

HB

551

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 10, 1996

FURTHER REFERRALS:

Date of Committee Action: _____

The FINANCE Committee considered:

HB 551

HOUSE BILL NO. 551

LAPSE OF APPROPRIATIONS

"An Act relating to the lapse of unexpended balances of one-year appropriations; and providing for an effective date."

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

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) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Died in committee				

CHAIR'S SIGNATURE _____

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____
 Title: "An Act relating to the lapse of unexpected balances of one-year appropriations; and providing for an effective date."
 Sponsor: House Finance Committee
 Requestor: (H) Finance

Department Affected: Administration
 BRU: General Services
 Component: Purchasing
 COMPONENT SERIAL NO. 60

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	354.6	354.6	354.6	354.6	354.6	354.6
TRAVEL						
CONTRACTUAL	3.5					
SUPPLIES	1.0					
EQUIPMENT	32.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	391.1	354.6	354.6	354.6	354.6	354.6

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	391.1	354.6	354.6	354.6	354.6	354.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	391.1	354.6	354.6	354.6	354.6	354.6

Estimate of any current year (FY 96) cost: \$ _____

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would eliminate automatic reappropriation of certain encumbrances past June 30 for funds from one-year appropriations, requiring State agencies to pay for goods or services from funds appropriated the fiscal year in which they are received.

Current practice per Alaska Administrative Manual 25.160, is to allow agencies to encumber funds for Purchase Requisitions (generally for goods and non-professional services expected to exceed \$25,000) received by the Division of General Services on or before June 1. These encumbrances are then valid through the following fiscal year and the following fiscal year's reappropriation period, regardless of whether the goods or services are actually received during the fiscal year in which funds are encumbered.

(continued)

Prepared by: Duqan Pelly
 Division: General Services

Phone: 465-2250
 Date: _____

Approved by Commissioner: _____
 Agency: _____

Date: 4/17/96

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**FISCAL NOTE
STATE OF ALASKA
1996 LEGISLATIVE SESSION**

BILL NO. HB 551

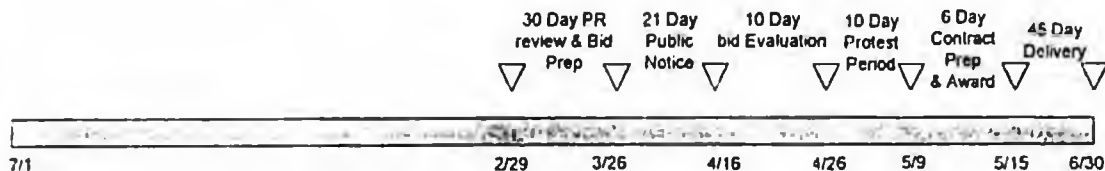
ANALYSIS: (continued)

The June 1 cutoff date was established in March, 1988. Prior to fiscal year 1988, General Services established a date each fiscal year by which Purchase Requisitions would have to be received in order to establish a valid encumbrance at year-end. The date established was based on an estimate of the division's ability to accomplish the procurement and have the goods delivered or services ordered for the agency by June 30. Estimates were established after considering existing and anticipated workloads and staffing levels. The last cutoff date established for fiscal year 1987 was in February. The division had 17 full-time Contracting Officers on staff in fiscal year 1987.

In January, 1988, the current State Procurement Code became effective. This major revision to procurement law resulted in an increased dollar threshold for formal procurements, as well as a more time consuming and complex process. The results of this revision for General Services was that the procurements retained and performed by the division were only higher value and more complex, requiring more time is spent per procurement transaction. The dollar threshold for formal procurements is now \$25,000.

The division's steady loss of professional procurement staff to budget reductions has further compounded this effect. Today, the Division of General Services employs 10 Contracting Officers, compared to 17 in FY 87. Another factor of significance is that General Services is now largely responsible for conducting highly technical and lengthy telecommunications procurements.

The following diagram shows the average minimum times necessary for completion of key tasks in the formal procurement cycle.



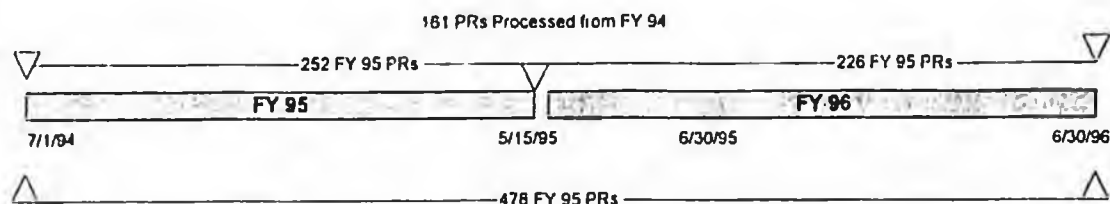
This diagram illustrates that, in order to complete the procurement cycle by May 15 (to allow adequate time for delivery to the requesting agency by June 30), a Purchase Requisition must be received by General Services by February 29. This estimate assumes a moderate amount of time spent on Purchase Requisition review/revision and ITB preparation, the minimum legal public notice period, a moderate bid evaluation period, a reasonable time for award and contract development, the minimum legal protest period (assuming no protests are received), and a 45-day delivery period. This is a very conservative estimate of the time necessary to complete the formal Invitation to Bid process given the high value, highly technical nature of many modern procurements, and the legal constraints in place. This chart shows that the average minimum time necessary from receipt of a Purchase Requisition by General Services to the delivery of the goods or services to the requesting agency is approximately 17 weeks, or 122 days. In order to have a reasonable expectation of delivery on or before June 30, a Purchase Requisition must be received by General Services by February 29. More complex procurements requiring longer lead times must be received even sooner.

This estimate does not take the potential for lengthy protests and appeals into account. Protests and appeals are a common occurrence in formal procurements, and can often take several weeks or months to resolve through a two-tiered administrative process. Should this bill pass, the potential exists for many procurements to be delayed because of protests and appeals, thereby causing the entire process to fail when delivery times are pushed past fiscal year end.

As shown in the following diagram, this bill would require General Services to compress procurement actions currently undertaken during a two-year period to a period of eight months.

**FISCAL NOTE
STATE OF ALASKA
1996 LEGISLATIVE SESSION**

BILL NO. HB 551



If goods and services must be received by June 30 in order to prevent loss of operating funds, formal procurements must be completed and orders placed by May 15 to ensure timely delivery. The above diagram shows that 252 of the 478 Purchase Requisitions received by General Services in fiscal year 1995 were completed by May 15, 1995. The remaining 226 Purchase Requisitions received in fiscal year 1995 must be completed by June 30, 1996.

Compressing a year of procurements into an eight-month period (July 1 to February 29) effectively reduces procurement time by 33 percent. The Division of General Services employed 10 Contracting Officers in fiscal year 1995.

Therefore, if workloads were evenly distributed over the eight month period, statistics indicate that in order to accomplish all procurements resulting from the 478 fiscal year 1995 Purchase Requisitions the division received, the division would have needed an additional 3.3 Contracting Officers ($10 \times 33\% = 3.3$). Since the Governor's fiscal year 1997 budget anticipates a reduction in the division of one Contracting Officer, the division would need an additional 4.3 Contracting Officers in future years.

The timing of agency procurement requests, work flow issues, and the learning curve of new employees must be considered. Agencies typically do not identify and request procurement actions at the beginning of a fiscal year to satisfy all their needs for the entire year. A cutoff date in February will create an uneven distribution of work. As has been our experience in the past with end-of-year cutoff dates, the bulk of the Purchase Requisitions will be submitted at or near the cutoff deadline. In some cases, requisitions will be hastily prepared to meet the cutoff date, requiring additional division staff time to adequately specify needs.

Examples of agency needs that may not be met as a result of inadequate funding for this bill, which would result in harm to the citizens of the State, include vessel charters and forestry services. If we are unable to charter fishery vessels at the proper time, the Department of Fish and Game will be unable to monitor critical fisheries, which could require them to manage those fisheries in a more conservative way and possibly shorten openings.

The model in Figure One also assumes that the Contracting Officer assigned does not have a backlog of procurements on hand, an assumption that is rarely, if ever, true. After taking the statistical analysis and the factors caused by a February cutoff date into account, the division believes an accurate assessment of additional resources needed to comply with this bill and procure timely goods and services will take an additional 6 Contracting Officers.

The cost of one journey level Contracting Officer (range 18A) is \$59,100, including benefits. $6 \times \$59.1 = \354.6

The estimated cost of an average Contracting Officer workstation, including computer hardware and software requirements is \$3,700 ($\$3.7 \times 5^* = \18.5). The cost for all other equipment, furniture, supplies, and training is estimated at \$3,000 per Contracting Officer ($\$3.0 \times 6 = 18.0$).

The total estimated cost for the first year is \$391.1. Each subsequent year is estimated to cost \$354.6

* The division will use one computer on hand already.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____
 Title: An Act relating to the lapse of unexpended balances
 of one-year appropriations _____
 Sponsor: House Finance
 Requestor: House Finance

Department: Commerce and Economic Development
 BRU: Administrative Services
 Component: Administrative Services

COMPONENT SERIAL NO. 1028

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	42.2	42.2	42.2	42.2	42.2	42.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	42.2	42.2	42.2	42.2	42.2	42.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund	42.2	42.2	42.2	42.2	42.2	42.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	42.2	42.2	42.2	42.2	42.2	42.2

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS						
FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would increase the workload of the Division of Administrative Services' accounting staff, including expediting the issuance of contracts, tracking authorization and expenditures, speeding up payment of bills, and converting year end encumbrances to accounts payable. In light of the increased workload entailed by this legislation and reductions made by the House to the division's FY 97 operating budget, we estimate that one Accounting Technician position (Range 12) would be needed to implement this legislation.

Prepared by:	<u>Guy Bell, Director</u>	Phone:	<u>(907) 465-2500</u>
Division:	<u>Division of Administrative Services</u>	Date:	<u>April 17, 1996</u>
Approved by Commissioner:	<u>William L. Hensley</u> <i>[Signature]</i>	Date:	<u>4-17-96</u>
Agency:	<u>Commerce and Economic Development</u>		

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB551

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An act relating to lapse of unexpended BRU: Administration & Support
one-year appropriations.... Component: Administrative Services
 Sponsor: _____
 Requester: House Finance Committee COMPONENT SERIAL NO. 684

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES	76.0	78.0	80.4	82.8	85.6	88.0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.4	2.2	2.4	2.4	2.4	2.4
SUPPLIES	0.8	0.8	0.8	0.8	0.8	0.8
EQUIPMENT	12.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	91.2	81.0	83.6	86.0	88.8	91.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	91.2	81.0	83.6	86.0	88.8	91.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	91.2	81.0	83.6	86.0	88.8	91.2

Estimate of current year (FY 96) impact: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME	4	4	4	4	4	4
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The department's fiscal sections annually have a heavy workload of state and federal reports due June through September of each fiscal year. Currently, the fiscal sections are able to complete these tasks by working overtime. State accounting policies and procedures must be followed to prevent audit exceptions. In addition to the above responsibilities during this period, fiscal staff record encumbrances and payments, and adjust journal entries in order to ensure transactions are properly recorded. According to statute, fiscal certifying officers are responsible for the review of transactions and the correction of mistakes and other accounting problems. If this bill passes, the fiscal staff will be unable to keep up with the tremendous increase of work load during the period June through August, and certifying officers will no longer have the time to adequately review all documents and transactions. Another two accounting positions will be needed in Juneau and two in Anchorage to accomplish this task; otherwise the state will be liable for payments in the following year which will require a supplemental appropriation for the amount owed and any interest and penalties.

Prepared By: Remond Henderson Phone: 465-4708
 Division: Remond Henderson, Director, Administrative Services Date: 04/17/96
 Approved by Commissioner: Mike Irwin Date: 04/17/96
 Agency: Mike Irwin, Commissioner, Comm. & Reg. Affairs

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HB551, ANALYSIS CONTINUED
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

Personnel Services: 4 accounting tech I (range 12) positions, six months each

Contractual: telephone, copying, FAX costs (\$600 each position)

Supplies: desk and computer supplies (\$200 each position)

Equipment: desks, chairs, computer terminals (\$3000 each position - one time only)

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB551

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act relating to the lapse of unexpended BRU: ALL
 balances of one-year appropriations; Component: _____
 Sponsor: House Finance Committee
 Requester: Finance COMPONENT SERIAL NO. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	36.0	36.0	36.0	36.0	36.0	36.0
TRAVEL						
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	18.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60.5	42.0	42.0	42.0	42.0	42.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	60.5	42.0	42.0	42.0	42.0	42.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	60.5	42.0	42.0	42.0	42.0	42.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY	4	4	4	4	4	4

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 37.25.010 (a) by deleting the statutory language that automatically re-appropriates a valid obligation (encumbrance) existing on June 30 for the fiscal year beginning on the succeeding July 1, if it is recorded with the Department of Administration. It also adds new language which allows the valid obligation to only carry forward until August 31 of the immediately succeeding fiscal year. At that time, if the goods or services are not paid for, the funds lapse.

The Department of Corrections historically has not encumbered significant funds at fiscal year end to pay for uncompleted purchases of goods and services. In FY95, DOC had encumbered \$1,149,700 (0.89% of Authorization) on August 31; FY94 \$1,402,400 (1.15% of Authorization); FY93 \$1,903,800 (1.62% of Authorization); FY92 \$1,164,500 (1.02% of Authorization); and in FY91 \$626,000 (0.58% of Authorization). However, the remaining encumbered funds were always primarily "Contract" funds, either wrapped up in a Reimbursable Services Agreement with another State agency which required multiple reporting mechanisms; or with a private "contractor" who may also have multiple reporting mechanisms to deal with, etc., prior to finalizing our state contract and executing final payment. (CONTINUED ON PAGE 2)

Prepared by: Joseph Reeves Phone: 465-4852
 Division: Office of the Commissioner Date: 4/17/96
 Approved by Commissioner: Marcel H. Pugh Date: 4/17/96
 Agency: Department of Corrections

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FISCAL NOTE

HB 551

"An Act relating to the lapse of unexpended balances....."

Page 2

If the final reporting or performance documents are not submitted by all parties involved on projects prior to issuance of final payments, the final payments to any contractor should not be executed. The agency and the state are obligated to the citizens of this state to complete all performance and warranty aspects of a financial transaction prior to fully paying any contract.

Other instances where more time would be needed is for procuring an item which must be "advertised" or "bid" to get the lowest costing item. Under the current procurement rules, many of these types of items could not be accomplished within the allotted time period. Also, there are times when vendors must back order items to replenish their stock prior to delivery and they may not be able to accomplish this in the window provided.

In another instance in our agency, Health Care services and providers have a long cross checking procedure which cannot be accomplished in the short "window" this bill would allow. The services provided at year-end of every fiscal year would undoubtedly fail to be completed within the window and cause vendor payments to be greatly delayed until a "Miscellaneous Claim Supplemental" could be submitted for vendor payments, etc. This would cause many providers to reevaluate their business strategy in dealing with this agency.

The bill also does not allow for problems involving "lost" or "duplicate" billings which must be researched prior to executing payments. There is not a valve to allow for exceptions for such things as investigations, inquiries, or handling disputed charges, etc.

The agency will request four temporary Accounting Clerk II's to work for a three month period each (June, July, August) to process contracts and other vendor payments prior to August 31st. This will involve verifying vendor invoices, communicating with vendors, checking state AKSAS records to ensure no duplicate invoices have been processed, and verifying that final goods and services have been completed prior to final payments, etc.

The cost of these staff and services include costs for communications, miscellaneous supply needs, and one time equipment needs inclusive of desk, chairs, and computers.

Personal Services:	4 X \$9,000 per = \$36,000
Contractual:	\$5,000 Communications (Long Distance, FAX, etc)
Supply:	\$1,000 Miscellaneous Office Supplies
Equipment:	\$4,000 Computers X 4 = \$16,000
	\$ 625 Desk/Chairs X 4 = \$ 2,500

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____ Dept. Affected EDUCATION
 Title: An Act relating to the lapse of unexpended BRU: Administrative Services
balances of one-year appropriations; Component: _____
 Sponsor: House Finance Committee
 Requestor: House Finance Committee COMPONENT SERIAL NO. 157

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	42.0	42.0	42.0	42.0	42.0	42.0
TRAVEL						
CONTRACTUAL	2.0	2.0	2.0	2.0	2.0	2.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	44.0	44.0	44.0	44.0	44.0	44.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	44.0	44.0	44.0	44.0	44.0	44.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other:						
TOTAL	44.0	44.0	44.0	44.0	44.0	44.0

POSITIONS:

FULL-TIME	1.0					
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

This legislation will require expedited handling of year end purchases to ensure that orders are placed, encumbered, received, invoiced, paid and liquidated during the most critical time period for finance offices. The department's main customers are Alaska's school districts that are generally closed during the summer. Invoicing and grant payments are delayed based on receipt of documentation from the districts. Often times, required reports regarding use of funds are not available until late fall. This legislation would severely impact the ability of the department to provide services to school districts. A full-time Accounting Technician I is requested to comply with the legislation.

Prepared by: Karen J. Rehfeld, Director
 Division: Administrative Services
 Approved by Commissioner: Shirley J. Holloway, Ph.D. Commissioner
 Agency: Department of Education

Phone: 465-8650
 Date: April 17, 1996
 Date: April 17, 1996

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 551

1996 LEGISLATIVE SESSION

Revision Date: 4/18/96

Department Affected: ACPE

Title: lapse of appropriations

BRU: Alaska Commission on Postsecondary Education

Component: Student Loan Operations

Sponsor: (H)FIN

Requester: (H)FIN

COMPONENT SERIAL NO. 213

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	49.4	50.8	52.3	53.8	54.4	56.0
TRAVEL						
CONTRACTUAL						
SUPPLIES	.8					
EQUIPMENT	8.3					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	58.5	50.8	52.3	53.8	54.4	56.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other: Corporate Receipts	58.5	50.8	52.3	53.8	54.4	56.0
TOTAL	58.5	50.8	52.3	53.8	54.4	56.0

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ 4.1

ANALYSIS: In order to comply with the provisions in this bill, a staff position (equipment and supplies) would be necessary to track the status of contracts, equipment purchases/delivery dates, accounts payables, etc.. Late delivery of services or goods will result in the lapse of budget authority in the year in which the obligation was entered into, and shortage of budget authority in the year in which the goods were delivered. Should this bill become law, temporary staff would be hired to perform the tracking functions to ensure no lapse of funds would occur due to purchases made in the last quarter of the fiscal year that have not yet arrived, and to collect statements from contractors that have not yet billed for their services. The costs associated with delays in delivery dates cannot be estimated.

Prepared by: Gillian R. Hays, Legislative Liaison

Phone: 465-6718

Division: Alaska Commission on Postsecondary Education

Date: 4-18-96

Approved by Executive Director: [Signature]

Diane Barrans

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB551

Revision Date: _____
Title: Lapse of one year appropriations

Department Affected: Environmental Conservation

Sponsor: Hfinance
Requestor: Hfinance

BRU: Air and Water Quality
Component: Water

COMPONENT SERIAL NO. 2062

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	37.2	37.2	37.2	37.2	37.2	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	25.6	25.6	25.6	25.6	25.6	0.0
SUPPLIES	4.0	4.0	4.0	4.0	4.0	0.0
EQUIPMENT	12.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	78.8	66.8	66.8	66.8	66.8	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	78.8	66.8	66.8	66.8	66.8	66.8
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	78.8	66.8	66.8	66.8	66.8	66.8

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS:

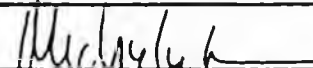
FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

The Air and Water Division processes a significant number of agreements that involve seasonal work that cross fiscal years. It is anticipated that a significant amount of time would be involved in splitting these agreements in two to accommodate separation of fiscal years.

Prepared by: Len Verelli
Division: Director, Division of Administrative Services

Phone: 465-5260
Date: 4/17/96

Approved by Commissioner: 
Agency: Department of Environmental Conservation

Date: 4/17/96

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FISCAL NOTE ANALYSIS HB551

One new position will be required to handle all the additional contracting that will be required by this legislation. Contracts and interagency agreements extend across fiscal years because of the time frames required to negotiate contracts and the field season available to complete the work. Determination of funding for these contracts at the close of each fiscal year would require new appropriations and encumbrances, extensive opening and closing of contractual documents and delay project completion.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____ Dept. Affected: Fish and Game
 Title: An Act relating to the lapse of unexpended balance BRU: Administration and Support
of one-year appropriations; . . . Component: Administrative Services
 Sponsor: House Finance Committee
 Requester: House Finance Committee COMPONENT SERIAL NO. 479

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	45.3	45.3	45.3	45.3	45.3	45.3
TRAVEL -	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	1.0	1.0	1.0	1.0	1.0	1.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	51.8	46.8	46.8	46.8	46.8	46.8

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	51.8	46.8	46.8	46.8	46.8	46.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	51.8	46.8	46.8	46.8	46.8	46.8

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would require an additional employee to manage the impact of this short "receipt of goods" period. It will significantly decrease the amount of time that the department has to procure, take receipt of, and pay for goods and services. Due to the departments seasonal structure, most purchases are required for the field season between May and September of each year. Divisions perform preaudit reviews each year between January and March to determine availability of funds for the coming field season. Upon a firm determination of availability of funds, orders are placed up until the purchasing deadline. HB551 will require a concerted ordering and tracking effort and communication with vendors to determine confirmed receipt of goods and invoices prior to August 31 of any given year. Additional accounting efforts will be required upon receipt of goods and invoices for immediate tracking and payment efforts. The department has multiple fund sources and codes which will demand daily review and maintenance by each division so that invoice processing will be immediate. There will be no room for error. This will be no easy task, as during this time of the year the department can process well over a thousand invoices daily. If there are vendor or shipping delays, the department will be required to purchase the item in the subsequent fiscal year thereby negatively impacting the division during the new fiscal year. Many of the department's contracts also cross fiscal years due to the May to September field season or other requirements of the contract. Contracts would have to be completed and closed to a specific point each fiscal year and then renegotiated (and potentially rebid) for the projects continuation. These additional negotiations and delays could increase contractual costs, harm the interest and activity of the contract, and would add to staff workload and overtime. As general fund budgets continue to decline, managers need to maintain flexibility in using available financial resources as well as in identifying and addressing needs within their agency. The constraints imposed by this bill do not support efficient management practices.

Prepared by: Kevin Brooks Kevin Brooks
 Division: Administrative Services
 Approved by Commissioner: Geison Bruce
 Agency: Fish and Game

Phone: 465-5999
 Date: 4/17/96
 Date: 4/17/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: "An Act relating to the lapse of unexpended
balances of one-year appropriations;..." BRU: All BRUs
 Sponsor: House Finance Committee Component: All Components
 Requester: House Finance Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact - however, project-related contracts not completed prior to August 31, and vendor back-orders which preclude timely delivery of goods prior to August 31, will impact new fiscal year budgets when the expenditures were anticipated for the prior year.

Prepared by: Michael A. Nizich, Administrative Director *M. Nizich* Phone: 465-3876
 Division: Division of Administrative Services Date: 4/16/96
 Approved by Commissioner: Jim Avers, Chief of Staff *J. Avers* Date: 4/16/96
 Agency: Office of the Governor

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____
 Title: Lapse of Appropriations
 Sponsor: House Finance
 Requestor: House Finance

Department Affected: Labor
 BRU: Administrative Services
 Component: Management Services
 COMPONENT SERIAL NO. 335

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	51.8	51.8	51.8	51.8	51.8	51.8
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	51.8	51.8	51.8	51.8	51.8	51.8

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

CHANGE IN REVENUE						
FUND SOURCE #						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	7.1	7.1	7.1	7.1	7.1	7.1
1004 GF						
1005 GF/Program Receipt						
1007 Inter-Agency Receipt	44.7	44.7	44.7	44.7	44.7	44.7
Other						
TOTAL	51.8	51.8	51.8	51.8	51.8	51.8

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

A position in the Division of Administrative Services to expedite purchasing and contract issuance, monitor and resolve any problems in timely delivery & payment and to facilitate year end fiscal closeout would be required. Due to the range of duties an Accounting Technician II would be required as a result of this legislation.

Prepared by: Arbe Williams, Director Phone: 465-2720
 Division: Administrative Services Date: 4/18/96
 Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Date: 4/18/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to the lapse of unexpended BRU: Civil Division; Oil and Gas Litigation
balances of one-year appropriations . . ." Component: Civil Division - All
 Sponsor: House Finance Committee Oil and Gas Litigation
 Requester: House Finance Committee COMPONENT SERIAL NO. 2087-2089, 2091.

Expenditures/Revenues (Thousands of Dollars) 2092, 2094, 2095

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	3,125.0	3,125.0	3,125.0	3,125.0	3,125.0	3,125.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3,125.0	3,125.0	3,125.0	3,125.0	3,125.0	3,125.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3,000.0	3,000.0	3,000.0	3,000.0	3,000.0	3,000.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other - IA Receipts	125.0	125.0	125.0	125.0	125.0	125.0
TOTAL	3,125.0	3,125.0	3,125.0	3,125.0	3,125.0	3,125.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would amend AS 37.25.010(a) in a manner that does away with the existing statutory provision for the reappropriation of properly obligated one-year appropriations for a succeeding fiscal year.

Historically, the Department of Law has had to make extensive use of this provision, due to the continuing nature of litigation, and due to the inherent difficulty of predicting the timing of events in a litigation matter where, oftentimes, that timing is determined by parties outside the state's control. For this reason, and based on ample federal precedent, the department has long taken the view that litigation contracts are entire and not severable as to fiscal year. Moreover, as a practical matter, the state would be at a tremendous disadvantage as compared to its opponents, whose funding is not limited to a state fiscal year.

Thus the loss of the existing reappropriation provision, as proposed by HB 551, is of grave concern to the Department of Law. It could severely impact ongoing, multimillion dollar oil and gas litigation contracts,

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 4/17/96
 Date: 4/17/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

ANALYSIS CONTINUATION:

resulting in lengthy delays in state revenue collections, and shackling the department's ability to collect the full amounts that are rightfully owed to the state.

Oil and gas litigation is of such importance to the state, and the sums needed for the litigation are of such a large magnitude, that supplemental appropriations will be necessary whenever a substantial body of work is delayed from one fiscal year to the next and the funding for the unfinished work is lapsed. We know from past experience how disruptive and costly the supplemental process can be, to the state's litigation posture, when funding is also delayed. Furthermore, the cost of litigating these cases is so high, and the fluctuations so unforeseeable, that it is difficult to determine what amounts may lapse in any particular year. Nonetheless, based on past years' experience, which varies widely in any given year, it would not be unreasonable for a lapse of \$3,000,000 to occur at the end of FY96 and in future fiscal years, and this amount is being submitted in the fiscal note.

Aside from oil and gas, the department regularly undertakes litigation projects on behalf of other agencies that are funded by interagency receipts. This includes the services of outside counsel and expert witnesses. Where these projects span fiscal years, it is entirely possible that litigation that cannot be completed by the end of the fiscal year will have to be dropped, or settled on terms far less favorable to the state than would otherwise be the case. The secondary cost to the state will probably always exceed the amount that is saved by lapsing an appropriation, because the department will be unable to fully represent the state's best interests. Here again, the state will be at a distinct disadvantage to those whose funding is not limited by a state fiscal year.

In non-oil and gas activities, the department currently has 11 legal services projects underway (for outside counsel and expert witness services) that are being funded by interagency receipts from other agencies, having a value of \$333,600. Although it is too soon to be certain, as much as \$125,000 could lapse and, unless this work is to be abandoned, fiscal note costs in this amount will be required in FY97 and future fiscal years. In the last fiscal year, FY95, \$202,000 was carried-forward from 7 interagency projects.

While there is understandable concern that, to the extent possible, operating appropriations be limited to a single fiscal year, prohibiting any form of carry-forward will have the effect of prematurely terminating essential state projects in mid-stream. Abruptly changing long-established encumbrance practices at this late time in the current year budget cycle will not provide departments with sufficient lead time to alter work plans (even if this were possible) so that work now underway can be completed by fiscal year-end. Finally, this is an important issue that requires more time for consideration than is available in the closing days of this legislative session.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB551

Revision Date: Original Dept Affected Natural Resources
 Title: An Act relating to the lapse of unexpended BRU: Management and Administration
balances of one-year appropriations; and providing for an ... Component: Administrative Services
 Sponsor: House Finance
 Requestor: House Finance Component Serial No. 424

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	87.1	87.1	87.1	87.1	87.1	87.1
TRAVEL						
CONTRACTUAL	1.0	1.0	1.0	1.0	1.0	1.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	88.6	88.6	88.6	88.6	88.6	88.6
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	88.6	88.6	88.6	88.6	88.6	88.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	88.6	88.6	88.6	88.6	88.6	88.6

Estimate of any current year (FY96) cost: \$ none

POSITIONS

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Implementation of this legislation will require two additional positions (Accounting Technician I and Procurement Specialist I) in the Administrative Services component, to assist the department with meeting the procedural changes necessitated by this bill. Increased accounting responsibilities include: special handling required in closing out RSA's that end June 30, pulling special accounting reports for year-end expenditures, working with other divisions and departments in the close-out process, special monitoring of year-end invoices to ensure the proper year is being charged (checking both invoice date and delivery date). Increased responsibilities in procurement would include: increase time spent on negotiating the contracts, to allow contracts to be broken into multiple years, additional contracts due to GSS delegating contracting to the department, negotiating with vendors when services are not delivered by June 30.

DNR is a resource-based agency with a highly seasonal nature. There is no guarantee that goods and services will be received on a fiscal year basis, making this bill an accounting and administrative process that will require additional resources for the department to administer, at a time when the budget is being reduced.

Prepared by: Nico Bus, Acting Director Phone: 465-2406
 Division: Support Services Date: 17-Apr-96
 Approved by Commis ner Date: 17-Apr-96
 Agency: Natural Resources

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 551

Revision Date: _____ Dept. Affected: Public Safety
 Title: Lapse of Unexpended Balances of one-year BRU: Statewide Support
 Appropriations Component: Commissioner's Office
 Sponsor: House Finance
 Requestor: House Finance COMPONENT SERIAL NO. 523

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	111.0	111.0	111.0	111.0	111.0	111.0
TRAVEL						
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	30.0	1.0	1.0	1.0	1.0	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150.0	121.0	121.0	121.0	121.0	121.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	150.0	121.0	121.0	121.0	121.0	121.0
1005 GF/Program Receipts						
1006 GF/MHTJA						
Other						
TOTAL	150.0	121.0	121.0	121.0	121.0	121.0

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME	6	6	6	6	6	6
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See Attached.

Prepared By: Ken Bischoff, Director Phone: 465-4336
 Division: Administrative Services Division Date: 04/17/96
 Approved by Commissioner: *Ronald L. Otte* Date: 4/17/96
 Agency: Ronald L. Otte, Dept. of Public Safety

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: HB 551

Revision Date: _____ Dept. Affected: Public Safety

ANALYSIS CONTINUED:

SUMMARY: This bill would require that any goods or services paid for during the current fiscal year be provided by June 30 and paid for by August 31. This is a change from current law and policy which permits prior year obligations to be encumbered on or before August 31, the end of the two month reappropriation period. Currently, funds from the prior year are "reappropriated" if there exists a valid obligation as of June 30 of the prior year, and that obligation is recorded in the State accounting system by August 31. This bill would eliminate the reappropriation period as it currently exists.

This bill has an immediate effective date, which means that any goods or services already ordered and expected to be paid for or encumbered out of current year funds if not received on or before June 30, 1996 would be charged to the next fiscal year. We have significant transactions in process that will be impacted if this bill become law.

Due to the effective date of 6/30/96 for this bill, the Department will be unable to hire the required personnel to implement this bill's requirements and would ask for a Ratification for FY97 in order to pay the prior year obligations. The Department requests that the effective date for this bill be delayed until 6/30/97 or to allow an extension of lapse for FY96 appropriations.

FISCAL IMPACT:

1. Within the Department of Public Safety, there are certain types of expenditures that cannot be predicted, therefore, funds are kept in reserve to meet those expenses should they occur. Those funds are reallocated to other Department needs toward year-end. If this bill passed, this reallocation would not be possible to the extent it is now. Instead of reallocating those funds to meet the highest priority needs, the funds would be reallocated to whatever goods and services could be delivered before June 30. It is expected that there would be additional costs, e.g. air freight, next day air, or possibly even travel expenses needed to "take delivery" of goods on or before June 30. These extra expenses would not make sense in overall financial management, but given the limitations expressed in this bill, these more expensive and less optimum changes in procurement procedures would be necessary.

2. Within the Department of Public Safety, there are several types of routine expenses that have long lead times between ordering and delivery. License plates, Crime Lab and fingerprinting equipment, specialized technical professional services, for example, by contract take several months to develop a procurement strategy, specifications, establish the contract award and often several months to a year to be delivered. It is simply not possible to front end all the work in July to ensure a procurement will be completed and goods and services delivered on or before June 30 in many instances. These lengthy procurement periods are necessary to ensure the best possible price from the successful vendor. By not having to maintain on hand sufficient materials to provide immediate delivery of the State's order, the vendor's costs are reduced, which in turn, results in lower overall cost to the State. There are several law enforcement items which require competition with specialized vendors in the lower 48 with DPS as a relatively minor customer without the "clout" to dictate specific delivery. In other words, we have to accept the vendor's production schedule even when it has an operational impact.

Due to the compressed time frames for paying valid State obligations from vendors, contracts, grants and RSA billings, etc., increased staff will be required throughout the Department. This additional staff of part-time Accounting Technician II positions will be distributed to the following programs which are most impacted during the expedited close-out/payment period starting approximately April 1 through August 31:

Highway Safety Planning Agency - Position needed to close out approximately 30 Federal subgrants and RSA's.

Alaska State Troopers - Position needed to close out approximately 40 RSA's and numerous subgrants, many of which are Federal funded.

VPSO - Position needed to close out approximately 10 contracts with non-profit corporations.

Council of Domestic Violence & Sexual Assault - Position needed to close out approximately 21 subgrants with non-profit organizations.

Admin. Services/Budget Section - Position needed to achieve expedited close out of approximately 70 RSA's, where Public Safety is the requesting agency.

Admin. Services/Finance - Position needed to achieve expedited payment of vendor, contract and grant bills.

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: HB 551

Revision Date: _____

Dept. Affected: Public Safety

ADDITIONAL STAFFING COSTS

The fiscal impact identified below addresses the additional staff needed to expedite payment by August 31st. Additional fiscal impacts of paying prior year obligations from the current appropriation where the encumbrances were deleted, are not addressed in this fiscal note.

<u>Personal Services</u>	\$111.0
6 part time Accounting Technician II at \$18.5 for 5 months range/step 14A \$18.5 X6 positions	
<u>Contractual</u> - Telephone postage, etc. @ \$1.0 per position	\$ 6.0
<u>Supplies</u> - Office Supplies @ \$.5 per position	\$ 3.0
<u>Equipment</u> - Desk, chair, computer, etc. @\$5.0 per position	<u>\$ 30.0</u>
TOTAL	\$150.0

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 551

Revision Date: _____ Dept. Affected: Revenue
 Title: Lapse of Appropriations BRU: All
 Component: All
 Sponsor: H Finance
 Requester: H Finance COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attachment.

Prepared by: Bob Baralko Phone: 465-2312
 Division: Administrative Services Division Date: 4/16/96
 Approved by: _____
 Commissioner: Deborah Vogt Date: 4/16/96
 Agency: Revenue

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HB 551

Although we are submitting a zero fiscal note, the Department of Revenue feels that there will be an adverse impact on the agency's procurement necessitated by the constraints imposed by HB551. In a given year, we would be losing 1/4 to 1/3 of our ordering "window", primarily at a time when most agencies are able to identify funding availability. Another of the side effects of this bill is the inability of the State to enter into contracts which cross fiscal years. This puts additional constraints on managers and forces them to spend more, faster and minimizes their flexibility to deal with situations which may arise later in the fiscal year. These situations do not translate to doing business more efficiently or with the public interest in mind.

HB551 penalizes managers for situations which are out of their control, such as the delivery date of items. Examples of possible "real life" situations follow:

1. Office furniture (desks and bookshelves) are ordered (delivery order faxed) from Correctional Industries on January 15. Agreed upon delivery date is May 15. In the middle of August, a letter is received from Correctional Industries stating that they received too many orders, and delivery would be delayed at least another two months. We would be unable to use prior year funds to pay the bill since the encumbrances would have lapsed under HB551, even though no funds were included in the current year budget for these items and the items were ordered well in advance.
2. A professional services contract for a feasibility study would HAVE to have delivery of final product and final invoicing before August 31. It is unreasonable for us to require that the contractor give his report to us with one hand and his invoice in the other. Even if he/she did so on August 31, it is probable that the agency could not acquire approvals and process the payment that quickly.

During these times of fiscal austerity, managers need to maintain flexibility in using available financial resources as well as in identifying and addressing needs within their agency. The constraints imposed by HB551 do not support good management practices.

8:20 am

HOUSE FINANCE COMMITTEE

MEETING OF _____

MEMBER	PRESENT	ABSENT
GRUSSENDORF		
KOHRING	✓	
PARNELL	✓	
MARTIN	✓	
MULDER	✓	
HANLEY	✓	
FOSTER	✓	
THERRIAULT	✓	
KELLY	✓	
BROWN	✓	
NAVARRA		

Randy Walker Legislative Auditor

Joe Thomas

Nancy Slogle - Dir. DBR

D/ot Finance

Janet Clarke

Snowden

Gray

Jim Baldwin
D/lan

Schedule of Year End Operating Encumbrances for FY 95

Attachment
4/19/96 am

Department	Personal Service	Travel	Contractual	Supplies	Equipment	Grants	Total
Governor Administration	\$ 223.83 47,816.60	\$ 19,587.32 44,977.22	\$ 336,847.11 1,187,575.42	\$ 16,948.86 397,542.51	\$ 137,227.25 981,127.98	\$ - 64,972.65	\$ 510,834.37 2,724,012.38
Law	-	6,277.72	11,474,147.91	19,050.14	315,522.20	186,667.13	12,001,665.10
Revenue	-	(2,212.71)	1,064,299.29	13,621.09	456,503.61	14,026.25	1,546,237.53
Education	-	(4,626.72)	652,809.83	122,512.02	266,455.39	12,103,644.80	13,140,795.32
DHSS	565,371.67	21,846.38	5,412,448.09	191,291.99	970,326.98	9,646,792.94	16,808,078.05
Labor	-	12,378.68	1,872,939.66	190,007.06	334,745.23	1,316.95	2,411,387.58
DCED	-	21,217.25	3,218,165.73	24,326.09	250,718.66	285,217.46	3,799,645.19
DMVA	-	29,562.16	291,314.92	129,884.00	130,036.95	315,183.90	895,981.93
Natural Resources	1,011.81	26,457.87	1,861,867.94	249,932.84	401,735.43	131,674.84	2,672,680.73
Fish and Game	622.20	349.50	1,309,123.13	213,435.66	835,604.23	-	2,359,134.72
Public Safety	184,539.78	7,302.59	691,975.42	100,025.89	212,759.34	648,069.22	1,844,672.24
DEC	58,138.05	10,933.59	3,050,163.48	373,330.23	1,008,113.42	2,018,511.45	6,519,190.22
Corrections	(85.32)	9,327.00	817,510.90	44,029.00	10,321.62	(99.20)	881,004.00
DCRA	(17.50)	14,142.10	371,189.57	11,633.06	157,818.53	8,388,183.20	8,942,948.96
DOTPF	436,750.09	54,534.09	1,882,337.81	2,146,693.38	1,821,779.21	-	6,342,094.58
Legislature	-	(2,006.00)	1,855,781.09	105,384.38	791,844.65	-	2,751,004.12
Court System	-	(93.02)	53,134.97	93,256.69	158,508.38	-	304,807.02
Total	\$ 1,294,371.21	\$ 269,955.02	\$ 37,403,632.27	\$ 4,442,904.89	\$ 9,241,149.06	\$ 33,804,161.59	\$ 86,456,174.04

REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
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Alaska State Legislature



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ANCHORAGE, AK 99504

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

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ANCHORAGE, AK 99504

SPONSOR STATEMENT HB 551

An Act relating to the lapse of unexpended balances of one-year appropriations; and providing for an effective date.

A review of State of Alaska FY95 year-end operating encumbrances completed March 5, 1996 by the Legislative Auditor found that interpretation of the Alaska Administrative Manual used by agencies to validate the encumbrances is not reasonable. FY95 year-end encumbrances were tested in all departments, with emphasis on encumbrance of funds used to purchase equipment and contractual services. Of 79 encumbrances tested, 34 were deemed invalid. The value of the invalid encumbrances was \$11.8 million of the total of \$15.9 million in encumbrances examined.

It was Legislative Audit's recommendation that changes be made to help avoid continued misunderstandings and misinterpretation of encumbrance policy. To this end we present this legislation, which modifies AS 37.25.010 to require that unexpended balances of an operating appropriation lapse on June 30 of the fiscal year for which the appropriation is made. This change in wording will eliminate any guess work involved in determining when it is appropriate to encumber funds.



Audit Report



STATE OF ALASKA

REVIEW OF FY 95 YEAR-END
OPERATING ENCUMBRANCES

March 5, 1996



Audit Control Number:

02-1439-96

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

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March 5, 1996

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

STATE OF ALASKA REVIEW OF FY 95 YEAR-END OPERATING ENCUMBRANCES

March 5, 1996

Audit Control Number

02-1439-96

This review was conducted to determine the reasonableness of operating encumbrances established by state agencies at the end of FY 95. The review included year-end encumbrances established for the purchase of equipment and contractual services, with a primary focus on encumbrances related to reimbursable services agreements and other contractual services. Additionally, we specifically reviewed the encumbrances related to the Department of Law's oil and gas litigation appropriation.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

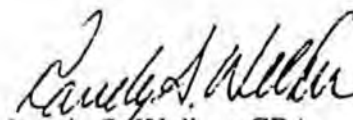

Kandy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

In accordance with the provisions of Title 24 of the Alaska Statutes, we conducted a review to determine the reasonableness of operating encumbrances established by state agencies at the end of FY 95. The review included year-end encumbrances established for the purchase of equipment and contractual services, with a primary focus on encumbrances related to reimbursable services agreements (RSAs) and other contractual services. Additionally, we specifically reviewed the encumbrances related to the Department of Law's oil and gas litigation appropriation.

Scope and Methodology

The primary focus of our review was encumbrances either established or increased at the end of FY 95 in agencies' operating appropriations. The criteria for our evaluation was developed from the State of Alaska Administrative Manual (AAM) and the Office of Management and Budget (OMB) RSA handbook (see Background Information).

Our review included:

1. Extracting and analyzing financial information from the State's accounting system regarding encumbrances and related subsequent expenditures.
2. Discussions on the AAM criteria with the state accountant.
3. Review of agency documentation supporting the encumbrances and a review of OMB's RSA files.
4. Discussing the results of our review with various agency staff.

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BACKGROUND INFORMATION

The criteria for determining the validity of encumbrances is primarily a combination of Alaska Statutes and the State of Alaska Administrative Manual (AAM).

Additionally, the budget act annually includes the following or similar wording:

The following appropriation items are for operating expenditures from the general fund or other funds as set out in the fiscal year 1995 budget summary for the operating budget by funding source to the agencies named for the purposes expressed for the fiscal year beginning July 1, 1994 and ending June 30, 1995, unless otherwise indicated.

Alaska Statute 37.25.010, titled Unexpended Balances of One-Year Appropriations, states that the unexpended balances of a one-year appropriation authorized in an appropriation bill lapses on June 30 of the fiscal year for which appropriated. However, a valid obligation (encumbrance) existing on June 30 is automatically reappropriated for the fiscal year beginning on the succeeding July 1 if it is recorded with the Department of Administration by August 31 of the succeeding fiscal year.

The Department of Administration, Division of Finance has defined in the AAM 30.010 that encumbrances are commitments related to unperformed (executory) contracts for goods and services. Further guidance is given in AAM 25.16 entitled Fiscal Year Obligations.

The table below summarizes the AAM criteria for charging a fiscal year's appropriation.

Expenditure Category	Fiscal Year Obligation
Personal Services	Costs should be charged to the fiscal year's appropriation in which the costs were incurred.
Travel	Costs should be charged to the fiscal year's appropriation based on the dates of travel.
Material, Supplies, and Equipment	These costs should be charged to the fiscal year's appropriation based on the date of commitment to purchase.
Contractual Services	These costs should be charged to the fiscal year's appropriation based on the date service is received. There are some exceptions allowed when funds are appropriated to conduct a specific project, the contract is for a fixed price and is not severable, the purpose is identifiable in the department's budget documents, and a request for proposal has been released to prospective offerors before June 30.
Reimbursable Services Agreements (RSAs)	RSAs are contracts for services between state agencies and should follow the same rules as those that apply to contractual services (See above).

Role of OMB Budget Review

In addition to the statutes and the AAM, the State Finance Officers Association and the Office of Management and Budget, Division of Budget Review (OMB) have developed an RSA handbook that provides some guidance on the purpose and processing of RSAs. Part of the review process for OMB is to determine if the commencement and completion dates are consistent for the type of appropriation paying for the services or product; an operating appropriation cannot pay for a service which crosses into a future fiscal year.

Criteria used for testing contractual services and RSA encumbrances

We developed criteria from the AAM for evaluating selected encumbrances. Specifically, we used AAM 25.160 which defines the fiscal year to which an obligation should be charged.

As a general rule, the date service is received on a contract for services determines the fiscal year's authorization to be charged. The costs for services received from doctors, dentists, lawyers, accountants, consultants, janitors, maintenance workers, carpenters, window washers, and others performing services for the state on a weekly or monthly contract basis . . . should be charged only to the current fiscal year's authorization.

That section continues and provides an exception to the general rule for items that meet all of the following criteria:

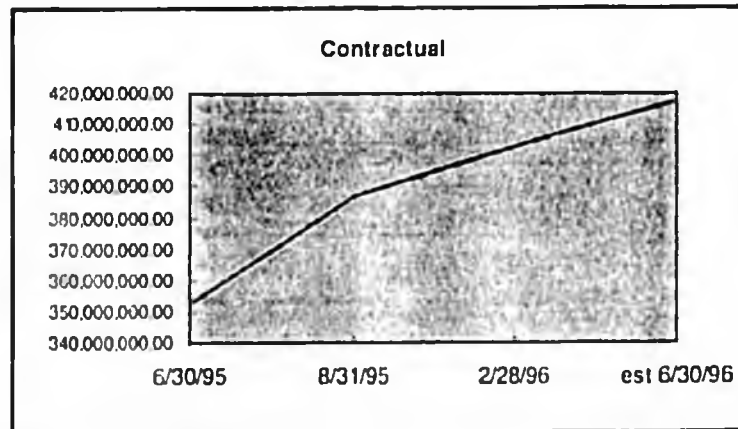
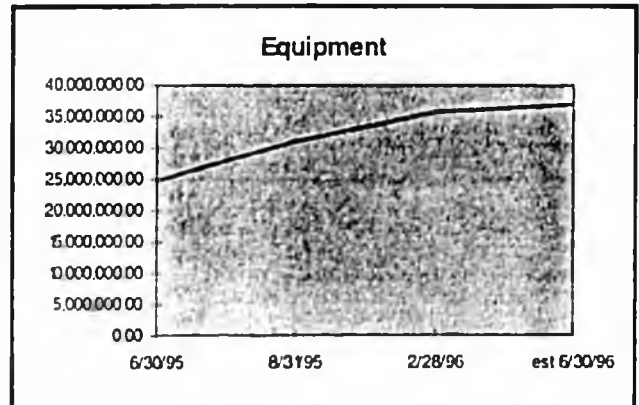
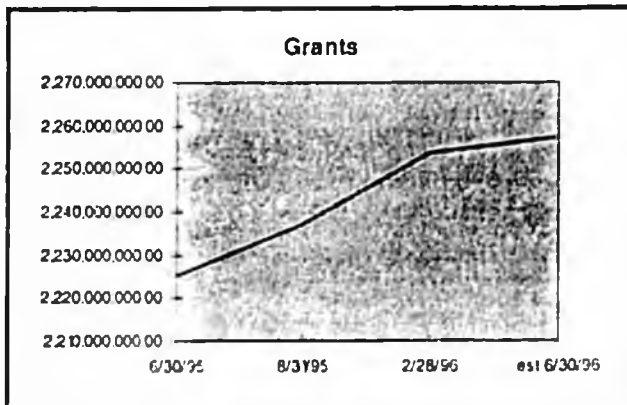
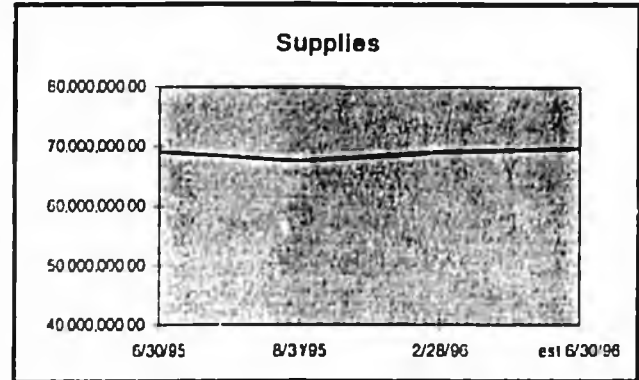
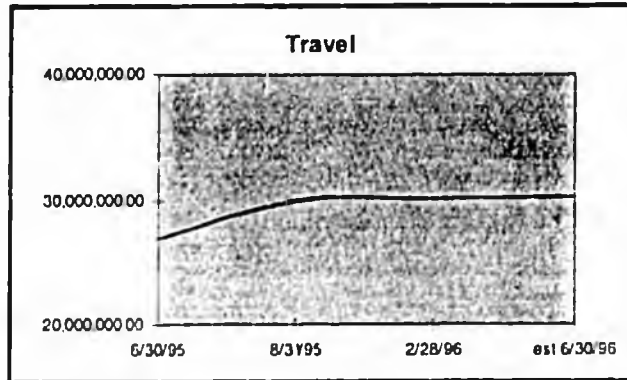
- a. funds have been appropriated for services to conduct a specific project;
- b. these contracts usually are for a "fixed price" and the product to be provided is not severable as to fiscal year;
- c. the purpose should be identifiable in the department's budget, approved program, and financial plans required by Alaska Statute 37.07.050; and
- d. a request for proposals must have been released to prospective offerors on or before June 30.

Analysis of Expenditures after June 30, 1995

On the next page are a series of graphs that illustrate the amount of spending by expenditure category after the end of the fiscal year.¹ The dates on the graphs were selected because June 30 is the end of the fiscal year, and August 31 is the last day to pay bills related to prior year appropriations without an encumbrance. Spending after August 31 from prior year appropriations is limited to liquidation of existing encumbrances. The amount shown as of June 30, 1996 is total expenditures to date, plus the balance of outstanding FY 95 encumbrances.

¹ We have not included personal services expenditures as the AAM is very specific on which fiscal year's appropriation is to be charged and these costs are primarily recorded systematically by the statewide payroll system.

As can be seen on the graphs, the increased costs in travel and supplies do not appear to be substantial. Travel costs increase by \$3.2 million, while spending on supplies increased by \$500,000. The amount spent on grants increased by over \$32 million, just over 1% of the amount spent by June 30, 1995. Most of these costs are payments in July and August for expenditures that occurred on or before June 30, 1995. Contractual expenditures increased by \$65 million, an 18% increase over spending as of June 30, 1995. Contractual expenditures show the most substantial increase after August 31, 1995.



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REPORT CONCLUSIONS

The basic purpose of an operating appropriation is to provide funding for state agency operations for one fiscal year. Generally, it should be used to pay for no more than 12 months worth of expenses for goods and services. There should be little difference in which fiscal year's appropriation is charged for services provided by agency staff or by contract. The encumbrances we reviewed were focused primarily on contractual services combined with some review of equipment and travel items. Generally, we found equipment to be purchased in accordance with the Alaska Administrative Manual (AAM), except for the Department of Fish and Game (DFG) that had a systematic problem with year-end equipment purchases. DFG had identified this problem prior to our review and had taken steps to correct its internal control weakness. We found substantial problems in year-end encumbrances for contractual services and reimbursable service agreements (RSAs). The results of our testing is summarized in the following table.

Department	Encumbrances Tested	Amount Tested	Invalid Encumbrances	Amount Invalid
Office of the Governor	3	\$211,018	1	\$6,080
Administration	5	\$317,280	1	\$129,646
Law	14	\$10,174,702	13	\$10,074,702
Revenue	4	\$126,370	2	\$75,000
Education	6	\$547,854	1	\$10,000
Health and Social Services	15	\$1,591,337	9	\$899,405
Labor	2	\$66,700	1	\$20,000
Commerce and Economic Development	3	\$1,628,132	1	\$475,000
Military and Veterans Affairs	4	\$50,615	-0-	\$ -0-
Natural Resources	6	\$527,992	1	\$25,000
Fish and Game	6	\$89,731	3	\$47,854
Environmental Conservation	4	\$169,967	1	\$84,888
Corrections	1	\$150,000	-0-	\$ -0-
Community and Regional Affairs	4	\$170,352	-0-	\$ -0-
Transportation and Public Facilities	2	\$48,092	-0-	\$ -0-
Total All Departments	79	\$15,870,642	34	\$11,847,575

Evaluation of contractual service and RSA encumbrances

To determine compliance with the basic purpose of an operating appropriation, we reviewed encumbrances established at the end of FY 95. The results of our review indicated that if the scope of the service fit within the appropriation's general purpose, and there was at least a

request for proposal issued before June 30, 1995, then state agencies would establish encumbrances of FY 95 appropriations, regardless of when the services were to be received.

We found the interpretation of the AAM used by the agencies to validate the encumbrances is not reasonable. Two of the exception criteria focus on the funds appropriated and the budget documents supporting the appropriation: (a) funds have been appropriated for services to conduct a specific project; and (b) the purpose should be identifiable in the department's budget, approved program, and financial plan required by AS 37.07.050. We agree that these elements are somewhat subjective in how well defined a project should be. However, since these elements are intended to be the exceptional situations rather than the rule, it is only reasonable that the documentation required to meet these encumbrance criteria should be more than merely conformance with the general purpose of the appropriation being charged.

The exception relating to contracts that are for a "fixed price" and the product to be provided is not severable as to fiscal year is the element that has been the most unreasonably applied by state agencies. The AAM is providing directions on how the costs associated with a contract should be charged to appropriations; it is not addressing the length of contracts. The issues of fixed price and nonseverability as to a fiscal year are addressing whether the agency will be able to determine when the services are provided. The contracts that we reviewed had either a weekly/monthly or some other periodic billing cycle; as a result, there was sufficient evidence to determine in which fiscal year the services were being provided.

During the course of the audit a question was raised about a provision of the Procurement Code that states "procurement requirements may not be artificially divided or fragmented." This is not a relevant issue because AS 36.30.390 provides for multi-term contracts.

Unless otherwise provided by law, a contract for supplies, services, or professional services may be entered into for any period of time considered to be in the best interest of the state provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds for them.

Additionally, we have concerns about agencies using RSAs to circumvent very explicit AAM criteria requiring payroll and travel costs to be charged to the fiscal year's appropriation based on when the costs were incurred. The clearest example of this is the RSA between the Department of Health and Social Services (DHSS), as the requesting agency, and the Department of Administration (DOA), as the servicing agency, for long term care statewide planning (see the table on the next page). The period of performance was from June 1, 1995, until December 31, 1995, and the RSA was approved by the Office of Management and Budget (OMB) on June 16, 1995. This RSA provided \$50,000 for Department of Administration, Senior Services' staff payroll and travel costs. An additional \$80,000 provided funding for a contract with a national expert on long term health care issues.

Basically, this RSA allows DOA to charge FY 96 personal services and travel costs to an otherwise lapsing FY 95 appropriation.

The following are examples of contracts and RSAs that, in our opinion, were inappropriately encumbered to FY 95 operating appropriations.

<i>Department</i>	<i>Encumbrance</i>	<i>Amount</i>	<i>Description</i>	<i>Comments</i>
Administration	EN 0254870	129,646	Long Term Care (LTC) Statewide Planning	Period of performance 6/1/95-12/31/95 includes funding for DOA Senior Services staff and travel during FY 96. This encumbrance is funded by an RSA with DHSS.
Law	EN 0325122	130,000	G. Koester Dinkum Sands Case	The period of performance is from 7/26/91 to "close of case." This encumbrance funded amendment #3 to a pre-existing contract. This encumbrance has paid for costs incurred from June 95 - January 96.
	EN 0355271	100,000	Exxon Hearing Examiner	Period of performance was extended to 6/30/96 for the services of an appointed independent hearing examiner.
Revenue	EN 0457526	50,000	Arthur D Little Limited	Period of performance 6/28/95 to 9/30/95.
	RS 0450050	25,000	RSA with Law - feasibility study	While the period of performance on the RSA between Revenue and Law was 6/1/95 to 6/30/95, Law amended a pre-existing contract to include this feasibility study. Law signed this contract amendment on 6/28/95 with a completion date of 6/30/96.
Education	EN 056106	10,000	ME-AVTEC Technology Upgrade	Period of performance was 8/1/95 - 10/15/95. RFP was not issued until July 1995. Contract is for a comprehensive technology plan and implementation schedule.
Health and Social Services	EN 0650769***	200,000	Facilitator for Behavior	No contract had been signed by 6/30/95, only an RFP has been issued.
	EN 0650770**	125,000	Actuarial Analyses of Behavior	No contract had been signed by 6/30/95, only an RFP had been issued.

² ** DHSS disagreed that these were invalid encumbrances, however they have been voided as a result of a decision to delay implementation of a managed mental health care system in the State.

<i>Department</i>	<i>Encumbrance</i>	<i>Amount</i>	<i>Description</i>	<i>Comments</i>
Health and Social Services (continued)	EN 0650776	150,000	Home Care Service Program Evaluation	No contract was awarded by 6/30/95. No services were provided in FY 95.
	RS 0650359	150,000	RSA with Law - State Response to Federal Welfare Reform	Period of performance is 6/1/95 - 6/30/96. The RSA was approved by OMB 6/30/95. DHSS required legal services to help assess the impact of to the state of federal welfare reform.
	RS 0650419	130,000	RSA with Administration	DHSS is contracting for services to be provided by DOA, Senior Services staff plus funding for a consultant contract regarding long term care state reforms. (See above EN 0254870)
Labor	RS 0754060	20,000	Expert Witness for Occupational Health and Safety	While the RSA period of performance is 6/22/95 - 6/30/95, this RSA was not approved by OMB until 6/29/95. Also, the contract between Law and the expert witness has a period of performance of 6/23/95 - 6/30/96. Court proceeding when the witness would be needed was scheduled for 7/6/95 - 7/7/95.

Analysis of Department of Law encumbrances

We reviewed several contracts charged to the Department of Law's oil and gas litigation appropriation, including the supplemental funding for the FY 95 appropriation. The encumbrances reviewed were related to on-going litigation matters. The scope of the contracts are very broad and generally do not reference any case or project in particular. Of the 13 encumbrances reviewed, six were originally established in the 1980s with the other seven established in the 1990s; only two were initiated in FY 95.

In our opinion, no portion of the encumbrance balances remaining after the June 30, 1995 bills were paid represented valid obligations of the FY 95 oil and gas litigation appropriation. The payments on these contracts are supported by periodic billings from attorney firms which clearly document when the services were provided. Additionally, the scope of work is certainly too vague to support an assertion that the contract is for a specific project. Many of the encumbrances that we reviewed were for contract amendments signed on June 28, 1995.

The following is a schedule of amendments signed on June 28, 1995, to existing contracts and at least a portion of the funding for the amendment was charged to the FY 95 oil and gas litigation appropriation.

Encumbrance Reference	Amendment Amount	Amount Encumbered to FY 95 Appropriation	Amount Encumbered to FY 96 Appropriation
EN 335076	\$ 30,000	\$ 30,000	\$ -0-
EN 355072	\$ 800,000	\$ 500,000	\$ 300,000
EN 385258	\$2,700,000	\$2,200,000	\$ 500,000
EN 355009	\$ 500,000	\$ 500,000	\$ -0-
EN 335072	\$6,500,000	\$5,000,000	\$1,500,000
EN 355013	\$2,000,000	\$ 500,000	\$1,500,000

The Department of Law's primary function is to provide legal services for the State either utilizing its own personnel or through contracts with private attorneys. The annual operating appropriations to the Department of Law should be used to pay for legal services provided in that fiscal year, regardless of whether they used its own personnel or utilize contract attorneys. Therefore, we conclude it was inappropriate to encumber the balance of the FY 95 oil and gas litigation appropriation for services to be received in FY 96. Those funds should have lapsed on June 30, 1995. The costs incurred should have been charged as, and should now be corrected to reflect, FY 96 legal services expenditures.

Recommended Changes

In summary, there has been substantial noncompliance with the AAM ostensibly from misapplication by agency staff of the exception criteria for contractual services and RSAs. The current criteria for most expenditure categories is relatively objective, however, some elements, particularly for contractual services, are subjective and open to interpretation. It is in these areas where most of the abuse is occurring. Therefore, we are recommending that the AAM criteria be revised. We believe that this is the best recommendation, as it would still allow for some, but limited, flexibility for the administration of state programs. We believe this flexibility is necessary to avoid overly burdensome administrative requirements in managing state programs by agency staff and vendors doing business with the State. The intent of our recommendation is to realign the AAM criteria to more closely mirror the general intent of operating appropriations, which is, to fund the operations of state agencies for one fiscal year.

However, absent executive branch action to strengthen the AAM, a legislative option would be to modify AS 37.25.010 to require the unexpended balance of an operating appropriation to lapse at June 30. While this would allow the agencies to pay any outstanding bills until August 31 for expenditures incurred on or before June 30, no funds could be used to pay for any goods or services received after June 30.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The commissioner of the Department of Administration should revise the State of Alaska Administrative Manual (AAM) to provide more explicit instruction on determining the proper fiscal year's appropriation to be charged for year-end obligations. The revisions should realign the AAM criteria to embody the basic purpose of an operating appropriation, which is, to fund the operations of a state agency for one fiscal year.

We reviewed 79 encumbrances established by agencies in operating appropriations at the end of FY 95. Of those, we determined 34 encumbrances or 43% were inappropriate FY 95 obligations. These errors were primarily for contractual services and reimbursable service agreements (RSA) and resulted from a misapplication of existing AAM criteria on what constitutes a valid year-end encumbrance.

The elements that agencies misapplied were those relating to the funds appropriated and the budget documents supporting the appropriation: (a) funds have been appropriated for services to conduct a specific project; and (b) the purpose should be identifiable in the department's budget, approved program, and financial plan required by AS 37.07.050. While these elements may be subjective in how well defined a project should be, since they are intended to be the exceptions rather than the rule, it is reasonable that the documentation required to meet these criteria should be more than merely conformance with the general purpose of the appropriation being charged.

Additionally, the exception criteria relating to contracts that are for a "fixed price" and the product to be provided is not severable as to the fiscal year is an element that has also been misapplied by state agencies. The AAM is providing directions on how the costs associated with contracts be charge to appropriations, it is not addressing the length of contracts. The issue of fixed price and not severable as to fiscal year is addressing whether the agency will be able to determine when the services are provided. The contracts that we reviewed had either a weekly/monthly or some other periodic billing cycle; as a result there was sufficient evidence to determine in which fiscal year the services were being provided.

Changes to the AAM are generally done through a deliberative process that coordinates responses and concerns of various state agencies. Therefore, we recommend that the commissioner of the Department of Administration initiate the process to change and clarify the AAM. The AAM should clearly communicate that an operating appropriation is to be used to fund agency operations for one fiscal year.

The following are suggested changes that would closer align the AAM directive on charging expenditures to the correct fiscal year's appropriation.

- Equipment purchases must be ordered by June 30 and the goods ordered must be received by August 31.
- A specific lump sum contract (no interim billings), that does not exceed twelve months may be charged to one fiscal year's appropriation if over 50% of the period of performance is in the fiscal year being charged and the contract is completed by August 31 of the subsequent year.
- Contracts (including all amendments) that do not exceed twelve months may be charged to one fiscal year's appropriation if the period of performance does not extend beyond August 31 and 75% of the services received under the contract or amendment have been received by June 30.

Except for those circumstances identified above, all payments for good or services should be paid from the fiscal year's appropriation in which the goods or services were received.

We recognize that the suggestions above eliminate all subjective elements in determining which fiscal year's appropriation is to be charged, and this will result in less flexibility to administer state programs. However, the intent of our recommendation is to realign the AAM criteria to embody the basic purpose of an operating appropriation which is to fund the operations of a state agency for one fiscal year.

TONY KNOWLES, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX C
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March 27, 1996

RECEIVED
MAR 29 1996

LEGISLATIVE AUDIT

Randy S. Welker
Legislative Auditor
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Mr. Welker:

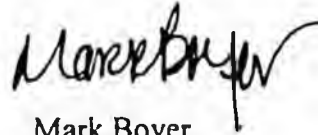
Thank you for the opportunity to comment on the preliminary audit report: State of Alaska Review of FY 95 Year-End Operating Encumbrances, March 5, 1996.

Recommendation no. 1

The commissioner of the Department of Administration should revise the State of Alaska Administrative Manual (AAM) to provide more explicit instruction on determining the proper fiscal year's appropriation to be charged for year-end obligations. The revisions should realign the AAM criteria to embody the basic purpose of an operating appropriation, which is, to fund the operations of a state agency for one fiscal year.

We concur with the recommendation and will proceed to revise the Administrative Manual prior to FY 96 year end activity.

Sincerely,



Mark Boyer
Commissioner

cc: Sharon Barton
Director
Division of Administrative Services

Don Wanie
Director
Division of Finance

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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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FAX: (907) 465-2075

April 4, 1996

Randy S. Welker, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
Alaska State Legislature
P.O. Box 113300
Juneau, Alaska 99811-3300

RECEIVED
APR 04 1996

LEGISLATIVE AUDIT

Re: State of Alaska Review of FY95
Year-End Operating Encumbrances,
March 5, 1996

Dear Mr. Welker:

This letter responds to the preliminary audit report entitled "State of Alaska Review of FY95 Year-End Operating Encumbrances, March 5, 1996." In the preliminary report, the Division of Legislative Audit is recommending amendments to the state administrative manual that would dramatically change the definition of a valid encumbrance.

The Department of Law respectfully disagrees with the conclusions contained in the preliminary audit report. There may well be a need for improvement of the state administrative manual. However, the changes you propose may unintentionally impair the litigation effort of the Department of Law, rather than achieve the intended results. In the preliminary audit report, you express an intent to limit the effect of operating appropriations to a single fiscal year to the greatest extent possible. Whether that should be the primary goal of fiscal administration is subject to debate. I believe that a better goal is the development of encumbrancing rules that accomplish the legislature's intent in making appropriations for the operations of state government. That, in fact, is the purpose of AS 37.25.010(a) and the implementing provisions of the state administrative manual.

The Nature of Oil and Gas Litigation Contracts

As you are well aware, the operating appropriations for the Department of Law and other principal departments are decreasing in size. A common sense definition of a valid encumbrance is needed to ensure that operations can be conducted under existing law within the limited funding available. The Department of Law is charged with the administration of a large appropriation made to finance the cost of long-standing major oil and gas litigation. Until recently, the legislature would finance only a portion of the department's yearly oil and gas litigation budget request in the annual general appropriations act. This was done to permit review of the department's caseload and make funding adjustments in the supplemental appropriations act. The structuring of legislative appropriations in this manner is one of the primary means of legislative control and oversight.

While the department's oil and gas litigation contracts are not always specific as to the cases for which a given contract is made, each contract is directed to a single undertaking. For example, a series of cases relate to our oversight of the tariffs filed for the transportation of oil over the TAPS. Another example is our representation of the Department of Revenue in corporate and production tax matters. These are not ordinary cases. Most of these cases have remained active over several fiscal years. Our opponents are some of the largest and best-financed corporations in the world. They engage entire law firms to represent their interests. The cases typically revolve around the exchange of millions of pages of documents between the parties. Schedules are set for these cases by independent hearing officers or judges who can make unforeseen adjustments. Often our opponents, whose funding is not limited to a state fiscal year, can dictate the events of a particular case. Case schedules, and thus contract performance, do not neatly conform with the beginning or end of a state fiscal year.

The department records encumbrances consistent with its long-standing interpretation that litigation contracts are entire, not severable. The distinction between entire and severable contracts was first developed under federal appropriations law. The Comptroller General has stated:

[t]he fact that the contract covers a part of two fiscal years does not necessarily mean that payments thereunder are for splitting between the two fiscal years involved upon the basis of services actually performed during each fiscal year. In fact, the general rule is that the fiscal year appropriation current at the time the contract is made is chargeable with payments under the contract, although performance thereunder may extend in to the ensuing fiscal year.

23 Comp. Gen. 370, 371 (1943). The preliminary audit report emphasizes the point that outside counsel bills the state on a periodic basis at hourly rates. From this, you conclude that the contracts are severable by fiscal year. However, the absence of control over the schedule for completion of litigation contracts is the primary characteristic which distinguishes these contracts from severable single-year obligations. It is therefore the timing of performance, not the timing of payments, that determines whether a contract is entire or severable. The hourly rates and periodic billing required of our contractors are imposed mainly for cost control purposes. Moreover, the cost of litigating these cases is so high, with fluctuations so unforeseeable, that it would not be feasible for the legislature to fully fund a specific contract in a single appropriation.

Each contract and succeeding amendments to it are made for fixed amounts, generally corresponding to the availability of funding for foreseeable activities. Contractors are required to prepare budgets that correspond to their case activities. The budgets change frequently as the case progresses in response to the tactics of parties opposing the state or in response to decisions by the adjudicator. Consequently, these changes are, for the most part, outside the control of the department. The department uses the contractor's budgets as a tool to make annual appropriation requests of the legislature to cover the activities which, again, often span more than a single fiscal year.

The state administrative manual describes circumstances under which an encumbrance is considered valid for purposes of reappropriation. One of these factors is whether the purpose is identified in the department's budget. AAM 25.160. This factor is essential to determining whether a reappropriation, under AS 37.25.010(a), to cover a valid existing encumbrance is consistent with the legislature's intent in making the operating appropriation against which the encumbrance is to be charged. Thus, for oil and

gas litigation, the department provides descriptions of the continuing cases in the budget detail submitted to the legislature.¹

Reimbursable Service Agreements and Other Contracts

For other contracts, including reimbursable service agreements, budget identification is developed from a broad array of sources. The legislature makes appropriations to carry out the purpose of a program. For the most part, these operating appropriations are general in nature. The purpose is specified in a number of ways, beginning with the statutory authorization of a program. The legislature is presumed to make appropriations with full knowledge of existing law. In some appropriations, purpose is specifically identified by the legislature in a separate purpose statement.

For most operating appropriations, only programs, amounts, and funding sources are set out in the general appropriations act. Purpose for these items is derived from the expressed powers and duties of departments and programs as identified in enabling statutes. Purpose is further documented through agency budget requests where the statutory framework is identified, an overview of the programs is provided, and a financial plan for the upcoming year is presented. The legislature then clarifies and further defines the purpose of the appropriation through the legislative hearing process.

The budget document itself is a planning tool around which this discussion takes place, but it is not anticipated to be a comprehensive financial plan for the program that will be adhered to without change. Program execution, AS 37.07.080(e) and (f), anticipate and provide a process through which budget modifications may be made during the course of the fiscal year. The legislature's broad use of the miscellaneous budget line item underscores the necessity for mid-course budget modifications. This practice clearly demonstrates the general nature of the state's annual operating appropriations.

¹ The department does not list specific contract amounts on a case-by-case basis in the budget detail. To do so would not only disclose confidential information to our opponents, but would also result in increased costs to the state to litigate these cases. However, the department has consistently, for the past several years, briefed members of the legislature in executive session on the specifics of individual oil and gas cases.

Encumbrance of FY 1995 Oil and Gas Litigation Funds

Because of the extraordinary amount of FY 1995 oil and gas litigation funds that were encumbered for use in FY 1996, it is important to review the circumstances that led to the encumbrance of these funds.

Two factors, neither which could be predicted and planned for, contributed to the size of the FY 1995 carry forward for oil and gas litigation. During the second half of the fiscal year, two major oil and gas litigation cases were settled, a significant tax case and the gas royalty case. Trial teams in both cases were geared up for active litigation, and some time was needed to close down those cases and redirect the teams to other, pending issues. These events significantly altered our monthly budget projections for FY 1995 and FY 1996, which were based on both cases proceeding to scheduled trial or hearing. The second factor was the legislature itself. The FY 1995 budget was over funded at the expense of FY 1996. When the department's budget was originally submitted in October 1994, I requested \$36.5 million for FY 1996 and a supplemental appropriation of \$20.8 million for FY 1995. The combined request totaled \$57.3 million.

Near the end of the 1995 legislative session, the combined projected need for oil and gas litigation was reduced to about \$39 million (encompassing both the FY 1995 supplemental and the FY 1996 operating appropriations) due to the settlement of the major tax and royalty gas cases. At that point, the leadership of the legislature indicated that it intended to cut an additional \$4 million. I advised the House and Senate Finance chairs that I could reduce one or the other appropriation request to this new combined level, but not below that level, and still manage to litigate the remaining cases without significant impacts, especially delay.

The leadership concurred and \$14.9 million was appropriated for the FY 1995 supplemental budget and \$20 million was appropriated for FY 1996 with the understanding that we would continue the practice of encumbering prior year funds for oil and gas litigation, a practice that has been honored because of the universal recognition of the difficulty in predicting far in advance the actual pace of complex litigation. In short, the department has not sought to expend more resources than were necessary to get the job done. Instead, the department has worked diligently to conduct this litigation at a reasonable cost to the state, as evidenced by the \$18.3 million reduction the department recommended in the oil and gas litigation funding for FY 1995 and FY 1996. The department did not abuse the encumbrance system, but rather acted in a reasonable and prudent manner.

Conclusion

The state administrative manual would be too strictly construed if it were interpreted to require specific authorization for each encumbrance for a contract considered to be entire rather than severable. The factors proposed in the preliminary audit report for assigning obligations to a fiscal year are artificial and lack the means to adapt to the special circumstances of litigation.

The Department of Law has provided a handsome return on every dollar the legislature has committed to the oil and gas litigation budget request unit. The department also provides economical and efficient representation to other agencies under reimbursable services agreements. The success of the department's effort is largely due to the consideration and discretion granted to the attorney general to incur the expense necessary to prevail in litigation. This requires the ability to respond promptly and adequately to the tactics of parties adverse to the state who do not have to operate within the state personnel system or under the constraints of the state's fiscal rules.

For these reasons, I respectfully request that you reconsider your suggested language changes to the state administrative manual in light of the special needs of the state's litigation effort.

Sincerely,



Bruce M. Botelho
Attorney General

BMB:clh

cc: Mark Boyer, Commissioner of Administration
Annalee McConnell, Director, OMB
Nancy Slagle, Director, Budget Review