup> Whether ASLA applies to these transactions is a question of law. We review questions of law using our independent judgment and apply the "rule of law which is most persuasive in light of precedent, policy and reason." Summers v. Hagen, 852 P.2d 1165, 1169 (Alaska 1993).

The superior court ruled that Berger violated the plain language of AS 06.20.300(a):

[Berger] "contracted for" a "consideration" upon the "forbearance" of a "thing in action". The contract entered into between [Berger] and the individual applicant provided that [Berger] would receive consideration in the form of the applicant's 1989 Dividend (a "thing in action") or its cash equivalent. [Berger] would forbear the right to receive the Dividend or payment until January 1, 1990. Therefore, AS 06.20.300 required that the consideration received by [Berger] in these transactions not be greater than authorized by law.

This misconstrues AS 06.20.300. Berger will receive a handsome return on his purchases. However, the statute only forbids handsome returns -- those in excess of the legal rate -- where there is (1) a loan/use/forbearance of money/goods/things in action, or (2) a loan/use/sale of credit.

In this case Berger relinquished money. Thus, AS 06.20.300 only prohibits the transaction if, when Berger paid each PFD seller, he was engaging in the loan or forbearance of money.<sup>10</sup>

It is clear that Berger did not engage in the forbearance of money;<sup>11</sup> whether he loaned money is less clear. There are two

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<sup>10</sup> We interpret the word "use," in this context, to be parallel and similar in meaning to the word "loan" and to apply when the subject matter is goods or things in action rather than money.

<sup>11</sup> To forbear money is to refrain from collecting a debt. See Boerner v. Colwell Co., 577 P.2d 200, 204 n.7 (Cal. 1978) ("A 'forbearance' of money is the giving of further time for the repayment of an obligation or an agreement not to enforce a claim at its due date."); H.V. Tygett v. University Gardens Homeowners' Ass'n, 687 S.W.2d 481, 483 (Tex. App. 1985) ("'Forbearance' occurs when there is a debt due or to become due, and the parties agree to extend the time of its payment.").

methods for determining whether Berger loaned money. First, did Berger's transactions fit the objective definition of a loan? Second, were the transactions loans disguised as sales? If the answer to either question is yes, Berger loaned money in violation of ASLA.<sup>12</sup>

2. The transactions do not fit the definition of a loan.

A loan is the payment of money by a lender to a borrower in exchange for an agreement to repay with or without interest. See Southwest Concrete Prods. v. Gosh Constr. Corp., 798 P.2d 1247, 1249 (Cal. 1990) ("A loan of money is the delivery of a sum of money to another under a contract to return at some future time an equivalent amount."); Liberty Nat'l Bank & Trust Co. v. Travelers Indem. Co., 295 N.Y.S.2d 983, 986 (N.Y. App. 1968) ("A loan is defined in Webster's New Twentieth Century Dictionary (1964) as ' . . . anything furnished for temporary use to a person at his request, on the condition that it shall be returned, or its equivalent in kind, with or without a compensation for its use . . . .'"); Consumer Credit Code (1974 Act) § 1.301(25)(a)(i) (defining loan as including "the creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third person for the account of the debtor").

A sale is the payment of money by a buyer to a seller in exchange for title and possession of property. See Cullen v.

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<sup>12</sup> The superior court analyzed the transactions to determine if they were disguised loans, but found that "it [was] not necessary to address this argument, given the fact that ASLA specifically covers the transactions."

Braqq, 350 S.E.2d 798, 799-800 (Ga. App. 1987) (assignment of expected tax refund of \$474 for immediate payment of \$296.53 a sale rather than a loan); Grinnell Corp. v. United States, 390 F.2d 932, 947-48 (Ct. Cl. 1968) (describing sale as, normally, transfer of property for a price); Kline v. Robinson, 428 P.2d 190, 194 (Nev. 1967) ("A sale is the transfer of the property in a thing for a price in money. The transfer of the property in the thing sold for a price is the essence of the transaction."); U.C.C. § 2-106(1) (1987) ("A 'sale' consists in the passing of title from the seller to the buyer for a price.").

In this case, Berger gave each seller money in exchange for a PFD and a promise to repay Berger the value of the PFD if the State did not send Berger the proceeds. These transactions thus contain elements of both definitions but do not exactly fit either. The conditional guarantees add the element of possible repayment (found in a loan) to a transfer of property for money (a sale).

Case law holds that repayment guarantees do not necessarily turn sales into loans. Where such guarantees exist, however, transactions must be scrutinized to determine if they are disguised loans. See Investors Thrift v. AMA Corp., 63 Cal. Rptr. 157, 159 (Cal. App. 1967) ("[A] guarantee of the validity of accounts implemented by an agreement to repurchase 'uncollectible or dispute accounts' [does] not, per se, render the transaction a loan."); Refinance Corp. v. Northern Lumber Sales, 329 P.2d 109, 113 (Cal. App. 1958) ("[T]he giving of a guaranty is simply an item of testimony or evidence which the trial court may consider in

determining whether the transaction is in fact a loan . . . ."); Webster v. Sterling Fin. Co., 195 S.W.2d 509, 515 (Mo. 1946) ("[S]ome or all of the unsold installments in each note were pledged to secure the payment of the alleged sold installments, but we find no case or text that such would be evidence tending to show that the transactions were not sales, as stated in the sale agreements."); Coast Fin. Corp. v. Ira F. Powers Furniture Co., 209 P. 614, 615 (Or. 1922) ("The great weight of authority is that [a guaranteed] transaction should be regarded as a valid sale of a chattel with a warranty of soundness . . . ."); Val Zimmermann Corp. v. Leffingwell, 318 N.W.2d 781, 790 (Wis. 1982) (When unsure if a guarantee makes a transaction a loan, "examine all of the allegations . . . to determine whether . . . [it is] a usurious loan."). Because the presence of the guarantees precludes finding that the transactions were by definition either loans or sales, we turn to the question of whether the transactions were disguised loans.

3. The transactions are not disguised loans.

Courts often "pierce" suspicious commercial transactions to examine their true nature. See, e.g., Milana v. Credit Discount Co., 163 P.2d 869, 871 (Cal. 1945) ("The courts have been alert to pierce the veil of any plan designed to evade the usury law and in doing so to disregard the form and consider the substance."). See generally Hubachek, supra, at 145-78 (discussing small loan law evasion). Berger's transactions are sale-loan hybrids and should be subjected to the disguised loan analysis we articulated in two

prior cases, McGalliard v. Liberty Leasing Co., 534 P.2d 528 (Alaska 1975), and Metcalf v. Bartrand, 491 P.2d 747 (Alaska 1971).

We first addressed a disguised loan transaction in Metcalf. The transactions at issue began when Bartrand was denied a bank loan. Id. at 748. Her friend, Metcalf, offered to buy part of Bartrand's land for \$3,500, but allow her to keep possession of the land. Id. at 748-49. In return, Bartrand agreed to buy the land back from Metcalf for \$7,000 over three years. Id. When Bartrand later needed more money, Metcalf purchased another parcel of her land for \$5,000 and she agreed to buy it back from him for \$10,000 over two years. Id.

When Bartrand failed to keep up her purchase payments, Metcalf filed a foreclosure action claiming that Bartrand was in default on her contract payments. Id. Bartrand raised usury as a defense. Id. At trial, Metcalf testified that the transactions were sales and repurchases. Id. Bartrand testified that they were loans, and that she had intended to repay the money she had received. Id. The trial court found that the parties intended to make a loan, and that it was usurious and void. Id.

On appeal, we upheld the trial court's characterization of the transactions as disguised usurious loans. Id. at 750-51. We held that the court must look "not to the form but to the substance of the transactions." Id. at 751. We listed six factors for trial courts to consider in deciding whether a transaction is a disguised loan: (1) adequacy of consideration, (2) possession, (3) parties' conduct, (4) parties' financial status, (5) parties'

expectations, and (6) accuracy of documents. Id. at 750. We also held that Bartrand did not have to prove mutual intent to disguise a loan. Id. at 750-51. We concluded that the evidence presented at trial, including Bartrand's testimony of her intent to repay the money she received, was sufficient to support the trial court's finding of a disguised usurious loan. Id.

Our second disguised loan case was McGalliard v. Liberty Leasing Co., 534 P.2d 528 (Alaska 1975). The McGalliards desired to acquire trade fixtures. They selected what they wanted from a fixture supplier, Western Fixtures. It was arranged that Liberty Leasing would pay \$17,836.88 to Western for the fixtures and lease them to the McGalliards who would make thirty-six lease payments totalling \$24,721.92 to Liberty. Id. at 529. At the end of three years, Liberty would extend the lease indefinitely for annual payments of \$1,783.68. Id. After one extension Liberty would normally abandon leased property to its lessees. Id. at 532.

When the McGalliards defaulted after making nineteen payments, Liberty sued them for the balance of the lease. Id. at 529. The McGalliards raised usury as a defense. Id. The trial judge found that the usury statute did not cover the transaction and the McGalliards appealed. Id. In deciding McGalliard, we again listed several factors to consider in determining whether a transaction is a disguised loan: (1) the parties' intent, (2) the parties' discussion of alternatives, (3) the parties' relationship, (4) trade custom, (5) adequacy of consideration, and (6) computation of "charges in a manner in which loan interest is

usually computed." Id. at 530. We found that there was substantial evidence that both parties intended to treat the transaction as a loan. Id. at 530-33. We reversed the trial judge and held that the "transaction was a third-party loan," id. at 533, that is a loan by Liberty, the proceeds of which were used by the McGalliards to buy fixtures from Western.

These cases seem to illustrate that one constant element of a loan is that the borrower has an expectation to repay the money advanced unconditionally, and not merely in default of some other occurrence.<sup>13</sup> See McGalliard, 534 P.2d at 530; Metcalf, 491 P.2d at 750; see also Kline v. Robinson, 428 P.2d 190, 194 (Nev. 1967) (holding that a loan is the transfer of money under a contract to repay, "and if such be the intent of the parties the transaction will be deemed a loan regardless of its form"). In both Metcalf and McGalliard the borrowers intended to repay the entity which had advanced money, not only because there was a legal obligation to do so, but because that was in their economic interest at the time each transaction was entered into. McGalliard, 534 P.2d at 529-30; Metcalf, 491 P.2d at 749-50.<sup>14</sup>

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<sup>13</sup> By contrast, the lender may not expect the borrower to repay the money advanced and, as in Metcalf, may hope that it is not repaid because the value of the security exceeds the amount owed. Metcalf, 491 P.2d at 749.

<sup>14</sup> Repayment by the borrower in Metcalf was in the borrower's interest because the security was worth more than the amount owed. In the case of McGalliard, repayment was in the borrower's interest because the secured property was needed for the borrower's business.

In the present case, it is obvious from the structure of the questioned transactions that the PFD sellers did not have an unconditional repayment expectation, as distinct from knowledge that repayment might be forced upon them as a secondary remedy.<sup>15</sup> To cast the transactions in the present case in lender/borrower terms, forfeiture of the security (the PFD) is what the borrower intends and expects. Payment of the whole amount of PFD to the lender (Berger), as distinct from allowing the forfeiture of the security, has no particular advantage from the borrower's standpoint because the security is the exact equivalent of the amount owed and is not independently useful to the borrower. These transactions thus lack an essential element of disguised loans and are therefore not forbidden by ASLA.

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<sup>15</sup> In the accounts receivable financing cases cited by the dissent, the "seller" of the accounts receivable continued to collect the proceeds due under the accounts from the account debtors and forward them to the "buyer" of the accounts receivable. Brierley v. Commercial Credit Co., 43 F.2d 724, 726 (E.D. Pa. 1929); Milana v. Credit Discount Co., 163 P.2d 869, 871 (Calif. 1945); Dorothy v. Commonwealth Commercial Co., 116 N.E. 143, 147 (Ill. 1917); Mercantile Trust Co. v. Kastor, 112 N.E. 988, 989 (Ill. 1916); Western Auto Supply Co. v. Vick, 277 S.E.2d 360, 366 (N.C. 1981). Thus the "seller" expected to repay the buyer (by forwarding payments from account debtors) if the transaction proceeded as the seller expected that it would; the obligation to repay the buyer was thus not merely activated in default of receipt of payments by account debtors. Thus these cases are consistent with our decision in the present case. Further, unlike the present case, the accounts receivable financing cases involve continuing business relationships between the parties which are in substance indistinguishable from traditional lender/borrower roles.

### III. CONCLUSION

Because Berger did not loan or forbear money, ASLA does not cover his purchase of PFD rights, and the State cannot successfully raise ASLA as a defense to paying Berger. Therefore, we REVERSE the decision of the superior court and REMAND for proceedings consistent with this opinion.

COMPTON, Justice, with whom RABINOWITZ, Justice, joins, dissenting in part.

I conclude that the transactions at issue were disguised loans subject to the interest rate limitation of the Alaska Small Loans Act. Since the monetary return to Berger exceeded that limitation, the loan may not be enforced. AS 06.20.310. Thus, I dissent from Section II(B)(3) of the opinion.

The court concludes that the transactions were not disguised loans because the "sellers did not have an unconditional repayment expectation, as distinct from knowledge that repayment might be forced upon them as a secondary remedy." A fair reading of the record, however, reveals that the sellers did have an unconditional repayment expectation.<sup>1</sup> By signing the Purchase Agreement the sellers knew that there was no condition under which the money represented by the permanent fund dividend would not be paid to Berger. Furthermore, the sellers knew that they were ultimately responsible for this payment.

While the court minimizes the importance of the repayment

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<sup>1</sup> The "Purchase Agreement" provided,

In the event that the Seller's Alaska Permanent Fund Dividend or cash equivalent thereof is not transferred to the Buyer by January 1, 1990, due to the Seller's failure to qualify for an Alaska Permanent Fund Dividend, non-delivery of the Alaska Permanent Fund Dividend to the Buyer, or a claim to the Seller's Alaska Permanent Fund Dividend paramount to the Buyer's then the Seller shall be in material breach of this agreement.

This clause was followed by a confession of judgment.

guarantees, I consider them crucial to resolving the sale/loan question. An appropriate analogy, given the sui generis nature of permanent fund dividends, is to the sale of accounts receivable at a discount. Parties holding accounts receivable often sell them at less than their face value to obtain immediate cash in hand. If the seller of the accounts is "absolutely released from the obligations imposed by the instrument upon its discount and subsequent transfer," Western Auto Supply Co. v. Vick, 277 S.E.2d 360, 369 (N.C. 1981), aff'd on rehearing, 283 S.E.2d 101 (1981), then the transfer is considered a true sale not subject to usury laws. See Milana v. Credit Discount Co., 163 P.2d 869, 871 (Cal. 1945) ("Contractors are free to buy and sell their property, and this may include promissory notes and other instruments, at a price agreed upon, and when the bona fides of the parties is established the percentage of profit has no relation to the usury law.").

Conversely, if the seller of the accounts remains ultimately responsible for repayment, by means of an endorsement or guarantee, then such transfers are considered loans subject to usury laws, regardless of how the parties describe the transaction. See, e.g., Western Auto Supply, 277 S.E.2d at 368 ("[I]f the purchaser of a note requires the endorsement of the seller as a guaranty of payment . . . the transaction is, in effect, a loan."); Dorothy v. Commonwealth Commercial Co., 116 N.E. 143 (Ill. 1917) (a purported sale of discounted accounts receivable was actually a pledge of those accounts for a loan of money, due to the fact that the seller guaranteed payment of the accounts); Mercantile

Trust Co. v. Kastor, 112 N.E. 988, 991 (Ill. 1916) ("Calling the transaction a sale of accounts does not alter the fact that the transaction is merely an advancement of money, to be repaid by the borrower with a rate of interest greater than that allowed by law."); Brierlev v. Commercial Credit Co., 43 F.2d 724, 727 (E.D.Pa. 1929) ("[The seller] got money from the credit company and was bound to see that money in the same amount was returned to the credit company when the accounts came due. What it paid for the accommodation of getting the money from the credit company, instead of having to wait to collect it from its customers, was really interest, though it was called by another name."); Milana v. Credit Discount Co., 163 P.2d at 872 ("The significant fact is that if the defendants had really purchased the accounts and had taken absolute title there would be no occasion for the provision or practice relating to guarantees of payment within specified periods. . . .").

The distinction these cases draw between sales and loans, a distinction which focuses on the alleged seller's continuing obligations to the buyer, offers a more meaningful method of rooting out disguised loans than the rule established by the court today. I would apply this authority to the present case. By requiring permanent fund dividend "sellers" to guarantee repayment unconditionally, the Purchase Agreement "create[d] a debit and credit relationship which [was] not terminated until replacement of the sum borrowed with agreed interest." Id. at 871. In other words, the Purchase Agreement created a loan. I would so hold.

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IN THE SUPREME COURT FOR THE STATE OF ALASKA

ROGER BERGER, d/b/a FRONTIER FINANCIAL SERVICES,	)	
	)	
Appellant,	)	
	)	
vs.	)	
	)	
THE STATE OF ALASKA, Department of Revenue,	)	
	)	
Appellee.	)	Supreme Ct. No. S-6078 Civil

---

PETITION FOR REHEARING

The State of Alaska respectfully seeks a rehearing of the decision in this case on the grounds that the Court has misperceived the essential elements of a loan and overlooked the applicability of AS 06.20.290.

The Court has held that an essential element of a loan is that "the borrower has an expectation to repay the money advanced unconditionally, and not merely in default of some other occurrence." Slip Op. at 14-15. From this holding, the Court derives the proposition that the value of the security must exceed the amount of the loan, thus inducing in the borrower the economic motivation to repay, rather than allow a forfeiture of the security. Slip Op. at 15-16.

These holdings were neither advanced nor advocated by Berger in this appeal. Accordingly, the State has not had an opportunity to address this unique restatement of the law concerning small loans, or alert the Court to the pitfalls of adopting this narrow definition of "loan." The State requests an

ATTORNEY GENERAL, STATE OF ALASKA  
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2 opportunity to brief and argue this question.

3  
4 **A. No legal authorities that define the term "loan" support the holdings that**  
5 **subjective expectation of unconditional repayment and that the value of**  
6 **collateral exceed that of principal are essential elements of a loan.**

7 The State has found no support for the holding of *Berger* that a  
8 transaction is not a loan if the value of the security does not exceed the principal  
9 of the loan. None of the authorities cited in the opinion or consulted by the State  
10 mention this requirement as an element of a loan, much less the linchpin of the  
11 analysis. The following definition, on the other hand, appears in a leading treatise  
12 on banking law and is echoed in virtually every authority consulted by the State:

13 A loan of money is a contract by which one delivers a sum of  
14 money to another and the latter agrees to return at a future  
15 time a sum equivalent to that which he borrows. In order to  
16 constitute a loan there must be a contract whereby, in sub-  
17 stance one party transfers to the other a sum of money which  
18 that other agrees to repay absolutely, together with such  
19 additional sums as may be agreed upon for its use.

20 6A MICHIE ON BANKS AND BANKING ch. 11, § 1 (1995).<sup>1</sup>

21 1.. The State has researched authorities which define and discuss the elements  
22 of loans. In none is there even an allusion to the proposition that the value of the  
23 collateral is a determinant of whether a transaction is a loan or a sale. The following  
24 authorities either define "loan" or discuss the elements of a loan in various contexts,  
25 some finding a loan to exist, others finding in the negative. None support the *Berger*  
26 test. See *In Re Bellanca Aircraft Corp.*, 850 F.2d 1275, 1277 (8th Cir. 1988);  
*Ghirardo v. Antonioli*, 883 P.2d 960, 967 (Cal. 1994); *Southwest Concrete Prods.*  
*v. Gosh Constr. Corp.*, 798 P.2d 1247, 1249 (Cal. 1990); *Baxter v. Stevens*, 773  
P.2d 890, 892 (Wash. 1989); *Tyrcha v. Wesolek*, 543 N.E.2d 222, 224 (Ill. App.  
1 Dist. 1989); *Halco Fin. Serv., Inc. v. Foster*, 770 S.W.2d 554 (Tenn. App. 1989);  
*Edwards v. Alabama Farm Bureau Mutual Casualty Co.*, 509 So.2d 232, 235 (Ala.  
Civ. App. 1986); *Brown v. Loveland*, 678 P.2d 292, 296 (Utah 1984); *Rouse v.*  
*People's Leasing Co., Inc.*, 638 P.2d 1245, 1247 (Wash. 1982) citing *Hafer v.*  
*Spaeth*, 156 P.2d 408 (Wash. 1945); *Rinyu v. Teal*, 593 S.W.2d 759, 761 (Tex.  
(continued...)

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2 Under this definition, the key elements of a loan are the transfer of  
3 *money* and an agreement for repayment. The difficult cases are those like  
4 *McGalliard* and *Metcalf*, where the loans were disguised as a sale of a *res*.  
5 *McGalliard v. Liberty Leasing Co.*, 534 P.2d 528 (Alaska 1975); *Metcalf v.*  
6 *Bartrand*, 491 P.2d 747 (Alaska 1971). Here, the case is easy, because no *res*  
7 was transferred. Money was transferred; money was to be repaid. In the  
8 superior court, Berger himself admitted that this transaction was a loan.<sup>2</sup>  
9  
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11 1.(...continued)

12 Civ. App. 1980); *Boerner v. Colwell Co.*, 577 P.2d 200, 204 (Cal. 1978); *Florence*  
13 *v. New York Life Ins. Co.*, 357 N.E.2d 35, 37 (Ohio 1976); *Lenes v. Dean*, 135 Cal.  
14 Rptr. 14, 15 (Cal. App. 1976) quoting *Milana v. Credit Discount Co.*, 163 P.2d 869,  
15 871 (Cal. 1945); *Johns v. Jaeb*, 518 S.W.2d 857, 860 (Tex. Civ. App. 1974);  
16 *Carper v. Kanawha Banking and Trust Co.*, 207 S.E.2d 897, 909 (W. Va. 1974);  
17 *State v. J. C. Penney Co.*, 179 N.W.2d 641, 645 (Wis. 1970); *Kline v. Robinson*,  
18 428 P.2d 190, 194 (1967); *Whittemore Homes, Inc. v. Fleishman*, 12 Cal. Rptr.  
19 235, 236 (Cal App. 1961); Debora L. Threedy, *Loan Participations - Sales or Loans?*  
20 *Or is that the questions?*, 68 OR. L. REV. 649 (1989); Barry J. Dichter, *Bankruptcy*  
21 *and Insolvency Considerations in Structured Finance Transactions*, 314 Practising  
22 Law Institute - Real Estate 89 (1988); Jack M. Feder, *Either A Partner or A Lender*  
23 *Be: Emerging Tax Issues in Real Estate Finance*, 36 Tax Law. 191 (1983); Justin T.  
24 Toth, *Texas Usury Law: When is A Borrower's Promise to Repay Absolute?*, 32-Oct.  
25 Hous. L. Rev. 42 (1994); Joseph W. Gelb and James F. Lerner, *Update By*  
26 *Subcommittee on Interest Rate Regulation*, 46 Bus. Law. 1255 (1991); BLACK'S LAW  
DICTIONARY 936 (6th ed. 1990); BALLENTINE'S LAW DICTIONARY 748 (3rd ed. 1969);  
25 PROOF OF FACTS 2D 521, 528.

2. The Court's holding that "the borrower [must have] an expectation to repay  
the money advanced unconditionally, and not merely in default of some other  
occurrence" does not lead to a finding that these assignments of rights to receive  
permanent fund dividends were not loans. Here, as the dissent points out, the  
overwhelming evidence--including a personal guarantee and a confession of  
judgment--demonstrates that the assignors fully expected to repay the loan with  
substantial interest. This case turns on the Court's holding that the value of the  
security must exceed the principal of the loan, which, as the state argues in this  
petition, is neither a universal nor necessary feature of a loan.

(continued...)

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2 **B. Under the rule of law announced in *Berger*, many usurious transactions will**  
3 **now not be considered loans**

4 The law concerning loans in Alaska is now at odds with the rest of  
5 the country. Under *Berger*, a usurious loan, made with no collateral, or collateral  
6 with a value equal to the principal, is no longer a loan. Thus, a typical signature  
7 loan, secured only by the borrower's good credit standing, would no longer be a  
8 loan and usury laws would not apply. Perhaps most anomalous is the result that  
9 a "handshake" loan--a loan secured only by word of mouth, or, perhaps, threat of  
10 physical harm--could no longer be considered a loan. As the Court acknowl-  
11 edged, it is this very practice of loansharking that usury ceilings and small loans  
12 acts were meant to curb. Slip Op. at 3-4.

13  
14  
15 **C. The Court has overlooked that, by analogy, AS 06.20.290 establishes the**  
16 **general principle that money advanced against an assignment of a right to**  
17 **receive a payment of money is a loan**

18 In its analysis, the Court has overlooked the implications of  
19 AS 06.20.290, which provides that money advanced against an assignment of

20 \_\_\_\_\_  
21 2.(...continued)

22 Yet, many problems exist with the Court's expression of the requirement of  
23 an "intent to repay." Slip Op. at 15. A loan may remain a loan even if the borrower  
24 intends to welsh. A better test would focus on the degree of risk. A transaction  
25 involving the sale of a right to receive money is a loan if the right is unconditional or  
26 guaranteed. Where the right is conditional or otherwise risky, however, the  
transaction looks more like a sale. See, e.g., *Ghirardo v. Antonioli*, 883 P.2d 960,  
967 (Cal. 1994); *Rinyu v. Teal*, 593 S.W.2d 759, 761 (Tex. Civ. App. 1980);  
*Boerner v. Colwell Co.*, 577 P.2d 200, 204 (Cal. 1978).

This expression of the test retains the feature seized upon by the Court in  
*Berger*, an "expectation" of repayment. When, as here, the transaction is relatively  
risk-free, the parties clearly expect repayment to occur. Focussing on degree of risk,  
however, switches the analysis from a focus on subjective intent to quantifiable  
market indicators that the courts can more easily and accurately evaluate.

1  
2 wages, salary, commissions, or other compensation for services is a loan for  
3 purposes of the Small Loans Act.<sup>3</sup> Although the Permanent Fund Dividend (PFD)  
4 technically may not be governed by this statute, the transactions here are highly  
5 analogous to the assignment of wages or compensation.<sup>4</sup> Alaska Statute  
6 06.20.290 states a general policy that assignments of vested rights to receive  
7 money should be considered loans, not sales. Because the PFD is so akin to the  
8 payments covered by AS 06.20.290, it should receive the same treatment.<sup>5</sup>  
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13 3. Were it not for AS 06.20.290, under *Berger*, an assignment of wages could  
14 never be considered a loan.

15 4. Further, the legislature views the PFD as "compensation" to the people of  
16 Alaska for use of their natural resources. The PFD was initiated for three purposes,  
17 the first two of which are germane to this discussion:

18 (1) provide a mechanism for equitable distribution to the people  
19 of Alaska of at least a portion of the state's energy wealth  
20 derived from the development and production of the natural  
21 resources *belonging to them as Alaskans*; [and] (2) to encourage  
22 persons to maintain their residence in Alaska and to reduce  
23 turnover in the state[.]


24 *Williams v. Zobel*, 619 P.2d 448, 458 (Alaska 1980) quoting § 1(b), ch. 21 SLA  
25 1980.

26 5. By contrast, the Georgia State Legislature has adopted a different view and  
policy regarding assignments of certain rights to receive money. See *Cullen v.*  
*Bragg*, 350 S.E. 2d 798, 799-800 (Ga. App. 1987) (Georgia statute requires that  
assignment of expected tax refund in exchange for immediate payment is a sale, not  
a loan). To the extent that the Court relied on *Cullen* in *Berger*, the Court must have  
overlooked that *Cullen* was based on statute, not a common law definition of "loan."  
To the extent that the Court is examining statutes to determine the definition of  
"loan," the State submits that AS 06.20.290 is a better indicator of Alaska policy  
than the Georgia statute that governed the decision in *Cullen*.

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DATED this 11th day of December, 1995 at Juneau, Alaska.

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Vincent L. Usera  
Assistant Attorney General

ATTORNEY GENERAL, STATE OF ALASKA  
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PHONE: 465-3600

The undersigned certifies that on this date,  
a true and correct copy of the foregoing was  
served by mail on:

Mark Sandberg, Esq.

12/11/1995

\_\_\_\_\_  
Rebecca J. Baxter

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ROGER BERGER d/b/a FRONTIER FINANCIAL SERVICES,

Appellant,

v/s.

STATE OF ALASKA, D.O.R.,

Appellee.

Supreme Court No. S-6078 CIV

Superior Court No. 3AN-89-8710 CV

OFFER OF JUDGMENT

Pursuant to Civil Rule 68, plaintiff hereby offers to allow entry of judgment in the amount of \$3,500,000 in favor of the plaintiff against the State of Alaska. This amount is inclusive of all costs, interest and attorney fees accrued through February 15, 1996. Any judgment entered upon this offer shall bear interest at legal rate from February 16, 1996 until satisfied.

DATED this 15 day of February, 1996, at Anchorage, Alaska.

SANDBERG, WUESTENFELD & COREY Attorneys for Appellant

By: [Signature] Mark A. Sandberg

ACCEPTANCE

The State of Alaska accepts the offer described above and stipulates to entry of a final judgment on those terms.

DATED this 15 day of February, 1996.

STATE OF ALASKA

By: [Signature]

Sandberg, Wuestenfeld & Corey WEST 7TH AVENUE SUITE 200 ANCHORAGE, AK 99501 (907) 274-4363

# Alaska State Legislature

**Mark Hanley**  
Co-Chair  
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**House of Representatives**  
Committee on Finance  
State Capitol, Juneau, Alaska 99801-1182

## MEMORANDUM

DATE: February 4, 1996

TO: House Finance Committee Members

FROM: Mark Hanley, Co-Chair  
*Mark Hanley*  
House Finance Committee

RE: Governor's FY96 Supplemental - HB468  
Additional Information

Attached are comments and a sectional analysis prepared by the Legislative Finance Division on the Governor's Supplemental Request.

attachment

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Finance



P.O. Box 113200  
Juneau, AK 99811-3200  
(907) 465-3795  
FAX (907) 463-4885

MEMORANDUM

DATE: February 3, 1996

TO: Representative Mark Hanley, Co-Chair, House Finance Committee-Operating  
Senator Steve Frank, Co-Chair, Senate Finance Committee-Operating

FROM: Michael Greany, Legislative Fiscal Analyst *Michael Greany*

BY: Kathryn Daughhete, Fiscal Analyst *Kathryn Daughhete*

SUBJECT: LFD Sectional Analysis of HB 403/SB 260 FY 96 Governor's Supplemental Request

Attached is a "sectional" of the appropriations contained in the Governor's FY 96 supplemental request. The schedule is in bill order and has been reconciled with the Summary of Governor's FY 96 Supplemental Requests prepared the Governor's Office of Management and Budget. The following discrepancies have been noted:

**Section 3(c).** Our analysis indicates that this section appropriates \$650,000 from the fund balance of the rural development initiative fund (RDLIF) to the enterprise development account of AIDEA. It does not represent an offsetting reduction in other funds authorization because no such authorization exists from the rural development initiative fund in the FY 96 Community & Regional Affairs budget.

**Section 3(d).** Similarly, this section appropriates \$650,000 from the general fund to the RDLIF to recapitalize that fund following the sale of the asset portfolio effected by section 3(c). There is no offsetting reduction because the sale results in revenue to the general fund rather than any reduction in existing authorization. **A language change could avoid a general fund appropriation.**

**Section 10(b).** The reduction in to the CBR authorization in Oil & Gas Litigation should appear in the "Other Funds" column rather than the "General Fund" column. The CBR is a constitutionally dedicated fund outside of the general fund.

Additionally, based on our analysis of the bill, we note the following manifest clerical error in Section 13(a). The section should read as follows: The sum of \$198,189 is appropriated from the corporate [general fund] receipts of the Alaska Housing Finance Corporation to the Department of Revenue, Alaska Housing Finance Corporation, to cover unanticipated lease costs for the fiscal year ending June 30, 1996.

Other Issues:

Section 1(e). Retirement and Benefits - Increased investment management fees. May require earlier action by RPL and the LB&A committee, if a supplemental appropriation isn't made by the end of March.

Section 5(b). Extends FY 96 lapse to offset FY 97 appropriations - a policy issue on the source of funds, i.e. Public School Trust Fund.

Section 7. Not necessary if the Governor's amended budget for FY 97 includes EVOSS funds for the Trustee Council restoration projects.

Section 10. Judgments & Claims. The amount is very likely understated and will grow right up to final legislative action. As usual, the Dept. of Law provides little supporting information, particularly subsection (c) Berger judgment \$4,141,100.

Section 16. Disaster & Fire Funding. From a legislative branch perspective, the language may be too broad.

cc: Representative Foster, Co-Chair, House Finance Committee  
Senator Halford, Co-Chair, Senate Finance Committee  
Representative Martin, Chair, Legislative Budget & Audit Committee.A

HB 468/HB 260  
FY 96 GOVERNOR'S SUPPLEMENTAL REQUEST

Gov. Sec #	DEPT.	BRU/COMPONENT	DESCRIPTION	GF	GF/PR	GF/Mental Health	Other	Total Funds
1	(a) ADMIN	Admin Services	Reduce Finance to Fund Public Defender	(49.0)				(49.0)
1	(a) ADMIN	Public Defender	Public Defender Bethel Caseload	49.0				49.0
1	(b) ADMIN	Public Defender	Increased operating costs		217.0			217.0
1	(c) ADMIN	Office of Public Advocacy	Increased Operating costs	356.4				356.4
1	(d) ADMIN	Leasing	Increased Operating costs	870.0				870.0
1	(e) ADMIN	Retirement & Benefits	Increased investment management & record keeping fees				450.0	450.0
1	(f) ADMIN	Longevity Bonus Grants	Increased payments	23.1				23.1
1	(f) ADMIN	Senior Services	To Longevity Bonus	(23.1)				(23.1)
2	COMM		Tokyo office lease space	61.2				61.2
3	(a) C&RA	Local Government Assist	Revenue sharing for Kluti-Kaah	(8.3)				(8.3)
3	(a) C&RA	Municipal Revenue Sharing	Revenue sharing for Kluti-Kaah	8.3				8.3
3	(b) C&RA	Employment Training Rural Development	Extend lapse date for Rural Development grants June 30, 1997					0.0
	(c) C&RA	Community & Rural Development	RDLF loans to AIDEA				650.0	650.0
3	(d) C&RA		Recapitalize Rural Dev Initiative Fund	650.0				650.0
3	(e) COMM	AIDEA	Section (c) & (d) contingent on payment to general fund to purchase loans					0.0
3	(f) C&RA		Grant to Alaska Legal Services Corp.	200.0				200.0
3	(g)		(f) Contingent on payment of attorney's fees					0.0
4	(a) CORR	Admin & Support/ Commissioner's Office	Cleary lines for FY 95 & FY 96	712.5				712.5
4	(b)		(a) Contingent on payment of attorney's fees					0.0
5	(a) ED	Foundation Program	Foundation lapse	(1,225.0)				(1,225.0)
5	(a) ED		Disparity	1,225.0				1,225.0
5	(b) ED	K-12	Extend lapse from sec 104(a), ch. 103, SLA 1995, page 28, line 6 to June 30, 1997					0.0
6	(a) ENV CONS	Spill Prevention & Response Fund	Sec. 47, ch. 94, SLA 1995 page 38, line 18 and sec 47, ch. 95, SLA 1995, page 38, line 22 extend lapse to June 30, 1998					0.0
6	(b) ENV CONS	Storage Tanks Assistance	Reapp encumbrances through June 30, 1997					0.0
7		Exxon Valdez Oil Spill Trustee Council	Extend lapse re RP 11-6-9990					0.0
8	(a) F&G		Increased sale of fish & game licenses				32.7	32.7
9	(a) HSS	Assistance Payments	Lapse	(4,000.0)	Match		(500.0)	(4,500.0)
9	(a) HSS	Public Assistance Admin	Costs of welfare reform	500.0	Match		500.0	1,000.0
9	(b) HSS	Public Assistance Admin	Costs of welfare reform	3,500.0				3,500.0

HB 468/HB 260  
FY 96 GOVERNOR'S SUPPLEMENTAL REQUEST

Gov Sec	DEPT.	BRU/COMPONENT	DESCRIPTION	GF	GF/PR	GF/ Mental Health	Other	Total Funds
9	(c)(1) HSS	Family & Youth Services	Reduce Medicaid Facilities to fund youth facilities	(250.0)				(250.0)
9	(c)(2) HSS	Youth Facility Services	Increased operating costs for youth facilities	250.0				250.0
9	(c)(3) HSS	Medical Assistance	Lapse to fund Alaska Family Independence Program	Match (3,500.0)				(3,500.0)
9	(d) HSS		Alaska Family Independence Program from Medical Assistance	3,500.0				3,500.0
9	(e) HSS		Judgment - Helmuth v. API			426.9		426.9
10	(a) Law	Legal Services Operations	Judgments & Claims	130.4		13.6	225.3	369.3
10	(b)		Judgment - Toksook Bay	1,285.0				1,285.0
10	(c)		Judgment - Berger v. State	4,141.1				4,141.1
10	(d)(1)	Oil & Gas Litigation	Reduce to fund Bethel D.A.				(66.6)	(66.6)
10	(d)(2)	Prosecution	Increased caseload-Bethel	66.6				66.6
11	(a) MILVETS	Military retirement trust fund	Increased costs National Guard Retirement	1,480.5				1,480.5
11	(b)	Disaster Relief Fund	Costs of declared disasters	557.3				557.3
12	NAT RES		FY 96 Fire suppression	5,258.6				5,258.6
13	(a) REV	AHFC	Lease costs				198.2	198.2
13	(b)	Rev Ops/Ak State Pension Investment Board - Benefits Systems Receipts	Change fund sources				67.0	67.0
13	(b)	Rev Ops/Ak State Pension Investment Board -PERS	Change fund sources				(67.0)	(67.0)
14	(a) TRANS.	M&O	Hwy & bridge repair southcentral flood disaster	1,010.0			3,000.0	4,010.0
14	(b) TRANS.	M&O	Copper River Highway Restoration	720.0				720.0
15	(a) UNTV		Monetary terms - CEA	455.6			6.7	462.3
15	(b) UNTV		Monetary terms - CEA	473.0			33.4	506.4
16	GOV		Emergency disaster & fires FY 96 & FY 97	1,500.0				1,500.0
17	(a) ADMIN		Misc claims, state date warrants	12.6				12.6
17	(a) C&RA		Misc claims, state date warrants	0.5				0.5
17	(a) CORR		Misc claims, state date warrants	11.2				11.2
17	(a) ED		Misc claims, state date warrants	0.5				0.5
17	(a) F & G		Misc claims, state date warrants	1.6				1.6
17	(a) HSS		Misc claims, state date warrants	64.3				64.3
17	(a) LABOR		Misc claims, state date warrants	0.1				0.1
17	(a) LAW		Misc claims, state date warrants	0.1				0.1
17	(a) PUBLIC SFTY		Misc claims, state date warrants	1.6				1.6
17	(a) TRANS.		Misc claims, state date warrants	2.9				2.9
17	(b) TRANS.		Misc claims, state date warrants				6.3	6.3
17	(c) ENV CONS		Misc claims, state date warrants				0.3	0.3
				20,023.6	217.0	440.5	4,536.3	25,217.4
			Total General Funds					20,681.1

### DISASTER RELIEF FUND

STATE AUTHORIZATION ANALYSIS  
ALL DRF APPROPRIATION ENTITIES  
AS OF JANUARY 11, 1996

AR#	DISASTER	FED	TOTAL AUTH BAL	FED AUTH BAL	STATE AUTH	TOTAL EXP	FEDERAL EXP	STATE EXP	TOTAL ENC	ENC FED SHARE	DRF BALANCE	COMMENTS
14660 1	STATEWIDE COLD	X	1,370,606	869,893	500,713	1,370,606	869,893	500,713	0	N/A	0	AWAITING FEMA CLOSEOUT
14661 1	NW ARCTIC BORO	X	5,078,505	3,772,572	1,305,933	5,078,605	3,772,572	1,305,933	0	N/A	0	AWAITING FEMA CLOSEOUT
14671 1	89 SPRING FLOODS*	X	6,226,288	4,417,188	1,809,100	4,513,345	2,944,184	1,569,161	738,805	75%	574,138	STATE BAL AVAIL \$40,400, BAL OF AUTH IS FEDERAL
14678 9	ANCHORAGE FLOOD		2,369,000	N/A	2,369,000	2,261,615	0	2,261,615	89,964	N/A	17,421	APPLICANT EXP CLAIM EXCEEDS AVAIL ENC BAL, AWAITING REC'D
14689 9	HAZARD MIT 89	X	452,500	251,250	201,250	395,373	0	207,616	187,757	50%	475	STATE BAL AVAIL (\$14,833); BAL OF AVAIL AUTH IS FEDERAL*
14690 9	C/D WEATHER MIT	X	375,000	175,000	150,000	324,576	162,288	162,288	0	N/A	424	STATE BAL AVAIL (\$12,288), BAL OF AVAIL AUTH IS FEDERAL*
14698 9	KOTZEBUE TIDE		463,500	N/A	463,500	313,081	0	313,081	76,257	N/A	74,162	APPLICANT EXP EXCEED AVAIL ENC BALANCE, ADMIN ALLOW DUE
15500 9	UNALLOC FED ALLOC	X	5,523,495	5,523,495	0	0	0	0	0	N/A	N/A	NOT APPLICABLE
15504 9	DIOMEDE		705,000	N/A	705,000	552,050	0	552,050	70,544	N/A	82,406	\$162,900 STATE AUTH AVAIL, ACCTG ADJ/RECON, CAN CLOSE
15522 9	FY91 SPRING FLOOD	X	4,079,039	1,889,039	2,190,000	3,747,038	1,696,197	2,050,841	330,049	75%	1,957	STATE BALANCE AVAILABLE IS 0, PROJECT IS ON GOING
15529 9	HI W KOLIGANEK FLD		64,600	N/A	64,600	64,332	0	64,332	0	N/A	268	\$268 STATE AVAIL, AWAITING FINAL INSPECT, READY TO CLOSE
15530 9	KODIAK RAINFALL		1,650,000	N/A	1,650,000	1,223,006	0	1,223,006	342,166	N/A	84,828	ADD'L PROJECT COSTS ARE BEING APPROVED, ADMIN ALLOW DUE
15531 9	AK STATE MILITIA		26,900	N/A	26,900	26,900	0	26,900	0	N/A	0	NOT APPLICABLE
15533 9	SEWARD SEWER		755,830	N/A	755,630	754,542	0	754,542	0	N/A	1,088	\$1,088 STATE AVAIL, AWAITING FINAL INSPECT, CAN CLOSE
15535 9	EAGLE VILLAGE FLD		205,000	N/A	205,000	183,568	0	183,568	3,300	N/A	18,132	ADD'L PROJECT COSTS EXPECTED, ADMIN ALLOW DUE
15539 9	UPPER YUKON RIVER		1,265,000	N/A	1,265,000	1,156,535	0	1,156,535	11,409	N/A	97,056	\$64,800 STATE AUTH AVAIL; REDUCE STEV VILL RAMP, N POLE
15546 9	TENAKEE SPRGS FIRE		200,000	N/A	200,000	182,377	0	182,377	8,865	N/A	28,758	\$7,657 STATE AUTH AVAIL; BAL FOR POSSIBLE LITIGATION
15549 9	SHAKER IV EXER	X	425,000	50,000	375,000	356,529	50,000	306,529	1,250	0%	67,221	\$68,400 STATE AUTH AVAILABLE, ACCTG RECON; CAN CLOSE
15550 9	91 SPRING FL HAZ MIT	X	375,000	175,000	200,000	297,395	107,523	189,872	60,000	50%	17,605	STATE BAL AVAIL (\$19,872); BAL OF AVAIL AUTH IS FEDERAL*
15551 9	94 MCGRATH FLOOD		185,000	N/A	185,000	6,649	0	6,649	104,350	N/A	14,001	ADD'L PROJECT COSTS EXPECTED, ADMIN ALLOW DUE
15552 9	94 GALENA FLOOD*		363,500	N/A	363,500	53,119	0	53,119	284,625	N/A	25,756	ADD'L PROJECT COSTS ARE BEING APPROVED, ADMIN ALLOW DUE
15553 9	CUMMINS ROAD		60,000	N/A	60,000	38,813	0	38,813	0	N/A	21,187	\$21,187 STATE AVAIL; AWAITING FINAL INSPECT; CAN CLOSE
15555 9	1994 FALL FLOOD	X	74,759,699	63,800,000	10,959,699	68,084,259	57,091,934	10,992,325	4,224,432	VARIES	2,451,008	STATE BALANCE AVAILABLE IS 0, PROJECT IS ON GOING
15557 9	SKAGWAY DISASTER		120,000	N/A	120,000	62,762	0	62,762	50,000	N/A	7,238	ACCTG RECONCILIATION, FINAL PAY DUE, ADMIN ALLOW DUE
15565 9	YUKON KUSKOWIM		228,050	N/A	228,050	177,571	0	177,571	35,336	N/A	15,143	MULTIPLE APPLICANTS DUE ADMIN ALLOWANCE
15571 9	ANIAK DISASTER		406,000	N/A	406,000	88,011	0	88,011	281,021	N/A	36,966	ADD'L PROJECT COSTS ARE EXPECTED, ADMIN ALLOW DUE
15572 9	III HILL DISASTER		140,000	N/A	140,000	129,149	0	129,149	0	N/A	10,851	ADD'L PROJECT COSTS UNDER REVIEW, ADMIN ALLOW DUE
15574 0	96 DIS OPERATIONS		271,500	N/A	271,500	271,500	0	271,500	0	N/A	0	NOT APPLICABLE
15576 0	95-96 FALL FLOOD	X	11,200,000	9,900,000	1,300,000	1,040,441	64,905	675,456	3,458,017	N/A	8,701,647	STATE BALANCE AVAILABLE IS 0, PROJECT IS ON GOING
TOTALS			121,291,812	90,824,437	30,467,375	92,713,547	67,267,192	25,466,455	10,287,044		12,749,726	STATE BALANCE AVAILABLE \$299,507 FROM DISASTERS

\*ADDITIONAL FT YUKON FEMA PROJECT NEED \$550,710  
SFY97 OPERATING BUDGET AUTHORIZATION \$306,100  
SUPPLEMENTAL REQUEST \$557,323

**DISASTER RELIEF FUND**  
**FEDERAL DISASTER AUTHORIZATION ANALYSIS**  
**STATE AVAILABLE/SHORTFALL ONLY**  
**AS OF JANUARY 11, 1996**

AR#	DISASTER	STATE AUTH AVAIL	STATE EXP	TOTAL STATE ENCUMB.	AKSAS AVAIL AUTH	XX	EMERG SERV. ESTIMATED PROJECT NEED	COMMENTS
						XX		
34671-15	89 SPRING FLOODS *	1,809,100	1,569,161	199,539	40,400	XX	40,400	AVAIL STATE
34689-99	HAZARD MIT-89	201,250	187,757	28,326	(14,833)	XX	(14,833)	SHORTFALL
"	ADD'L FT YUKON NEED				0	XX	(190,569)	FEMA HAZ MIT PROJECT
34696-96	CLD WEATHER MIT	150,000	162,288	0	(12,288)	XX	(12,288)	SHORTFALL
"	ADD'L FT YUKON NEED				0	XX	(179,615)	FEMA HAZ MIT PROJECT
35550-98	91 SPRING FLOOD HAZ MIT	200,000	189,872	30,000	(19,872)	XX	(19,872)	SHORTFALL
"	ADD'L FT YUKON NEED				0	XX	(180,546)	FEMA HAZ MIT PROJECT
TOTAL		2,360,350	2,109,078	257,865	(6,593)	XX	(557,323)	SUPPLEMENTAL NEED

\*PENDING APPROVAL BY OMB: 89 SPRING FLOODS STATE AUTH REDUCED BY \$223,100 DUE TO TRANSFER TO GALENA FLOOD.

## DISASTER RELIEF FUND

2/2/96

STATE DISASTER AUTHORIZATION ANALYSIS  
AVAILABLE STATE AUTHORIZATION BALANCES  
AS OF JANUARY 11, 1996

AR#	DISASTER	TOTAL STATE AUTH BAL	TOTAL EXP	TOTAL ENCUMB	AKSAS AVAIL AUTH	XX	EMERG SERV ESTIMATED AVAIL AUTH	COMMENTS
						XX		
35504-96	DIOMEDE	705,000	552,050	70,544	82,406	XX	152,900	REPAY ADV; REL ENC.
35529-96	NEW KOLIGANEK FLOOD	64,600	64,332	0	268	XX	268	AWAIT INSPECT READY TO CLOSE
35533-96	SEWARD SEWER	755,630	754,542	0	1,088	XX	1,088	AWAIT INSPECT READY TO CLOSE
35539-96	UPPER YUKON RIVER	1,265,000	1,156,535	11,409	97,056	XX	54,600	STEV VILL; RAMP; N. POLE REDUCE
35546-98	TENAKEE SPRINGS FIRE	200,000	162,377	8,865	28,758	XX	7,657	REDUCE; POSSIBLE LITIGATION
35549-98	SHAKER IV EXERCISE	425,000	356,529	1,250	67,221	XX	68,400	REPAY ADV; REL ENC.; CAN CLOSE
35553-99	CUMMINS ROAD	60,000	38,813	0	21,187	XX	21,187	AWAIT INSPECT READY TO CLOSE
TOTAL		3,475,230	3,085,178	92,068	297,984	XX	306,100	SFY97 OPERATIONS FUNDING

# MEMORANDUM

# STATE OF ALASKA

Department of Military and Veterans Affairs  
Division of Emergency Services

TO: Juno Chance, Finance Officer  
Division of Administrative  
Services  
Department of Military  
and Veterans Affairs

DATE: February 1, 1996

FILE: D.1

PHONE: 428-7000

FROM: *Dianna*  
Dianna Alcantra, GAR  
Division of Emergency Service  
Department of Military  
and Veterans Affairs

SUBJECT: DRP Authorization  
Balances

You have asked for additional explanation on the status of the possible available balances in some of the State Disasters. Below is an explanation by disaster. If you need additional information please let me know.

AR 34678-97 Anchorage Flood:

Applicant has claimed expenditures in excess of available balance. A reconciliation of the applicants records needs to be performed. Administrative allowance is neither encumbered or paid.

AR 34698-96 Kotzebue Tide:

The applicant has recently submitted documentation. This documentation needs to be reviewed by the grant administrator. It appears that the documentation exceeds the available balance. Administrative allowance is neither encumbered or paid.

AR 35530-96 Kodiak Rainfall:

The Division is currently in the process of revising the project application to approve additional projected costs. The administrative allowance is neither encumbered or paid.

AR 35535-96 Eagle Village:

Additional project costs expected. Anticipate cost overruns. Administrative allowance is neither encumbered or paid.

AR 35551-98 McGrath:

Applicant has recently submitted billing. Additional billings are still due. A reconciliation needs to be performed on the documentation submitted. Anticipate that additional project costs will be approved. Administrative allowance is neither encumbered or paid.

Page 2  
Juno Chance, Finance Officer  
DRF Authorization Balances

AR 35552-98 Galena Flood:

Additional project costs have recently been approved. DOT needs to submit billing for final payment. Administrative allowance is neither encumbered or paid.

AR 35557-99 Skagway:

Emergency Management Officer has recently performed a final inspection in Skagway. Reconciliation needs to be performed on applicants billings. Administrative allowance in neither encumbered or paid.

AR 35565-99 Yukon Kuskokwim:

Multiple applicants require administrative allowance payments. Administrative allowance in neither encumbered or paid.

AR 35571-99 Aniak

Applicant has recently informed the Division that they anticipate cost overruns on all DSRs. Applicant documentation will be closely scrutinized. Applicant has had trouble in the past with submitting timely documentation. Most cost overruns can be substantiated. Anticipated some cost overruns will be approved. Administrative allowance is neither paid nor encumbered.

AR 35572-99 Bethel:

Problems have occurred with the original approved project. Currently investigating whether additional damage was the result of the declaration of new damage. Additional project costs may be approved. Administrative allowance is neither encumbered or paid.

DA:np