

HB

34

<TARGET><BILL>HB 34</BILL><SUBJECT>HB
34</SUBJECT><COMM>HJUD28</COMM></TARGET>

**Alaska State Legislature
House of Representatives**

Rep.Tammie.Wilson@akleg.gov

Representative Tammie Wilson

Interim

1292 Sadler Way Ste. 308
Fairbanks, Alaska 99701
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Session

State Capitol
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Date: February 13, 2013
To: Representative Wes Keller, Chair, House Judiciary Committee
From: Representative Tammie Wilson, District 2
Re: HB 34 Hearing Request

Enclosed is House Bill 34 –“An Act making state acceptance of certain federal funds contingent on the creation and transmittal to the legislature of certain written economic analyses.”

House Bill 34 will ask the federal government to provide an economic analysis pertaining to the effects on the State and private industry of the federal mandate before complying with and accepting any federal funds associated with new federal laws, regulations, or executive orders. If no report is provided within 90 days, the State agency impacted by the federal law, regulation, or executive order will generate the economic analysis.

Accompanying sponsor statement and general back-up documents are included.

I would appreciate a hearing in the House Judiciary Committee at your earliest convenience.

Thank you for your consideration. Please contact Brandon Brefczynski at 465-4916 or 347-4569 (cell) if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Tammie".

Rep. Tammie Wilson

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CS for House Bill 34 version O

“An Act relating to the implementation of laws, regulations, and executive orders; relating to reporting required before implementation of laws, regulations, and executive orders; making state acceptance of certain federal funds contingent on the creation and transmittal to the legislature of certain written economic analyses; making compliance with state laws, regulations, and executive orders contingent on the creation and transmittal to the legislature of certain written economic analyses; and relating to the information that must be included with certain notices provided for the proposed adoption, amendment, or repeal of a regulation.”

Federally matched and unfunded mandates have cost the state millions of dollars through their implementation. Often, Alaska is forced to blindly follow new federal laws, regulations or executive orders without information detailing the economic impacts the federal mandates will have on the state. Committee Substitute for House Bill 34(JUD) will ask the federal government to provide an economic impact analysis of the effects on the state, local government and communities, and private industry before complying with and accepting any federal funds associated with a new federal law, regulation, or executive order. If no such report is provided within 90 days, the appropriate state agency will generate the economic impact report and present the findings to the Legislature. Additionally, economic analyses will be drafted for any state law, regulation, or executive order showing the impacts to the state and each community, industry, and local governments.

CSHB 34(JUD) also broadens the responsibility and powers of the Administrative Regulation Review Committee by allowing the committee to submit their comments on regulations to the lieutenant governor prior to filing the regulations. The lieutenant governor will then have the option to send the regulations back to the agency responsible for crafting them for further review. Finally, CSHB 34(JUD) will require additional information citing the impacts of regulations to the public and municipalities to be included with the public notice.

With the economic analyses and enhanced regulation review procedures provided in CSHB 34(JUD), the state and private industry will better understand the economic ramifications of new federal and state mandates and be better equipped to make decisions surrounding the acceptance of federal funds.

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Explanation of Changes CSHB 34 ver. O

Section 1 – Amends the following subsections of AS 01.10.200:

(a), Page 2, line 5: Adds “community” to the list of categories an economic analysis will be drafted explaining the impacts of any federal law, regulation, or executive order.

(c) Page 2, lines 17-23. Adds new subsection requiring an analysis of the economic impacts on each community, industry, and local government for any state law, regulation, or executive order.

(d) Page 2, lines 23-25. Adds new subsection exempting the requirements of economic analysis for any federal or state law, regulation, or executive order from funding related to disasters, disaster emergencies, major disasters, and temporary housing as defined in AS 26.23.900.

(e) Page 2, lines 26-28. Adds new subsection. Provides the department responsible for drafting the economic impact analysis authority to adopt regulations necessary to carry out the analysis.

(f) Page 2, lines 29-30. Adds new subsection. Provides a held harmless clause for the department responsible for drafting the economic impact analysis.

(g) Page 2 line 31, Page 3 lines 1-4. Adds new subsection. Provides definitions for the terms “community” and “industry”, as used in subsections (a) and (c).

Section 2 – Adds new section:

Page 3, lines 5-9. Amends AS 24.20.400 by requiring regulations be reviewed by the Administrative Regulation Review Committee before the regulations are filed by the lieutenant governor.

Section 3 – Adds new section:

Page 3 lines 11-31, page 4 line 1. Amends AS 44.62.190(d) by requiring all public notices include the reason for the proposed action, if applicable, by identifying the federal law, order, decision, or other action of the federal government or a federal court. Defines “federal government”. Public notices will also include an analysis of the initial costs to the state agency responsible for implementing the federal action and an estimated annual cost based on a good faith effort to private persons, state agency and other state agencies responsible for complying with the federal action, municipalities, name of the contact person for the state agency, a narrative description of the history of the proposed action, and a summary of known opposition to the action and any agency responses to the opposition.

Section 4 – Adds new section:

Page 4, lines 2-5. Amends AS 44.62.190 by adding new subsection (f). Provides a hold harmless clause for the state agency conducting the cost estimate.

Section 5 – Adds new section:

Page 4, lines 6-20. Amends AS 44.62.320(b). The chair of the Administrative Regulation Review Committee shall review regulations submitted to the lieutenant governor and determine whether it complies with the cited statute and identify the effects on the public. The chair may submit to the lieutenant governor comments on the regulation, which will become part of the public record.

Section 6 – Adds new subsection

Page 4, lines 21-25. Adds new subsection (c) to AS 44.62.320. The lieutenant governor shall review the comments from the Administrative Regulation Review Committee Chair, and may return the proposed regulations to the department for additional review.

Section 7 – Adds new section to uncodified law

Page 4 lines 26-31, page 5 line 1. Provides an applicability date of January 1, 2014. Section 3 and 4 apply to proposed adoption, amendment, or repeal of regulation on or before the effective date.

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Sectional Analysis

CSHB 34 ver. O

Section 1: Requires an economic impact analysis be drafted by the federal government for any federal law, regulation, or executive order showing the impacts it will have on the state and communities, industry, and local government. If after 90 days the federal government has not provided the report, the state agency responsible for implementing the proposed federal law, regulation, or executive order will be responsible for drafting the economic analysis and transmit the report to the Legislature. Acceptance of federal funding is prohibited until the economic analysis is drafted and transmitted to the Legislature. Economic analyses will also be required for any state law, regulation, or executive order, and will be drafted by the responsible state agency. Federal funding related to disasters will be exempt from the economic analysis requirement. The department responsible for drafting the economic analysis is granted the power to adopt regulations. A person may bring an action in court to challenge the accuracy of an economic analysis. Provides definitions of “community” and “industry”.

Section 2: The Administrative Regulation Review Committee will review regulations before they are filed by the lieutenant governor.

Section 3: All public notices will identify the federal law, order, decision, or other federal action or court decision from in which a proposed action derived. Also, provide a cost estimate for proposed regulation on the state, private persons, and municipalities. Provide the contact name of the person of the responsible state agency. Provide a narrative description of the history of the proposed action and a summary of known opposition.

Section 4: A person may not challenge in court the adoption, repeal, or amendment of a regulation by a state agency for inaccuracy of a cost estimate.

Section 5: The chair of the Administrative Regulation Review Committee will review regulations and determine whether they comply with the cited statutes and identify any effects to the public. The chair may submit within seven working days, comments to the lieutenant governor. If the chair does not provide comments to the lieutenant governor, the regulation will be considered not to have objections.

Section 6: The lieutenant governor may review the comments sent by the chair of the Administrative Regulation Review Committee, and send the regulations back to the agency responsible for creating the regulations for revising.

Section 7: Provides effective dates.

CS FOR HOUSE BILL NO. 34()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES TAMMIE WILSON, Peggy Wilson

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the implementation of laws, regulations, and executive orders;**
2 **relating to reporting required before implementation of laws, regulations, and executive**
3 **orders; making state acceptance of certain federal funds contingent on the creation and**
4 **transmittal to the legislature of certain written economic analyses; making compliance**
5 **with state laws, regulations, and executive orders contingent on the creation and**
6 **transmittal to the legislature of certain written economic analyses; and relating to the**
7 **information that must be included with certain notices provided for the proposed**
8 **adoption, amendment, or repeal of a regulation."**

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

10 *** Section 1. AS 01.10 is amended by adding a new section to read:**
11 **Article 5. Laws of the United States.**
12 **Sec. 01.10.200. Compliance with federal law. (a) Before complying with a**

1 federal law, regulation, or presidential executive order, the department of the state
2 responsible for implementing the federal law, regulation, or executive order shall
3 request from the appropriate branch or agency of the federal government a written
4 report on the economic effect the federal law, regulation, or presidential executive
5 order will have on the state and each community, industry, and local government in
6 the state affected by the federal law, regulation, or presidential executive order.

7 (b) If, after 90 days, the appropriate branch or agency of the federal
8 government has not supplied the department of the state responsible for implementing
9 the federal law, regulation, or executive order with the report described in (a) of this
10 section, the department of the state responsible for implementing the federal law,
11 regulation, or executive order shall prepare the report described in (a) of this section.
12 The department of the state responsible for implementing the federal law, regulation,
13 or executive order may not accept funding from the federal government to implement
14 a federal law, regulation, or executive order until the department has transmitted to the
15 legislature the report described in (a) of this section, produced by either the federal
16 government or the applicable state agency.

17 (c) Before complying with a state law, regulation, or executive order, the
18 department of the state responsible for implementing the state law, regulation, or
19 executive order shall complete a written report of the economic effect the state law,
20 regulation, or executive order will have on the state and each community, industry,
21 and local government in the state affected by the federal law, regulation, or executive
22 order.

23 (d) Federal funding related to disasters, disaster emergencies, major disasters,
24 and temporary housing, as defined in AS 26.23.900, are exempt from the requirements
25 in (a) and (b) of this section.

26 (e) A department of the state responsible for completing a written report
27 described in (a) - (c) of this section has the authority to adopt regulations necessary to
28 carry out the purposes of this section.

29 (f) A person may not bring an action in court to challenge the accuracy of a
30 written report prepared under of this section.

31 (g) In this section,

1 (1) "community" means an incorporated municipality, organized
2 borough, city, town, or unincorporated village;

3 (2) "industry" means a branch of commercial enterprise concerned
4 with the output of a specific product or service.

5 * Sec. 2. AS 24.20.400 is amended to read:

6 **Sec. 24.20.400. Administrative Regulation Review Committee established.**

7 The Administrative Regulation Review Committee is established as a permanent
8 interim committee of the legislature. The establishment of the committee recognizes
9 the need for prompt legislative review of administrative regulations before the
10 regulations are filed by the lieutenant governor.

11 * Sec. 3. AS 44.62.190(d) is amended to read:

12 (d) Along with a notice furnished under (a)(2), (4)(A), or (6) of this section,
13 the state agency shall include

14 (1) the reason for the proposed action, including, if applicable, an
15 identification of the law, order, decision, or other action of the federal
16 government or a federal court that requires the proposed action, that is the basis
17 for the proposed action, or to which the proposed action is responding; in this
18 paragraph, "federal government" means a department, agency, corporation, or
19 instrumentality of the United States government;

20 (2) the initial cost to the state agency of implementation;

21 (3) [,] the estimated annual costs, based on a good faith effort to
22 estimate the costs in the aggregate for each of the following categories using the
23 information available to the state agency, to

24 (A) private persons to comply with the proposed action;

25 (B) the state agency for [OF] implementation and to other
26 state agencies to comply with the proposed action; and

27 (C) municipalities to comply with the proposed action;

28 (4) [,] the name of the contact person for the state agency;

29 (5) a narrative description of the history of the proposed action;

30 and

31 (6) a summary of known opposition to the action and any agency

1 responses to the opposition [, AND THE ORIGIN OF THE PROPOSED ACTION].

2 * Sec. 4. AS 44.62.190 is amended by adding a new subsection to read:

3 (f) Notwithstanding AS 44.62.300, a person may not bring an action in court
4 to challenge the adoption, repeal, or amendment of a regulation by a state agency for
5 inaccuracy of a cost estimate provided under (d)(3) of this section.

6 * Sec. 5. AS 44.62.320(b) is amended to read:

7 (b) At the same time a regulation is submitted to [FILED BY] the lieutenant
8 governor, the lieutenant governor shall submit the regulation to the chair
9 [CHAIRMAN] and all members of the Administrative Regulation Review Committee
10 for review under AS 24.20.400 - 24.20.460 together with public comment and the
11 fiscal information required to be prepared under AS 44.62.195. The chair of the
12 Administrative Regulation Review Committee shall review the regulation to
13 determine whether it complies with and is a correct interpretation of the cited
14 statute. The chair shall also identify any potential effects on the public. The chair
15 may, within seven working days after the submission of a regulation to the
16 Administrative Regulation Review Committee, submit to the lieutenant governor
17 comments, and the comments shall become part of the public record. If the chair
18 does not provide comments within seven working days after the submission, the
19 Administrative Regulation Review Committee shall consider the absence of
20 comments as no objection to the proposed regulation.

21 * Sec. 6. AS 44.62.320 is amended by adding a new subsection to read:

22 (c) The lieutenant governor shall review the comments of the Administrative
23 Regulation Review Committee and the public comments submitted under (b) of this
24 section and may return the proposed regulations to the department for additional
25 consideration.

26 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 APPLICABILITY. (a) AS 01.10.200, added by sec. 1 of this Act, applies to a law,
29 regulation, or executive order enacted after January 1, 2014.

30 (b) AS 44.62.190(d), as amended by sec. 3 of this Act, and AS 44.62.190(f), added by
31 sec. 4 of this Act, apply to the proposed adoption, amendment, or repeal of a regulation on or

1 after the effective date of this Act.

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CS for House Bill 34

“An Act making state acceptance of certain federal funds contingent on the creation and transmittal to the legislature of certain written economic analyses.”

Federally matched and unfunded mandates have cost the State millions of dollars in their implementation. Often, Alaska is forced to follow new federal laws, regulations, or executive orders without information detailing economic impacts the federal mandate will have on the State. House Bill 34 will ask the federal government to provide an economic impact report of the effects on the State and private industry of the federal mandate before complying with and accepting any federal funds associated with new federal laws, regulations, or executive orders. If no such report is provided by the federal government within 90 days, the appropriate State agency will generate the economic impact report and present the findings to the Legislature. With these economic impact reports, the State and private industry will better understand the economic ramifications of new federal mandates and be better equipped to make decisions surrounding the acceptance of federal funds.

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Explanation of Changes

CSHB 34 ver. C

House Bill 34 version N required the State to not comply with a federal law, regulation, or executive order unless a report was provided explaining how compliance can be achieved, and an economic impact report for each affected community.

Committee Substitute for House Bill 34 has been amended to require only an economic analysis regarding the effects to the State and private industry. A 90 day timeframe has been established as to when the Federal government must provide the analysis, and if not received, the appropriate State agency will draft the analysis. Finally, a provision has been added not allowing the State to accept any federal funding associated with the new law, regulation or executive order until the economic analysis has been provided.

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Nauman
1/30/13

CS FOR HOUSE BILL NO. 34()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES TAMMIE WILSON, Peggy Wilson

A BILL
FOR AN ACT ENTITLED

1 **"An Act making state acceptance of certain federal funds contingent on the creation and**
2 **transmittal to the legislature of certain written economic analyses."**

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

4 *** Section 1. AS 01.10 is amended by adding a new section to read:**

5 **Article 5. Laws of the United States.**

6 **Sec. 01.10.200. Compliance with federal law. (a) Before complying with a**
7 **federal law, regulation, or presidential executive order the department of the state**
8 **responsible for implementing the federal law, regulation, or executive order shall**
9 **request from the appropriate branch or agency of the federal government a written**
10 **description of the economic effect the federal law, regulation, or presidential executive**
11 **order will have on the state and each community and industry affected by the federal**
12 **law, regulation, or presidential executive order.**

13 **(b) If, after 90 days, the appropriate branch or agency of the federal**
14 **government has not supplied the department of the state responsible for implementing**

1 the federal law, regulation, or executive order with the written description described in
2 (a) of this section, the department of the state responsible for implementing the federal
3 law, regulation, or executive order shall complete the written description described in
4 (a) of this section. The department of the state responsible for implementing the
5 federal law, regulation, or executive order may not accept funding from the federal
6 government to implement a federal law, regulation, or executive order until the
7 department has transmitted to the legislature the report described in (a) of this section,
8 produced by either the federal government or the applicable state agency.

9 (c) This section applies to a federal law, regulation, or presidential executive
10 order implemented after July 1, 2013.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 34
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB034CS(JUD)-OOG-OMB-03-13-2013
Title: FEDERAL LAWS, REGULATIONS & EXEC.
ORDERS
Sponsor: T.WILSON
Requester: House Judiciary

Department: Various
Appropriation: Various
Allocation: Various
OMB Component Number:

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues	***		***	***	***	***	***
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?

If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

The analysis section of this fiscal note is updated to reflect the CS. The CS states that if the relievent federal agency does not provide, within 90 days, a description to the appropriate state agency of the economic impact on the state, on each community and on the industry, then the appropriate state agency will need to provide this description. Furthermore, the appropriate state agency will not be allowed to accept federal funds until this report is transmitted to the legislature.

Prepared By: Arnold Liebelt, Policy Analyst
Division: Office of Management and Budget
Approved By: Karen Rehfeld, Director
Office of Management and Budget

Phone: (907)465-4676
Date: 03/13/2013 02:30 PM
Date: 03/13/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSHB 34

Analysis

CSHB 34 requires that before a department complies with a federal law, regulation, or presidential executive order, the department must first request from the appropriate federal agency a description of the economic impact the federal law, regulation, or presidential executive order will have on the state and each community and industry affected by it.

If after 90 days the federal government fails to provide this information, then the appropriate department shall complete the written description of the economic impact on the state, on each community and industry. The appropriate department of the state responsible for implementing the federal law, regulation, or executive order may not accept funding from the federal government to implement the law, regulation, or presidential executive order until the department transmits a report containing a description of the economic impact to the Legislature.

The bill applies to a federal law, regulation, or presidential executive order implemented after July 1, 2013.

The cost for this bill cannot be quantified with any degree of specificity, and thus is indeterminate. This note assumes that the appropriate federal agency will not be providing a description of the economic effect of the law. In the absence of the appropriate branch of the federal government providing this information, the department must provide to the legislature a description of the economic impact on the state and each community and the industry.

The impact to the state is indeterminate since it is not known what new federal laws, regulations, or executive presidential executive orders would occur with which the state would need to comply. If a federal law has a significant impact, then staff, and very likely economic consultants, may need to be hired to determine the impact on the state and all of the state's communities and industries.

There are just under 250 communities in Alaska. Assessing the economic impact to these communities is not a function that agencies are typically staffed to perform. State employees implement and execute federal and state programs and cooperative agreements. They are not required to assess the economic impacts to communities and industry. Individual communities are responsible for providing this information to the Legislature directly if they choose to do so. For a department to provide this information would be a tremendous undertaking and would require additional staff and consultants, depending on the requirements of the law, regulation, or presidential executive order.

In FY2013, the enacted operating budget included \$2.03 billion in federal funds that touched over 200 programs statewide including the University of Alaska, the Alaska Court System, the Alaska Housing Finance Corporation, Sport Fisheries, Student Achievement, and the Alaska Permanent Fund Corporation.

These funds were available for expenditure starting July 1, 2013, or earlier if an earlier effective date was included in the legislation. Under the CS, funds would not be available for expenditure until a report addressing the economic impact is provided to the legislature. This would cause a delay of no less than 90 days and possibly significantly longer, before a department could accept federal funds. In worst case scenario, the full authorization could lapse if the report was unable to be completed and submitted within the existing fiscal year. If the lapsed authorization required GF matching funds, then those funds would lapse as well. There are no exceptions provided in the CS, even if federal funds were being provided in response to a natural disaster or other similar emergency response scenario.

To assist in placing the potential ramifications of this legislation in perspective, we are providing a few possible and very plausible scenarios.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSHB 34

Analysis Continued

Scenario 1: Alaska Municipal Bond Bank Authority

The bill would create operational difficulties for the Bond Bank and potentially require breaks in operation while requesting and awaiting the required written descriptions. Any operational breaks or failures to comply with revised federal law, regulation or presidential executive order would violate terms of the contracts that have been entered into with bond purchasers and mandate material event disclosure to the capital market.

The Bond Bank is required to provide information to investment banks so that they may comply with new regulations as well. The Bond Bank must stay in compliance with the Internal Revenue Service (IRS) regulations as to maintain the tax exemption on debt. This includes complying with any new regulations to be promulgated. The cost of noncompliance could potentially be very high including barring the Bond Bank from the capital markets due to our noncompliance, and the IRS declaring currently tax exempt bond issues as taxable creating significant additional liability to bond holders.

Scenario 2: Regulatory Commission of Alaska

The federal law (Telecommunications Act of 1996) allows state regulatory commissions such as the RCA to designate telecommunications providers as telecommunications carriers eligible to receive federal universal service funds (USF). The carriers use these funds to provide lifeline service to qualified low-income customers and to expand or enhance facilities to provide wireline and wireless telecommunications services. The RCA also follows federal guidelines that require state commissions to certify annually that federal universal service funds will only be used for their intended purpose, a certification that is required for continued receipt of certain federal universal service funds by carriers. Consequently a regulated eligible telecommunications carrier's receipt of USF is contingent on RCA certification to the Federal Communications Commission that the carrier will use the funds only for their intended purpose.

If the implementation of this act were delayed due to CSHB 34 and the RCA providing a written description of the economic impact of such an act on communities and industry, the consequences could be severe. In such a situation telecommunication carriers may not become eligible to receive federal funds or those who already are eligible may lose federal funds currently received to support the provision of telecommunications services. In addition to having a negative impact on the maintenance and expansion of telecommunications facilities, the lack of federal USF could reduce the availability of lifeline services to telephone subscribers who meet eligibility criteria.

Scenario 3: Alaska Housing Finance Corporation

In 2009, AHFC received \$19 million in federal funds under a new program to build housing. That program had an 18 month obligation deadline. AHFC received the allocation and began implementation of the program without formal regulations by the Department of Housing and Urban Development. If there had been a delay in AHFC's ability to move forward on that program, a substantial proportion of those funds would have been lost. That means fewer units would have been built or rehabilitated, meaning less economic impact in the construction business where the multiplier effect is between 10 and 16 times the original investment. In rural Alaska, a six month delay is an entire construction season adding 5-10% inflation to the project cost. Statewide, delays and/or loss of funds means fewer homeless people housed, fewer units built, increased pressure on social service providers, and increased social costs.

There are other scenarios for the 200 programs the state operates that are attached to federal funds. For these reasons this fiscal note is indeterminate.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 34
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB034-GOV-OMB-02-22-2013
Title: FEDERAL LAWS, REGULATIONS & EXEC.
ORDERS
Sponsor: T.WILSON
Requester: House Judiciary

Department: Various
Appropriation: Various
Allocation: Various
OMB Component Number:

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	***	***	***	***	***	***	***
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues	***	***	***	***	***	***	***
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version of fiscal note.

Prepared By:	Arnold Liebelt, Policy Analyst	Phone:	(907)465-4676
Division	Office of Management and Budget	Date:	02/22/2013 04:00 PM
Approved By:	Karen Rehfeld, Director	Date:	02/22/13
	Office of Management and Budget		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 34

Analysis

House Bill 34 would make the state's compliance with a federal law, regulation, or presidential executive order contingent on the receipt of certain information from the federal government. The information would need to include how compliance with the federal law, regulation, or executive order will be accomplished and what the economic effect of the law will have on each community affected by the law, regulation, or executive order.

Neither the bill nor other state or federal law requires the federal government to provide that information. If the bill were enacted and the state is consequently unable to comply with federal legal requirements, the federal government could withhold or deny significant amounts of funding to the state, withdraw grants of primacy to the state to administer certain federal programs, or take legal action to force state compliance if the federal law is one with which state compliance is mandatory.

The executive branch is unable to quantify the fiscal costs of the bill, but they are expected to be substantial. In addition to the cost impact from the loss of federal funding, we anticipate increased costs of negotiations with the federal government, costs from changes in program administration, and costly legal actions.

This bill would impact every state agency including the Alaska Court System, the Alaska Housing Finance Corporation, the Alaska Permanent Fund Corporation, the Regulatory Commission of Alaska, and the University of Alaska.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Transportation and
Public Facilities

STATEWIDE ADMINISTRATIVE SERVICES

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February 2, 2013

The Honorable Representative Austerman
The Honorable Representative Stoltze
Co-chairs, House Finance Committee
State Capitol Bldg., Room 505 & 515
Juneau, Alaska 99801

Dear Co-Chairs Austerman and Stoltze,

In response to questions posed by House Finance Committee members on January 28, 2013, the following information is provided:

The Environmental Protection Agency's (EPA) has effectively "banned" the use of urea as a de-icing chemical on existing and new primary airports, as defined as an airport with 1,000 or more annual jet departures ("non-propeller aircraft") that generate wastewater associated with airfield pavement de-icing. The EPA has made the alternatives offered for the continued use of urea at airports with 1,000 or more annual jet departures prohibitively expensive, so it is in effect, a "ban".

Airports meeting these criteria must use non-urea containing de-icers, or alternatively, meet a numeric effluent limitation for ammonia. The new rule impacts six DOT&PF airports that currently utilize urea as their primary airport runway de-icer (Barrow, Bethel, Kodiak, Sitka, Ted Stevens Anchorage International and Fairbanks International). Meeting the numeric effluent limitations for ammonia, as defined in the EPA ruling, is not feasible at these six airports, forcing conversion from urea use to the alternative, Potassium Acetate.

The Federal Aviation Administration (FAA) operational requirement for de-icing at jet serviced airports is to achieve a bare pavement landing and takeoff standard. These standards cannot be violated, reduced, or waived, and it would be unsafe to attempt jet landings and takeoffs outside of the standard. Bare pavement requires almost constant application of chemicals. Ice and snow can also bond to pavements in a manner that compounds the airport crew's ability to achieve safe operations if they "get behind." Accumulation of ice and snow makes an FAA approved safety threshold more difficult, time consuming, and expensive to achieve.

Increased costs are going to vary from airport to airport depending upon size, existing infrastructure, number of daily departures and climate (average temperatures and precipitation).

- ***Is DOT&PF pursuing any new de-icing technology? Has the state looked at any other possible chemicals for de-icing at the airports?***

We have looked at the possibility of meeting the numeric limitations for runoff at both the international airports and the impacted rural airports, and we are certain continued urea use is not an option based on runoff sampling. We have already exceeded the stated minimum.

We also investigated and conducted extensive research on alternative deicers.

For the impacted airports in our rural system, we determined that the use of Potassium Acetate (E36) as our primary de-icing chemical was the most cost-effective and efficient chemical to use. We investigated chemicals such as Sodium Acetate (NAAC), Sodium Formate/Acetate Blend (NAAF), and others. We have been using E36 at several airports for several years and have extensive experience with this chemical. Our conditions are best managed by liquid chemicals (E36) supplemented in some cases (Barrow and Bethel) with small amounts of solid chemicals (NAAC).

At the internationals, we will use NAAC, NAAF, and E36, depending on conditions. These chemicals come in either solid or liquid form and staff makes the determination as to which chemical will achieve the desired effect based on temperature and precipitation.

We have not found any less expensive, effective de-icing chemicals for either internationals or the rural airports.

- ***Have we or can we seek an exemption to new de-icing rules? What municipal airports are involved in the de-icing chemical change and what are they doing?***

DOT&PF participated actively—we pushed back—in the Environmental Protection Agency's (EPA) formal rule-making process which played out over a period of years. We were clear in challenging this ruling as an unfunded mandate in an aviation-centric state. The air carriers (Alaska Airlines et. al.) were also both organized and vocal in challenging this proposed EPA policy (de facto ban) because all airports, to varying degrees, pass cost increases on to their users. This is especially true with respect to our international airports. We did make the “Alaska is unique case,” with help from our federal congressional delegation, and in coordination with the Governor’s Washington DC Office. Regarding the municipal airports, it is my understanding that the Juneau Airport is impacted significantly by this ruling. We have supported them as they have voiced their concerns as well.

- ***Previously there were signs telling drivers to pull off if they had five or more vehicles behind them, what happened to the signs between Copper Landing and Talketna? Can DOT&PF put them back? Also, can DOT&PF put signs up telling drivers when pullouts are ahead?***

The Department received \$30.0 from legislature in 2002 to install slow vehicle signs. We installed DELAY OF 5 VEHICLES ILLEGAL – MUST USE TURNOUTS signs at the entry points to all the corridors except the Sterling Highway. Additionally, we installed multiple KEEP RIGHT EXCEPT TO PASS signs on every segment of the highway where there were 3-lane passing lanes, some of which had a history of head on collisions in the center lane opposing the passing lane. We have installed blue and white “P” (parking) 1000 FT and “P” with arrow signs with each new paving project to identify existing turn outs that can be used for parking. These frequently require a 90 degree turn to enter. A vehicle has to almost come to a stop to enter – causing more delays than they solve. We are reviewing

the recent sign inventory to determine which signs are still in place today. There has never been an effort to remove these signs but some may not have been replaced after a crash or other incidents.

At the time of the last sign request (2002) there were only two "real" slow vehicle turnouts built to usable standards. They were on the Seward Highway at Milepost 113.5 southbound and Milepost 52.5 northbound. A turnout must be parallel to the highway and be close to 600 feet long to effectively function as a location for a vehicle with a trailer to slow down, pull over, stop, and then be able to pull back into traffic. We have built 3 more Slow Vehicle Turnouts for northbound traffic within Turnagain Pass in 2009.

More significantly, in 2010 we launched a project design effort for large scale additions of slow vehicle turnouts (SVTs) for the Seward and Sterling highways. From that effort, construction of 8 additional SVTs between Anchorage and Girdwood will be seen in 2013. Construction of 22 additional SVTs for the Sterling Highway is scheduled for 2014.

Building passing lanes is the Department's goal for two lane highways. They allow for slowing and no need for stopping. Providing them every 5 to 10 miles on busier two lane roads gives drivers the best opportunity to comply with the "Delay of 5 Vehicles" law. DOT&PF has been building passing lanes with each "10 mile" widening and shoulder work project as federal funds allow. Many passing lanes have been built over the last decade.

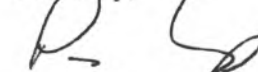
- ***When was the last time AMHS fares were changed? How are fare amounts set?***

In May of 2007 AMHS instituted a 3.2% across the board increase on tariffs. These prices went into effect on services offered as of October 1st of 2007. This was the last time AMHS has changed tariff amounts other than for the addition of new routes.

There is no established formula for setting fare amounts and over the years a number of inequities have developed when city pairs are compared on a per mile basis. The Department is currently reviewing the fare structure to determine if fares should be adjusted to address inequities and/or increased costs.

If you or your committee members have any further questions, please feel free to contact Mary Siroky 465-8974.

Sincerely,



Patrick J. Kemp, P.E.
Commissioner

cc: House Finance Transportation Committee Members
Kim Rice, Deputy Commissioner, DOT&PF
Reuben Yost, Deputy Commissioner, DOT&PF
Mary Siroky, Administrative Services Director, DOT&PF
John Falvey, General Manager, AMHS, DOT&PF

4. COSTS AND BENEFITS

The costs of dust control on unpaved roads in rural Alaskan communities can be calculated on the basis of available market data, but the benefits of each control method will vary depending on the soil type, traffic level, and road design, among other factors. As a result, approximate costs for various control methods are presented here on the basis of delivery to and application in Kotzebue. The control methods included in the cost analysis are limited to those that are technologically feasible in northwestern Alaska. The range of control effectiveness for each of the control methods derives from the literature, not from studies conducted in cold climates.

The costs of dust control methods, per mile of treated roadway in northwestern Alaska, are summarized in Table 3. Labor and equipment costs are based on data provided by the Alaska Department of Transportation and Public Facilities (ADOT&PF). (Adler, 2006) Detailed cost calculations are presented in spreadsheet format in Appendix C.

Dust Control Category	Specific Product	Control Cost (\$ per mile of road treated)	Control Effectiveness Range	Control Duration
Moisture Increase	Watering	\$32	0% - 50%*	1-2 hours
	Calcium Chloride	\$26,000	0% - 70%**	6 months
Particle Agglomeration	EK-35	\$20,000	0% - 99%***	1 year
	Lignosulfonate	\$22,000	0% - 90%*	2 months
	Soil Sement	\$26,000	0% - 84%****	1 year
Soil Coverage	Gravel	\$84,000	0% - 30%*	3 months
	Geotextile	\$27,000	N/A	10 years
	Asphalt Paving	\$2,700,000	90% - 99%	15 years
	Fiberglass Plates	\$2,800,000	90% - 99%	10 years

* Orlemann, 1983

** Morgan, 2005

*** MRI, 2002

**** California ARB, 2002

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Fairbanks Northstar Borough - Air Quality Mitigation

FY2013 Request: \$2,500,000
Reference No: 54871

AP/AL: Appropriation
Category: Health/Human Services
Location: Fairbanks Areawide

Project Type: Life / Health / Safety
Recipient: Fairbanks North Star Borough
House District: Fairbanks Areawide (HD 7-11)

Impact House District: Fairbanks Areawide (HD 7-11)

Contact: JoEllen Hanrahan

Estimated Project Dates: 07/01/2012 - 06/30/2017 **Contact Phone:** (907)465-2500

Brief Summary and Statement of Need:

This project will provide funding for air quality analysis, emission mitigation, and energy source conversion in the Fairbanks Northstar Borough. This project will help determine the air pollutant contribution from mobile and stationary sources, document potential high concentration areas and their causes, and remedy those pollutants from the community in the most efficient way possible.

Funding:	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	Total
Gen Fund	\$2,500,000						\$2,500,000
Total:	\$2,500,000	\$0	\$0	\$0	\$0	\$0	\$2,500,000

<input type="checkbox"/> State Match Required	<input checked="" type="checkbox"/> One-Time Project	<input type="checkbox"/> Phased - new	<input type="checkbox"/> Phased - underway	<input type="checkbox"/> On-Going
0% = Minimum State Match % Required		<input type="checkbox"/> Amendment	<input type="checkbox"/> Mental Health Bill	

Operating & Maintenance Costs:

	<u>Amount</u>	<u>Staff</u>
Project Development:	0	0
Ongoing Operating:	0	0
One-Time Startup:	0	
Totals:	0	0

Additional Information / Prior Funding History:

Project Description/Justification:

The Fairbanks Northstar Borough, in collaboration with the State of Alaska, is continuing to work towards minimizing emissions and improving air quality in the Borough. This funding will be used to identify as well as remedy pollutant sources and improve air quality in the most efficient and effective ways possible.

This project will also include continued work on the wood stove conversion program. This program allows Fairbanks Northstar Borough residents to remove, replace, or repair their unqualified solid fuel wood burning device (wood stove or boiler) with a Borough qualified solid fuel wood burning device.

The State and Borough are working together to identify sources of particulate matter (PM) 2.5 emissions, work to minimize those emissions, and ensure containment. Wood stoves and fire boilers are significant sources of PM 2.5 emissions, and studies completed by the Borough show that over 20% of homes located in the Borough's "urban core" use wood stoves as their primary winter heat source, and approximately 80% use wood stoves as their secondary heat sources.

Some possible solutions may be to replace out-of-date, inefficient, and polluting wood stoves with State of Alaska Capital Project Summary Department of Commerce, Community, and Economic Development
 Final Total SLA 2012 FY12&13 Reference No: 54871
 5/14/12 12:21:32 PM Page 1 Released May 14, 2012

more efficient models. The Environmental Protection Agency (EPA) has found that upgrading wood stoves with EPA-certified wood stoves increases energy efficiency by 50%, stoves use 1/3 less wood, and PM 2.5 emissions are reduced by 55-70%. According to the EPA, replacing one inefficient wood stove has the same reductions of PM 2.5 emissions as taking five diesel buses off of the road. Other options may be identified at a later time.

Fairbanks currently experiences 25 - 30 days per year with measured PM 2.5 concentrations. Excessive PM 2.5 concentrations are linked to increased human health issues. Diesel and gasoline powered vehicles are among the suspected emission sources.

Project Title: Positive Train Control

TPS Number: 60623

Priority: 1

Agency: Community & Economic Dev

FY2014 State Funding Request: \$35,000,000

Future Funding May Be Requested

Brief Project Description:

Positive Train Control (PTC) is federally mandated technology to stop or slow a train to prevent human-error caused rail accidents.

Funding Plan:

Total Project Cost:	\$153,800,000
Funding Already Secured:	(\$63,800,000)
FY2014 State Funding Request:	(\$35,000,000)
Project Deficit:	\$55,000,000

Explanation of Other Funds:

1997 through 2013

FRA grants \$15,700,000

FTA grants \$42,400,000

ARRC internal funds \$5,700,000

Detailed Project Description and Justification:

The Alaska Railroad Corporation (ARRC) faces a massive unfunded federal mandate to implement a Positive Train Control (PTC) system by the end of 2015.

PTC is technology designed to stop or slow a train before human error causes an accident to occur. In particular, PTC is designed to prevent train-to-train collisions, derailments caused by excessive speed, unauthorized incursions by trains onto sections of track where repairs are being made, and movement of a train through a track switch left in the wrong position.

Federal mandates require certain railroads to have working PTC systems by the end of 2015. ARRC is a member of several national railroad industry organizations that are advocating for the extension of the federal deadline. However, to date, Congress has failed to pass an extension, which means that railroads MUST continue investing in the technology and make significant progress towards deployment of PTC with a 2015 deadline in mind, or else risk significant fines and forced operational changes by the Federal Railroad Administration. The funding requested will permit ARRC to install the office system by 2015, with full required build-out and implementation by 2018, the most likely date of extension, should there be one.

ARRC has invested nearly \$55 million to date in developing this project; however, the current estimate to field an operational PTC system requires additional funding in the \$90 million range. The vast majority of the funds expended to this point by ARRC have come from formula funds from the Federal Transit Administration (FTA). Unfortunately, in the recently completed federal transportation funding reauthorization (MAP-21), Congress reduced the level of these formula funds that ARRC is to receive going forward from \$36 million to \$27 million. Combined with significant contraction by two of ARRC's largest commercial customers, the Alaska Railroad Corporation no longer has the financial means to meet this federal requirement and concurrently run a viable railroad.

If the ARRC cannot deploy a PTC system in a timely manner, ARRC will be forced to divest itself of its world-renowned passenger service which will negatively impact residents, visitors, and Alaska businesses in the tourism trade. The Alaska Railroad would also lose approximately \$27 million annually in Federal Transit Administration formula funding which is money provided to passenger systems like ARRC that provide regularly scheduled year-round passenger service; as these funds serve as the sole security for ARRC's outstanding bonds, this would be highly problematic.

The funding required to complete this system is greatly beyond what is financially feasible for ARRC to provide, given reductions in commercial activity and reduced federal grant funding levels. If ARRC is to comply with this law and remain a viable enterprise, assistance from the State of Alaska is critical.

Project Timeline:

SFY 2014 request is \$35,000,000. Timing of additional funding need will most likely be:

SFY 2016 \$20,000,000

SFY 2017 \$20,000,000

SFY 2018 \$15,000,000

Entity Responsible for the Ongoing Operation and Maintenance of this Project:

Alaska Railroad Corporation

Grant Recipient Contact Information:

Name: Wendy Lindskoog

Address: 327 W Ship Creek Ave
Anchorage, AK 99510

Phone Number: (907)265-2498

Email: LindskoogW@akrr.com

This project has not been through a public review process at the local level and it is not a community priority.

Capital Funding Request by the Alaska Railroad Corporation

The Alaska Railroad Corporation (ARRC) requests funding of \$35.0 million in the FY 14 Capital Budget for the specific purpose of complying with the unfunded federal mandate to install Positive Train Control (PTC).

What is PTC?

Positive Train Control is technology designed to stop or slow a train before human-error causes an accident to occur. In 2008, the federal Rail Safety Improvement Act required certain railroads to install a fully functional PTC system by the end of 2015; by virtue of its passenger service, the Alaska Railroad is subject to this requirement. A failure to implement PTC will force ARRC to severely curtail or eliminate passenger service and/or face severe fines for non-compliance.

Starting in 1997, long before PTC was a Congressional mandate, and through 2013, ARRC will have invested \$62.5 million to develop a PTC system. Railroad industry estimates for this large research and development project indicate that, at a minimum, an additional \$90 million will be required between 2014 and 2018 for ARRC to complete the development and installation of PTC. This does not include the estimated \$5 million to \$6 million per year of operating and capital maintenance costs related to the system.

Why state funding is needed

ARRC is requesting \$35.0 million in the FY14 capital budget. Future funding requests will be made to meet the estimated \$90 million total project budget.

ARRC has used corporate revenues and federal funding to implement PTC since 1997. With severe drops in key lines of ARRC business and significant cuts to its federal funding, ARRC no longer has the financial capacity to continue this effort. It is necessary to find a different source to fund the capital cost of PTC.

A failure to implement PTC would force ARRC to severely curtail or eliminate passenger service. The Alaska Railroad Corporation Act requires ARRC to seek the funding necessary to maintain passenger service from the Alaska Legislature:

AS 42.40.100 Management by the board.

*The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation, **the board shall***

(4) apply to the legislature for an appropriation with the concurrence of the governor to be used to provide a particular service that is not otherwise self-sustaining if a subsidy is required to maintain that service;

Steps taken by ARRC

To address its financial situation, ARRC is undertaking a major corporate restructuring at this time; however, such cost reduction efforts cannot provide sufficient savings to permit funding PTC at this time or in the foreseeable future. ARRC continues its efforts working with national railroad associations to get Congress to extend the PTC implementation deadline.

-----Original Message-----

From: Mike Coons [<mailto:mcoons@mtaonline.net>]
Sent: Sunday, February 24, 2013 5:42 PM
To: Rep. Tammie Wilson; Rep. Peggy Wilson
Cc: Rep. Wes Keller; Rep. Bob Lynn
Subject: Re: HB 34

I am sending all the above my written testimony that intend to present on Feb 25 at 1PM.

Representative Tammie Wilson and Peggy Wilson, I appreciate this bill and as I say in my testimony this along with HB 83 will go a long way towards protecting our State from the ravages of the out of control Federal Government.

Please take my suggestions for changes to HB 34 and use the intent to strengthen a good bill and make it even greater.

Thank you

Mike Coons
Palmer AK
745-6779

P.S. If you would like to call me before the committee hearing, please do so in the morning. I will be leaving for Wasilla to the LIO around noon.

My name is Mike Coons from Palmer Alaska and speaking for myself.

I support the intent of HB 34, however it doesn't go far enough. I suggest adding language to Sec. 01.10.200. Line 7. Replace "The state may not comply with" to "The State will not comply with"

Make paragraphs 1 and 2 to follow the new following two sub-paragraphs:

Subparagraph 1 should read: (1) the Constitutional article and how this is in full accordance with the articles of the Constitution and the 10th Amendment.

New subparagraph 2 to read: (2) the laws will be funded by the Federal Government and will not impose cost to the State or impose an unfunded mandate to the State or it's people.

Then the existing sub-paragraphs then become (3) and (4).

After sub-paragraph 4 add to the body of Article 5 the following: If any of the above does not meet Constitutional muster, imposes a cost to the State of Alaska or adversely impacts the economy of the State, the law will be null and void.

HB 34, along with HB 83 will go a long way toward regaining our rights as States, ensuring that all law coming from the Congress as well as any rules, regulations, Executive Orders, Secretarial Orders, etc. are Constitutional and will not violate our rights under the 10th Amendment.
The Congress and President must, in the strongest language possible know

that the 10th Amendment which reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." means just what it says and that the State of Alaska will not continue to be rolled over by a central Federal government that has no regard for the State or it's people.

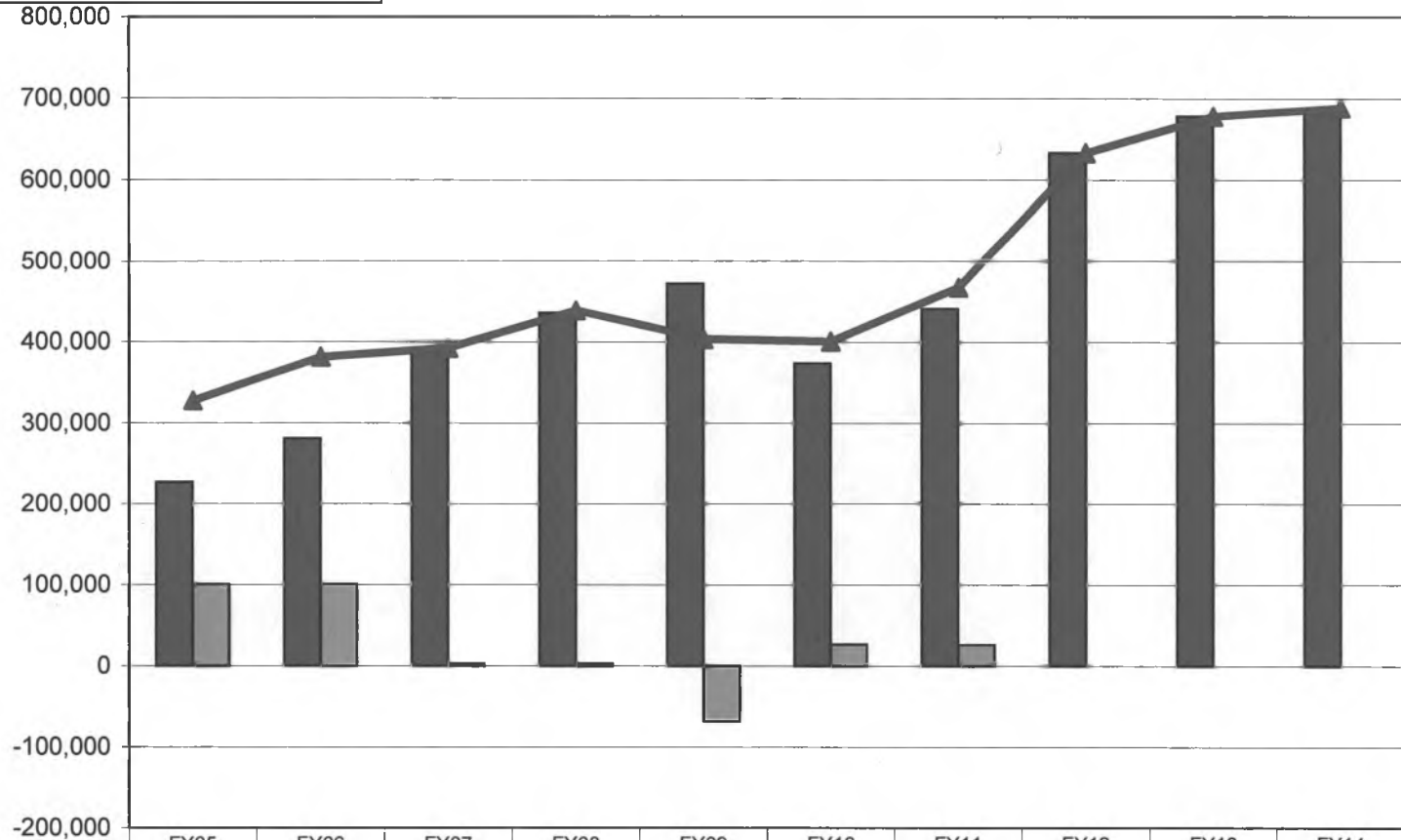
I urge passage of HB 34 through this committee and passage on the floor of the House.

Sincerely
MICHAEL C. COONS
P.O. BOX 4229
PALMER AK 99645

Medicaid has grown by \$360 million (110%) between the FY05 Final Budget and the FY14 Governor's Request. Of this increase:

- \$134.8 million is attributable to FairShare/ProShare
- \$75.2 million is attributable to FMAP changes
- \$32.5 million is attributable to Rate Rebasing

TOTAL MEDICAID FORMULA APPROPRIATIONS (GF ONLY) (\$ Thousands)



	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14
Management Plan	226,932.6	281,049.8	389,776.9	435,844.1	472,144.8	374,055.2	441,206.3	633,261.8	677,823.8	688,275.2
Supplementals/RPLs/Adjustments	100,447.9	100,638.4	2,744.0	3,061.6	(68,250.0)	26,817.0	26,261.1	-	-	-
Total Funding	327,380.5	381,688.2	392,520.9	438,905.7	403,894.8	400,872.2	467,467.4	633,261.8	677,823.8	688,275.2