

HB

188

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 188
 (H) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title State of Alaska Capital Corporation RDU State of Alaska Capital Corporation
 Component _____
 Sponsor Rules Committee
 Requester Request of the Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel	10.0					
Contractual	6,700.0	100.0	100.0	100.0	100.0	100.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Debt Service	9,782.9	39,764.0	36,490.4	36,354.4	36,400.6	36,460.5
TOTAL OPERATING	16,492.9	39,864.0	36,590.4	36,454.4	36,500.6	36,560.5

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Bond Proceeds	6,700.0					
Alaska Capital Income Account and Earnings on Fund Balance	9,792.9	39,864.0	36,590.4	36,454.4	36,500.6	36,560.5
TOTAL	16,492.9	39,864.0	36,590.4	36,454.4	36,500.6	36,560.5

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill creates the State of Alaska Capital Corporation which will enter into operating agreements that will provide annual appropriations equal to the annual available fund balance in the Alaska Capital Income Account. This stream of payments will be leveraged into up to \$350 million in bond proceeds that will be placed into a construction fund to pay for capital improvements and costs of issuing bonds.

The Corporation will enter into flexible payment operating agreements that will provide the ability to appropriate fund balance in the Alaska Capital Income Account to the Corporation. As fund balance fluctuates with volatility, appropriated operating agreement payments will also fluctuate.

Prepared by: Deven Mitchell, Debt Manager Phone _____
 Division: Treasury Date/Time 2/11/05 8:39 AM
 Approved by: Jerry Burnett, Special Assistant to the Commissioner Date 2/11/2005
 Agency: Department of Revenue

FISCAL NOTE #1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB 188

ANALYSIS CONTINUATION

The corporation will leverage the flexible payment operating agreements through the issuance of flexible amortization bonds. The flexible amortization bonds will provide the ability to manage possible volatility in available fund balance in the Alaska Capital Account. A minimum annual payment amount will be established through a 40 year interest only payment schedule with a 40 year balloon principal payment. The actual annual payment will be based on available appropriations to the corporation, and as excess funds are received principal will be retired.

Annual amount available for appropriation in this fiscal note are based on the projected realized return rate of 7.61% on funds from fiscal year 2005 through fiscal year 2016. At this level of realized earnings the annual appropriation to the corporation will be \$33,525,656. All available fund balance in the Alaska Capital Income Account will be requested for appropriation by the corporation on an annual basis. The actual account balance is expected to vary from year to year, but the assumption of an average annual realized return rate of 7.61% is below the last 20 year average of 8.94%.

Although only \$9.8 million in expenditures funded from the Alaska Capital Income Account in fiscal year 2005 and 2006 the corporation will receive an appropriation for the available fund balance in the account in both 2005 and 2006. The balance of the appropriation will be used to fund structural enhancements including a debt service reserve fund equal to ten percent of par on outstanding bonds, and revenue fund balance equal to the upcoming year's nominal interest payment.

The \$6.6 million in contractual costs in fiscal year 2006 will fund costs associated with creating the structure for and issuing the bonds of the corporation. These costs will include underwriters, financial advisor, bond counsel, rating agencies, publishing, advertising, and other associated expenses of the corporation. The annual \$100,000 increment will fund annual operation and accounting costs of the corporation.

Amerada Hess Chronology re: bias issue

1. September 2, 1977. State of Alaska files lawsuit against 19 oil producers related to underpayment of royalties. *State of Alaska v. Amerada Hess Corp., et al.*, No. 1JU-77-847 Civ. (Super. Ct. Alaska).
2. November 2, 1987. Producers file suit in federal district court, *Standard Alaska Prod. Co. v. Schaible*, No. 87-621 (D. Alaska), claiming PFDs create impermissible bias for judges and jurors in *Am Hess* case.
3. 1988. Judge Kleinfeld issues unpublished decision recusing himself from the federal case because of receipt of PFDs. Case assigned to Judge Belloni in Oregon.
4. June 20, 1988. Judge Belloni issues unpublished decision finding bias issue unripe and challenges Alaska to provide a fair forum for case.
5. April 29, 1989. Ninth Circuit dismisses federal bias case as unripe. *Standard Alaska Prod. Co. v. Schaible*, 874 F.2d 624 (9th Cir. 1989), *cert. denied*, 495 U.S. 904 (1990).
6. May 13, 1989. First Am Hess segregation enacted. CSHB 276(Fin) am, ch. 38, SLA 1989 amending AS 43.23.045(b) to segregate income from "money awarded after trial" from PFD fund).
7. October 12, 1989. Alaska Supreme Court amends civil and criminal rules to provide that receipt of PFD does not provide basis for challenging a juror for cause. Alaska S.Ct. Order 1013 (amending Civil Rule 47(c) and Criminal Rule 24(c)).
8. March 14, 1991. Judge Carpeneti issues "Notice of Intention to Grant Motion for Disqualification," and indicating that 1989 segregation legislation did not go far enough to remove bias issues. *State of Alaska v. Amerada Hess Corp., et al.*, No. 1JU-77-847 Civ., Order 91-9 (Super. Ct. Alaska).
9. June 6, 1991. Second Am Hess segregation enacted. HCS CSSB 213(JUD), ch. 18, SLA 1991 (adding new subsection to AS 43.23.045 to segregate income from "money awarded in or received as a result" of the Am Hess case from PFD fund).
10. August 23, 1991. Judge Carpeneti rules that the new legislation cured the bias problem and the Alaska Supreme Court denies petition for review. *BP Exploration v. State of Alaska*, No. S-4654, S-4662, S-4689 (Alaska 1991).
11. 1991. Oil producers re-file federal bias suit. *Exxon Corp. v. Heinze*, Civ. A91-0543.
12. February 24, 1992. Judge Singleton issues order declining to recuse himself from case on account of receipt of PFD. *Exxon Corp. v. Heinze*, 792 F.Supp. 72 (D. Alaska 1992).
13. March 3, 1992. Judge Holland affirms Judge Singleton's decision and declines to remove reuse himself as well. *Exxon Corp. v. Heinze*, 792 F.Supp. 77 (D. Alaska 1992).
14. July 1, 1992. Current Am Hess segregation enacted. HCS CSSB 39 (FIN), sec. 19, ch. 134, SLA 1992 (same language as in second Am Hess segregation, but enacted at AS 37.13.145(d)).
15. April 1992. Oil phase of Am Hess litigation settles.
16. April 17, 1994. Ninth Circuit determines that appeal of refusal to recuse by Judges Singleton and Holland are not ripe. *Exxon Corp. v. Heinze*, 32 F.3d 1399 (9th Cir. 1994).
17. March 1995. Gas phase of Am Hess litigation settles.