

**HB**

**287**

**SFIN**

**FILE**

1-GH2043V  
Utermohle  
5/1/00

**SENATE CS FOR CS FOR HOUSE BILL NO. 287(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act making capital appropriations that are funded from the sale of  
2 revenue bonds that are issued by the Alaska Housing Finance Corporation or  
3 a subsidiary of the Alaska Housing Finance Corporation and that are to be  
4 repaid either from the revenue derived from the settlement of State of Alaska  
5 v. Philip Morris, Incorporated, or from revenue of the Alaska Housing Finance  
6 Corporation to the Department of Education and Early Development for public  
7 school facilities, to the University of Alaska for facilities for the University of  
8 Alaska, and to the Department of Transportation and Public Facilities for  
9 facilities for ports and harbors; and providing for an effective date."

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

11 \* Section 1. PUBLIC SCHOOL FACILITIES; FACILITIES FOR THE UNIVERSITY OF  
12 ALASKA; AND FACILITIES FOR PORTS AND HARBORS. (a) The sum of \$92,911,000

1 is appropriated to the Department of Education and Early Development for construction,  
 2 renovation, and improvement of public elementary and secondary schools from the proceeds  
 3 of the revenue bonds described in sec. 3 of this Act that are issued by the Alaska Housing  
 4 Finance Corporation, or a subsidiary of the corporation, and is allocated among the following  
 5 projects in the amounts set out:

6 PROJECT	7 ALLOCATION
8 Lower Yukon - Pilot Station School Replacement	17,654,000
9 Lower Yukon - Kotlik School Replacement	17,911,000
10 Kashunamiut - Chevak School Replacement	28,273,000
11 Bering Strait Schools - Elim School, Phase III	12,147,000
12 Southwest Region Schools - Manokotak School Replacement	14,689,000
13 Kake - Elementary School Addition	2,237,000

14 (b) The sum of \$61,488,000 is appropriated to the University of Alaska for  
 15 construction and renovation of university facilities from the proceeds of the revenue bonds  
 16 described in sec. 3 of this Act that are issued by the Alaska Housing Finance Corporation, or  
 17 a subsidiary of the corporation, and is allocated among the following projects in the amounts  
 18 set out:

19 PROJECT	20 ALLOCATION
21 University of Alaska - Southeast Deferred Maintenance, Renewal and 22 Replacement, and Code Compliance	\$ 1,388,000
23 Classroom Building	5,200,000
24 University of Alaska - Anchorage 25 Consortium Library	34,000,000
26 Deferred Maintenance, Renewal and 27 Replacement, and Code Compliance	2,200,000
28 University of Alaska - Fairbanks 29 Deferred Maintenance, Renewal and	18,700,000
30 Replacement, and Code Compliance	

31 (c) The sum of \$5,977,000 is appropriated to the Department of Transportation and

1 Public Facilities to pay for construction and renovation of port and harbor facilities from the  
 2 proceeds of the revenue bonds described in sec. 3 of this Act that are issued by the Alaska  
 3 Housing Finance Corporation, or a subsidiary of the corporation, and is allocated among the  
 4 following projects in the amounts set out:

5 CORPS OF ENGINEERS MATCH

6	Program Formulation	100,000
7	Ketchikan Harbor Study	200,000
8	Wrangell	500,000
9	Metlakatla - Tamgass	850,000
10	Ouzinkie	1,300,000
11	Seward Harbor Expansion	2,925,000
12	Perryville Harbor Feasibility	102,000

13 (d) In this section, "subsidiary of the corporation" means a subsidiary corporation of  
 14 the Alaska Housing Finance Corporation created under a statute enacted by the Twenty-First  
 15 Alaska State Legislature that permits the corporation to create subsidiary corporations for the  
 16 purpose of financing or facilitating the financing of school construction, facilities for the  
 17 University of Alaska, or facilities for ports and harbors.

18 \* Sec. 2. The appropriations made by this Act are for capital projects and lapse under  
 19 AS 37.25.020.

20 \* Sec. 3. CONTINGENT EFFECT. This Act takes effect only if a bill is passed by the  
 21 Twenty-First Alaska State Legislature and is enacted into law that authorizes the commissioner  
 22 of revenue to sell to the Alaska Housing Finance Corporation the right to receive a portion  
 23 of the revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated,  
 24 et al, No. 1JU-97-915 CI (Alaska Super. 1997) and authorizes the Alaska Housing Finance  
 25 Corporation or a subsidiary of the corporation to issue revenue bonds that are to be repaid  
 26 either from the revenue derived from the settlement or from the revenue of the Alaska  
 27 Housing Finance Corporation. In this section, "subsidiary of the corporation" has the meaning  
 28 given in sec. 1 of this Act.

29 \* Sec. 4. If, under sec. 3 of this Act, this Act takes effect, it takes effect July 1, 2000.

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/27/00

REPORTED OUT OF  
SFC 5/1/00

FURTHER:

DATE TURNED  
IN TO OFFICE: 1 May 00

Finance Committee considered CS FOR HOUSE BILL NO. 287(FIN) am(reengrossed)(efd fld)

APPPROPRIATIONS: SCHOOLS/UNIVERSITY./HARBORS

and recommends:

- be replaced with S CS CS HB 287 (FIN)
- adopt previous \_\_\_\_\_ CS CS \_\_\_\_\_
- attached amendment(s) forthcoming
- adopt Letter of Intent by \_\_\_\_\_
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
  - same title
  - new title
- House Bill:
  - same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lynne Messer</i>	✓	<i>Kate Kelly</i>		→	
<i>Kate Kelly</i>	✓	<i>Col Adams</i>	+		
		<i>Loren D. Leman</i>	✓		
<i>Frank Leibel</i>	→	<i>Michael Bailey</i>			✓
Co-Chair: <i>Johnson</i>	✓	Co-Chair:			
Co-Chair: <i>Paul Powell</i>	✓	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



SENATE FINANCE  
COMMITTEE

Amendment Number: #1  
Bill Number: HB 287  
Sponsor: Tomison Date: 5/1/00  
Logged In By: Mindy

I-GH2043\I.1  
Utermohle  
5/1/00

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 287(FIN), Draft Version "I"

1 Page 2, line 14:

2 Delete "\$61,488,000"

3 Insert "\$61,788,000"

4 Page 2, line 23:

5 Delete "5,200,000"

6 Insert "5,500,000"

7 Page 3, following line 12:

8 Insert a new subsection to read:

9 "(d) The sum of \$4,200,000 is appropriated to the Department of Education and Early  
10 Development for construction of AVTEC student housing in Seward from the proceeds of the  
11 revenue bonds described in sec. 3 of this Act that are issued by the Alaska Housing Finance  
12 Corporation, or a subsidiary of the corporation."

13 Renumber the following subsection accordingly.

# Bill History/Action Display



BILL: HB 287                      SHORT TITLE: APPROPRIATIONS: SCHOOLS/UNIV./HARBORS  
 BILL VERSION: CSHB 287(FIN) AM(REENGROSSED) (EFD FLD)  
 SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (S) FIN

STATUS DATE: 4/27/00

TITLE: "An Act making capital appropriations that are funded from the sale of revenue bonds that are issued by the Alaska Housing Finance Corporation or a subsidiary of the Alaska Housing Finance Corporation and that are to be repaid either from the revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated, or from revenue of the Alaska Housing Finance Corporation to the Department of Education and Early Development for public school facilities, to the University of Alaska for facilities for the University of Alaska, and to the Department of Transportation and Public Facilities for facilities for ports and harbors."

Full Text    No Fiscal Information for Bill/Resolution.

## Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
1/14/00	<u>1922</u>	(H) READ THE FIRST TIME - REFERRALS
1/14/00	<u>1922</u>	(H) FIN
1/14/00	<u>1922</u>	(H) GOVERNOR'S TRANSMITTAL LETTER
4/19/00	<u>3325</u>	(H) FIN RPT CS(FIN) NT 7DP 2NR 2AM
4/19/00	<u>3327</u>	(H) DP: DAVIS, PHILLIPS, WILLIAMS,
4/19/00	<u>3327</u>	(H) AUSTERMAN, BUNDE, MULDER, FOSTER;
4/19/00	<u>3327</u>	(H) NR: MOSES, GRUSSENDORF; AM: GRUSSENDORF
4/19/00	<u>3327</u>	(H) DAVIES
4/20/00	<u>3362</u>	(H) RULES TO CALENDAR 4/20/00
4/20/00	<u>3362</u>	(H) READ THE SECOND TIME
4/20/00	<u>3362</u>	(H) FIN CS ADOPTED UNAN CONSENT
4/20/00	<u>3363</u>	(H) AM NO 1 ADOPTED UNAN CONSENT
4/20/00	<u>3364</u>	(H) ADVANCED TO THIRD READING 4/21 CALENDAR
4/21/00	<u>3414</u>	(H) READ THE THIRD TIME CSHB 287(FIN) AM
4/21/00	<u>3414</u>	(H) PASSED Y26 N12 A2
4/21/00	<u>3415</u>	(H) EFFECTIVE DATE(S) UNAN CONSENT
4/21/00	<u>3415</u>	(H) BERKOWITZ NOTICE OF RECONSIDERATION
4/24/00	<u>3473</u>	(H) RECONSIDERATION NOT TAKEN UP
4/24/00	<u>3473</u>	(H) TRANSMITTED TO (S)
4/25/00	<u>3485</u>	(S) RETURNED TO HOUSE
4/25/00	<u>3481</u>	(H) RECEIVED FROM SENATE
4/25/00	<u>3501</u>	(H) RESCIND PREVIOUS ACTION
4/25/00	<u>3501</u>	(H) RETURN TO SECOND FOR AM 2 UNAN CONSENT
4/25/00	<u>3501</u>	(H) AM NO 2 (TITLE AM) ADOPTED UNAN CONSENT
4/25/00	<u>3502</u>	(H) RETURN TO SECOND FOR AM 3 UNAN CONSENT
4/25/00	<u>3502</u>	(H) AM NO 3 ADOPTED UNAN CONSENT
4/25/00	<u>3503</u>	(H) AUTOMATICALLY IN THIRD READING
4/25/00	<u>3503</u>	(H) HELD IN THIRD READING TO 4/26 CALENDAR
4/26/00	<u>3538</u>	(H) READ 3RD TIME AGAIN CSHB 287(FIN) AM
4/26/00	<u>3538</u>	(H) PASSED Y28 N11 E1
4/26/00	<u>3539</u>	(H) EFFECTIVE DATE(S) FAILED Y24 N15 E1
4/26/00	<u>3550</u>	(H) RETRANSMITTED TO (S)
4/27/00		(S) READ THE FIRST TIME - REFERRALS
4/27/00		(S) FIN
4/27/00		(S) REFERRED TO FINANCE

# **Tobacco Settlement Payment Securitization**

## **March, 2000**



**State of Alaska**

# Overview



- **Background on Tobacco Settlement**
  - Master Settlement Agreement (“MSA”)
- **Options for MSA Payments**
  - “Spend as you go”
  - “Trust built over time”
  - Securitization
- **How Securitization will work**
  - Benefits
  - Costs & risks
  - Uses of Bond Proceeds
- **G.O. vs. Tobacco Revenue Bonds**

# The Master Settlement Agreement (“MSA”)



- The MSA was signed on November 23, 1998 and included 46 states, five U.S. territories, the District of Columbia, and the four largest cigarette manufacturers.
  - The MSA requires the Participating Manufacturers (“PM”) to make unadjusted payments exceeding \$6.2 billion over the next 40 years, with additional payments in perpetuity.
  - Florida, Minnesota, Mississippi and Texas reached their own settlement agreements with the cigarette manufacturers.
  - Payments are for recovery of all claims and costs of the states.
- Most cigarette manufacturers are now parties to the MSA.
  - The Original Participating Manufacturers (“OPM”), Philip Morris, R.J. Reynolds, Brown & Williamson and Lorillard comprise approximately 97% of the domestic cigarette market.
  - 17 other manufacturers (Subsequent Participating Manufacturers “SPM”) have also signed the agreement.
  - In total, the PMs comprise approximately 99.7% of the domestic cigarette market, indicating that the MSA is acceptable to the tobacco industry.

# Benefits of the MSA



- **From the State's perspective:**
  - Alaska will receive large cash payments annually in perpetuity;
  - The MSA is an industry-wide settlement with payments based on total domestic cigarette shipments nationwide;
  - The MSA has been financed by higher cigarette prices, making it similar to an excise tax on cigarettes.
- **From the PM's perspective:**
  - They are released from past, present, and future smoking-related claims of the States;
  - The cost of the settlement is spread out over many years and passed on to consumers through higher prices;
  - They pay in proportion to their market share.

# Overview of MSA Payments



- **MSA payments are based on domestic cigarette shipments.**
  - Payments are recalculated each year, based on relative U.S. market share, and are subject to other adjustments.
  - Payments can fluctuate significantly based on cigarette consumption in the U.S.
  - If cigarette brands are sold, payment obligations follow the brands to the new manufacturer.
- **Payments are adjusted annually for several factors, including inflation and volume of domestic cigarette shipments.**
- **Payments are allocated to states based upon percentages specified in the MSA.**
  - Alaska's Initial and Annual Payment percentage is .3414187%

# Overview of MSA Payments

(continued)



- There are three types of payments to the states under the MSA:

## Initial Payments

- Up front payments made by the OPM for five years;

## Annual Payments

- Annual payments made by the OPM and SPM based on market share, in perpetuity;

## Strategic Contribution Payments

- Payments in 2008-2017 to reimburse states for their contributions to the legal costs associated with the MSA.

# Overview of MSA Payments

(continued)



- Payments are not released to an individual state until the occurrence of:

## State-Specific Finality

- A state has settled its pending or potential litigation;
- Alaska has State-Specific Finality.

## Final Approval

- The earlier of (1) June 30, 2000, and (2) the date when at least 80% of the states have reached State-Specific Finality.
  - Final Approval was achieved in November, 1999.
- The first two payments were received by the State, and the next payment is due April 15, 2000.

# Total MSA Payments to the State of Alaska



Initial Payment	(12/28/98)		1	\$ 8,194,049	\$ 8,194,049
Initial Payment	(01/10/00)		1	8,439,870	8,439,870
Annual Payment	(04/15/00)		1	13,451,043	13,451,043
Initial Payment	(01/10/01)		1	8,693,066	8,693,066
Annual Payment	(04/15/01)		1	14,945,604	14,945,604
Initial Payment	(01/10/02)		1	8,953,858	8,953,858
Annual Payment	(04/15/02)		1	19,429,285	19,429,285
Initial Payment	(01/10/03)		1	9,222,474	9,222,474
Annual Payment	(04/15/03)		1	19,429,286	19,429,286
Annual Payments	(04/15/04)	through (04/15/07)	4	23,912,965	95,651,860
Annual Payments	(04/15/08)	through (04/15/17)	10	24,387,538	243,875,380
Strategic Contribution Pmnts.	(04/15/08)	through (04/15/17)	10	14,739,285	147,392,850
Annual Payments	(04/15/18)	through (04/15/25)	8	27,327,153	218,617,224
Total to be received through 04/15/2025					<u>\$ 816,295,849</u>

Summary of amounts to be received through 04/15/2025	
Initial Payments	\$ 43,503,317
Strategic Contribution Payments	\$ 147,392,850
Annual Payments	\$ 625,399,682
	<u>\$ 816,295,849</u>

# MSA Payment Adjustments



- The MSA Payments are adjusted each year for a number of factors.
- The adjustments apply to certain payments. Some adjustments are expected to have little or no impact on Alaska's payments. However, other adjustments could be significant.

Adjustment	Initial Payments	Annual Payments	Strategic Payments
Inflation Adjustment		X	X
Volume Adjustment	X	X	X
Previously-Settled States Reduction		X	
Non-Participating Manufacturer Adjustment		X	X
Non-Settling States Reduction	X	X	X
Offset for Miscalculated or Disputed Payments	X	X	X
Federal Tobacco Legislation Offset		X	X
Litigating Releasing Parties Offset		X	X
Offset for Claims-Over		X	X

# Options for Settlement Money



- The MSA Payments can be utilized to accomplish many different objectives. Some of the popular strategies being employed by other states are:
  - Spend as you go. This strategy, as its name states, would include MSA Payments reflected in annual budgets as the funds have been or are scheduled to be received;
  - Trust built over time. This approach would work like the Permanent Fund, with the MSA Payments deposited to the Trust and a portion of income from the Trust used in future years for targeted expenditures;
  - Securitization. This approach involves borrowing money with the MSA Payments as collateral and source for repayment of bonds. The proceeds from the issuance of the bonds could be spent or put into a trust fund/endowment.

# How Securitization Would Work



- Securitization, in the case of the tobacco settlement, is the process of issuing bonds that are backed by the MSA Payments.
- Governments could transfer or “sell” all or a portion of their expected tobacco payment funding stream to a special-purpose entity (SPE), whose sole purpose is to issue bonds backed by those payments. The SPE, not the State or AHFC, would be the sole entity legally responsible for paying the debt service on the bonds.

# How Securitization Would Work



- The State and AHFC would be legally separate from the entity and, therefore, would not put their own credit ratings at risk through the tobacco bond issuance. This mechanism would afford the State and AHFC protection from problems resulting from reduced, stalled, or halted payment streams from the MSA.
- Although, based on the bonds sold to date, we are considering issuing tobacco revenue bonds at this time, other structures or combinations of structures may prove to be the most beneficial to AHFC and the State. Be assured that AHFC would select the alternative(s) most attractive to both the Corporation and State of Alaska.

# Sample Bond Issue



	<u>First Trauche</u>	<u>Second Trauche</u>	<u>Strategic Cont. CAB</u>	<u>Total</u>	<u>State Capital Project Bonds</u>
	2004-2039	2040-2042	2008-2017	2002-2042	2002-2007
Revenues					
Rated Maturities					
Planned Principal Avg. Life	12.7	20.5	Unknown		5.6
Final Planned Principal Mat.	2020	2021	2017		2007
Minimum Coverage - Rated Mat.	1.299	1.202	1		N/A
Minimum Coverage - Planned Mat.	1.046	1.001	1		N/A
Average Coverage - Rated	1.594	1.596	1		N/A
Average Coverage - Planned	1.068	1.038	1		N/A
True Interest Cost	6.2990%	6.8880%	5.43%-5.82%		5.2360%
Gross Bond Proceeds	263,280,000	18,960,000	57,204,837	339,444,837	102,365,000
Debt Service Reserve Fund	(20,318,054)	(1,896,000)	(5,720,284)	(27,934,338)	(2,050,000)
Capitalized Interest Account	(15,800,577)	(1,274,112)		(17,074,689)	
Interest Rate Adjustment Factor	(20,000,000)			(20,000,000)	
Cost of Issuance	(4,274,539)	(347,130)	(858,073)	(5,479,742)	(500,000)
Net Bond Proceeds	<u>202,886,830</u>	<u>15,442,758</u>	<u>50,626,480</u>	<u>268,956,068</u>	<u>99,815,000</u>
Amount Needed from State Capital Project Bonds				<u>91,043,932</u>	
				<u>360,000,000</u>	

3/23/00

# Potential Benefits of Securitization



- If we, as a society, are successful in getting people to stop smoking, there will be no payments under the MSA. With securitization, Alaska would transfer those down-side risks inherent in the MSA Payments to the Bondholders, while keeping the up-side potential.
- Securitization would provide a sizeable, up-front payment, rather than smaller payments spread over a number of years.
  - For immediate, pressing needs or special projects, securitization provides access to cash now. This approach is no different than borrowing money based on your future earnings to purchase a house, and paying it back over the next 30 years.

# Potential Benefits of Securitization

(continued)



- Tobacco settlement payments will vary from year to year, depending on inflation and domestic cigarette consumption, among other factors, so the up-front payment would provide Alaska with some budgetary certainty.
- With only the obligation of the SPE, the Bonds would require a higher coupon since the investor is bearing all of the MSA Payment risks.

# Potential Benefits of Securitization

(continued)



- **Securitization transfers the risks associated with the MSA Payments to the buyers of the bonds, including:**
  - Reductions in cigarette sales;
  - Bankruptcy of any or all of the PMs;
  - Invalidation of the MSA.
  - A possible increase in the federal cigarette tax;
  - Individual lawsuits against the industry and states; and
  - The impact of the additional volume reductions attributable to national smoking prevention and public education campaigns and significant additional restrictions related to the tobacco industry's marketing, advertising, and lobbying.

# Potential Risks and Costs of Securitization



- **Securitization involves potential risks.**
  - If annual payments are reduced, stalled, or halted, this will affect the SPE's ability to repay the bonds. There would be no legal obligation for the State or AHFC to repay the bonds.
- **There are also costs associated with bond issuance, including interest on the bonds, legal fees, bond closing costs, and ongoing trustee costs.**

# General Obligation vs. Tobacco Revenue Bonds



**Even though General Obligation Bonds are cheaper than Revenue Bonds, there are compelling reasons to use Revenue Bonds:**

- **There is a limited amount of G.O. bond capacity available to the State.**
- **By not selling the revenue stream to bondholders, the state is, in effect, holding a \$260 million investment in the Tobacco Industry, exposing the State to unnecessary industry concentration, credit concerns and illiquidity.**
- **Revenue bonds can be issued with debt service payable only from the revenue source identified. This makes them attractive to issuers where revenue streams are uncertain.**



# Uses of Bond Proceeds

- As discussed earlier, there are two basic approaches identified to date:
  - Spend Bond Proceeds on capital or other projects;
  - Put Bond Proceeds into a trust or endowment to fund future expenditures.
- On what and how the money is spent determines the tax status of the bonds.
- If Bond Proceeds are spent on qualifying capital projects or other qualifying expenditures, interest paid on them will be exempt from federal income taxes.
- If Bond Proceeds, or the earnings of a trust/endowment fund created with Bond Proceeds, are invested in taxable securities yielding above the cost of the bonds, the interest paid to holders of the bonds will be taxable.

Joe Dubler

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From: Sherrie Simmonds [ssimmond@ahfc.state.ak.us]  
Sent: Thursday, March 16, 2000 8:14 AM  
To: 'DAN FAUSKE'; 'MIKE BULLER'; 'JUDITH DESPAIN'; 'MARK CAMERON'; 'JOE DUBLER'; 'PETER HAINES';  
'RICHARD WHITEHEAD'; 'JOHN BITNEY'  
Subject: Bond Buyer Online Regional News.htm

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**THE BOND BUYER**  
.....  
**REGIONAL NEWS**

March 15, 2000

## **Kansas May Back Children's Bonds With Tobacco Money**

By Elizabeth Albanese

DALLAS -- **Kansas** officials are considering securitizing a portion of the state's \$1.8 billion tobacco lawsuit settlement to back \$300 million to \$400 million of taxable bonds that would fund programs benefiting children across the state.

"Right now, we're talking to the state Legislature," said **Kenneth Frahm**, executive director of the **Kansas Development Finance Authority**. "We'll see what they'll let us do about getting these things issued. In the meantime, of course, we have heard from a flood of underwriters letting us know they'd be willing to help with the issue, which we find really encouraging."

In 1999, the Legislature implemented the Children's Trust Fund Act, which devotes 100% of the state's tobacco settlement for children's programs, including health and education.

"When the Legislature opted to use the tobacco payments for children's initiatives, the possibility of securitization was discussed," Frahm said. "I think there

was always the idea that the state would like to put some of that money into bonds, divesting itself of some of the risk of losing money if the tobacco companies go out of business before the 25 years of payments are made. This would also give the state more money up front to put into these projects, and the ability to invest the money from selling the bonds and perhaps increase our capital."

Sen. **Dave Kerr**, R-Hutchinson, chairman of the Senate Ways and Means Committee, and Rep. **David Adkins**, R-Leawood, chairman of the House Appropriations Committee will meet with KDFSA representatives next week. They plan to study new debt schedule projections and discuss the legislative proposal, which includes the creation of a new wholly owned subsidiary of KDFSA that would handle only tobacco issues.

State budget director **Duane Goossen** said he is considering the pros and cons of securitizing the state's tobacco settlement.

"One reason I don't think anyone will say we absolutely ought to do this or shouldn't do this is because we have to do a very careful analysis of what we might end up with after 25 or 30 years from now," he said. "If we come out the same or worse, based on the bonds we could sell, then we have to analyze whether it is worth the risk we might be taking if the tobacco settlement revenue stream does not flow in as planned."

If legislation is passed, bonds could go to market as early as next fall, officials the bonds said.

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**Joe Dubler**

**From:** Sherrie Simmonds [ssimmond@ahfc.state.ak.us]  
**Sent:** Friday, March 10, 2000 9:48 AM  
**To:** 'DAN FAUSKE'; 'MIKE BULLER'; 'JUDITH DESPAIN'; 'JOHN BITNEY'; 'MARK CAMERON'; 'JOE DUBLER'; 'PETER HAINES'; 'RICHARD WHITEHEAD'  
**Subject:** Bond Buyer Online Regional News.htm

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## THE BOND BUYER

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**REGIONAL NEWS**

March 10, 2000

# State Finance Officials Push Tobacco Debt

**By Daniel Kruger**

SAN FRANCISCO - Building support for complex tobacco securitization deals among politicians who need to approve them can be an uphill battle, but a panel of issuer officials said here yesterday that they are not giving up hope. Both the treasurers of **Ohio** and **Nevada** told The Bond Buyer Tobacco Settlement Symposium that they will continue to push lawmakers to authorize such deals.

The idea of transferring the risk of future payments from tobacco companies that face myriad political and legal challenges - at least one of which raises the specter of company bankruptcies - has been aggressively pushed by public finance bankers, bond counsel, and some state treasurers. But many state legislatures and governors have been reluctant for many reasons to agree to a bond plan, panelists said.

"I think it's absolutely, stunningly in the states' interest" to divest the risk of tobacco company non-payment through a securitization, said Nevada Treasurer **Brian Krolicki**.

Krolicki also called on public finance professionals to approach their securitization pitches with greater consideration for the special needs of particular issuers.

Broker-dealers seem to be "failing to actually tailor these transactions to the actual needs of the state," he said.

"We're looking for assistance in figuring out how to decontaminate the money or rearrange how the settlement was established, so I don't have the legal or constitutional preventions that I think I currently might or do have," Krolicki said, referring to restrictions he faces in how the payments can be invested.

"The politics and the hypocrisy" of a state relying on tobacco company payments under the Master Settlement Agreement while simultaneously attempting to curb smoking and bashing the industry - a situation Krolicki described as "uncomfortable" - is an important part of the appeal of securitization, he said. Nevada's Legislature meets on a biennial basis and he intends to use the time between sessions to develop a bond plan that gains the acceptance of the state's "citizen-legislators," who often have trouble understanding the fundamental concepts of securitization, he added.

In Ohio, the politics of the competing needs of various interest groups have dominated the debate over how to use the settlement proceeds, according to Treasurer **Joseph T. Deters**.

While the risk profile of tobacco company payments exceeds standards of what is tolerable for the state, it has been difficult to win over Gov. **Robert Taft** and state legislators, who would need to approve any securitization.

Taft wants to use a substantial portion of the MSA payments for education spending, and other interest groups have been successful in staking out claims on smaller shares of the revenues. "Basically, every group that thought they could get their finger in the pie got their finger in the pie," Deters said.

But "in Ohio, securitization is not a dead issue," he added. Groups that face a wait for settlement payments they have been promised several years down the road may like to see it "in their lifetime," and so may become advocates of securitization, Deters said. He urged public finance bankers to concentrate their pitches to those groups in order to build political pressure in favor of bonding against settlement payments.

To date, three **New York State** issuers have sold a total of \$1.1 billion of tobacco settlement bonds. Some analysts have estimated that municipal bond mutual funds and other investors will have the capacity to buy

between \$10 billion and \$15 billion of tobacco bonds. Some issuers are concerned that if they do not issue their bonds while the market still has the appetite for them, they may miss an important opportunity.

Having statutory flexibility is important for issuers who might want to sit on the fence a while longer, panelists said. **Susan Leal**, treasurer of **San Francisco**, said the city has no immediate plans to securitize its share of the settlement, but added that it's comfortable with waiting to make a decision on a bond plan because it does not need state legislation to move forward.

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Joe Dubler

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From: Sherrie Simmonds [ssimmond@ahfc.state.ak.us]  
Sent: Monday, March 06, 2000 8:30 AM  
To: 'DAN FAUSKE'; 'JUDITH DESPAIN'; 'MIKE BULLER'; 'JOHN BITNEY'; 'MARK CAMERON'; 'JOE DUBLER'; 'PETER HAINES'; 'RICHARD WHITEHEAD'  
Subject: Bond Buyer Online Regional News.htm

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Who's the financial guarantor who soars above the rest? **MBIA**

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**THE BOND BUYER**  
.....  
**REGIONAL NEWS**

March 6, 2000

## **Whither Tobacco Cash? J.P. Morgan, PaineWebber Pitch New Ideas**

By Daniel Kruger

Now that three **New York** issuers with critical cash needs have tested the appetite for tobacco-related financing, other issuers in less dire situations are trying to determine what approach they should take in treating the windfall.

As governors, state treasurers, and legislators debate what to do with the settlement, some underwriting firms are suggesting new ways of accessing settlement proceeds as well financing methods that may help capture the present value of the future inflows. **New York City, Nassau County, and Westchester County** completed their tobacco securitizations late last year.

**J.P. Morgan Securities Inc.** has introduced a strategy that would offset potential risks associated with tobacco income while governments determine what they want to do with proceeds. The firm also hopes to provide governments with increased financial flexibility that states can use to separately create unrestricted trust funds.

Under the firm's proposed structure, which is being

labeled the Tobacco Risk Reduction Action Program, or TRRAction, an issuer sells tax-exempt tobacco bonds and invests the proceeds in a flexible tax-exempt trust fund.

Selling tax-exempt bonds reduces the cost of securitization, and the tax-exempt trust fund provides issuers with flexibility in how they choose to use the proceeds, said **Eric Altman**, a managing director with the firm. With a flexible tax-exempt trust fund in place, a state can take as much time as it wants in determining the eventual use of proceeds. While no issuer has publicly embraced the structure, it has a number of benefits and is the result of extensive research, the firm says.

"We have done a lot of research and have determined that you can use the earnings for operating purposes," Altman said. "So you've got some flow available for those purposes, and over time you can use the proceeds for capital as you identify those purposes. As long as you're investing in tax-exempts you can do this." Investment earnings from the proceeds can be used for noncapital purposes if they are transferred to a commingled fund and spent within six months of the transfer date, the banker added.

However, projects that might otherwise have been funded on a pay-as-you-go basis can be financed from the securitization proceeds, provided there was no preexisting concrete plan to fund them on a pay-as-you-go basis, such as an enacted budget.

That, he continued, is why the firm is talking to people who are in their budgetary process and who haven't made those decisions yet.

Also, by investing the securitization proceeds in tax-free securities, issuers satisfy tax law provisions related to so-called hedge bonds, and the proceeds are deemed spent as they are liquidated from the trust fund and put to other purposes, Altman said.

If a state wants to use the tobacco bond proceeds for capital purposes, that decision cannot be predicated on making deposits into an unrestricted trust fund, Altman said. "You can have parallel plans as long as they're not interdependent."

New approaches such as this reflect the broad variety of concerns an issuer must take into account when approaching the question of whether to securitize their settlement money. A more circumspect approach by

some issuers has also given Wall Street whizzes the opportunity to cook up a variety of ways to capture the funds.

At the same time, though, the sources say issuers are increasingly concerned about the risks involved in waiting for the tobacco companies to pay, such as what the potential fallout would be from the Engle class-action suit against the companies in Florida.

With these concerns in mind, **PaineWebber** Inc. is pushing a new structure that focuses on an approach more akin to a traditional municipal offering, and that the firm says retail investors will feel more comfortable buying.

With PaineWebber's structure, an issuer sells fixed-maturity bonds in the short-term maturity range, a fixed-maturity term bond in the intermediate range, and a flexible-amortization term bond in the long end.

Like a sinking fund on a housing bond, the residual payments from the companies after debt service pay down the flexible-amortization bonds in the final maturity, which would also increase coverage in other maturities as the flexible-amortization debt was paid down, much the way a super sinker works on housing debt.

New York City, Nassau, and Westchester all issued flexible-amortization bonds with both a planned payment date when investors should initially expect repayment and a rated maturity on which the rating agencies based their judgments.

PaineWebber had sought an alternative to flexible-amortization bonds because of concern from some investors that the structure limited retail participation in the offerings, said **Brad Gewehr**, a director with the firm.

Replacing flexible maturities with fixed ones was intended to eliminate a perceived obstacle to individual investor participation, he said.

"The intent here is not so much issuer-specific as it is market-responsive," he said.

Increasing retail demand above the 7% level that bought bonds during New York City's initial retail order period for its securitization would help both issuers and institutional investors, Gewehr said. In addition, a broader base of retail demand would increase the number of mutual funds and other institutions willing to participate in

tobacco bond deals, and that would also help increase demand in the secondary market, he said.

While a good argument can be made that the uncertainty about eventual repayment generated by the flexible amortizations in the first three deals was exaggerated, PaineWebber sensed market demand for fixed-maturity tobacco debt, he said.

If an issuer does issue fixed-maturity tobacco debt, it would probably help expand the secondary market for the already issued flexible-amortization bonds, since it would offer additional investors more choices in the market, Gewehr said.

**James F. Haddon**, a managing director with **Salomon Smith Barney Inc.**, which senior managed the three initial deals, explained that each issuer has different objectives in doing a securitization. This, he said, may lead a firm to emphasize one aspect of a transaction, be it the rating, the amount of proceeds, or other factors.

The flexible-amortization structure was the right one for the deals the firm has done, Haddon said. "We think you get a pricing benefit and a rating benefit from the flexible-amortization structure," he said.

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## KUTAK ROCK LLP

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OKLAHOMA CITY • OMAHA • PASADENA • PITTSBURGH • RICHMOND • SCOTTSDALE • WASHINGTON

### MEMORANDUM CONCERNING FEDERAL TAX LAW ISSUES IN THE TAX-EXEMPT SECURITIZATION OF TOBACCO SETTLEMENT MONEYS

---

The settlement of the tobacco controversy by the states has created a revenue stream which presents a number of interesting opportunities and issues. Should the revenue stream be securitized? How should the money be used? How much money is needed at what points in time? When should it be spent? Who should bear the risk that the revenue stream will not meet expectations as to time or amount? How may this risk of nonpayment or late payment be shared? In what proportions? At what cost? How is the money invested prior to its expenditure? These are very difficult questions and this memorandum does not purport to offer all the answers. Rather, it is our intent to provide one piece of the solution to this complex puzzle. Described below are some of the considerations based on, and limitations imposed by, the federal tax laws on the use of tax-exempt bonds to "securitize" a tobacco settlement revenue stream.

The prototype considered by this memorandum is the issuance of tax-exempt bonds secured as to repayment by a pledge of the revenues to be received from the tobacco companies. As revenues are received, the bonds would be repaid. Since 100% of the anticipated revenue stream would not be securitized (it is unlikely that the investors would consider this prudent), bonds could be issued in multiple series, over time, so that as some bonds are retired others could be issued, or excess revenues could be paid back to the state (as holder of the "residual interest" by the revenue stream).

The proceeds of the tax-exempt bonds would be used to pay for governmental capital expenditures or fund governmental operating deficits (the two uses to date) or to establish a tobacco settlement trust fund. The tobacco settlement trust fund would be invested and either earnings, or earnings and principal, would be expended over time for governmental purposes.

The Internal Revenue Code of 1986, as amended (the "Code"), and Treasury regulations and rulings place restrictions on the issuance of tax-exempt obligations. This memorandum identifies the major restrictions found in the federal tax law, particularly those that apply to the establishment and operation of a tobacco settlement trust fund (which raises the most difficult and complex tax issues by far). A "question and answer format" is used to address the issues involved.

1. **Who may issue the tax-exempt bonds?** Tax-exempt bonds may be issued by, or on behalf of, states or political subdivisions. The term "on behalf of" has become a term of art which describes various types of government-created and government-controlled entities vested with issuing powers. In the context of a tax-exempt tobacco settlement financing, the State could issue the bonds directly or, by legislative action, create an agency, authority, nonprofit corporation, trust or other entity, such as a "tobacco settlement financing authority," to act on its

behalf. (As noted above, this memorandum focuses only on the federal tax law aspects and does not address the political and state law issues which would have to be addressed in deciding on the appropriate issuer.)

2. **What are the limitations on the use of bond proceeds?** There are three major limitations. For purposes of these limitations, the term "proceeds" is defined expansively by the Treasury regulations to include both the original proceeds resulting from the sale of the bonds and all earnings realized from their investment (including any earnings from the investment in tax-exempt obligations, as described below).

First, the Code places significant limitations on the use of tax-exempt bond proceeds for private business purposes or for private loans, to be distinguished from "governmental" or "public" purposes. There are several exceptions to these private use limitations, such as providing low-income housing, financing exempt facilities such as airports and certain mass commuting property—all of which require a state allocation of federal tax law "private activity bond cap"—and supporting nonprofit organizations described in Section 501(c)(3) of the Code (typically educational or charitable entities, including health care operations). However, the general rule is that tax-exempt bond proceeds need to be used for public, as opposed to private, purposes.

Second, tax-exempt bond proceeds are required to be expended on capital assets (i.e., assets with an economic useful life in excess of one year), as opposed to working capital items. Again, there are some exceptions, including those for governmental deficit financings, working capital items related to capital expenditures, one-time unanticipated expenditures and de minimis amounts, but most tax-exempt financing focuses on the acquisition or construction of land or depreciable property.

Third, and as described below, there are also significant limitations on the investment of, and accounting for, bond proceeds prior to their expenditure, as well as any moneys pledged or expended to be used to pay the bonds. These are often referred to as the "arbitrage rules."

3. **What limits are there on the amount of bonds which may be issued?** To begin with, in the context of a tobacco settlement financing, the investors are going to have a lot to say about the maximum amount of bonds that can be issued. Because of this, federal tax law concerns may be of secondary importance. The policy which is at the heart of the federal tax law limitations is that tax-exempt bonds should not be issued for an amount in excess of what is necessary to achieve the governmental purpose of the issue, and should not be allowed to remain outstanding for longer than is necessary to achieve that purpose. One can, however, view the issuance of tax-exempt tobacco settlement bonds as having at least two separate and independent purposes.

The first, and more obvious purpose, is the use or uses to which the bond proceeds are put. Whether it is education, transportation, health care, or providing for some other governmental function, the amount of bonds issued should not exceed these capital needs.

The second purpose is to diversify the risk of the State with respect to receipt of the revenue stream from the tobacco companies. One can view the settlement as an investment by the State in the tobacco companies, their profitability, and the continued sales of tobacco products. Because the amount of the settlement is substantial and the receipt of the revenues is uncertain as to both time and amount, it may be prudent for the State to share this risk with investors who may be in a better position to analyze and bear a portion of the risk. While it is conceivable that financial products such as insurance, letters of credit or other guarantees could be developed to accomplish this diversification, borrowing against the anticipated revenues through the issuance of "revenue" bonds (that is, bonds payable only from the tobacco settlements moneys and not from other moneys of the issuer or the State) is probably the most feasible and economic alternative. When viewed from this perspective, the limitation on the amount to be borrowed is a judgment by the State as to the amount of risk the State is willing to absorb, given the costs associated with laying the risk off to investors.

**4. Must the bond proceeds be spent within a specified time period?** The general federal tax law arbitrage rule is that tax-exempt bond proceeds must be expected to be expended within three years from the date the bonds are issued. If the proceeds are not expected to be expended within three years (or in certain cases up to five years), the bonds would be considered to be "hedge bonds" and would be taxable unless one of the exceptions to the hedge bond rules is met. One exception is if at least 95% of the net proceeds of the bonds is invested in obligations that are, themselves, federally tax-exempt. The creation of a tobacco settlement trust fund which is invested in tax-exempt bonds may present opportunities of its own in accomplishing various governmental purposes. In addition to the possibility to profit from such investments and to diversify the risks of the tobacco settlement revenue stream, desired governmental objectives may be achieved by buying tax-exempt bonds issued by local governmental units within the State for education, transportation, health care and other public purposes.

**5. How may the bond proceeds be invested prior to their expenditure?** The federal tax law arbitrage rules generally preclude issuers of tax-exempt bonds from profiting through the investment of bond proceeds at a yield in excess of the yield on the bonds (unless the proceeds are spent within 18 months, or in some cases two years, and meet certain spending tests within those time periods). This limitation is imposed both by placing limits on the investments and by requiring issuers to rebate any profits received to the United States. However, one of the exceptions to both the arbitrage investment and rebate requirements is the investment of bond proceeds in obligations that are, themselves, federally tax-exempt. A tobacco settlement trust fund invested in tax-exempt bonds would not be a taxable hedge bond or a taxable arbitrage bond, even if the earnings on the investment of the tobacco settlement trust fund were to exceed the interest costs of the tax-exempt bonds issued to fund the tobacco settlement trust fund.

**6. Could taxable bonds be issued together with tax-exempt bonds to finance projects or purposes which do not qualify for tax-exempt financing?** Yes, Treasury regulations treat simultaneous taxable and tax-exempt bonds as separate issues. It would, however, be necessary for the State to develop a method of accounting that could separately trace the investment and expenditure of proceeds of the taxable and tax-exempt bonds.

KUTAK ROCK LLP

February 15, 2000

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/27/00

REPORTED OUT OF  
SFC 5/1/00

FURTHER:

DATE TURNED  
IN TO OFFICE: 1 May 00

Finance Committee considered CS FOR HOUSE BILL NO. 287(FIN) am(reengrossed)(efd fld)

APPPROPRIATIONS: SCHOOLS/UNIVERSITY./HARBORS

and recommends:

- be replaced with S CS CS HB 287 (FIN)
- adopt previous \_\_\_\_\_ CS CS \_\_\_\_\_
- attached amendment(s) forthcoming
- adopt Letter of Intent by \_\_\_\_\_
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DC PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lydia Green</i>	<input checked="" type="checkbox"/>	<i>Roll Call</i>		<input checked="" type="checkbox"/>	
<i>Pat Kelly</i>	<input checked="" type="checkbox"/>	<i>Carl Adams</i>	<input checked="" type="checkbox"/>		
<i>Frank Bellini</i>	<input checked="" type="checkbox"/>	<i>John S. Leman</i>	<input checked="" type="checkbox"/>		
		<i>Yvonne Bailey</i>			<input checked="" type="checkbox"/>
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

SENATE FINANCE  
COMMITTEE  
Amendment Number: #1  
Bill Number: HB 287  
Sponsor: Johnson Date: 5/1/00  
Logged In By: Mindy

1-GH2043V.1  
Utermohle  
5/1/00

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 287(FIN), Draft Version "I"

- 1 Page 2, line 14:
- 2 Delete "\$61,488,000"
- 3 Insert "\$61,788,000"
  
- 4 Page 2, line 23:
- 5 Delete "5,200,000"
- 6 Insert "5,500,000"
  
- 7 Page 3, following line 12:
- 8 Insert a new subsection to read:
- 9 "(d) The sum of \$4,200,000 is appropriated to the Department of Education and Early
- 10 Development for construction of AVTEC student housing in Seward from the proceeds of the
- 11 revenue bonds described in sec. 3 of this Act that are issued by the Alaska Housing Finance
- 12 Corporation, or a subsidiary of the corporation."
  
- 13 Renumber the following subsection accordingly.

Donley COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	HB 287		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	Parnell		
<u>Objection by</u>	Phill.		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Dave Donley			✓
Senator Loren Leman	✓		
Senator Al Adams	✓		
Senator Gary Wilken	✓		
Senator Pete Kelly	✓		
Senator Lyda Green	✓		
Senator Randy Phillips			✓
Co-Chair Sean Parnell	✓		
Co-Chair John Torgerson	✓		
<u>Tally</u>			
Yea	7		
Nay	2		
Absent	-		
<u>MOTION</u>	Pass		

SENATE CS FOR CS FOR HOUSE BILL NO. 287(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act making capital appropriations that are funded from the sale of  
2 revenue bonds that are issued by the Alaska Housing Finance Corporation or  
3 a subsidiary of the Alaska Housing Finance Corporation and that are to be  
4 repaid either from the revenue derived from the settlement of State of Alaska  
5 v. Philip Morris, Incorporated, or from revenue of the Alaska Housing Finance  
6 Corporation to the Department of Education and Early Development for public  
7 school facilities, to the University of Alaska for facilities for the University of  
8 Alaska, and to the Department of Transportation and Public Facilities for  
9 facilities for ports and harbors; and providing for an effective date."

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

11 \* Section 1. PUBLIC SCHOOL FACILITIES; FACILITIES FOR THE UNIVERSITY OF  
12 ALASKA; AND FACILITIES FOR PORTS AND HARBORS. (a) The sum of \$92,911,000

1 is appropriated to the Department of Education and Early Development for construction,  
 2 renovation, and improvement of public elementary and secondary schools from the proceeds  
 3 of the ~~revenue~~ bonds described in sec. 3 of this Act that are issued by the Alaska Housing  
 4 Finance Corporation, or a subsidiary of the corporation, and is allocated among the following  
 5 projects in the amounts set out:

6	PROJECT	ALLOCATION
7	Lower Yukon - Pilot Station School Replacement	17,654,000
8	Lower Yukon - Kotlik School Replacement	17,911,000
9	Kashunamiut - Chevak School Replacement	28,273,000
10	Bering Strait Schools - Elim School, Phase III	12,147,000
11	Southwest Region Schools -	14,689,000
12	Manokotak School Replacement	
13	Kake - Elementary School Addition	2,237,000

14 (b) The sum of \$61,488,000 is appropriated to the University of Alaska for  
 15 construction and renovation of university facilities from the proceeds of the ~~revenue~~ bonds  
 16 described in sec. 3 of this Act that are issued by the Alaska Housing Finance Corporation, or  
 17 a subsidiary of the corporation, and is allocated among the following projects in the amounts  
 18 set out:

19	PROJECT	ALLOCATION
20	University of Alaska - Southeast	
21	Deferred Maintenance, Renewal and	\$ 1,388,000
22	Replacement, and Code Compliance	
23	Classroom Building	5,200,000
24	University of Alaska - Anchorage	
25	Consortium Library	34,000,000
26	Deferred Maintenance, Renewal and	2,200,000
27	Replacement, and Code Compliance	
28	University of Alaska - Fairbanks	
29	Deferred Maintenance, Renewal and	18,700,000
30	Replacement, and Code Compliance	

31 (c) The sum of \$5,977,000 is appropriated to the Department of Transportation and

1 Public Facilities to pay for construction and renovation of port and harbor facilities from the  
 2 proceeds of the ~~revenue~~ bonds described in sec. 3 of this Act that are issued by the Alaska  
 3 Housing Finance Corporation, or a subsidiary of the corporation, and is allocated among the  
 4 following projects in the amounts set out:

5 CORPS OF ENGINEERS MATCH		
6	Program Formulation	100,000
7	Ketchikan Harbor Study	200,000
8	Wrangell	500,000
9	Metlakatla - Tamgass	850,000
10	Ouzinkie	1,300,000
11	Seward Harbor Expansion	2,925,000
12	Ferryville Harbor Feasibility	102,000

13 (d) In this section, "subsidiary of the corporation" means a subsidiary corporation of  
 14 the Alaska Housing Finance Corporation created under a statute enacted by the Twenty-First  
 15 Alaska State Legislature that permits the corporation to create subsidiary corporations for the  
 16 purpose of financing or facilitating the financing of school construction, facilities for the  
 17 University of Alaska, or facilities for ports and harbors.

18 \* Sec. 2. The appropriations made by this Act are for capital projects and lapse under  
 19 AS 37.25.020.

20 \* Sec. 3. CONTINGENT EFFECT. This Act takes effect only if a bill is passed by the  
 21 Twenty-First Alaska State Legislature and is enacted into law that authorizes the commissioner  
 22 of revenue to sell to the Alaska Housing Finance Corporation the right to receive a portion  
 23 of the revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated,  
 24 et al, No. 1JU-97-915 CI (Alaska Super. 1997) and authorizes the Alaska Housing Finance  
 25 Corporation or a subsidiary of the corporation to issue ~~revenue~~ bonds that are to be repaid  
 26 either from the revenue derived from the settlement or from the revenue of the Alaska  
 27 Housing Finance Corporation. In this section, "subsidiary of the corporation" has the meaning  
 28 given in sec. 1 of this Act.

29 \* Sec. 4. If, under sec. 3 of this Act, this Act takes effect, it takes effect July 1, 2000.

Leman COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	HB 287		
Amendment	# 2 (conceptual)		
Motion	adopt		
<u>Motion by</u>	Parnell		
<u>Objection by</u>	none		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Senator Pete Kelly			
Senator Lyda Green			
Senator Randy Phillips			
Senator Dave Donley			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Page 2 line 3 & line 15  
 and  
 Page 3 line 2 & line 25  
 delete "revenue"

1-GH2043V  
Utermohle  
5/1/00

*adopted &  
amended*

**SENATE CS FOR CS FOR HOUSE BILL NO. 287(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

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6 Corporation to the Department of Education and Early Development for public  
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 2 renovation, and improvement of public elementary and secondary schools from the proceeds  
 3 of the revenue bonds described in sec. 3 of this Act that are issued by the Alaska Housing  
 4 Finance Corporation, or a subsidiary of the corporation, and is allocated among the following  
 5 projects in the amounts set out:

6	PROJECT	ALLOCATION
7	Lower Yukon - Pilot Station School Replacement	17,654,000
8	Lower Yukon - Kotlik School Replacement	17,911,000
9	Kashunamiut - Chevak School Replacement	28,273,000
10	Bering Strait Schools - Elim School, Phase III	12,147,000
11	Southwest Region Schools -	14,680,000
12	Manokotak School Replacement	
13	Kake - Elementary School Addition	2,237,000

14 (b) The sum of \$61,488,000 is appropriated to the University of Alaska for  
 15 construction and renovation of university facilities from the proceeds of the revenue bonds  
 16 described in sec. 3 of this Act that are issued by the Alaska Housing Finance Corporation, or  
 17 a subsidiary of the corporation, and is allocated among the following projects in the amounts  
 18 set out:

19	PROJECT	ALLOCATION
20	University of Alaska - Southeast	
21	Deferred Maintenance, Renewal and	\$ 1,388,000
22	Replacement, and Code Compliance	
23	Classroom Building	5,200,000
24	University of Alaska - Anchorage	
25	Consortium Library	34,000,000
26	Deferred Maintenance, Renewal and	2,200,000
27	Replacement, and Code Compliance	
28	University of Alaska - Fairbanks	
29	Deferred Maintenance, Renewal and	18,700,000
30	Replacement, and Code Compliance	

31 (c) The sum of \$5,977,000 is appropriated to the Department of Transportation and

1 Public Facilities to pay for construction and renovation of port and harbor facilities from the  
 2 proceeds of the revenue bonds described in sec. 3 of this Act that are issued by the Alaska  
 3 Housing Finance Corporation, or a subsidiary of the corporation, and is allocated among the  
 4 following projects in the amounts set out:

5 **CORPS OF ENGINEERS MATCH**

6	Program Formulation	100,000
7	Ketchikan Harbor Study	200,000
8	Wrangell	500,000
9	Metlakatla - Tamgass	850,000
10	Ouzinkie	1,300,000
11	Seward Harbor Expansion	2,925,000
12	Perryville Harbor Feasibility	102,000

13 (d) In this section, "subsidiary of the corporation" means a subsidiary corporation of  
 14 the Alaska Housing Finance Corporation created under a statute enacted by the Twenty-First  
 15 Alaska State Legislature that permits the corporation to create subsidiary corporations for the  
 16 purpose of financing or facilitating the financing of school construction, facilities for the  
 17 University of Alaska, or facilities for ports and harbors.

18 \* Sec. 2. The appropriations made by this Act are for capital projects and lapse under  
 19 AS 37.25.020.

20 \* Sec. 3. CONTINGENT EFFECT. This Act takes effect only if a bill is passed by the  
 21 Twenty-First Alaska State Legislature and is enacted into law that authorizes the commissioner  
 22 of revenue to sell to the Alaska Housing Finance Corporation the right to receive a portion  
 23 of the revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated,  
 24 et al, No. 1JU-97-915 CI (Alaska Super. 1997) and authorizes the Alaska Housing Finance  
 25 Corporation or a subsidiary of the corporation to issue revenue bonds that are to be repaid  
 26 either from the revenue derived from the settlement or from the revenue of the Alaska  
 27 Housing Finance Corporation. In this section, "subsidiary of the corporation" has the meaning  
 28 given in sec. 1 of this Act.

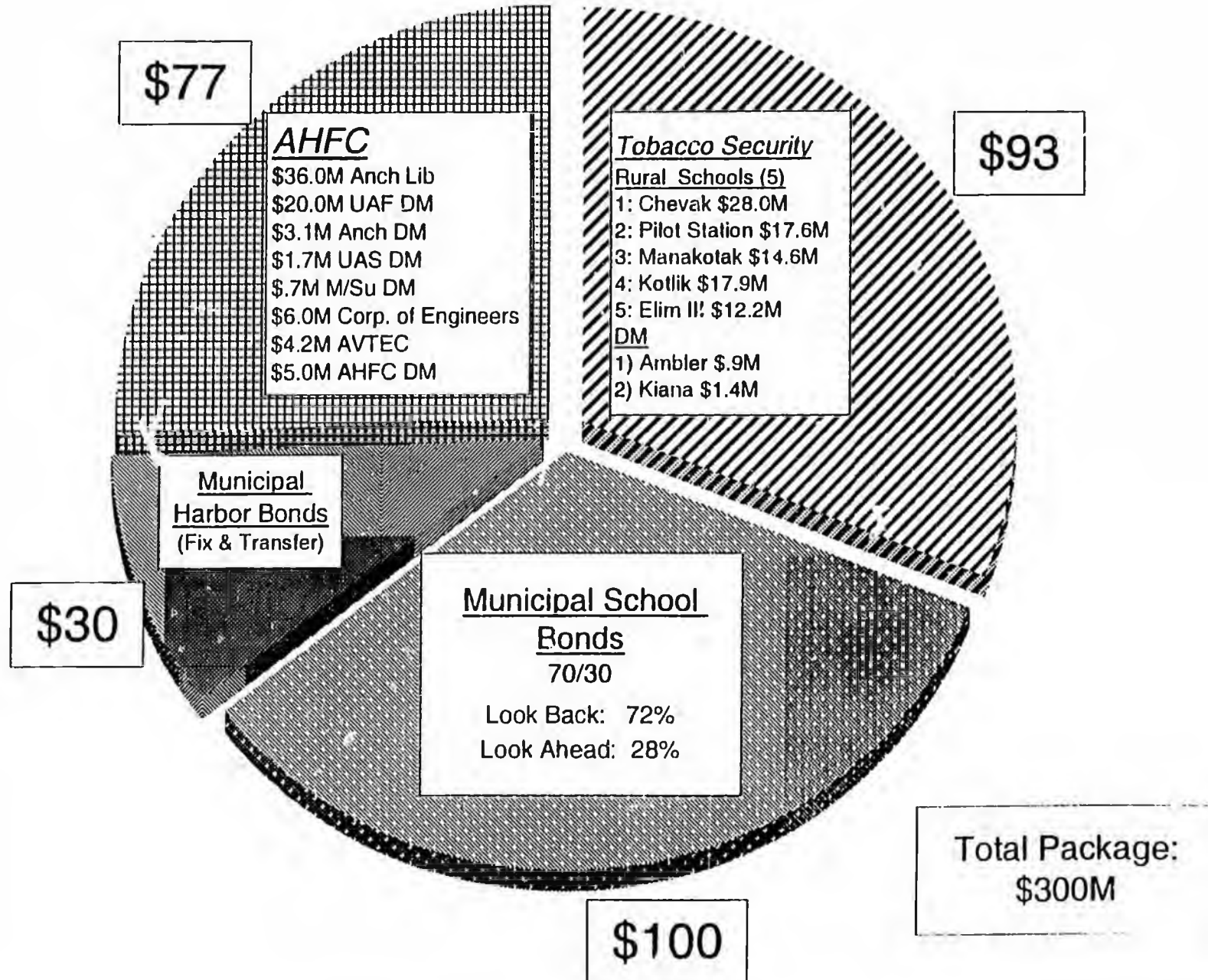
29 \* Sec. 4. If, under sec. 3 of this Act, this Act takes effect, it takes effect July 1, 2000.

Adams COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	HB 287		
Amendment	CS "I"		
Motion	as Workdraft		
<u>Motion by</u>	Parnell		
<u>Objection by</u>	Phillips		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Al Adams	✓		
Senator Gary Wilken	✓		
Senator Pete Kelly	✓		
Senator Lyda Green	✓		
Senator Randy Phillips			✓
Senator Dave Donley			✓
Senator Loren Leman	✓		
Co-Chair Sean Parnell	✓		
Co-Chair John Torgerson	✓		
<u>Tally</u>			
Yea	7		
Nay	2		
Absent	-		
<u>MOTION</u>	Pass		

4/30/00

# Proposed Bond Package - A



Bond Projects as of 4-29

Bond projects as of 4-29-00

<u>ED</u>	<u>Project Name</u>	<u>Bond Projects</u>	<u>AHFC Bonds</u>	<u>Tobacco Revenue Securitization</u>	<u>Municipal Bond Harbor Transfer (100% reimbursed)</u>	<u>Municipal school bonds (reimbursed at 70/30)</u>
1-2	Ketchikan Harbor Transfer	7,000,000			7,000,000	
	Corp of Engin. - Ketchikan Harbor Study	200,000	200,000			
	Election District 1-2 Schools: District-wide Projects and Deferred Maintenance	1,112,000				1,112,000
	Petersburg Harbor Transfer	3,300,000			3,300,000	
	Corp of Engin. - Wrangell	500,000	500,000			
	Sitka Harbor Transfer	4,040,000			4,040,000	
3-4	Auke Bay Elem Roof Replacement	653,000				653,000
	Marie Drake Roof Replacement	599,000				599,000
	Harborview Elem Gym Replacement	106,000				106,000
	High School Heating/Ventilation	65,000				65,000
	High School Aux Gym Floor Replacement	109,000				109,000
	Floyd Dryden Sch Gym Floor	108,000				108,000
	Castineau Elem Heating Coil Replacement	133,000				133,000
	Floyd Dryden Middle School Renovation	3,629,000				3,629,000
	Auke Bay Transfer	492,000			492,000	
	Douglas Dock-Harbor Transfer	1,241,000			1,241,000	
	Taku Harbor Transfer	38,000			38,000	
5-6	Kake City - Kake Elementary School Addition	2,237,000				2,237,000
	Klawock Harbor Transfer	860,000			860,000	
	Corp of Engin. - Metlakatla - Tamgass	850,000	850,000			
	Corp of Engin. - Ouzinkie	1,300,000	1,300,000			
	Peterson Elem Addition	756,000				756,000
	Kodiak High School	1,106,000				1,106,000
7-9	Peninsula Schools: District-wide Projects and Deferred Maintenance	5,200,000				5,200,000
	Corp of Engin. - Seward Harbor Expansion	2,925,000	2,925,000			
	Seldovia Harbor Transfer	2,500,000			2,500,000	

Bond Projects as of 4-29

Bond projects as of 4-29-00

<i>ED</i>	<i>Project Name</i>	<b>Bond Projects</b>	<b>AHFC Bonds</b>	<b>Tobacco Revenue Securitization</b>	<b>Municipal Bond Harbor Transfer (100% reimbursed)</b>	<b>Municipal school bonds (reimbursed at 70/30)</b>
10-25	Bartlett High School, Phase I	3,500,000				3,500,000
	Eagle River/ Chuglak High School	14,563,000				14,563,000
	East High School, Phase I	7,295,000				7,295,000
	Service High School, Phase I	4,998,000				4,998,000
	Wendler Middle School, Phase I	4,231,000				4,231,000
	Denali Elementary, Replacement	8,211,000				8,211,000
	District Wide Projects/ Major Maintenance	11,730,000				11,730,000
26-28	Mat-Su Schools: District-wide Projects and Deferred Maintenance	4,230,000				4,230,000
29-34	Fairbanks Schools: District-wide Projects and Deferred Maintenance	10,200,000				10,200,000
35	Whittier Harbor Transfer	1,835,000			1,835,000	
	Valdez Harbor Transfer	3,013,000			3,013,000	
	Cordova Harbor Transfer	4,337,000			4,337,000	
36	Lwr Yukon - Pilot Station School Replacement	17,654,000		17,654,000		
37	Ambler K-12 Improvements	924,000		924,000		
	Kiana K-12 Improvements	1,395,000		1,395,000		
	Noorvik K-12 Improvements	13,633,000				13,633,000
38	Kashunamiut - Chevak School Replacement	28,272,000		28,272,000		
	Lwr Yukon - Kotlik School Replacement	17,910,000		17,910,000		
	Bering Straits School - Elim School Phase III	12,146,000		12,146,000		
	Nome Harbor Transfer	1,000,000			1,000,000	
39	Manokotak School Replacement	14,689,000		14,689,000		
40	Lake & Peninsula - Pedro Bay School Renovation /Relocation/Reconstruction	1,557,000				1,557,000
	Corp of Engin. - Perryville Harbor Feasibility	102,000	102,000			
99	Corp of Engineers Program Formulation	100,000	100,000			

Bond Projects as of 4-29

Bond projects as of 4-29-00

<u>ED</u>	<u>Project Name</u>	<u>Bond Projects</u>	<u>AHFC Bonds</u>	<u>Tobacco Revenue Securitization</u>	<u>Municipal Bond Harbor Transfer (100% reimbursed)</u>	<u>Municipal school bonds (reimbursed at 70/30)</u>
	AHFC deferred maintenance projects	5,000,000	5,000,000			
	<b>UNIVERSITY</b>					
	University of Alaska - Southeast Deferred Maintenance, Renewal & Replacement, Code					
4	Compliance	1,687,000	1,687,000			
	Department of Education: AVTEC - Seward Student					
7-9	Housing	4,200,000	4,200,000			
	University of Alaska - Anchorage					
10-25	Consortium Library	36,000,000	36,000,000			
	UAA Deferred Maintenance	3,200,000	3,200,000			
	Mat-Su Ortner Building Replacement	685,000	685,000			
	University of Alaska - Fairbanks					
19-34	Deferred Maintenance	20,000,000	20,000,000			
	<b>Totals</b>	<b>299,356,000</b>	<b>76,749,000</b>	<b>92,990,000</b>	<b>29,656,000</b>	<b>99,961,000</b>

October 14, 1999

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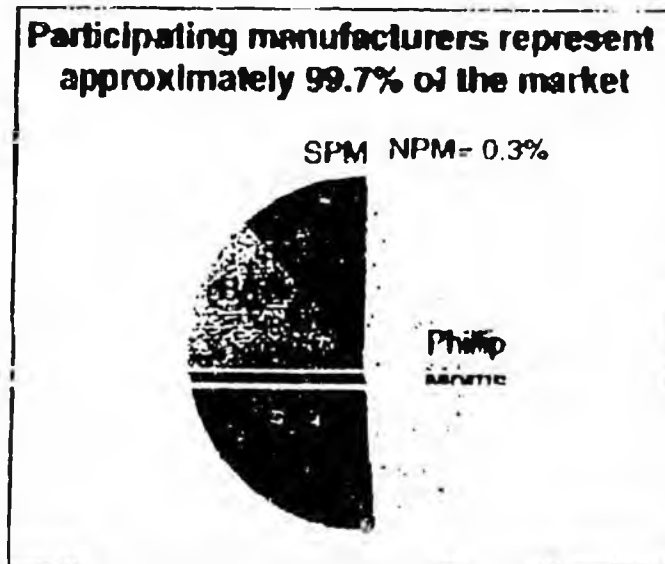
# **The Economics of the Master Settlement Agreement**

**JPMorgan**

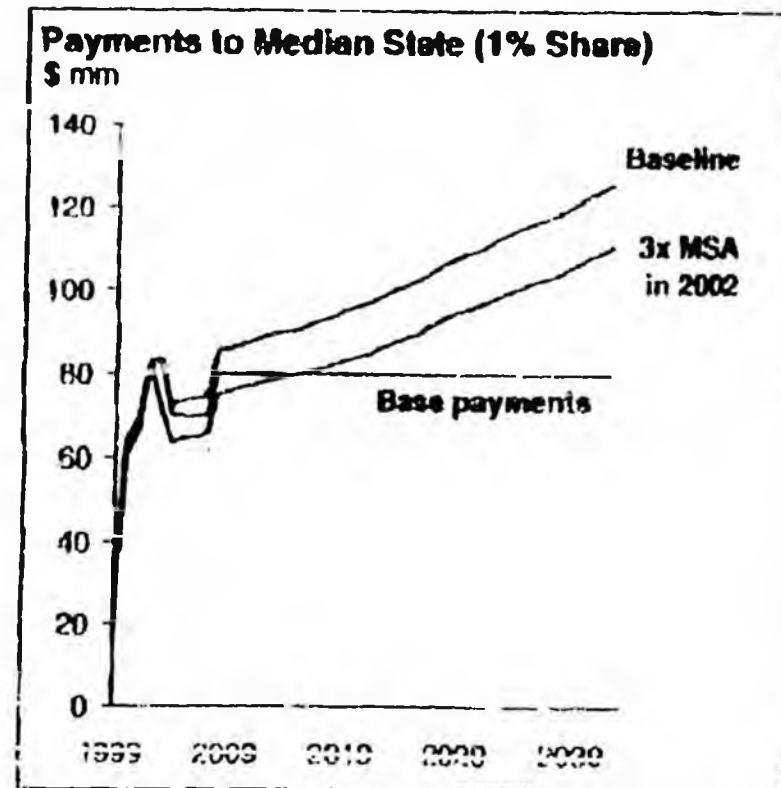
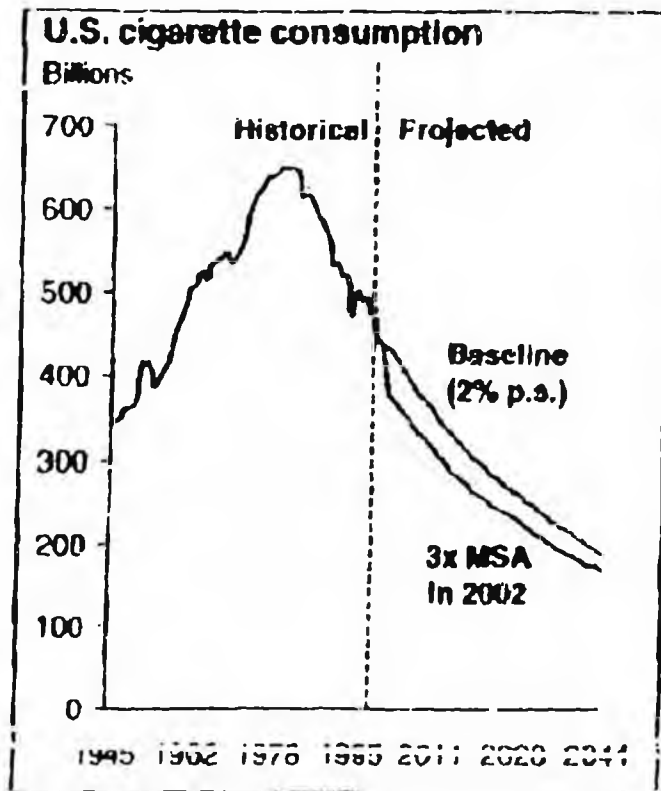
Eric Altman, *Managing Director*  
J.P. Morgan Securities Inc.  
60 Wall Street  
New York, NY 10280  
212 648-4592  
altman\_eric@jpmorgan.com

# Overview of the Master Settlement Agreement

- The MSA is an industry wide agreement
  - Participating manufacturers represent approximately 99.7% of the domestic cigarette market
- MSA payments function like a tax on national cigarette consumption
- Aggregate payments are unaffected by changes in market shares among manufacturers




# Cigarette consumption forecasts indicate growth in MSA revenues



# Actual MSA payments larger than base paym

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**Effect of price**  
**Declining trend of cigarette**  
**consumption**

Expected ne  
average annual pay

are expected to be  
ents

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adjustment  
ent growth

# Types of Debt Instruments

## ◆ General Obligation Bond

- full faith and credit pledge of issuer

## ◆ Certificates of Participation and Lease Revenue Bonds

- limited obligation pledge subject to annual legislative appropriation

## ◆ Revenue Bonds (i.e. GARVEE)

- pledge of enterprise revenues or revenues from pledged collateral
- limited recourse by bondholders to pledged revenues

## ◆ Other Bonds and Securitizations (i.e. Tobacco)

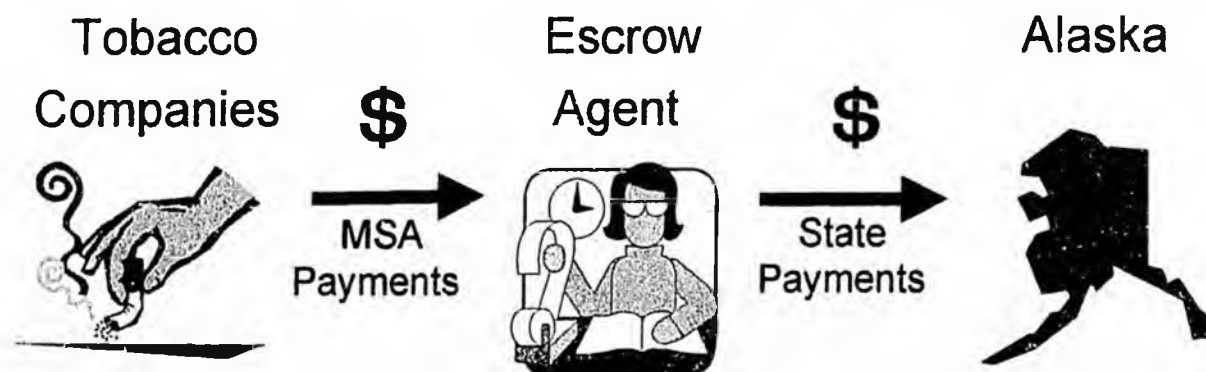
- limits state risk and obligations
- credit risk is shifted entirely to investor

# Tobacco Master Settlement Agreement

The Master Settlement Agreement (“MSA”) is an agreement between settling tobacco companies and 46 states, including Alaska

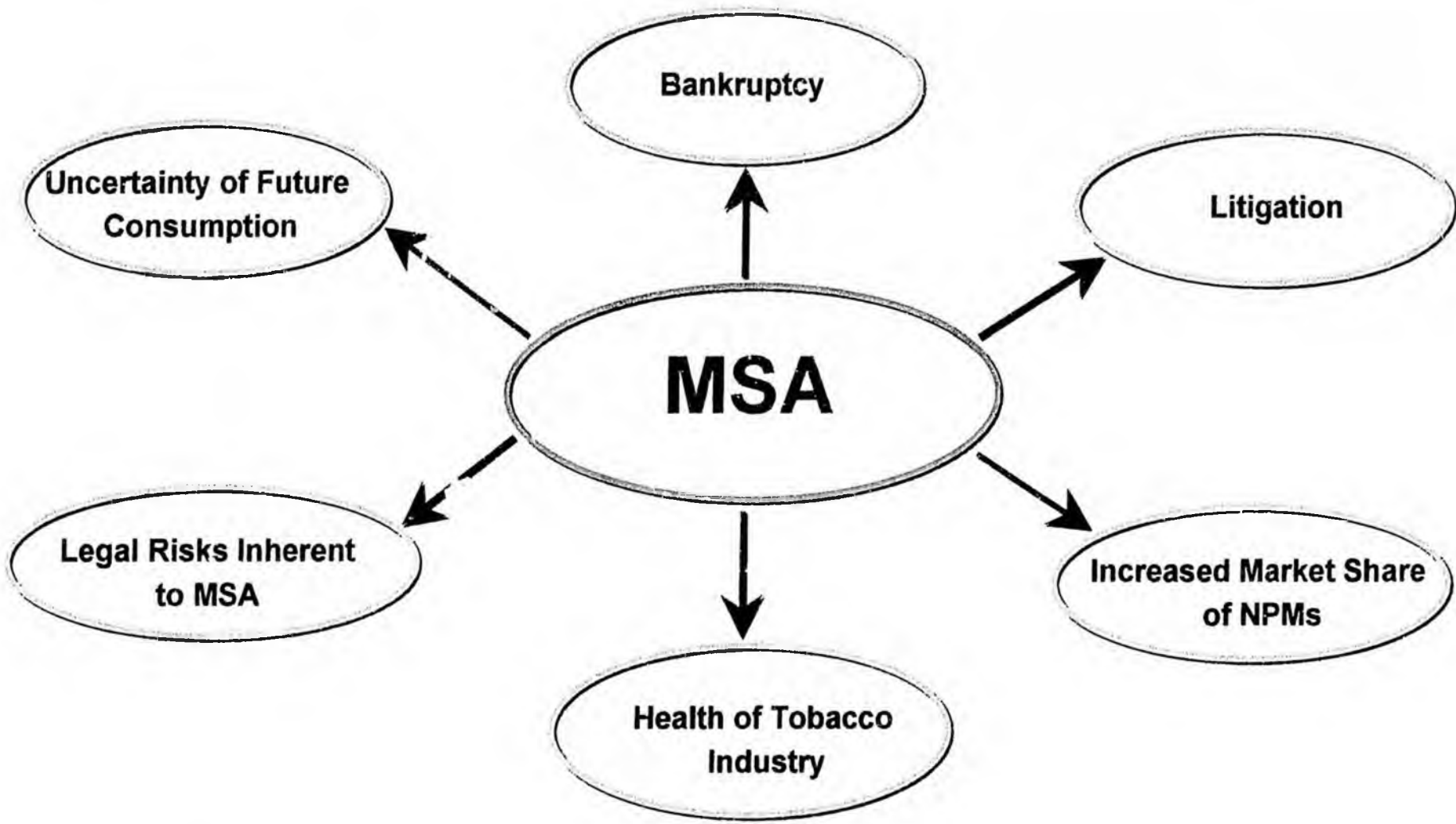
The tobacco companies have agreed to make payments to the states in perpetuity, based on domestic cigarette consumption

The State of Alaska is entitled to receive 0.3414187% of the base payments under the MSA

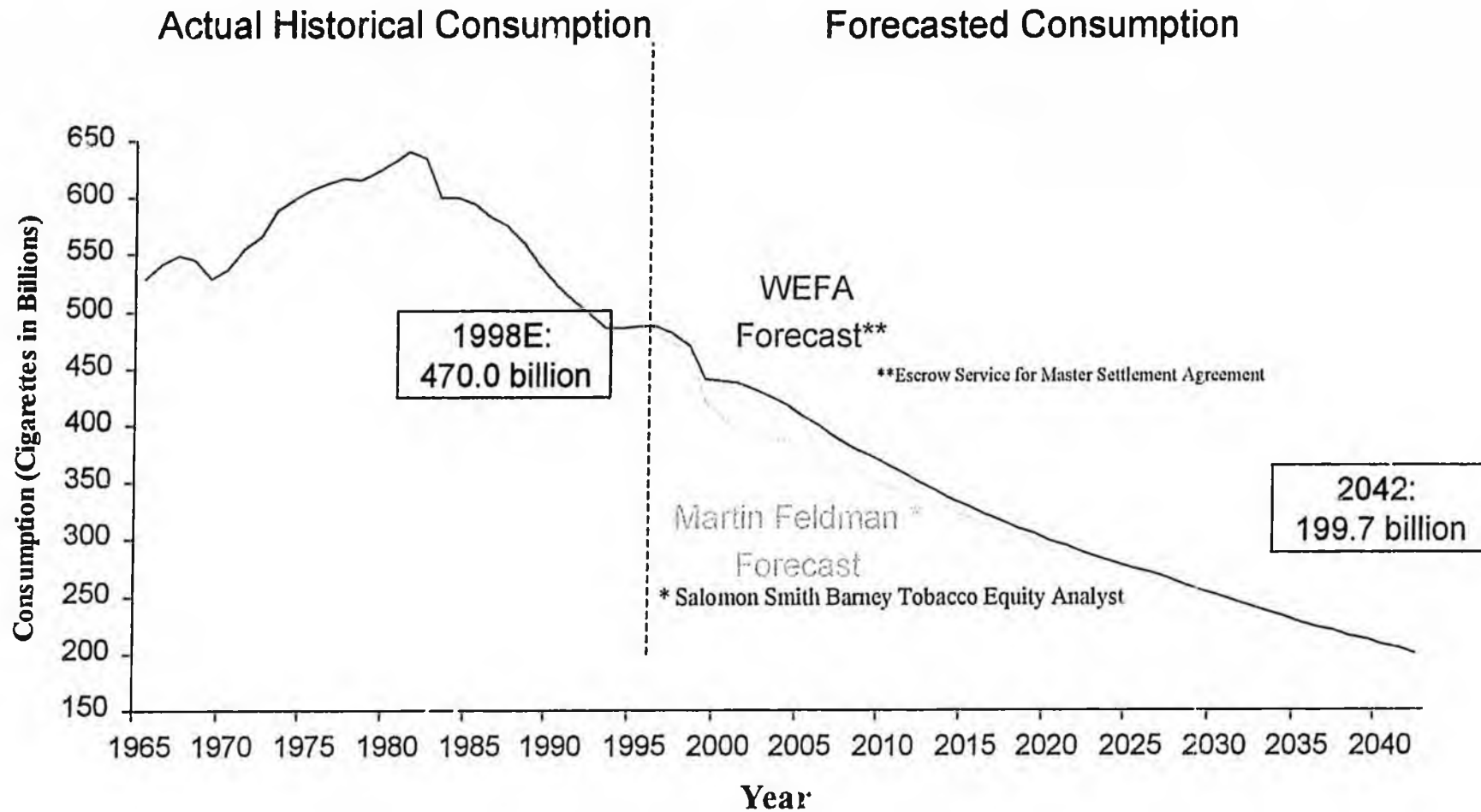


# CREDIT CONCERNS REGARDING PAYMENTS UNDER THE MSA

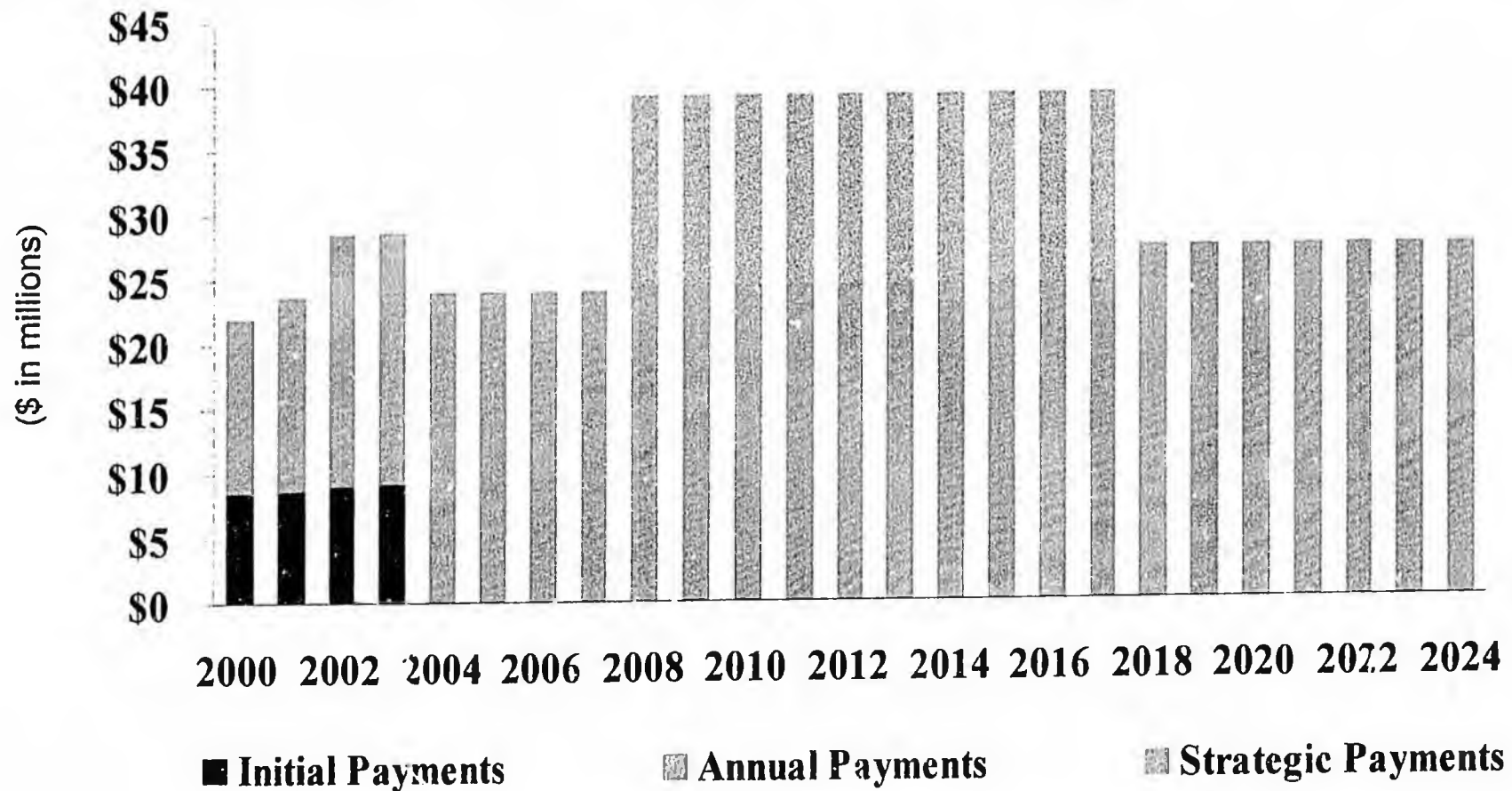
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# WEFA Forecasts a 58% Decline in Total U.S. Consumption of Cigarettes Over the Next 43 Years



# Unadjusted MSA Payments to Alaska



These payments do not include those made to the Previously Settling States

# Why Securitize?

## Comparative Look at State of Alaska Bond Results

	<u>TOBACCO SECURITIZATION</u>		<u>GENERAL OBLIGATION BOND</u>	
	<u>FUTURE VALUE</u>	<u>PRESENT VALUE</u>	<u>FUTURE VALUE</u>	<u>PRESENT VALUE</u>
A <b>Value over Time</b>	\$ 1,009,029,562	\$ 411,828,528	\$ 725,914,498	\$ 341,825,000
B <b>Gross Proceeds</b>	\$ 339,257,748	\$ 339,257,748	\$ 339,257,748	\$ 339,257,748
C <b>Residual Tobacco Revenues after Debt Service</b>	\$ 174,888,788	\$ 67,404,419	\$ -	\$ -
B+C <b>TOTAL</b>	\$ 514,146,536	\$ 406,662,166	\$ 339,257,748	\$ 339,257,748
A-(B+C) <b>Difference between Revenue and Total Receipts</b>	\$ 494,883,026		\$ 386,656,750	
A-(B+C) <b>Estimated Cost of Issuance</b>		\$ 5,166,362		\$ 2,567,252

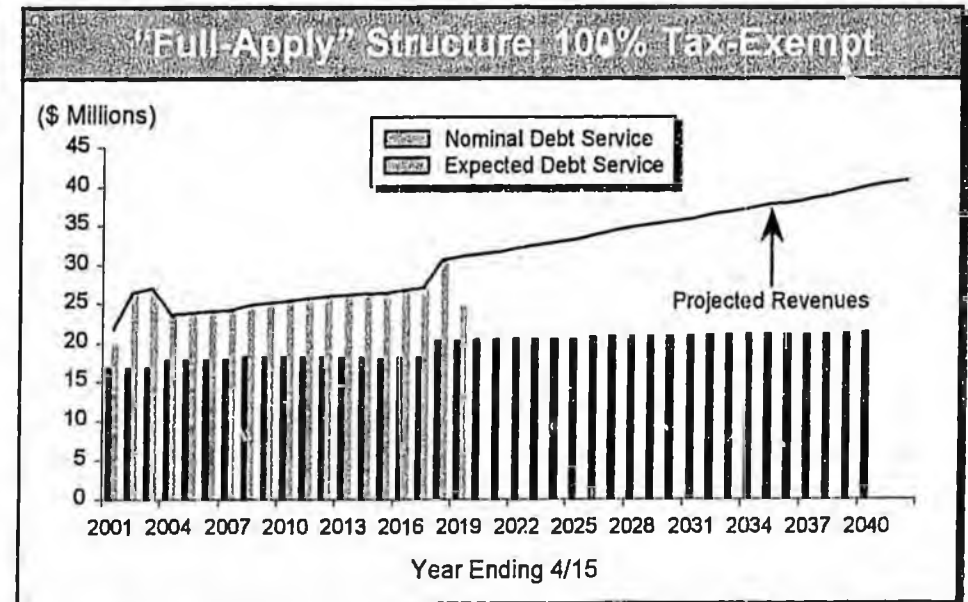
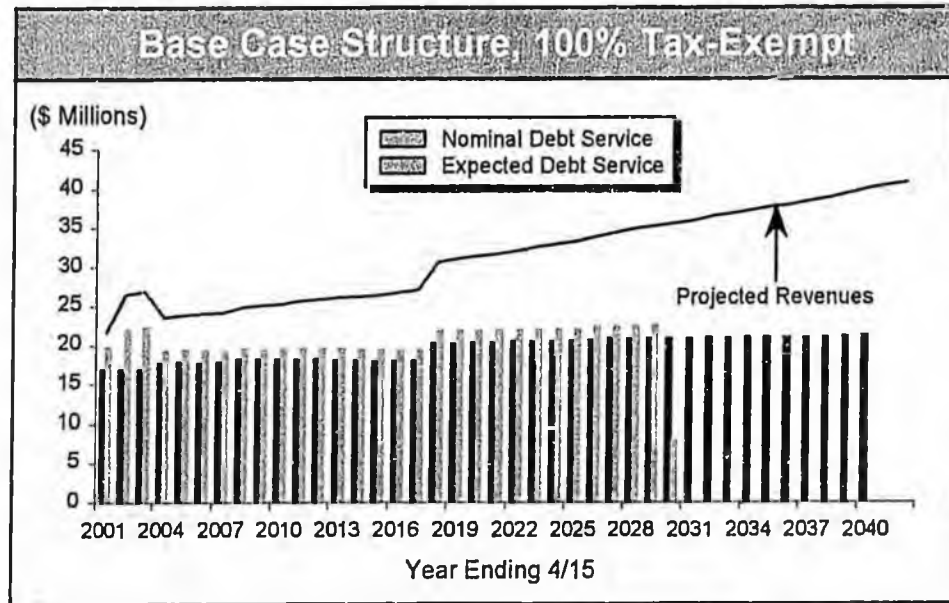
\* Discounted at annualized arbitrage yield of 6.865% for the WEFA Base Case Scenario.

\*\* Discounted at annualized arbitrage yield of 5.759% for the General Obligation Scenario.

\*\*\* Tax Revenues include only the amount of taxes required to pay debt service for \$339,261,313 of G.O. proceeds.

# Comparison of Base Case and "Full Apply" Structures

Using the "Full Apply" structure reduces the cost of capital and average life of the bonds while increasing net proceeds.



Comparison Statistics				
	Net Proceeds	PV of Residual	True Interest Cost	Average Life
Base Case, 100% Tax-Exempt	\$244MM	\$156MM	6.484%	19.6 Years
"Full-Apply", 100% Tax-Exempt	\$260MM	\$168MM	6.097%	11.7 Years

# CONS

- ❑ NO STATEWIDE VOTE  
10 MIL CAP VOTE ALONGSIDE \$450m GOBond SPENDING PROPOSAL  
WHAT HAPPENS IF GOBond PROPOSAL IS VOTED DOWN?
- ❑ HIGHER INTEREST RATES THAN GOBonds
- ❑ COMMITTING FUTURE TOBACCO REVENUES FOR DEBT SERVICE
- ❑ HIGHER COSTS OF ISSUANCE THAN OTHER FINANCING METHODS
- ❑ COMPLEX FINANCING REQUIRES ADDITIONAL STAFF/ HIGHER COSTS
- ❑ LIMITED UNIVERSE OF BUYERS WITH LIMITED APPETITE FOR TOBACCO BONDS
- ❑ POTENTIAL CRITICISM THAT MORE TOBACCO REVENUES ARE NOT SPENT ON HEALTH ISSUES
- ❑ MORE BONDS ARE ISSUED IN ORDER TO FUND CAPITALIZED INTEREST AND RESERVE FUND... NOT REQUIRED FOR GOBonds

# PROS

- NO STATEWIDE VOTE
- PRESERVES STATE GOBOND CAPACITY
- FLEXIBLE AMORTIZATION ALLOWS STATE TO PAY DEBT ON AN ACCELERATED BASIS WITH EXCESS TOBACCO REVENUES
- FLEXIBILITY IN CHOICE OF TYPES OF PROJECTS
- FINANCING COMPLETED FAIRLY QUICKLY (2 - 4 MONTHS OF FINAL APPROVAL)
- STATE KEEPS UPSIDE OF RESIDUAL TOBACCO REVENUES
- EARLIER FUNDING OF PROJECTS vs PAY-AS-YOU-GO FUNDING METHOD
- REDUCES RISK OF NONPAYMENT IN BANKRUPTCY
- ALASKA RECEIVES RESIDUAL SETTLEMENT REVENUES AFTER DEBT SERVICE
- INSULATES GF FROM UNCERTAINTY OF TOBACCO REVENUE STREAM
  - REDUCTIONS IN CIGARETTE SALES
  - BANKRUPTCY OF ANY OR ALL OF PARTICIPATING MANUFACTURERS (PMs)
  - INVALIDATION OF MSA
  - INDIVIDUAL LAWSUITS AGAINST INDUSTRY

**HOUSE BILL 281**  
**Tobacco Securitization Bond Package + AHFC GOBonds**

<u>ED</u>	<u>Project Name</u>	<u>Project Cost State Share</u>	<u>Urban</u>	<u>Rural</u>
	<b>UNIVERSITY</b>			
3-4	University of Alaska - Southeast			
	Def Maint/Ren&Rep/Code Compliance	\$ 1,687,854		
	UAS Classroom Addition	\$ 7,600,000	\$ 9,287,854	
7-9	Avtec - Seward			
	Student Housing	\$ 4,200,000	\$ 4,200,000	
10-25	University of Alaska - Anchorage			
	Consortium Library	\$ 36,000,000		
	Def Maint/Ren&Rep/Code Compliance	\$ 4,220,000	\$ 40,220,000	
26-28	Mat-Su Ortner Building Replacement	\$ 685,000	\$ 685,000	
29-34	University of Alaska - Fairbanks			
	Def Maint/Ren&Rep/Code Compliance	\$ 25,199,054	\$ 25,199,054	
		\$ 79,591,908	\$ 79,591,908	\$ -
	<b>PORTS and HARBORS</b>			
	<b>HARBORS TRANSFER PLAN</b>			
1	Ketchikan	\$ 7,000,000	\$ 7,000,000	
2	Sitka	\$ 4,038,900		\$ 4,038,900
	Petersburg	\$ 3,300,000		\$ 3,300,000
3-4	Juneau Area Harbors			
	Auke Bay Harbor	\$ 492,325		
	Douglas Dock / Harbor	\$ 1,241,421		
	Taku Harbor	\$ 38,566	\$ 1,772,312	
5	Klawock	\$ 860,000		\$ 860,000
7-9	Seldovia	\$ 2,500,000		\$ 2,500,000
35	Whittier	\$ 1,835,600		
	Valdez	\$ 3,013,500		
	Cordova	\$ 4,337,800		\$ 9,186,900
38	Nome	\$ 1,000,000		\$ 1,000,000
	<b>CORPS OF ENGINEERS MATCH</b>			
99	Program Formulation	\$ 100,000		\$ 100,000
1	Ketchikan Harbor Study	\$ 200,000	\$ 200,000	
2	Wrangell	\$ 500,000		\$ 500,000
5	Kake	\$ 404,000		
	Metlakatla - Tamgass	\$ 850,000		\$ 1,254,000
6	Ouzinkie	\$ 1,300,000		\$ 1,300,000
7-9	Seward Harbor Expansion	\$ 2,925,000		\$ 2,925,000
40	Perryville Harbor Feasibility	\$ 102,100		\$ 102,100
		\$ 36,039,212	\$ 8,972,312	\$ 27,066,900
			24.90%	75.10%
	<b>GRAND TOTAL</b>	<b>\$ 300,520,979</b>	<b>\$154,638,304</b>	<b>\$ 145,882,675</b>
			<b>51.46%</b>	<b>48.54%</b>

**HOUSE BILL 281**  
**Tobacco Securitization Bond Package + AHFC GOBonds**

<b>SCHOOLS</b>					
<b>ED</b>	<b>Project Name</b>	<b>Proj Type</b>	<b>Project Cost State Share</b>	<b>Urban</b>	<b>Rural</b>
2	Petersburg - Fascia/Soffit Repr/Replace	MM	\$ 112,960		\$ 112,960
3-4	Juneau Schools				
	Auke Bay Elem Roof Replacement	MM	\$ 653,842		
	Marie Drake Roof Replacement	MM	\$ 599,501		
	Harborview Elem Gym Roof Replacement	MM	\$ 106,604		
	High School Heating/Ventilation	MM	\$ 65,303		
	High School Aux Gym Floor Replacement	MM	\$ 109,386		
	Floyd Dryden Sch Gym Floor	MM	\$ 108,236		
	Gastineau Elem Heating Coil Replacement	MM	\$ 133,053		
	Floyd Dryden Middle School Renovation	MM	\$ 3,629,683	\$ 5,405,608	
5	Kake City - Kake Elementary School Addition	SC	\$ 2,237,460		\$ 2,237,460
6	Kodiak Island Schools				
	Peters Elem Addition	SC	\$ 756,000		
	Kodiak High School	MM	\$ 1,106,875	\$ 1,862,875	
7-9	Kenai/ Soldotna Schools				
	McNeil Elem Wastewater Plant	MM	\$ 225,300		
	Kenai Central High School Reinsulate Ext Walls	MM	\$ 367,648	\$ 592,948	
10-25	Anchorage Schools				
	Bartlett High School, Phase I	SC	\$ 3,500,000		
	Eagle River/ Chugiak High School	SC	\$ 14,563,500		
	East High School, Phase I	SC	\$ 7,295,400		
	Service High School, Phase I	SC	\$ 4,998,000		
	Wendler Middle School, Phase I	SC	\$ 4,231,500		
	Denali Elementary, Replacement	SC	\$ 8,211,000		
	District Wide Projects/ Major Maintenance	MM	\$ 11,730,600	\$ 54,530,000	
26-28	Mat-Su Schools				
	Mat-Su - Fire Alarm Sys - 5 schools	MM	\$ 620,648		
	Mat-Su - Colony High School Septic Sys	MM	\$ 159,416		
	Mat-Su - Fuel Tank Replace	MM	\$ 126,261		
	Mat-Su Fire Sprinklers & Piping (3 )	MM	\$ 1,381,770		
	Mat-Su Boiler/Heater Replace (4 schools)	MM	\$ 221,051		
	Mat-Su Carpet Replace (6 schools)	MM	\$ 423,507	\$ 2,932,653	
29-34	Fairbanks- North Star Borough Schools				
	District Wide Projects/ Major Maintenance	MM	\$ 750,000	\$ 750,000	
36	Lwr Yukon - Pilot Station School Replacement	SC	\$ 17,654,003		\$ 17,654,003
37	Northwest Arctic Schools				
	Noorvik K-12 Improvements	SC	\$ 17,528,378		
	Ambler K-12 Improvements	SC	\$ 924,586		
	Kiana K-12 Improvements	SC	\$ 1,395,000		\$ 19,847,964
38	Kashunarniut - Chevak School Replacement	SC	\$ 28,272,551		
	Lwr Yukon - Kotlik School Replacement	SC	\$ 17,910,901		
	Elim School Phase III	SC	\$ 12,146,788		\$ 58,330,240
	Southwest Region Schools				
39	Manokotak School Replacement	SC	\$ 14,689,464		\$ 14,689,464
40	Pribilof Island - St. George School Remodel	MM	\$ 4,385,970		
	Lake & Penn - Pedro Bay Renov/Reloc/Reconst	MM	\$ 1,557,714		\$ 5,943,684
			\$ 194,889,859	\$ 66,074,084	\$ 118,815,775
				35.74%	64.26%

## House FY01 Capital Budget + HB281 Tobacco Bond Package

ED	# of Voters	Cities/Areas	Capital Budget	HB281 Tobacco Bond Projects (C)	Capital + HB281	% by ED less 99	% of \$'s Spent	% of State's Voters	\$ Spent for each Voter
1	10,906	Ketchikan	\$ 16,822,572	\$ 7,200,000	\$ 24,022,572	2.6%	1.7%	2.4%	\$ 2,202.69
2	11,899	Sitka/Petersburg/ Wrangell	\$ 27,453,877	\$ 7,951,860	\$ 35,405,737	3.8%	2.6%	2.6%	\$ 2,975.52
3-4	24,286	Juneau Areawide	\$ 14,394,500	\$ 16,465,774	\$ 30,860,274	3.3%	2.2%	5.3%	\$ 1,270.70
5	10,449	Southeast Islands	\$ 19,250,257	\$ 4,351,460	\$ 23,601,717	2.5%	1.7%	2.3%	\$ 2,258.75
6	10,201	Kodiak	\$ 15,485,527	\$ 3,162,875	\$ 18,648,402	2.0%	1.4%	2.2%	\$ 1,828.10
7-9	35,264	Kenai Areawide	\$ 35,232,656	\$ 10,217,948	\$ 45,450,604	4.8%	3.3%	7.6%	\$ 1,288.87
10-25	194,397	Anchorage Areawide	\$ 164,937,965	\$ 94,750,000	\$ 259,687,965	27.6%	18.8%	42.0%	\$ 1,335.86
26-28	43,108	Mat-Su Areawide	\$ 77,458,533	\$ 3,617,653	\$ 81,076,186	8.6%	5.9%	9.3%	\$ 1,880.77
29-34	70,364	Fairbanks	\$ 70,457,250	\$ 25,949,054	\$ 96,406,304	10.2%	7.0%	15.2%	\$ 1,370.11
35	10,313	Prince William Snd/ Delta	\$ 23,884,285	\$ 9,186,900	\$ 33,071,185	3.5%	2.4%	2.2%	\$ 3,206.75
36	9,041	Rural Interior	\$ 41,229,981	\$ 17,654,003	\$ 58,883,984	6.3%	4.3%	2.0%	\$ 6,512.99
37	8,852	Arctic Slope/ Northwest	\$ 33,402,737	\$ 19,847,964	\$ 53,250,701	5.7%	3.9%	1.9%	\$ 6,015.67
38	8,161	Nome/Norton Sound	\$ 39,657,982	\$ 59,330,240	\$ 98,988,222	10.5%	7.2%	1.8%	\$ 12,129.42
39	9,077	Bristol Bay/Bethel	\$ 28,088,811	\$ 14,689,464	\$ 42,778,275	4.5%	3.1%	2.0%	\$ 4,712.82
40	6,105	Aleutians	\$ 32,529,317	\$ 6,045,784	\$ 38,575,101	4.1%	2.8%	1.3%	\$ 6,318.61
			\$ 640,286,250	\$ 300,420,979	\$ 940,707,229	100%			
99	462,423	Statewide	\$ 440,207,411	\$ 100,000	\$ 440,307,411		31.9%	100%	\$ 952.17
	462,423	<b>Totals</b>	\$ 1,080,493,661	\$ 300,520,979	\$ 1,381,014,640		100%		\$ 2,986.47

LAW OFFICES OF  
CHARLES E. COLE

408 Cushman Street  
Fairbanks, Alaska 99701  
Phone (907) 452-1124 Fax (907) 456-2523

April 27, 2000

Honorable John Torgerson, Co-Chair  
Senate Finance Committee  
State Capitol  
Juneau, Alaska 99801

Dear Senator Torgerson:

You have asked for my opinion as to whether the mechanism contained in CS H.B No. 281 for the financing of public school facilities, facilities for the University of Alaska, and facilities for ports and harbors violates the dedicated funds provisions of Article IX, Section 7 of the Alaska Constitution. I conclude that it does not.

The Act authorizes the Commissioner of Revenue to sell the right to receive a portion of the future proceeds of the Tobacco settlement to Alaska Housing Finance Corporation (AHFC). AHFC would pay for the right to receive these proceeds by the issuance of revenue bonds secured exclusively by revenue of AHFC. The proceeds of the bonds issued by AHFC would then be appropriated to finance public school's construction, facilities for the University of Alaska, and facilities for port and harbor facilities.

Article IX, Section 7, of the Alaska Constitution provides that the proceeds of any state tax or license shall not be dedicated to any special purpose. Although this provision is limited by its express terms to the proceeds of a "state tax or license," and although the proceeds of the Tobacco settlement do not, strictly speaking, derive from the proceeds of any tax or license, in State v. Alex. 646 P.2d 203 (Alaska 1982) the Alaska Supreme Court held that the prohibition encompasses "the sources of any public revenues." Accordingly, upon receipt by the State, but not before, the "proceeds" of the settlement are subject to the Section 7 constitutional restriction.

However, the right to receive future unpaid installments under the settlement is to be distinguished from the proceeds upon their receipt by the State. Once money is received by the State, it is "public revenue" which may not be dedicated for a special purpose. On the other hand, the right to receive future installments is a property right owned by the State, the same as other real and personal property owned by the State. AS 01.10.060 (a) (10) provides that "property" includes real and personal property, and under 060 (a) (9) "personal property" includes money, goods, chattels, things in action, and evidences of debt. (emphasis added). At common law, the right to receive future installments under the settlement is a "thing in action," more commonly referred to as a


chose in action. (See 63A Am.Jur. 2d 25, 26) Therefore under state law the right to receive future proceeds under the Tobacco settlement is state personal property which may be sold as any other state property. Furthermore, the right to receive a future stream of payments under the settlement is personal property which has a present value, similar in value to the right to receive future payments from the sale of other state real and personal property. It is this property right of current value which the proposed legislation contemplates being sold to AHFC, and it is the proceeds of the sale which will be appropriated for a public purpose, not the stream of future payments. These features remove the proposed legislation from the dedicated fund prohibition in Article IX, Section 7.

The fact that the stream of payments will be received by AHFC does not cause them to run afoul of the dedicated funds prohibition. AHFC is a public corporation, independent of and separate from the State and has "a legal existence independent of and separate from the state." A.S. 18.56.020. See also Walker v. Alaska State Mortgage Association, 416 P.2d 245 (Alaska 1966) and De Armond v. Alaska State Development Corp., 376 P.2d 717 (Alaska 1962.) It clearly may issue revenue bonds and, as contemplated, the provisions of article IX, Section 11 would not be violated because the only security for the bonds is AHFC revenues.

The provisions of Article IX, Section 9, will not be violated because no "state debt" would be incurred. Nor would the provisions of Article IX, Section 13, be violated because the proceeds of the sale to AHFC are being appropriated by the legislature.

In addition, I agree with the analysis of Wohlforth, Vassar, Johnson and Brecht contained in their April 19 and 25 opinions to AHFC on this subject.

Very truly yours,



Charles E. Cole

CEC:cvc

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AVRUM M. GROSS  
SUSAN A. BURKE

(907) 586-2777

April 26, 2000

Senator John Torgerson, Co-Chairperson  
Senate Finance Committee  
Alaska State Legislature  
State Capitol Building - Room 516  
Juneau, Alaska 99811

Dear Senator Torgerson:

You have asked that we give you our opinion as to whether the method set out in HB 281 for financing capital improvements violates the dedicated funds provision of the Alaska Constitution. That provision, contained in Article XI, Section 7, prohibits the dedication of the proceeds of State taxes or licences to "any special purpose."

The plan contemplated by HB 281 involves the sale to AHFC of the State's right to receive future proceeds from the tobacco settlement. AHFC will pay the State the present value of the future payments. AHFC will obtain the money to purchase the settlement proceeds through the issuance of revenue bonds, the sole security for which will be the proceeds to be received by AHFC from the tobacco settlement. The bond holders will bear all risks of default in payments under the tobacco settlement from such things as bankruptcy of the tobacco companies. The full

Senator John Torgerson  
April 26, 2000  
Page -2-

faith and credit of the State will not be pledged to repay the bonds.

As an initial matter, we must advise you that to our knowledge nothing like this has ever come before the courts in Alaska or for that matter any other state. While there are a substantial number of Attorney General opinions that have attempted to interpret the dedicated funds provision, and a few Supreme Court cases, they have all involved very different kinds of situations. E.g., *Sonneman v. Hickel*, 836 P.2d 936 (Alaska 1992) (restrictions on power of executive branch officials to seek appropriations from Marine Highway System Fund invalid); *State v. Alex*, 646 P.2d 203 (Alaska 1982) (commitment of future assessments authorized by statute to hatchery program violated dedicated funds provision.) The best that can be done here is to review what cases have come before the courts, derive from them the basic principles that will guide any constitutional analysis, and then apply them to the present circumstances. We have attempted to do that. In the course of preparing this opinion and in an effort to save time, we have also discussed the issues with the attorneys previously involved in the issue, including Tam Cook from the Legislative Affairs Legal Division, Jim Baldwin from the Department of Law and Ken Vasser, State bond counsel.

While nothing in this area is completely free of doubt, we are reasonably confident that this somewhat novel way of funding

Senator John Torgerson  
April 26, 2000  
Page -3-

capital expenditures does not violate the dedicated funds provision of the Alaska Constitution. The often stated purpose of that provision, repeated in those few cases in which it has been applied, is to insure that the legislature retains full powers of appropriation over State revenues. It has nothing to do with the time at which those revenues are received -- only the legislature's authority to allocate them as it sees fit, free of previously imposed constraints. In this case, the State presently possesses an asset -- the right to receive a certain amount of money from the tobacco companies. As it presently stands, that money will be received over a lengthy period and certain amounts will be available each year for appropriations. What this legislation proposes to do is sell the right to those future proceeds for a fixed sum. The full amount will be deposited in the State Treasury and will be available now for legislative appropriation. In both cases -- whether the money is received from year to year over a long period of time or whether the money is received in a lump sum -- the legislature's power to appropriate the funds is undiminished.

Suppose, purely by way of illustration, that the State had made a different kind of settlement with the tobacco companies, whereby instead of paying the State over 30 years, the companies made a lump sum payment right now and that money was deposited in the general fund, giving the legislature an additional \$300

million in cash for appropriation purposes. There would be no issue about the dedication of those funds because all of the money would be subject to appropriation for any purpose. The situation does not change if the settlement is initially structured for payment over a long term and then the right to receive future settlement payments is sold to a third party for a lump sum payment. Nor is it changed by the fact that the legislature in this case has already decided what to do with the money the State will receive from the sale. The legislature is free to appropriate the money for any purpose, and that is the critical point for purposes of the prohibition against dedicated funds.

There is certainly a political precedent that is being established here and it is one that may raise legitimate issues of public policy. If the right to receive future tobacco settlement payments can be reduced to present value and sold, it may well be that any contract to which the State is a party can also be treated in this manner. Oil and gas leases, for example, are contracts that carry with them the right for the State to receive future royalty and lease payments. The potential exists for reducing oil royalty payments or lease payments to present value and selling the right to receive them for a single sum. But the key factor in any case is that even if the State did reduce these lease contracts to present value, and swell the

Treasury by billions of dollars, the legislature would have unlimited discretion to appropriate the money as it saw fit. The funds would not be dedicated in the constitutional sense.

It is true that by arranging to receive all of the tobacco settlement payments now, rather than over a period of years, the present legislature is diminishing the authority of future legislatures to appropriate money by diminishing their access to those settlement funds which have already been appropriated. However, this is no different from the appropriation of a cash bonus that is received in an oil lease sale. A cash bonus is, in essence, an up-front advance rental payment. The legislature sitting at the time the cash bonus is deposited in the general fund has complete authority to appropriate the entire amount. The same reasoning applies in this situation.

There are, of course, some limits on the State's ability to sell its rights to receive future revenues. We do not believe, for instance, that the State could sell the right to receive future taxes or licences, because in those areas it would be restricting the right of future legislatures to change those taxes and fees and would thereby delegate the taxing power from the legislative body. However, where the obligation to pay the State is purely contractual, there is nothing wrong with the legislature reducing the future contract payments to present

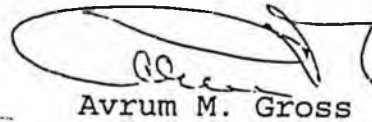
Senator John Torgerson  
April 26, 2000  
Page -6-

value, selling by the right to receive the payments, and then appropriating the proceeds from the sale.

We would be more than happy to meet with you for further discussion, if you so desire.

Yours very truly,

GROSS & BURKE



Avrum M. Gross



Susan A. Burke

**WONLFORTH, VASSAR, JOHNSON & BRECHT**

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April 19, 2000

Daniel R. Fauske  
Chief Executive Officer/Executive Director  
Alaska Housing Finance Corporation  
4300 Boniface Parkway  
Anchorage, Alaska 99504

Re: Tobacco Settlement Legislation; Our File No. 3598.0001

Dear Mr. Fauske:

At your request, we have reviewed various drafts of legislation (the "Legislation") under consideration at the Second Session of the Twenty-First Alaska Legislature to authorize the Commissioner of Revenue to sell to AHFC the right to receive all or a part of the settlement proceeds (the "Assets") to be derived from a certain settlement among various tobacco companies and the State of Alaska along with other States (the "Settlement"). The Legislation contemplates that AHFC will pay approximately \$269,000,000 for the purchase of the Assets. AHFC will pay for the Assets using proceeds of bonds (the "Bonds") to be issued by AHFC. The proceeds will be made available to pay costs of various State projects; the application of those proceeds to payment of those costs is stated in the Legislation to be subject to appropriation.

You have asked whether we believe that any of the drafts we have reviewed create a dedicated fund problem under Article IX, Section 7, of the Alaska Constitution. We do not.

There is no provision of the Alaska Constitution which prevents the State from selling or otherwise disposing of its assets. The right to receive payments under the terms of the Settlement is an asset. AHFC is a public corporation of the State with a legal existence independent of and separate from the State and with sufficient legal power to acquire the Assets from the State. The sale of the Assets to AHFC separates those assets from the State's assets generally and frees them to be pledged to bondholders by AHFC. The dedicated fund prohibition does not apply to these assets or to the pledge by AHFC of its assets to bondholders.

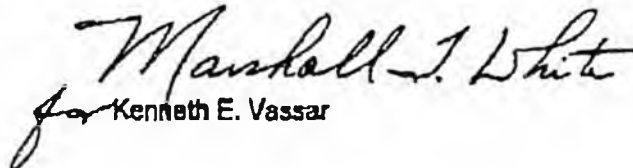
Daniel R. Fauske  
Alaska Housing Finance Corporation  
Re: Tobacco settlement legislation  
April 19, 2000  
Page 2

We would come to this conclusion absent any bonding issues. However, the anticipated bonding confirms the conclusion. The Alaska Constitution, at Article IX, Section 11, specifically contemplates that the State and public corporations of the State have the power to issue revenue bonds. Revenue bonds are bonds that are secured by a pledge of a particular flow of revenues. If the revenue flow cannot be pledged to the payment of the revenue bonds (which is the case if the pledge were considered to be a prohibited dedication of funds), then this section of the State constitution would be meaningless.

For these reasons, we conclude that the Legislation will not violate the Alaska Constitution's dedicated fund prohibition.

Sincerely,

WOHLFORTH, VASSAR,  
JOHNSON & BRECHT

  
for Kenneth E. Vassar

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 19, 2000

**SUBJECT:** Revenue bonds secured by the right to receive revenue from the "Tobacco Settlement" (HB 322)

**TO:** Senator John Torgerson  
Co-chair, Senate Finance Committee

**FROM:** Tamara Brandt Cook *TBC*  
Director

As a follow up to my memorandum to you dated April 17, 2000 you have supplied me with a memorandum from Mr. Kenneth E. Vassar in which he outlines the reasons that the mechanism relied upon in HB 322, whereby the right to received state revenue from the "Tobacco Settlement" may be sold to AHFC, does not violate the state constitutional prohibition on dedicating funds. Mr. Vassar cites to no case or other legal authority in support of his position. You ask for my response.

I am glad that the issue has been reviewed and believe that it is quite possible that a court, if faced with the question, will agree with Mr. Vassar's determination. Nevertheless, I continue to be uneasy about the constitutionality of the approach used in the bill and would not be willing to say that a decision that HB 322 is constitutional is a foregone conclusion.

Mr. Vassar's logic, as I understand it is:

- (1) the right to receive payments from the "Tobacco Settlement" is a state asset;
- (2) the commissioner of revenue may be authorized by law to sell a state asset;
- (3) AHFC has an independent legal existence from that of the state;
- (4) the sale of the right to receive state assets to AHFC separates them from state assets before, presumably, they are ever received;
- (5) the prohibition against dedicating revenue only applies to state assets, therefore that prohibition does not apply to the "Tobacco Settlement" money because they will no longer be state assets.

The problem I see with this logic is that it depends upon the proposition that assets of AHFC are not state assets. Surely, that is not true. The state can by law dissolve AHFC at any time and take direct control of all its assets (although the state will also be liable to bondholders if it does). Recall the Supreme Court has specifically noted that unencumbered assets of AHFC may be appropriated as other state assets are. (Hickel v. Cowper, 874 P.2d 922 (Alaska, 1994) footnotes 11 and 23) Also, for purposes of considering the constitutionality of HB 322, revenue from the "Tobacco Settlement" is not legally different from money the

Senator John Torgerson  
April 19, 2000  
Page 2

state receives from any other source. Could this same approach be applied to permit the state to authorize the commissioner to sell the right to receive, say, state corporate income taxes or state mineral lease rentals? Would that not effectively place large, perhaps all, of the state's revenue altogether outside of the appropriation process? Does this not substantially erode or evade Art. IX, secs. 7, 8, and 13? Will a court actually stand for that?

TBC:lmb  
00-032.lmb

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 25, 2000

Honorable John Torgerson, Co-Chair  
Senate Finance Committee  
State Capitol  
Juneau, Alaska 99801

Re: Comments on opinion of legislative counsel  
regarding right to receive revenue from the tobacco  
settlement (HB 322)

Dear Senator Torgerson:

As requested, this letter responds to your request for comments on several points raised by legislative counsel regarding proposals to raise proceeds for the construction of various kinds of state capital improvements set out in HB 322.

You ask that we comment on the underscored statements attributed either to legislative counsel or bond counsel set out below:

1. Assets of the Alaska Housing Finance Corporation are state assets, to be appropriated as other state assets are appropriated.

We cannot agree with the legal conclusion that assets of AHFC are state assets simply because they can be appropriated by the legislature. AHFC was established by law as "a public corporation and government instrumentality within the Department of Revenue, but having a legal existence independent of and separate from the state." AS 18.56.020. The segregation of AHFC assets is intended to insulate the state treasury from the debts of AHFC.

AHFC is a creature of statute and can be made subject to the legislature's power of appropriation and other means of holding it close to the state. There are certain limits placed on the legislature's appropriation power once contracts are made with bondholders concerning the pledge of assets and revenues of the corporation. See Alaska Const. art. I, sec. 15 (impairment of contracts).

The surplus revenue of a public corporation is considered available for appropriation for purposes of calculations determining access to the Constitutional Budget Reserve Fund (Alaska Const. art XI, sec. 17(b)). However, corporate revenue is considered

TONY KNOWLES, GOVERNOR

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available only to the extent that the legislature specifically appropriates it. Hickel v. Cowper, 874 P.2d 922, 931 n. 23.

For the foregoing reasons, we believe that there is a substantial difference between assets of AHFC and assets of the state. To the extent that revenues of AHFC are not appropriated, they remain the assets of AHFC and are not shown on the state's balance sheet.

2. "Tobacco settlement proceeds are not legally different from receipts from other sources."

Once tobacco settlement receipts are received by the state they are unrestricted revenue available for appropriation. For the current fiscal year, revenue from this source has been tagged as being derived from the settlement with tobacco manufacturers. Tagging does not affect the availability of this money for appropriation for any valid public purpose. This does not limit the state's power to convey a property interest in the right to receive future payments under the settlement agreement. According to AS 01.10.060 (a)(10), state law recognizes that personal property includes "things in action and evidences of debt." This means that a property right can be created representing the right to receive tobacco settlement proceeds. This property right has value, may be considered an asset of the general fund of the state, and can be sold to a willing buyer. See AS 37.10.071(b)(4) (commissioner of revenue may sell assets as a precommitment of future cash flows).

3. "Projects in a revenue bond are required by law to have a functional relationship, that is all projects benefiting from a bond issue are capital improvements for education facilities, or transportation facilities, but not both in a single legislative authorization."

We are not certain what is meant by "functional relationship." If this is an attempt to describe the single-subject requirement imposed in art. II, sec. 13 of the Alaska Constitution for all bills enacted into law, then we agree that each bill purporting to authorize the issuance of revenue bonds must be confined to a single theme and all provisions of the bill must be germane to that theme. There is no requirement that revenue bonds be limited to use for the construction of capital improvements.

4. "Revenue used in a revenue bond must be directly or indirectly related to the projects."

We assume the above statement is referring to a situation in which a revenue generating enterprise or activity is being financed through the issuance of revenue bonds. According to the Alaska Constitution, "the restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation." Alaska Const. art. IX, sec. 11. If bond proceeds are to be used to construct or

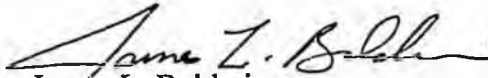
acquire a revenue generating enterprise, there would be some relationship between the improvements financed and the enterprise revenues used to repay bondholders.

In the case of the plan to issue revenue bonds secured by tobacco settlement proceeds, there is not an enterprise involved in the strict sense. The financing is conducted through a subsidiary of a public corporation with the only security being revenues of the corporation. The AHFC subsidiary will purchase sufficient revenue generating assets to provide the necessary security. The corporation will administer this asset as if it were a liquidating trust, in that it will use the tobacco settlement proceeds to which it becomes entitled to pay debt service on bonds and other costs of issuance and administration. It appears that the requirements of art. IX, sec. 11 of the Alaska Constitution are satisfied in that there is not a pledge of revenue other than revenue earned by the AHFC subsidiary which is a public corporation.

We hope that the foregoing comments will assist the committee in its deliberations and we remain available to testify on these matters.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
James L. Baldwin  
Assistant Attorney General

JLB:jn

cc: Pat Pourchot, Legislative Director  
Office of the Governor

Chrystal Smith, Legislative Contact  
Deborah Behr, Assistant Attorney General  
Department of Law

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April 25, 2000

Daniel Fauske  
Chief Executive Officer/Executive Director  
Alaska Housing Finance Corporation  
4300 Boniface Parkway  
Anchorage, AK 99504

Re: Proposed Tobacco Settlement Legislation

Dear Mr. Fauske:

We have reviewed certain proposed legislation (the "Legislation") being considered at the Second Session of the Twenty-First Alaska Legislature to authorize the Commissioner of Revenue to sell to Alaska Housing Finance Corporation (or a subsidiary thereof) the right to receive all or a part of the settlement proceeds to be derived from a certain settlement among various tobacco companies and the State of Alaska along with other States.

We have also reviewed a letter addressed to you from Kenneth Vassar of Wohlforth, Vassar, Johnson & Brecht dated April 19, 2000 and a letter addressed to the Honorable Eldon Mulder dated April 15, 2000 from James L. Baldwin, Assistant Attorney General on behalf of Bruce M. Botelho, Attorney General.

Based upon such reviews, I can advise you that we believe that the conclusion reached in such two letters that the proposed transaction does not violate the dedicated fund prohibition of the Alaska Constitution is correct.

Very truly yours,

*Howard Zucker*

SENATE FINANCE COMMITTEE

SIGN-IN

HB 287-APPROPRIATIONS: SCHOOLS/UNIV/HARBORS

NAME: Carl Rose Subject/Bill No: 281  
Co./Dept./Title: AASB Phone: 6-1083  
Address: Tunear Zip: 99801  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: Bruce Johns Subject/Bill No: 281  
Co./Dept./Title: ED Phone: 465-4678  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions



# Teleconference Participants

TCN: 10845

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Testifiers

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## Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

### SEWARD (SEW)

1

Name: Mr. Deven Mitchell

Phone:

Address: available for questions

Affiliation:

City /St /Zip:

Type: Testifier

Bill: HB 281: REVENUE BONDS: PUBLIC  
SCHOOLS/UNIV/HARBORS

3

Name: Mr. Scott Janke

Phone:

Address:

Affiliation:

City /St /Zip:

Type: Testifier

Bill: HB 281: REVENUE BONDS: PUBLIC  
SCHOOLS/UNIV/HARBORS

4

Name: Mr. Scott Janke

Phone:

Address:

Affiliation:

City /St /Zip:

Type: Testifier

Bill: HB 287: APPROPRIATIONS: SCHOOLS/UNIV./HARBORS

# TELECONFERENCE

**WE MAY BE JOINED BY:**

**DAN FAUSKE**

**STEVE CANTOR**



## Teleconference Participants

TCN: 10845

### Participant Lists

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Testifiers



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### Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

#### SEWARD (SEW)

1

Name: Mr. Deven Mitchell

Phone:

Address: available for questions

Affiliation:

City /St /Zip:

Type: Testifier

Bill: HB 281: REVENUE BONDS:PUBLIC  
SCHOOLS/UNIV/HARBORS

SENATE FINANCE COMMITTEE

SIGN-IN

HB 281-REVENUE BONDS:PUBLIC SCHOOLS/UNIV/HARBORS

NAME: John Bitney Subject/Bill No: HB281  
Co./Dept./Title: AHFC Phone: 330.8445  
Address: 4300 Boniface Pkwy, Anchorage Zip: 99510  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions