

ALASKA LEGISLATURE

1095

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994 169

C. Consecutive and Concurrent Sentencing

1. *Statutory Framework.* Before enactment of the Revised Criminal Code in 1980, Alaska's consecutive sentencing statute, Alaska Statutes section 11.05.050, gave judges unlimited discretion to impose consecutive sentences on defendants convicted of two or more crimes before judgment on either had been entered.¹⁵⁵ Case law interpreting this statute permitted consecutive sentences for distinct crimes.¹⁵⁶ However, neither the Alaska Legislature nor the Alaska Supreme Court established any guidelines concerning the imposition of consecutive rather than concurrent sentences.

In 1980, the Legislature replaced Alaska Statutes section 11.05.050 with a similar statute.¹⁵⁷ The new statute provided in part that before judgment was entered a defendant convicted of two or more crimes could be sentenced either consecutively or concurrently, as the court provided.¹⁵⁸ The court of appeals, noting the general similarity between the old and the new statute, concluded that the new law did not change the situations in which a sentencing court was permitted to impose consecutive sentences.¹⁵⁹

The current versions of Alaska Statutes section 12.55.025(e) and (g) were adopted in 1982.¹⁶⁰ Under section 12.55.025(e), an offender who is convicted of two or more crimes before the judgment on either has been entered "shall" be sentenced consecutively, subject to the six exceptions listed in section 12.55.025(g).¹⁶¹

155. ALASKA STAT. § 11.05.050 (1962) (repealed 1978).

156. *Lacquement v. State*, 644 P.2d 856, 359 (Alaska Ct. App. 1982) (dictum), *modified*, *Jones v. State*, 744 P.2d 410, 411-12 (Alaska Ct. App. 1987). For further discussion of *Jones*, see *infra* section VI and accompanying notes.

157. ALASKA STAT. § 12.55.025 (1980).

158. *Id.*

159. *Lacquement*, 644 P.2d at 859.

160. Act of July 3, 1982, ch. 143, §§ 24-25, 42, 1982 Alaska Sess. Laws 23, 30.

161. ALASKA STAT. § 12.55.025(g), (e) (1990). The first three subparagraphs in section 12.55.025(g) concern situations in which multiple offenses grow out of the same or a connected transaction or are closely related in time. Thus, the trial judge may sentence concurrently if the crimes violate similar societal interests, the crimes are part of a single, continuous criminal episode, or there was not a substantial change in the objective of the criminal episode, including a change in the parties to the crime, the property or type of property right offended, or the persons offended. *Id.* § 12.55.025(g)(1)-(3). The last three subparagraphs in (g) provide that concurrent sentences may be given as long as the crimes were not committed while the defendant was trying to escape, or as long as the sentences are not for the crimes of homicide, assault, kidnapping, and sexual offenses, or are not for the crimes of robbery or extortion resulting in physical injury. *Id.* § 12.55.025(g)(4)-(6).

The court of appeals first interpreted these 1982 changes in *State v. Andrews*,¹⁶² concluding that section 12.55.025(e) expresses a legislative preference for consecutive sentences, subject to the exceptions listed in section 12.55.025(g). While the *Andrews* court recognized the legislative preference for consecutive sentences, it nevertheless interpreted the exceptions to that preference to permit imposition of concurrent sentences in almost every case.¹⁶³ The court decided that the trial judge could reject the legislative preference and impose concurrent sentences if the conduct satisfied any one of the six subparagraphs in section 12.55.025(g).¹⁶⁴ In other words, each subparagraph is an independent basis for permitting concurrent sentences.¹⁶⁵

Of course, a defendant who qualifies for concurrent sentences under section 12.55.025(g) is not necessarily entitled to them. In the court of appeals' interpretation of that section, the sentencing judge will seldom be required to impose sentences consecutively, but retains a certain amount of discretion to do so. The court of appeals has chosen to restrict the judge's consecutive sentencing discretion by formulating benchmarks that control the *extent* to which sentences may be imposed consecutively.¹⁶⁶

2. *Judicially-Imposed Limits on Consecutive Sentences.* One important test for evaluating the appropriateness of all consecutively-imposed sentences focuses not on the length of the individual consecutive increments, but on the total aggregate term. The court of appeals requires that the total consecutive term be justified under the *Chaney* standards.¹⁶⁷

In addition to the *Chaney* standards, the court uses benchmarks to evaluate the appropriateness of a defendant's total sentence. One important benchmark that limits the extent to which sentences may be

162. 707 P.2d 900, 902 (Alaska Ct. App. 1985), *aff'd per curiam* 723 P.2d 85 (Alaska 1986).

163. 707 P.2d at 906.

164. *Id.* at 908.

165. *Id.* at 905. Thus, a defendant convicted of multiple sexual assaults against different victims during an eight month period cannot benefit from the subparagraph that makes concurrent sentences available to those who are not convicted of such offenses (subparagraph (g)(5)), but he can qualify for concurrent sentences because his crimes involved similar societal interests (subparagraph (g)(1)), were not committed while escaping (subparagraph (g)(4)), and did not involve the circumstances set forth in subparagraph (g)(6). *Id.* at 908.

166. The court of appeals has criticized the 1980 version of section 12.55.025(e) as being a "major loophole in the presumptive sentencing scheme," because the unfettered discretion to impose concurrent or consecutive sentences severely undercuts the sentencing goal of uniformity and freedom from unwarranted disparity. *Clifton v. State*, 758 P.2d 1279, 1286 (Alaska Ct. App. 1988).

167. *Contreras v. State*, 767 P.2d 1169, 1174 (Alaska Ct. App. 1989). For discussion of the *Chaney* standards, see *supra* note 43 and accompanying text.

imposed consecutively is whether the total sentence, including consecutive increments, exceeds the presumptive term for the single most serious offense.

In 1982, in *Lacquement v. State*,¹⁶⁸ the court of appeals announced that where the trial judge imposes consecutive presumptive terms, but the aggregate of the consecutive terms exceeds the presumptive term for the most serious single offense, the trial judge must make an affirmative finding that confining the defendant for the aggregate period of the consecutive term is necessary to protect the public.¹⁶⁹ Noting that the decision to impose consecutive rather than concurrent sentences clearly affects the total sentence imposed, the court required that such a consecutive term be justified by the *Chaney* goal of isolation.¹⁷⁰

The court of appeals has recently developed an important exception to the *Lacquement* requirements of a special finding of public danger and the need for isolation. In cases where the total of the consecutive terms imposed does not exceed *ten years*, a total term exceeding the presumptive term for the most serious single offense can be based on sentencing goals other than isolation.¹⁷¹

The court of appeals introduced this exception in *Jones v. State*,¹⁷² and reiterated it in *Farmer v. State*.¹⁷³ In *Jones*, the defendant was convicted of two counts of vehicular manslaughter and received consecutive presumptive sentences totalling twice the presumptive term for the single most serious count.¹⁷⁴ The trial judge had found that the harsh sentence was necessary to reflect the crime's seriousness and deter others.¹⁷⁵ Judge Coats believed that the sentencing goals cited by the trial judge were sufficient to justify a sentence exceeding the five year presumptive term, even where there was no finding of public danger.¹⁷⁶

In *Farmer*, Judge Bryner, this time writing for the court, cited *Jones* and explained that the court would no longer read *Lacquement*

168. 644 P.2d 856 (Alaska Ct. App. 1982).

169. *Id.* at 862. As Judge Coats noted in *Clifton v. State*, *Lacquement* essentially applied the reasoning of an earlier Alaska Supreme Court case, *Mutschler v. State*, 560 P.2d 377 (Alaska 1977), to the presumptive sentencing statutes. *Clifton*, 758 P.2d 1279, 1286 (Alaska Ct. App. 1988).

170. *Bolhouse v. State*, 687 P.2d 1166, 1175 (Alaska Ct. App. 1984).

171. *See DeGross v. State*, 768 P.2d 134, 140 n.1 (Alaska Ct. App. 1989).

172. 744 P.2d 410 (Alaska Ct. App. 1987).

173. 746 P.2d 1300 (Alaska Ct. App. 1987).

174. *Jones*, 744 P.2d at 411.

175. *Id.* at 412.

176. *Id.* Although Judge Coats agreed with the trial judge's reasoning, he voted to reduce *Jones*' sentence by two years, from 10 years to 10 years with two years suspended. Judge Coats' opinion suggested that the 1982 amendments to section

inflexibly.¹⁷⁷ Judge Bryner announced that "the appropriate focus is no longer on the narrow issue of public danger, but rather on whether a composite sentence exceeding the presumptive term is warranted under the totality of the circumstances."¹⁷⁸ Farmer had argued that his sentence, which exceeded the two year presumptive term by eleven months of unsuspended time, should have been based on an express finding of necessity. The court of appeals disagreed, holding that the sentence was justified by the seriousness of the offenses.¹⁷⁹

In *Clifton v. State*,¹⁸⁰ the court further clarified the rule of *Jones* and *Farmer*, explaining that because the Legislature in 1982 had amended section 12.55.025(e) to express a preference for consecutive sentences, the court would henceforth require only "substantial reasons" to justify consecutive terms exceeding the presumptive term for the single most serious offense.¹⁸¹ In *Clifton*, the court affirmed a composite sentence of twelve years with two years suspended, where the presumptive sentence for the most serious count, sexual abuse of a minor in the first degree, was eight years and the maximum was thirty years.¹⁸²

Where the consecutive terms *exceed* ten years, however, the court of appeals will apparently continue to apply *Lacquement* apparently more rigidly. Thus, where the composite term exceeds the presumptive for the single most serious count, or exceeds ten years of unsuspended time, the court continues to require a specific finding that there

12.55.025(e) (substituting a preference for consecutive sentences) legislatively superseded *Lacquement's* requirement that the decision to sentence consecutively be based on the goal of isolation. *Id.* at 411.

Judge Singleton's concurring opinion resisted this suggestion, insisting that the questions of what total sentence is appropriate and whether that sentence should consist of consecutive increments or concurrent segments are independent of each other, and that "a sentence that would be inappropriate when viewed as a sentence for the most serious offense, does not automatically become appropriate simply because it is comprised of multiple sentences that were imposed consecutively." *Id.* at 415 (Singleton, J., concurring). Judge Singleton agreed with Judge Coats, however, that Jones' sentence should be reduced to 10 years with two years suspended. *Id.* at 414 (Singleton, J., concurring).

Judge Bryner objected in dissent to his colleagues' apparent conclusion that a first felony offender convicted of drunk driving and multiple manslaughter counts enjoys a sentence ceiling of eight years. *Id.* at 415 (Bryner, J., dissenting).

177. *Farmer*, 746 P.2d at 1301. Apparently, the court had resolved the initial disagreement reflected in *Jones*.

178. *Id.* at 1301-02.

179. *Id.* at 1302 (Farmer's convictions arose from a car crash in which one person was killed and two others were injured).

180. 758 P.2d 1279 (Alaska Ct. App. 1988).

181. *Id.* at 1286.

182. *Id.* at 1285-86.

is an actual need to isolate the defendant for the protection of the community for the full period in question.¹⁸³

A second benchmark limiting consecutive sentences is related to the supreme court's general rule that the maximum sentence generally should not be imposed unless the court determines that the offender is a "worst offender" for that class of crime.¹⁸⁴ The court of appeals has held that offenders who are characterized as "worst offenders" and "dangerous offenders" require sentences emphasizing the goals of deterrence, reaffirmation of societal norms, and isolation for the protection of the public.¹⁸⁵ A finding that a defendant is a "worst offender" can justify imposition of consecutive sentences equal to the maximum term for the single most serious count.¹⁸⁶

To arrive at a finding of worst offender status, the trial court must look to the manner in which the crime was committed and to the character and background of the defendant.¹⁸⁷ Factors considered in the determination of the offender's character and background include the defendant's prior convictions, age, military records, employment history, substance addiction, presentence report, dangerous propensities and the possibility that the defendant has an antisocial personality.¹⁸⁸

"Worst offender" status, however, does not automatically permit imposition of consecutive sentences exceeding the maximum for the single most serious crime.¹⁸⁹ The court of appeals has repeatedly held that in order to impose such a term, the trial court must specifically

183. See, e.g., *Castle v. State*, 767 P.2d 219, 222 (Alaska Ct. App. 1989).

184. See *State v. Wortham*, 537 P.2d 1117, 1120 (Alaska 1975); *Galaktionoff v. State*, 486 P.2d 919, 924 (Alaska 1971).

185. *Bumpus v. State*, 776 P.2d 329, 333 (Alaska Ct. App. 1989), *petition for hearing granted*, No. S-3463 (Alaska Oct. 9, 1989).

186. *Id.* at 334-35; *DeGross v. State*, 768 P.2d 134, 140 (Alaska Ct. App. 1989); *Heacock v. State*, 762 P.2d 503, 505 (Alaska Ct. App. 1988).

187. *Hintz v. State*, 627 P.2d 207, 210 (Alaska 1981).

188. *State v. Wortham*, 537 P.2d 1117, 1120 (Alaska 1975). Care must be taken to distinguish between the notion of "worst offender" and the statutory aggravator contained in section 12.55.155(c)(10). See ALASKA STAT. § 12.55.155(c)(10) (1990) ("the conduct constituting the offense was among the most serious conduct included in the definition of the offense"). "Worst offender" status can be established by the personal characteristics of the offender, or by the particular conduct involved in the offense, or by both. *Wortham*, 537 P.2d at 1120. This is distinct from the statutory aggravator, which is established only by the seriousness of the offender's conduct. The Legislature's enactment of statutory aggravators did not replace the concept of "worst offender."

189. *Bumpus*, 776 P.2d at 335; *DeGross*, 768 P.2d at 140.

find, in addition to the "worst offender" designation, that the defendant will continue to pose a danger to the community during the extended term and that his continued isolation is actually necessary.¹⁹⁰ Such sentences "cannot be justified by considerations of rehabilitation, deterrence of self or others, or reaffirmation of community norms."¹⁹¹ Thus, a first offender convicted of multiple class A felonies should not be given sentences exceeding the twenty year maximum unless the trial judge first determines that such a term is actually necessary for the protection of the community and that "the [defendant] can neither be rehabilitated nor deterred" by a shorter sentence.¹⁹²

Finally, the court of appeals has formulated specific benchmark terms which the trial judge should not exceed when sentencing offenders convicted of multiple counts of certain types of serious crimes. For example, a thirty year benchmark applies if the offender has a nonviolent record and is convicted of multiple counts of serious felonies involving substantial violence.¹⁹³ There is a forty year benchmark for persons with felony records involving crimes of violence who commit multiple serious felonies involving substantial violence.¹⁹⁴ The court of appeals also has applied the forty year benchmark to the case of a violent sexual offender who had a substantial nonviolent criminal record but also had a history of violent behavior.¹⁹⁵ The upper limit for criminal conduct short of murder is probably a composite sentence similar to the fifty three years given in *Wortham v. State*.¹⁹⁶

3. *1988 Amendment to Alaska Statutes Section 12.55.025.* In 1988, the Legislature added subparagraph (h) to Alaska Statutes section 12.55.025.¹⁹⁷ That section requires judges to impose some consecutive period of incarceration for each sexual or physical assault against a child.¹⁹⁸ While it was not the Legislature's intent to restrict the court's discretion in determining the length of the consecutive terms,

190. *Bumpus*, 776 P.2d at 335; *DeGross*, 768 P.2d at 140; *Heacock*, 762 P.2d at 505; *Hancock v. State*, 741 P.2d 1210, 1214 n.2 (Alaska Ct. App. 1987). See also *Mutschler v. State*, 560 P.2d 377 (Alaska 1977) (Erwin, J., dissenting).

191. *Newell v. State*, 771 P.2d 873, 878 n.3 (Alaska Ct. App. 1989) (Singleton, J., dissenting on other grounds). See also *DeGross*, 768 P.2d at 140-41 n.1 (noting that composite sentences exceeding 10 years must be based on the need for isolation).

192. *DeGross*, 768 P.2d at 141.

193. See *Hancock v. State*, 741 P.2d 1210, 1212 (Alaska Ct. App. 1987); *Tookak v. State*, 648 P.2d 1018, 1023-24 (Alaska Ct. App. 1982).

194. See *Hancock*, 741 P.2d at 1212; *Wortham v. State*, 689 P.2d 1133, 1145 n.7 (Alaska Ct. App. 1984); *Larson v. State*, 688 P.2d 595, 600 (Alaska Ct. App. 1984).

195. *Hancock*, 741 P.2d at 1215.

196. 689 P.2d 1133 (Alaska Ct. App. 1984); see also *Murray v. State*, 770 P.2d 1131, 1140-41 (Alaska Ct. App. 1989) (discussing limits upon composite sentences).

197. Act effective May 28, 1988, ch. 66, §§ 5, 6, 1988 Alaska Sess. Laws 4.

198. ALASKA STAT. § 12.55.025(h) (1990).

the Legislature did wish to express its preference for "judges to impose some consecutive period of time so as to reflect the community's abhorrence of these types of offenses, and to bring home to the offender that some additional penalty must be paid for each and every proven offense."¹⁹⁹

It is not clear what effect, if any, the 1988 amendment has had or will have on sentencing practices. Since at least 1985 the court of appeals has endorsed the principle that a person who commits multiple sexual assaults should receive a more severe sentence than a person convicted of a single assault.²⁰⁰

Moreover, even assuming that the 1988 amendment would cause the trial court judges to impose consecutive sentences more frequently for sexual assaults against minors, the total term imposed, including consecutive increments, would continue to be limited by the court of appeals' benchmarks and by the requirement that total terms be justified under the *Chaney* standards. Thus it is not clear that the 1988 amendment has caused, or will cause total sentences to become appreciably longer.

VIII. CONCLUSION

The court of appeals, which has decided well over 1,100 sentence appeals since its creation in 1980,²⁰¹ has adopted the role envisioned by the original proponents of appellate review. It routinely reduces excessive sentences to bring them in line with sentences given in comparable cases, and has created an extensive body of case law articulating appropriate sentencing principles, establishing benchmark terms for many classes of offenses, and establishing standards for the extent to which sentences can be increased in aggravated cases. In addition, the court of appeals has moved to close a major loophole in the presumptive sentencing scheme by regulating the total aggregate terms that may be imposed for offenders who are sentenced consecutively. By virtue of the volume and completeness of the sentencing law that it has created, the Alaska Court of Appeals is one of the most active sentence review courts in the nation.²⁰²

199. House Letter of Intent, 1988 H. JOURNAL 2331 (February 24, 1988).

200. See *State v. Andrews*, 707 P.2d 900, 910 (Alaska Ct. App. 1985), *aff'd per curiam*, 723 P.2d 85 (Alaska 1986).

201. See ALASKA COURT SYSTEM, 1989 ANNUAL REPORT, at 5-9; *id.*, 1987 ANNUAL REPORT, at 5-9; *id.*, 1984 ANNUAL REPORT, at 5-9; *id.*, 1982 ANNUAL REPORT, at 5-9.

202. By way of comparison, Minnesota's appellate courts decided less than half as many sentence appeals during their first seven years of reviewing presumptive sentences than the Alaska Court of Appeals decided in its first seven years. Commenting in 1987 upon the number of sentence appeals decided by Minnesota's courts,

There are drawbacks, however, to relying too heavily on appellate review to articulate sentencing principles and to fine-tune sentences. Appellate review by its very nature is backward-looking. It is the proper role of the appellate court to examine what has occurred in a specific case, and to pass on the propriety of the result in that case only. It is generally accepted that an appellate court is effective only when it decides cases based on the factual record before it and only after the record in that case has been completely developed. As a rule, it cannot and should not anticipate what other factual situations might arise in the future, nor should it fashion rules prospectively.

We have seen in the course of the previous analysis that the court of appeals, while willing to take its sentence reviewing function quite seriously, creates target benchmarks by looking back and reviewing sentences previously approved in similar cases. It then synthesizes all the cases in that area, often publishing a decision making explicit the reasoning implicit in its previous decisions. While this is entirely appropriate behavior for an appellate court, it means that the court of appeals cannot shape sentencing law prospectively, because it cannot choose the cases that come before it, and it cannot decide cases with an eye to what might happen in the future. In addition, the court's process of deciding numerous cases in an area and then publishing a decision distilling the general principle is often confusing to the practitioner, who is sometimes left with dozens of cases and no concrete rule.

It is the function of a legislature to shape law prospectively. Besides being able to look forward, a legislature can establish sentencing policy in the context of other considerations, such as the overall allocation of the state's resources. This legislative function complements the appellate courts' review of individual cases and synthesis of the individual decisions into a comprehensive set of interpretations of the statutes and constitution.

However, legislatures face at least two difficulties when called upon to write specific punishments for crimes. First, legislatures seldom have the time needed to create the original law, nor do they have the time necessary to review the law and make appropriate changes once it has gone into effect.²⁰³ Second, it has been said that "legislators have considerable incentives to adopt posturing stances of 'toughness' and few incentives for giving thought to the justice of proposed penalties"²⁰⁴ One solution is to have legislatures delegate some of

Michael Tonry predicted that Minnesota would become "the first American jurisdiction to have a meaningful system of appellate sentence review." Tonry, *supra* note 25, at 42.

203. Von Hirsch, *supra* note 27, at 6.

204. *Id.*

their rule-making ability to a sentencing commission that has both the time and the representation from a variety of interest groups necessary to generate responsible sentencing policies. Like the legislature, the sentencing commission's mission is prospective: to decide the future direction of sentencing policy.

A sentencing commission was established in Alaska during the 1989-90 legislative term.²⁰⁵ Alaska's Sentencing Commission is composed of fourteen representatives from many different interest groups. Its purpose is to evaluate the effect of sentencing laws and practices on the criminal justice system, and to make recommendations for improving criminal sentencing practices.

As Andrew von Hirsch has explained, a useful first step in any sentencing commission's work is the study of past sentencing practices,²⁰⁶ like those conducted by the Alaska Court of Appeals. However, the task should not end there. The commission also should make a normative evaluation of those past practices. A normative evaluation is not limited to a decision about whether the existing presumptive terms are fair, although certainly that should be a part of the process. Alaska's Sentencing Commission must ask whether past sentencing practices have been based on coherent and articulated sentencing goals and philosophies, and if they have, it must clearly define the goals and rank them in order of importance. It also must decide what effects past practices have had on the criminal justice system in terms of prison overcrowding, and to what extent, if at all, prison overcrowding should be taken into account when formulating presumptive terms. Alaska's Sentencing Commission, and Alaska's Legislature, should resist the impulse to limit sentence reform to tinkering with presumptive terms or making surface changes in the existing statutes, such as bringing class B and C first felony offenders under presumptive sentencing.²⁰⁷

Appellate review of sentencing has profoundly changed sentencing policy in Alaska during the two decades since its inception. The *Chaney* guidelines set by the Alaska Supreme Court in the first decade are not only applied to every sentencing decision, but were incorporated by the Legislature into its statement of sentencing policy during the revision of the criminal code. In the second decade of sentence

205. H.B. 491 (Judiciary), 16th Leg., 2d Sess. (1990). The Alaska Sentencing Commission had its first meeting in August of 1990. It is scheduled to make its recommendations to the Legislature over the next three years.

206. Von Hirsch, *supra* note 27, at 7.

207. In his 1985 article, Professor Barry Stern argues that excluding first-time B and C felony offenders from the presumptive sentencing scheme results in disparate amounts of time to serve, because offenders sentenced non-presumptively can be paroled, while offenders sentenced presumptively cannot. Stern, *supra* note 53, at 259-64.

review, the appellate courts' decision to determine the justice of non-presumptive sentences by referring to the presumptive sentencing structure has had far-reaching effects on the entire criminal justice system.²⁰⁸ The third decade of appellate review of sentencing should see the interaction of the decisions made over the past twenty years with new policies recommended by the Sentencing Commission to the Legislature and the courts. The past experience suggests that the appellate courts will continue to use their authority to participate actively in the shaping of Alaska's sentencing practices.

208. The Alaska Judicial Council's most recent analysis of sentences imposed in Alaska between 1984 and 1987 indicates that the variable of judge identity no longer makes a significant contribution to the mean active sentence length. CARNs & KRUSE, *supra* note 69, ch. III. The lack of importance of this variable probably reflects the combined contributions of presumptive sentencing and the appellate courts' guidelines and benchmarks. *Id.*

HJR

43

SFIN

FILE

NOV-12-93 FRI 15:23

No. 1
Bill Version: CSHJR 43 (JUD)
(H) Publish Date: 1/13/94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSHJR43 (JUD)

Revision Date: _____ Dept. Affected: Public Safety
 Title: Relating to Penal Administration BRU: Alaska State Troopers
and the Rights of Crime Victims Component: Detachments
 Sponsor: Representative Porter
 Requestor: Representative Porter COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE:						
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Changes in SCSCS HJR 43 (JUD) have no fiscal impact. This fiscal note is appropriate.

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

5/4/94 date FJJ Comte Aide (initial)

Estimate of current year (FY 94) impact: \$0.00 _____

POSITIONS:

FULL-TIME			
PART-TIME			
TEMPORARY			

date 3/28/94 WMA Comte Aide (initial)
 Changes in Sen CS HJR 43 (STA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

COMMITTEE COPY

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 11/10/93

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE
BILL NO.

no. 2
Bill Version: CSHR 43 (JUD)
(H) Publish Date: 1/13/94

Revision Date: _____ Dept. Affected: Corrections
Title: Amendment to the Constitution BRU: All
RE: Penal Administration Component: All
Sponsor: Rep. Porter
Requestor: H. Judiciary COMPONENT SERIAL NO. 694-1884

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS:	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach as separate sheet)	Changes in <u>SCSCSHJR 43 (JUD)</u> have no fiscal impact. This fiscal note is appropriate.	Changes in <u>Sen. CSHJR 43 (STA)</u> reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
	<u>5/4/94</u> date <u>AA</u> Comte Aide (initial)	<u>3-28-94</u> date <u>[Signature]</u> Comte Aide (initial)

Prepared By: Diane Schenker Phone: 465-3315/561-426
Division: Office of the Commissioner Date: 1/12/94
Approved by Commissioner: J. Frank Prewitt, Jr. Date: 1/12/94
Agency: Department of Corrections

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FISCAL NOTE

No. 3

Bill Version: CSHJR 43 (JUD)

BILL NO. (H) Publish Date: 1/13/94

STATE OF ALASKA

1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: Amendment to the Constitution RE:

BRU: Division of Elections

Penal Administration

Component: General and Primary Elections

Sponsor: Reps. Porter, Phillips & Barnes

COMPONENT SERIAL NO. 22

Requestor: _____

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS.	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.) *This figure information about this issue in the Official Elections Pamphlet programming for DataVote counting of votes cast on the measure can be printed on a single ballot card. Should this measure ballot card, the fiscal impact would be 53.4.

Changes in SCS HJR 43 (JUD) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

5/3/94
date Comte Aide (initial)

Prepared by: Joseph L. Swanson, Director

Phone: 465-4611

Division: Division of Elections

Date: 1/11/94

Approved by Commissioner: Lt. Governor John B. Coghill

Agency: Office of the Lt. Governor

Date: 1/11/94

PREPARER TO PROVIDE A For further dist

Changes in SCS HJR 43 (STA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

GVERNOR'S LEGISLATIVE OFFICE or's Legislative Office

Rev 12/93

3-28-94
date Comte Aide (initial)

FREE COPY Page 1 of 2

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HJR 43

ANALYSIS:

This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58., and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

gmr

SENATE COMMITTEE REPORT

DATE: 3/30/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 5/3/94

Judiciary Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 43(FIN)

Proposing an amendment to the Constitution of the State of Alaska relating to the rights of crime victims.

and recommends:
 and a majority of the committee recommends it be replaced with

replace with SCS for CS for HJR 43 (JUD)
 or adopt previous CS
 attaches amendment(s) and do pass

same title
 new title
 technical title change (HB only)

SCR 19
En's

adopts Letter of Intent

further referral to the

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES *applies*

Department	Date	Zero	Fiscal
<i>DIV of Elections</i>	<i>5/3/94</i>		<input checked="" type="checkbox"/>
<i>COLLECTIONS</i>			
<i>DPS-AST</i>			

Appropriation No Fiscal Note

DO PASS:

Wendy

Rich. Haffel

OTHER RECOMMENDATIONS:

2
George Taylor MR

Adrian I. Taylor
Chair: Signature and Recommendation

SENATE COMMITTEE REPORT

DATE: 2/9/94

FURTHER: Judiciary
Finance

DATE TURNED INTO OFFICE: 3-28-94

State Affairs Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 43(FIN)

Proposing an amendment to the Constitution of the State of Alaska relating to the rights of crime victims.

and recommends it
be replaced with

and recommends:

replace with Sen CS HJR 43 (STA)
or adopt previous _____ CS _____
 attaches amendment(s)

same title
 new title
 technical
title change
(HB only)

SCR 19

and report it
back as follows

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FIN's 1/13/94

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Div. of Elections	1-13-94		2.2
Corrections	1-13-94	<input checked="" type="checkbox"/>	
DPS-AST	1-13-94	<input checked="" type="checkbox"/>	

applies to SCS

Appropriation No Fiscal Note

DO PASS:

Mike Miller 3

OTHER RECOMMENDATIONS:

Adrian L. Taylor NO Rec

Loren A. Skuman do pass
Chair: Signature and Recommendation

HJR

48

HFIN

FILE

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

LETTER OF INTENT

After reviewing HJR 48 (Restructuring the Permanent Fund) the subcommittee decided that before the legislature embarks on a new method of budget funding many policy issues must first be addressed. The decision was made after carefully evaluating the premises of HJR 48, in addition to information provided from individuals knowledgeable in evaluating financial proposals.

This Letter of Intent contains 1) A Basic Outline of HJR 48, 2) Policy Questions That Must Be Asked and 3) A Proposal For Further Action by the Legislature

A handwritten signature in cursive script that reads "Brian S. Porter".

Brian S. Porter, Chairman

House Judiciary Committee

1) A Basic Outline of HJR 48 "The Cremo Plan"

The purpose of the plan is to stabilize state resource revenues at a sustainable level, to increase the size of the Permanent Fund, and to minimize the negative consequences of the fiscal gap. The plan requires this session's legislature to propose - and the voters in the fall election to approve - an amendment to the State Constitution to provide that beginning July 1, 1995 and henceforth, all natural resource revenues be deposited in the Permanent Fund along with the assets of the state's two budget reserve accounts and the Railbelt Energy Fund. All future income earned by the Fund would be retained in the Fund, but there would be an annual withdrawal from the Fund based on its average market value over the past 12 quarters. The first year, the withdrawal would equal 20 percent, but then would be reduced geometrically each year until the permanent withdrawal rate of 6 percent is reached in the year 2006.

2) Policy Questions That Must Be Asked

There are major policy and technical questions which must be thoroughly researched and answered before we are in a position to present any plan to the voters. Those issues include:

1. Revenue Allocation - If only resource revenues are used to determine the budget amount available, and our entitlement programs continue to grow, won't most of the available revenues eventually go into the entitlements and less into resource development, thereby reducing the revenue source which funds the cycle? Additionally, what about the negative impact to natural resource development by encouraging high severance and other taxes in order to generate enough income to support the growing needs of an expanding population?

2. Effect on Bonds - How will a budgetary funding mechanism such as this affect the State's current bond rate? If adopted, could it impair the State's credit and, thereby impair the ability of the State, state agencies and local governments to fund capital improvements through bonds?

3. Emergency Relief - The amendment makes perhaps 90 percent or more of the recurring unrestricted revenue of the state "not appropriable." The amendment then prescribes a set percentage for expenditure each year. There is no allowance of amounts necessary to

meet unforeseen disaster emergencies. The State needs to have a rainy day fund for atrocities such as earthquakes and other natural disasters.

4. Assumptions - The plan is based on the Department of Revenue's fall 1993 mid-case revenue projections, and assumes an annual total rate of return for the Permanent Fund of 10 percent and an annual inflation rate of 4 percent. The Alaska Permanent Fund Corporation's projections are based on the low-case revenue projections, and assume a long-term average rate of return for the Permanent Fund of 9 percent and a long-term average rate of inflation of 6 percent. Long term market history does not support conservative investments returning 2 1/2 times the inflation rate. The "Cremo" plan assumes some combination of state spending cuts and revenue increases. Given the plan's assumptions, a 12 percent annual increase in conventional revenues and a \$30 million cut in annual state spending would eliminate the fiscal gap. This is a tremendous statement when no one has the ability to predict future deposits into the fund up to the year 2006.

5. Appointments to the Board of Directors - The directors of the corporation should not be subject to confirmation. Under the present approach used in the constitution, only department heads and the heads of quasi-judicial boards are subject to confirmation. The corporation would be the trustee of the source of most of the expendable money of the state. There could be an inherent conflict of interest if the legislature shares the power to make appointments to the board.

6. The Transition Period - The plan provides for a higher but gradually reduced withdrawal rate during a 10-year transition period in order to minimize the negative consequences of the fiscal gap. The proposed constitutional amendment states that the withdrawal rate shall decrease geometrically throughout the transition period, but does not provide specific details. This ambiguity should be cleared up. We lack sufficient information to know whether the percentages proposed beginning in fiscal year 1996 and thereafter will have the effect of depleting the corpus, or leave it unprotected from the effects of inflation.

7. Relevant Taxation - There needs to be a more cogent clarification of the kinds of taxes that go into the fund under this proposal. Resource related personal income should not be included.

3) A Proposal For Further Action By the Legislature

Before the legislature and the citizens of this state will approve this plan, they need to be convinced that it is clearly an improvement over the status quo. While there are some positive and intriguing aspects of HJR 48 there are also a number of undesirable outcomes which might occur should actual conditions in the future vary significantly from the assumptions upon which the plan is based. Indeed, the consequences for Alaska of this plan are too serious to rush a study. The subcommittee believes that it would be beneficial to the state and its citizens to establish a long-range plan that organizes the state's approach to handling its finances. It is for these reasons and the aforementioned concerns that the subcommittee proposes the establishment of a blue ribbon task force comprised from all branches of government, as well as technical experts in the field, that would thoroughly investigate the concept contained in HJR 48 and other feasible long-term financial plans. Unfortunately, there is not time enough during the current legislature to complete the study and think the task force should meet during the interim. We feel that further action, at this time, on this issue falls under the purvue of the Finance Committee.

FISCAL NOTE

STATE OF ALASKA

BILL NO.

1994 LEGISLATIVE SESSION

Revision Date: _____
 Title: Amendment to the Constitution RE:
Restructure Permanent Fund
 Sponsor: Finance Committee
 Requestor: _____

Department Affected: Office of the Governor
 BRU: Division of Elections
 Component: General and Primary Elections
 COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS.	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Joseph L. Swanson, Director Phone: 465-4511
 Division: Division of Elections Date: 2/1/94
 Approved by Commissioner: Lt. Governor John B. Coghill
 Agency: Office of the Lt. Governor Date: 2/1/94

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FISCAL NOTE

No. 2
 Bill Version: HJR 48
 (H) Publish Date: 4/8/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

Revision Date: _____	Dept. Affected: <u>Revenue</u>	Revenue _____
Title: <u>Proposing amendments to the Constitution of the State Alaska</u>	BRU: _____	<u>Revenue Operations</u>
<u>relating to revenues from natural resources</u>	Component: _____	<u>Treasury Management</u>
Sponsor: <u>House Finance Committee</u>	_____	
Requestor: <u>House Judiciary</u>	COMPONENT SERIAL NO. <u>#121</u>	_____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

The resolution would not impact the operations of the Treasury Division. Since the essential functions of the Division would not change, no change in staffing requirements or contractual services would be expected as a result of this resolution.

Prepared by: <u>Laraine Derr, Deputy Commissioner</u>	Phone: <u>465-2350</u>
Division: <u>Treasury</u>	Date: <u>1/18/94</u>
Approved by Commissioner: <u>Darrel J. Rexwinkel</u>	Date: <u>1/19/94</u>
Agency: <u>Department of Revenue</u>	

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COMMITTEE COPY

HJR

65

HFIN

FILE

(11)

Date Referred: April 20, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4/25/94

The FINANCE Committee considered:

HJR 65

HOUSE JOINT RESOLUTION NO. 65

REPEAL SEC. 17(B), ART. IX, ALASKA CONST.

Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund.

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Of of 900.

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Eileen P. Mackean	<input checked="" type="checkbox"/>				
Ronald L. Larson	<input checked="" type="checkbox"/>	Mark J. Hanley		<input checked="" type="checkbox"/>	
		Mike Hanley		<input checked="" type="checkbox"/>	
		Terry Martin		<input checked="" type="checkbox"/>	
		John R. Harnell		<input checked="" type="checkbox"/>	
		Ben J. Prussel		<input checked="" type="checkbox"/>	
		Tom Hoffman		<input checked="" type="checkbox"/>	
		Lay Brown		<input checked="" type="checkbox"/>	
		Tom Thurnau			<input checked="" type="checkbox"/>

Ronald L. Larson
CO CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HJR65

Revision Date: _____
Title: Amendment to the Constitution RE:
THE BUDGET RESERVE FUND
Sponsor: (S) FINANCE
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: General and Primary Elections
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1008 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Joseph L. Swanson, Director Phone: 485-4611
Division: Division of Elections Date: _____

Approved by Commissioner: Lt. Governor John B. Coghill
Agency: Office of the Lt. Governor Date: _____

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HOUSE JOINT RESOLUTION NO. 65
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 4/20/94
Referred: Finance

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to the**
2 **budget reserve fund.**

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

4 * **Section 1.** Article IX, sec. 17(a), Constitution of the State of Alaska, is amended to read:

5 (a) There is established as a separate fund in the State treasury the budget
6 reserve fund. Except for money deposited into the permanent fund under Section 15
7 of this article, all money received by the State after July 1, 1990, as a result of the
8 termination, through settlement or otherwise, of an administrative proceeding or of
9 litigation in a State or federal court involving mineral lease bonuses, rentals, royalties,
10 royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or
11 involving taxes imposed on mineral income, production, or property, shall be deposited
12 in the budget reserve fund. Money in the budget reserve fund shall be invested so as
13 to yield competitive market rates to the fund. Income of the fund shall be retained in
14 the fund. Section 7 of this article does not apply to deposits made to the fund under
15 this subsection. Money may be appropriated from the fund only as authorized under
16 [(b) OR] (c) of this section.

1 * Sec. 2. Sections 17(b) and (d), art. IX, of the Constitution of the State of Alaska are
2 repealed.

3 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
4 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
5 State of Alaska, and the election laws of the state.

HSCR

2

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 15, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/22/93

The FINANCE Committee considered:

HSCR 2

HOUSE SPECIAL CONCURRENT RESOLUTION NO. 2 DISAPPROVE EXECUTIVE ORDER NO. 87

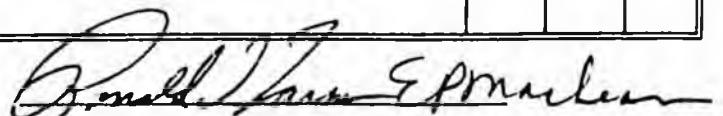
Disapproving Executive Order No. 87.

RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal impact _____ fiscal note(s) _____
 zero fiscal note House Finance Com. zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen P. Muehlen</i>	✓	<i>Ronald J. Turner</i>		☹	
<i>Tom Huff</i>	✓	<i>Mark Bonkus</i>		X	
<i>Tony Brown</i>	✓	<i>Sean Parvill</i>		X	
		<i>Ben ...</i>		X	
		<i>Sean Parvill</i>		✓	
		<i>Mike ...</i>		✓	
		<i>Richard ...</i>	m	☺	m


 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HSCR 2²

Revision Date: _____ Dept. Affected: ADMINISTRATION
 Title: DISAPPROVE EO 87 BRU: GENERAL SERVICES
 Component: PURCHASES
 Sponsor: BARNES
 Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
-----------------------------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Representative Ron Larson, Co-Chair *RJ* Phone: 465-3878
 Division: Representative Eileen MacLean, Co-Chair *EM* Date: 2/19/93
 Approved by Commissioner: _____ Date: 2/19/93
 Agency: _____

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HSCR 2

Revision Date: _____ Dept. Affected: ADMINISTRATION
 Title: DISAPPROVE EO 87 BRU: LEASING & FACILITIES
 Component: LEASES
 Sponsor: BARNES
 Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
-----------------------------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Representative Ron Larson, Co-Chair *R.L.* Phone: 465-3878
 Division: Representative Eileen MacLean, Co-Chair *E.M.* Date: 2/19/93
 Approved by Commissioner: _____ Date: 2/19/93
 Agency: _____

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HSCR 2

Revision Date: _____
Title: DISAPPROVE EC 37

Dept. Affected: DOT&PF
BRU: _____
Component: _____

Sponsor: BARNES
Requestor: HOUSE FINANCE COMMITTEE

COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Representative Ron Larson, Co-Chair *RJ* Phone: 465-3878
 Division: Representative Eileen MacLean, Co-Chair *EM* Date: 2/19/93

Approved by Commissioner: _____ Date: 2/19/93

Agency: _____

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Alaska State Legislature



Speaker of the House of Representatives

RAMONA L. BARNES

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

POSITION PAPER

HSCR 2 was introduced to disapprove the Governor's order (Executive Order 87) to transfer leasing responsibilities of the Department of Administration to the Department of Transportation and Public Facilities.

The Department of Transportation and Public Facilities has repeatedly ignored the desires and mandates of the Legislature regarding budget reductions to specific programs within the Department. I would bring your attention to the attached memorandum from Legislative Finance Division dated February 10, 1993 to Rep. Eldon Mulder regarding the FY 93 budget for the Design and Construction components of DOT/PF. It is for this reason that I believe it would not be in the best interest of the State to have yet another function transferred to this Department.

Further I have learned that the Department of Transportation and Public Facilities intends to establish a sinking fund to be managed by a Board of Directors with monies appropriated for leasing. The legislature would virtually have no control over this fund or how it is spent once money is transferred into it. Under the Constitution of this state, the Legislature has the sole power of appropriation. I personally do not desire to relinquish this authority to the Department of Transportation and Public Facilities.

I urge your support of HSCR 2.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Finance



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

MEMORANDUM

D/TE: February 10, 1993

TO: Representative Eldon Mulder
House Finance DOTPF Subcommittee

FROM: Jeff Hoover, Fiscal Analyst
Legislative Finance Division

RE: Department of Transportation and Public Facilities - FY93 CIP receipts

The department took several unallocated reductions in the FY93 Operating budget. You specifically asked about the reductions to the regional Design and Construction components. In the FY93 Operating budget, \$2.5 million in CIP receipts and \$300 thousand in General Funds were deleted from the D and C components. However, \$1.5 million was added back to the D & C components in the FY93 Capital budget (section 134). In addition, the department carried over a substantial amount of FY92 CIP receipt authority (section 135). The net effect of these changes is the department has a total additional CIP receipt authority of \$1,153.0 in FY93. The following is a regional distribution of the CIP receipts (in thousands):

Central Region D & C:	<\$1,112.1 > CIP Operating reduction
	\$667.5 CIP Capital addition
	<u>\$735.0 CIP Capital FY92 carryover</u>
Subtotal:	\$290.4 CIP addition
Northern Region D & C:	<\$1,026.7> CIP Operating reduction
	\$616.5 CIP Capital addition
	<u>\$736.0 CIP Capital FY92 carryover</u>
Subtotal:	\$325.8 CIP addition

Southeast Region D & C: <\$361.2> CIP Operating reduction
\$216.0 CIP Capital addition
\$682.0 CIP Capital FY92 Carrvoer
Subtotal: **\$536.8 CIP addition**

Total Additional CIP Receipt Authority: \$1, 153.0

Please contact me at extension 5436 if you have any questions about this matter.

HOUSE SPECIAL CONCURRENT RESOLUTION NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE BARNES

Introduced: 2/15/93

Referred: Finance

A RESOLUTION

1 **Disapproving Executive Order No. 87.**

2 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **WHEREAS** the Governor, under the authority of art. III, sec. 23, Constitution of the
4 State of Alaska, has proposed to transfer state facility leasing and management functions from
5 the Department of Administration and other agencies to the Department of Transportation and
6 Public Facilities; and

7 **WHEREAS**, although the Department of Transportation and Public Facilities currently
8 has some planning authority relating to state facilities in general, the primary functions of the
9 Department of Transportation and Public Facilities are the planning, design, construction, and
10 maintenance of transportation modes and transportation facilities; and

11 **WHEREAS** the functions proposed for transfer, leasing and management, are primarily
12 administrative functions that apply to state facilities in general; and

13 **WHEREAS** the legislature believes that it is in the best interest of the state to retain
14 in their existing agencies the state facility leasing and management functions that are proposed
15 for transfer under Executive Order No. 87;

16 **BE IT RESOLVED** by the Alaska State Legislature that Executive Order No. 87 is
17 disapproved.



EO 87

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1993

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order relating primarily to the leasing of space for state agencies and the allocation and maintenance of space in state facilities.

The Order transfers, from the Department of Administration (DOA) to the Department of Transportation and Public Facilities (DOT/PF), the authority to execute leases for state facilities and to allocate space among state agencies. The Order also consolidates facilities management activities of the Department of Corrections (DOC) (related to prison industries) and the Department of Health and Social Services (DHSS) (related to juvenile corrections facilities) in DOT/PF.

These transfers of authority are necessary to allow the state to manage its leasing activities consistent with the long-term management of all of its public facilities. Under existing law, DOT/PF has broad authority to plan, construct, and manage state-owned facilities. However, many state agencies are housed in buildings leased from the private sector. Under the Executive Order, the private sector will still play a critical role in providing space for state agencies. What will change is the way the state analyzes leases of space and reaches its leasing conclusions. The result will be "smarter" decisions that better consider the state's long-term needs and ensure that the state gets the best bargain for its money.

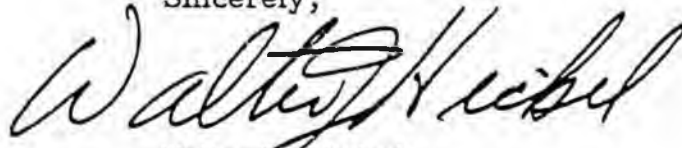
The Order also transfers to DOT/PF from DNR the disposal authority for lands acquired by DOT/PF under AS 35.20.010 - 35.20.070. This transfer is appropriate for consolidated facilities management because it enhances the state's ability, without increased administrative expense, to participate in modern leasing mechanisms. Under the Order, one agency, DOT/PF, will be responsible for land acquisition for public facilities and for procurement of the facilities, either through construction or leasing. Under one common technique for leasing

The Honorable Ramona L. Barnes
January 11, 1993
Page 2

buildings, the lessee conveys land to a developer, who constructs a building that the lessee then occupies under a lease/purchase agreement. Under existing authority, the state could use this technique only if DOT/PF acquired the land, DOA selected the lessor, and DNR conveyed interests in the land to the developer. This process is greatly simplified under the Order and will enable this type of conveyance to occur in a timely fashion at reduced cost, while still protecting the public interest.

The transfers made by this Executive Order will consolidate and streamline the state's facilities management activities. These transfers further the public interest and lead to a more intelligent use of the state's financial resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter J. Hickel". The signature is written in a cursive, flowing style with a large initial "W".

Walter J. Hickel
Governor

FACILITIES MANAGEMENT MERGER

Executive Order 87

- Approximately 250 employees are expected to be involved in the merger. These are existing maintenance personnel, design and construction project managers, leasing procurement officers, and administrative support personnel.
- Approximately 90 of these personnel exist in DOT&PF now, the remainder will merge from other departments.
- No personnel are expected to relocate to another community, but about 30-40 personnel may change building location.
- A rent structure to convert existing buildings maintenance funding to rent can be developed during FY94 and implemented in FY95 budget.

According to an inventory compiled in 1989, the state owns 7.5 million square feet of space, managed and maintained by personnel in ten departments. This does not include 4.7 million square feet of space occupied by the University system, or buildings owned by the international airports or State Authorities.

The FY93 budget appropriates approximately \$65 million to perform maintenance and related operations functions for the 7.5 million square feet. An additional \$39 million is appropriated to all branches of government for lease space payments.

One time costs: An estimate for costs associated with establishing consolidated facilities management is being developed. It is expected to be less than \$200,000.

Short-term costs and long-term projected savings: If we use appropriated capital funds to reduce energy consumption, savings accrued to the operating budget can be applied to elimination of the deferred maintenance backlog and compliance with physical requirements of the ADA. In FY93 DOT/PF will hire an energy management person to work with maintenance personnel to develop a plan for reducing energy consumption in our buildings. In FY93 \$2 million was appropriated to DOT/PF for energy and code upgrade. Additional amounts are requested in the FY94 capital budget for energy management as well as for ADA compliance.

The merger will prevent additional expense to the budget. It will be less costly to comply with ADA and code upgrade requirements with consolidated management than if many agencies are each separately responsible.

Information listed below is available:

- | | |
|--|---------------------------------|
| • Business Plan | • Interim Management Plan |
| • Merger Impacts Analysis | • Transition Workplan |
| • <u>Facility Management UPDATE</u> (newsletter) | • Protection of Building Assets |
| • Efficiency Team summary recommendations | • FY93 budget analysis |
| • Research Summary: Facility Management Models | |

Please contact Kit Duke (562-2728) or Katy McHugh (465-3904) for a copy of any desired document.

FISCAL NOTE

Revision Date: Department Affected: DOT&PF
 Title: Executive Order: Consolidation of state leasing, procurement and maintenance activities for state buildings. BRU:
 Sponsor: Governor Component:
 Requestor: Governor Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	*	*	*	*	*	*
TRAVEL	*	*	*	*	*	*
CONTRACTUAL	*	*	*	*	*	*
SUPPLIES	*	*	*	*	*	*
EQUIPMENT	*	*	*	*	*	*
LAND & STRUCTURES	*	*	*	*	*	*
GRANTS, CLAIMS	*	*	*	*	*	*
MISCELLANEOUS	*	*	*	*	*	*
TOTAL OPERATING:	*	*	*	*	*	*
CAPITAL	*	*	*	*	*	*
REVENUE FUND SOURCE	*	*	*	*	*	*

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	*	*	*	*	*	*
1003 GF MATCH	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*
1005 GF/PROGRAM RECEIPTS	*	*	*	*	*	*
1006 GF/MHTIA	*	*	*	*	*	*
OTHER	*	*	*	*	*	*
TOTAL FUNDING:	*	*	*	*	*	*

POSITIONS

FULL-TIME	*	*	*	*	*	*
PART-TIME	*	*	*	*	*	*
TEMPORARY	*	*	*	*	*	*

Estimate of current year (FY93) impact: \$*

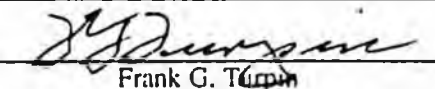
ANALYSIS: (Attach a separate page if necessary)

The reorganization of leasing, procurement and maintenance functions for state facilities will consolidate existing state responsibilities within the Department of Transportation and Public Facilities. The fiscal adjustments needed to implement this EO will be reflected in budget amendments for the Department of Administration and the Department of Transportation and Public Facilities. Detailed information reflecting all changes is being prepared by the departments.

Approximately \$31.2 million plus associated personnel and related costs will transfer from DOA to DOT/PF.

Prepared by: Kit Duke
 Division: Assistant Commissioner

Phone: 562-2728
 Date: 1/6/93

Approved by Commissioner: 
 Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: 1/6/93

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FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. EO 87

Revision Date: _____
 Title: Executive Order: Consolidation of State leasing,
 procurement and maintenance activities for State buildings.
 Sponsor: Governor
 Requestor: Governor

Department Affected: Administration
 BRU: General Services
 Component: Purchasing

COMPONENT SERIAL NO. 60

Expenditures/Revenues:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	*	*	*	*	*	*
TRAVEL	*	*	*	*	*	*
CONTRACTUAL	*	*	*	*	*	*
SUPPLIES	*	*	*	*	*	*
EQUIPMENT	*	*	*	*	*	*
LAND & STRUCTURES	*	*	*	*	*	*
GRANTS, CLAIMS	*	*	*	*	*	*
MISCELLANEOUS	*	*	*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL	*	*	*	*	*	*
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REVENUE FUND SOURCE:	*	*	*	*	*	*
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FUNDING:

1002 Federal Receipts	*	*	*	*	*	*
1003 GF Match	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts	*	*	*	*	*	*
1006 GF/MHTIA	*	*	*	*	*	*
OTHER	*	*	*	*	*	*
TOTAL	*	*	*	*	*	*

POSITIONS:

FULL-TIME	*	*	*	*	*	*
PART-TIME	*	*	*	*	*	*
TEMPORARY	*	*	*	*	*	*

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.) The reorganization of leasing, procurement and maintenance functions for State facilities will consolidate existing State responsibilities within the Department of Transportation and Public Facilities. The fiscal adjustments needed to implement this Executive Order will be reflected in budget amendments for the Department of Administration and the Department of Transportation and Public Facilities. Detailed information reflecting all changes is being prepared by the departments. Approximately \$250.0 in associated personnel costs will transfer from the Division of General Services to the Department of Transportation and Public Facilities.

Prepared by: Dugan Petty, Director
 Division: General Services

Phone: 465-2250
 Date: 1/7/93

Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Date: 1/7/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. EA 87

Revision Date: _____
Title: Executive Order: Consolidation of State leasing, procurement and maintenance activities for State buildings.
Sponsor: Governor
Requestor: Governor

Department Affected: Administration
BRU: Leasing and Facilities
Component: Leases
COMPONENT SERIAL NO. 81

Expenditures/Revenues:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	*	*	*	*	*	*
TRAVEL	*	*	*	*	*	*
CONTRACTUAL	*	*	*	*	*	*
SUPPLIES	*	*	*	*	*	*
EQUIPMENT	*	*	*	*	*	*
LAND & STRUCTURES	*	*	*	*	*	*
GRANTS, CLAIMS	*	*	*	*	*	*
MISCELLANEOUS	*	*	*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL	*	*	*	*	*	*
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REVENUE FUND SOURCE:	*	*	*	*	*	*
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FUNDING:

1002 Federal Receipts	*	*	*	*	*	*
1003 GF Match	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts	*	*	*	*	*	*
1006 GF/MHTIA	*	*	*	*	*	*
OTHER 1007 I/A Rec	*	*	*	*	*	*
TOTAL	*	*	*	*	*	*

POSITIONS:

FULL-TIME	*	*	*	*	*	*
PART-TIME	*	*	*	*	*	*
TEMPORARY	*	*	*	*	*	*

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.) The reorganization of leasing, procurement and maintenance functions for State facilities will consolidate existing State responsibilities within the Department of Transportation and Public Facilities. The fiscal adjustments needed to implement this Executive Order will be reflected in budget amendments for the Department of Administration and the Department of Transportation and Public Facilities. Approximately \$31.2 million will be transferred from the requested FY 94 Leases Component to the Department of Transportation and Public Facilities. Detailed information reflecting all changes is being prepared by the departments.

Prepared by: Duqan Petty, Director
Division: General Services

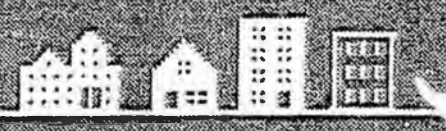
Phone: 465-2250
Date: 1/7/93

Approved by Commissioner: Nancy Bear Usura
Agency: Administration

Date: 1/7/93

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Facilities Management UPDATE



Volume 1, No. 1 January 1993

Welcome to the first edition of *FACILITIES MANAGEMENT UPDATE*. We will be using this newsletter routinely to bring you up to date on the merger of facilities management within state government.

Why is this merger being done? ASFA and the Governor's Efficiency Task Force have urged that a better job of asset protection and building management be done. The task force recommended consolidation of the various state buildings management functions into a single organization.

What is being done? Merging all state building management functions under single leadership; including operations and maintenance, leasing, space management and design and construction.

Who is in charge? The Commissioners of Administration and Transportation and Public Facilities were tasked with addressing this recommendation. Kit Duke, DOT&PF Assistant Commissioner was appointed to head up this effort. She has recruited a transition team to assist in researching and implementing the task force's recommendations. The team consists of nine individuals from six State agencies (see Page 4). We encourage you to speak with these representatives, and express your questions and concerns.

What are the goals? To maintain, manage and secure state facilities in a more cost effective and businesslike manner. Also to create a statewide perspective on state-owned facilities, their condition and what it costs to main-

tain and operate them.

When will this happen? The target date for the merger is July 1, 1993.

ENERGY MANAGEMENT

We must find the money to fund preventative maintenance. Chances are this money already exists in department budgets but is lost to inefficient mechanical systems and insufficiently insulated buildings. One of the areas we will focus on concerns the reduction of energy consumption within state-owned buildings.

The cost of basic heating, ventilation, and electrical needs are a fixed expense that if not efficiently controlled can consume a significant portion of an already strained maintenance operating budget. With existing technology and a common sense approach to conservation, relatively inexpensive modifications can be made to almost any facility that will result in eventual payback and funds to perform needed scheduled maintenance activities.

We intend to examine energy management systems including basic insulation and weather-stripping, window glazing, efficient HVAC (heating, ventilation and air conditioning) equipment, and lighting. DDC (Direct Digital Control) systems have already proven to offer substantial savings with minimal investment and such a system is capable of achieving optimum energy efficiency. Some manufacturers of DDC equipment go so far as

to offer creative financing packages whereby the purchase and installation of equipment is paid for out of energy cost savings.

WORKPLAN

To organize this effort and ensure an orderly transition, a draft workplan has been prepared. It includes 28 tasks in five emphasis areas and has been distributed to the transition team and members of the Alaska State Facilities Administrators, (ASFA). The five areas are: General Transition Issues, Employee Transfer Issues, Corporate Development Issues, Physical Plant Management Issues and Financial Issues.

WORKSHOP: 24 HOUR FACILITIES

Workshops were held November 23 and 24 with employees from the Dept. of Corrections, Health & Social Services, the Pioneer Homes and ASFA members. Guest speakers from British Columbia included Ray Parks, Facilities Manager, Ministry of Attorney General (similar to our Law & Corrections Departments) and Don Lebeter, Operations Superintendent from the British Columbia Buildings Corporation (BCBC).

Our guests were invited to explain the operations of their facilities management program. On November 24, we covered specifically how it applied to 24 hour facilities. British Columbia established their consolidated facilities management program, (British Columbia Buildings Corporation) fifteen years ago. Prior to that, facilities management was handled separately by each ministry (similar to the current state program). At the time of the merger, both guests were employed by the ministry. Since then Mr. Lebeter transferred to BCBC. Collectively, they have over 35 years of experience in corrections and fa-

ilities management.

Even though other states have merged their facilities management under similar programs, we chose the BCBC program to review in depth because of the similarities between Alaska and Canada; geographic and both have a large number of remote buildings. Those attending the workshop were able to voice concerns on how the merger would affect them, and draw on the experiences of our guest speakers. A detailed summary of issues was mailed to all participants and is available by request.

BETHEL MAINTENANCE COORDINATION PROJECT

One of the many challenges facing the new organization is the merger of existing multi-agency maintenance personnel and equipment. This project was conceived as a way to gather information on both the benefits and the problems of merging facility related resources. The project involves the departments of Corrections, Health & Social Services, Military & Veterans Affairs and Transportation & Public Facilities. Bethel was selected because of its size, the number of maintenance personnel from different agencies and the off road location.

An initial planning meeting was held in November to develop project parameters and goals. Detailed planning for the project began this month. Meetings will be held in February and the project will be underway by March 1. It will be monitored by facility managers from the agencies involved. Don Valesko, Business Manager, Local 71 is involved in the planning stages of the project as well as the progress review. Status reports will be provided in future editions of UPDATE.

DEPARTMENT TRANSITION PLANS

Each department will be asked to appoint an internal transition team, who will complete a transition plan. A transition plan outline is being developed and will be sent out in mid-January. These transition plans will provide us with department policies, budget status, financing/funding and data management of current facilities management programs. From this information, an action plan can be developed.

Development of transition plans is the first of many opportunities department program managers will have to give input to the merger.

QUESTIONS FROM YOU

1. If we transfer to the new agency, will we lose some of the benefits we now enjoy?

Employees will continue to be in the state employment system, with bargaining unit representation and will transfer to the new authority without a change in benefits.

2. Does the proposed merger involve some privatization of maintenance functions currently performed by state employees. Does this mean that some employees will lose their jobs?

We do not expect the level of maintenance workers to decrease due to the merger. There is a backlog of work, some of which may be contracted out; but it is agreed we cannot accomplish the required maintenance with fewer personnel.

3. Will the new organization require employees to relocate?

Employees will not be required to move from a community. Maintenance workers currently assigned to a facility are expected to remain reporting to and responsible for that facility. Over time, as deferred maintenance is taken care of, it is expected there will be less need for daily "crisis" response and that facilities with multiple maintenance personnel may be able to share these employees to accomplish preventative maintenance work at other facilities in a given community or region.

4. Has this new facilities organization been successful in other places?

Yes. Ex: The British Columbia Buildings Corporation, British Columbia, Canada (1977), (see related article, Page 1) and the States of Tennessee (1984) and Maryland.

5. Maintenance budgets are continually being cut to subsidize agency program needs. How will the new organization help solve this funding problem so that adequate preventative as well as emergency maintenance can be done?

Certain financial tools are necessary to ensure adequate funding. These include charging occupants rent for the use of space, a mechanism which allows us to collect and retain funding past fiscal year boundaries and a means to obtain capital for repair, replacement and code upgrade projects.

NEWS BRIEFS

- The Executive Order establishing the new organization will be submitted to the Alaska State Legislature January 11, 1993.

The Legislature has 60 days for review and action.

• Kent Crandall, P.M., DOT&PF has awarded a contract to Charles Bettisworth & Co., Inc., to complete Inventory and Condition Surveys for state buildings. The surveys will provide an across the board representative sample of state owned facilities. Results will help determine the existing condition of the state's facilities, the extent of the deferred maintenance backlog, and the funding needed to correct identified code deficiencies.

• Leann McGinnis has joined the transition team staff. She is responsible for several project communication tasks.

KIT DUKE'S MESSAGE

This merger is a major undertaking. Everyone's concern's and thoughts about making it a successful transition are important.

I have had occasion to meet with several groups of employees in Juneau and Anchorage, but we know those in other locations have many useful suggestions to offer about how we can be more effective.

We have received several notes and letters from maintenance personnel in several communities around the state. Please continue to contact me, Leann McGinnis or any of the Transition Team members with your suggestions.



TRANSITION TEAM MEMBERS

Cheryl Frasca, Deputy Director,
Office of Management & Budget
465-3568

Kathy Christy, Facilities Planner,
Dept. of Corrections
276-8122

Roger Patch, Director of Installations,
Dept. of Military & Veterans Affairs
428-6770

Newton Chase, Facilities Chief,
Dept. of Health & Social Services
465-3037

Janet Ignell, Human Resources Mgr.,
Dept. of Transportation/Public Fac.
465-4045

Jim Little, Buildings Maintenance Mgr.,
Dept. of Transportation/Public Fac.
451-2203

Boyd Brownfield, Director, D&C,
Dept. of Transportation/Public Fac.
266-1500

Dugan Petty, Director, GS&S,
Dept. of Administration, Leasing
465-2250

Representative: Vacant until Feb. 1993,
Administrative Directors Group

SENATE

Introduced: 1/11/93
 Referred: TRA, STA, FIN

HOUSE

Introduced: 1/11/93
 Referred: STA, TRA, FIN

EXECUTIVE ORDER NO. 87

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of
 4 efficient administration to move state facility leasing and management functions from the
 5 Department of Administration and other agencies to the Department of Transportation and
 6 Public Facilities. The functions of state government have grown without a coordinated
 7 program adopted to carry out the procurement and maintenance functions for state facilities.
 8 Because of the fragmentation of facility procurement and management, many state agencies
 9 are housed in poorly maintained and inefficient buildings inadequate to meet the needs of the
 10 agencies and the people of the state. Integrating the state's facility leasing and management
 11 activities into its facilities' planning, design, and construction activities, with one agency
 12 having responsibility for the procurement and management of state facilities, whether through
 13 leasing or state construction, will result in protection of the state's assets, increased cost
 14 effectiveness, and efficient management of those assets.

15 * **Sec. 2.** AS 33.32.015(b) is amended to read:

16 (b) The commissioner of corrections may

17 (1) subject to AS 36.30 (State Procurement Code), use, purchase, lease,
 18 equip, and maintain [BUILDINGS,] machinery[,] and other equipment, **and through**
 19 **the Department of Transportation and Public Facilities, use, purchase, lease, and**
 20 **maintain buildings,** and may purchase materials and enter into contracts, which may
 21 be necessary for the correctional industries program;

22 (2) provide for prisoners to be employed in rendering services and
 23 producing articles, materials, and supplies needed by a state agency, a political

1 subdivision of the state, an agency of the federal government, other states or their
2 political subdivisions, or for use by nonprofit organizations;

3 (3) if the Correctional Industries Commission established in
4 AS 33.32.070 approves, employ prisoners to provide services or products as needed
5 by private industry if the services or products have potential for contributing to the
6 economy of the state and will have minimal negative impact on an existing private
7 industry or labor force in the state;

8 (4) authorize a prisoner to engage in productive employment within
9 or outside a correctional facility or enter into a contract under AS 33.30.191 for the
10 employment of a prisoner if the Correctional Industries Commission determines that
11 the employment will have minimal negative impact on an existing private industry or
12 labor force in the state; and

13 (5) subject to the provisions of AS 36.30 (State Procurement Code),
14 enter into joint cooperative ventures with private industry for the establishment and
15 operation of "Free Venture" industries under AS 33.32.017, if the Correctional
16 Industries Commission determines at the time of inception that the "Free Venture"
17 industry will not compete with an existing private industry or labor force in the state.

18 * Sec. 3. AS 35.05.010 is amended to read:

19 Sec. 35.05.010. PLANNING AND PROCUREMENT [CONSTRUCTION].

20 The department is responsible for the planning and procurement, through
21 construction or leasing, of public works except as provided for court facilities in
22 AS 22.05.025. Contracts for planning and procurement [CONSTRUCTION] of
23 public works are governed by AS 36.30 (State Procurement Code).

24 * Sec. 4. AS 35.05.040 is amended to read:

25 Sec. 35.05.040. POWERS OF DEPARTMENT. The department may

- 26 (1) acquire property;
- 27 (2) exercise the power of eminent domain;
- 28 (3) take immediate possession of real property, or any interest in it
29 under a declaration of taking or by other lawful means;
- 30 (4) acquire rights-of-way for present or future use;
- 31 (5) dispose of excess property or property rights;

1 (6) accept and dispose of federal funds or property available for public
2 works construction, maintenance, or equipment;

3 (7) enter into contracts or agreements relating to public works with the
4 federal government and political subdivisions, and also enter into contracts with a
5 foreign government if approved by the federal government;

6 (8) exercise any other power necessary to carry out the purpose of this
7 title;

8 (9) lease or grant land or any interest in land to the Alaska Housing
9 Finance Corporation for a purpose set out in AS 18.55.100 - 18.55.960 on terms and
10 conditions prescribed by the department;

11 (10) procure directly materials, labor and contractual services for
12 planning, designing and constructing public facilities of the state;

13 **(11) by lease under AS 36.30. procure public facilities for state use.**

14 * Sec. 5. AS 35.10.015(a) is amended to read:

15 (a) The department shall prepare, adopt, and enforce regulations governing the
16 **leasing or** construction of public buildings and facilities by or for the state, including
17 the University of Alaska, and its political subdivisions, whether financed in whole or
18 in part by federal funds, to ensure that public buildings and facilities are accessible
19 to, and usable by, the physically handicapped, aged, or infirm. The regulations of the
20 department must conform to a standard comparable to applicable provisions of federal
21 law, regulations, and standards.

22 * Sec. 6. AS 35.10.160 is amended to read:

23 Sec. 35.10.160. FINDINGS AND PURPOSE. The legislature finds that since
24 the needs of the state for physical facilities of all kinds are diverse, the planning,
25 design, and **procurement** [CONSTRUCTION] of public facilities **through leasing or**
26 **construction** should be executed in accordance with facility procurement policies
27 developed by the department and reviewed annually by the legislature.

28 * Sec. 7. AS 35.10.170 is amended to read:

29 Sec. 35.10.170. DUTIES OF DEPARTMENT. In addition to other duties
30 prescribed by statute, the department shall

31 (1) develop facility procurement policies for the planning, design,

1 construction, leasing, maintenance, and operation of public facilities of the state;

2 (2) develop and maintain an inventory of physical facilities currently
3 owned or occupied by the state;

4 (3) make projections of future public facility needs of the state,
5 analyze facilities needed, and establish methodology for program planning and
6 facilities project planning, design, and construction, based upon

7 (A) a justification of the level of service anticipated by the
8 program agency, utilizing population projections and estimates approved by the
9 governor,

10 (B) consideration of the geographical area to be served by the
11 facility and relevant data concerning the agency's existing public facilities in
12 that area,

13 (C) the date by which the services are to be provided,

14 (D) alternative program methods for providing the services, and

15 (E) pertinent data requested by the department in accordance
16 with procedures developed under AS 5.10.180;

17 (4) engage in experimental projects as necessary relating to any
18 available or future method of facility procurement, design, or construction and any
19 method of improving existing design, planning, and construction techniques;

20 (5) develop life cycle costs of public facilities of the state;

21 (6) develop life cycle costing methodologies for the following special
22 purposes:

23 (A) budget forecasting to support facility program planning and
24 analysis,

25 (B) systematic cost estimating to forecast planning, design, and
26 procurement through leasing or construction,

27 (C) budget forecasting to support development of annual
28 maintenance and operating strategies and life cycle cost plans,

29 (D) alternative methods of space acquisition and space
30 equalization that [WHICH] will maximize the effectiveness of public funds;

31 (7) apply for and accept, on behalf of the state, grants from the federal

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government or an agency of it or from another state foundation, corporation, association, or individual for any of the functions or purposes of the department and may expend any of the money received under this section for any of the functions or purposes.

* Sec. 8. AS 35.10.190(a) is amended to read:

(a) The department shall coordinate the procurement of physical facilities through leasing or construction for the state to insure the greatest cost savings of planning, design, and contractual techniques.

* Sec. 9. AS 35.10.195 is amended to read:

Sec. 35.10.195. CONFORMANCE WITH AS 36.30. The contractual techniques for the procurement of labor, materials, and contractual services, including facility procurement through either leasing or construction, under the policies developed under this chapter must conform to the requirements of AS 36.30 (State Procurement Code).

* Sec. 10. AS 35.10.200(1) is amended to read:

(1) "life cycle costs" means analytic techniques that [WHICH] provide data to describe the first cost of procurement of public facilities through leasing or construction and the maintenance cost, operation cost, and occupancy cost of the facilities;

* Sec. 11. AS 36.30.005(b) is amended to read:

(b) Except as otherwise provided, all rights, powers, duties, and authority relating to the procurement of construction and procurements of equipment or services for the state equipment fleet and the control over construction of state facilities and the state equipment fleet vested in or exercised by an agency on January 1, 1988, are transferred to the commissioner of transportation and public facilities, subject to regulations adopted by the commissioner of administration. Notwithstanding AS 44.68.110, authority relating to disposals from the state equipment fleet is vested in the commissioner of transportation and public facilities, subject to regulations adopted by the commissioner of administration. Effective July 1, 1993, all rights, powers, duties, and authority relating to the lease of space for the executive branch of state government are transferred to the commissioner of transportation

1 and public facilities. subject to regulations adopted by the commissioner of
2 administration. Authority granted under this subsection shall be exercised in
3 accordance with this chapter.

4 * **Sec. 12.** AS 36.30.015(a) is amended to read:

5 (a) The commissioner of transportation and public facilities may delegate to
6 another agency the authority to lease space or contract for construction. Before
7 delegating authority to an agency under this subsection, the commissioner of
8 transportation and public facilities shall make a written determination that the agency
9 is capable of implementing the delegated authority. Notwithstanding delegation of
10 authority under this subsection, contracts for construction are governed by this chapter
11 and regulations adopted by the commissioner of administration under this chapter.

12 * **Sec. 13.** AS 36.30.080(a) is amended to read:

13 (a) The Department of Transportation and Public Facilities
14 [DEPARTMENT] shall lease space for the use of the state or an agency wherever it
15 is necessary and feasible, subject to compliance with the requirements of this section
16 [CHAPTER]. A lease may not provide for a period of occupancy greater than 40
17 years. An agency requiring office, warehouse, or other space shall lease the space
18 through the Department of Transportation and Public Facilities [DEPARTMENT].

19 * **Sec. 14.** AS 36.30.080(d) is amended to read:

20 (d) When the Department of Transportation and Public Facilities
21 [DEPARTMENT] is evaluating proposals for a lease of space, the department shall
22 consider, in addition to lease costs, the life cycle costs, function, indoor environment,
23 public convenience, planning, design, appearance, and location of the proposed
24 building.

25 * **Sec. 15.** AS 36.30.080(e) is amended to read:

26 (e) When the Department of Transportation and Public Facilities
27 [DEPARTMENT] is considering leasing space, that [THE] department should
28 consider whether leasing is likely to be the least costly means to provide the space.

29 * **Sec. 16.** AS 36.30.080 is amended by adding a new subsection to read:

30 (f) In this section, "department" means the Department of Administration,
31 except that "department" means the Department of Transportation and Public Facilities

1 for leases of space for the executive branch of state government.

2 * Sec. 17. AS 36.30.150(b) is amended to read:

3 (b) A contract based on total or life cycle costs may be awarded only when
4 the chief procurement officer or, for construction contracts, leases of space, or
5 procurements for the state equipment fleet, the commissioner of transportation and
6 public facilities, determines in writing at the time of contract solicitation that the
7 contract promotes overall economy for the purposes intended, encourages competition,
8 is not unduly restrictive, and is in the best interests of the state.

9 * Sec. 18. AS 36.30.200(b) is amended to read:

10 (b) The commissioner may provide by regulation that it is either not
11 practicable or not advantageous to the state to procure specified types of supplies,
12 services, or construction by competitive sealed bidding that would otherwise be
13 procured by that method. When the chief procurement officer, or for construction
14 contracts, leases of space, or procurements for the state equipment fleet, the
15 commissioner of transportation and public facilities, determines in writing that the use
16 of competitive sealed bidding is either not practicable or not advantageous to the state,
17 a contract may be entered into by competitive sealed proposals in accordance with the
18 regulations. When it is determined that it is practicable but not advantageous to use
19 competitive sealed bidding, the chief procurement officer or commissioner of
20 transportation and public facilities shall specify with particularity the basis for the
21 determination.

22 * Sec. 19. AS 36.30.300(a) is amended to read:

23 (a) A contract may be awarded for supplies, services, professional services,
24 or construction without competitive sealed bidding, competitive sealed proposals, or
25 other competition in accordance with regulations adopted by the commissioner. A
26 contract may be awarded under this section only when the chief procurement officer
27 or, for construction contracts, leases of space, or procurements for the state equipment
28 fleet, the commissioner of transportation and public facilities determines in writing
29 that there is only one source for the required procurement or construction. A sole
30 source procurement may not be awarded if a reasonable alternative source exists. The
31 written determination must include findings of fact that support by clear and

1 convincing evidence the determination that only one source exists. Except for
2 procurements of supplies, services, or construction that do not exceed the amount for
3 small procurements under AS 36.30.320(a), the authority to make the determination
4 required by this subsection may not be delegated.

5 * Sec. 20. AS 36.30.305(a) is amended to read:

6 (a) A contract for supplies, services, professional services, or a construction
7 contract under \$100,000, may be awarded without competitive sealed bidding or
8 competitive sealed proposals, in accordance with regulations adopted by the
9 commissioner. A contract may be awarded under this section only when the
10 commissioner, or, for construction contracts under \$100,000, leases of space, or
11 procurements for the state equipment fleet, the commissioner of transportation and
12 public facilities, determines in writing that a situation exists that makes competitive
13 sealed bidding or competitive sealed proposals impractical or contrary to the public
14 interest. Procurements under this section shall be made with competition that is
15 practicable under the circumstance. Except for procurements of supplies, services, or
16 construction that do not exceed the amount for small procurements under
17 AS 36.30.320(a), the authority to make a determination required by this section may
18 not be delegated.

19 * Sec. 21. AS 36.30.580(b) is amended to read:

20 (b) The time for a decision may be extended up to 26 days for good cause by
21 the commissioner of administration, or for protests involving construction, leases of
22 space, or procurements for the state equipment fleet, the commissioner of
23 transportation and public facilities. If an extension is granted, the procurement officer
24 shall notify the protester in writing of the date of the decision is due.

25 * Sec. 22. AS 36.30.590(a) is amended to read:

26 (a) An appeal from a decision of a procurement officer on a protest may be
27 filed by the protester with the commissioner of administration, or for protests
28 involving construction, leases of space, or procurements for the state equipment fleet,
29 the commissioner of transportation and public facilities. An appeal shall be filed
30 within 10 days after the decision is received by the protester. The protester shall file
31 a copy of the appeal with the procurement officer.

1 * Sec. 23. AS 36.30.620(c) is amended to read:

2 (c) The time for issuing a decision under (b) of this section may be extended
3 for good cause by the commissioner of administration, or for a controversy involving
4 a construction contract, a lease of space, or procurement for the state equipment fleet,
5 the commissioner of transportation and public facilities, if the controversy concerns
6 an amount in excess of \$50,000. The procurement officer shall notify the contractor
7 in writing that the time for the issuance of a decision has been extended and of the
8 date by which a decision shall be issued.

9 * Sec. 24. AS 36.30.625(a) is amended to read:

10 (a) An appeal from a decision of the procurement officer on a contract
11 controversy may be filed by the contractor with the commissioner of administration,
12 or for a controversy involving a construction contract, a lease of space, or
13 procurement for the state equipment fleet, the commissioner of transportation and
14 public facilities. The appeal shall be filed within 14 days after the decision is
15 received by the contractor. The contractor shall file a copy of the appeal with the
16 procurement officer.

17 * Sec. 25. AS 36.30.870(b) is amended to read:

18 (b) Regulations under this chapter applicable to procurements of construction,
19 leases of space, or procurements for or disposal of property of the state equipment
20 fleet shall be adopted by the commissioner of administration only after consultation
21 with the commissioner of transportation and public facilities.

22 * Sec. 26. AS 38.05.030(d) is amended to read:

23 (d) Real property acquired by and under the management of the agencies
24 referred to in (b) of this section that is no longer needed for its intended use shall be
25 transferred to the commissioner, except that the Department of Transportation and
26 Public Facilities may dispose of real property acquired by it under AS 19.05.040(2),
27 [AND] 19.05.080 - 19.05.120, and AS 35.20.010 - 35.20.070.

28 * Sec. 27. AS 44.42.020(a)(1) is amended to read:

29 (1) plan, design, construct, and maintain all state modes of
30 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
31 and similar facilities, allocate space in state buildings to the various departments

1 according to need and available space, and execute all leases of space;

2 * Sec. 28. AS 44.42.020(b) is amended to read:

3 (b) The department may

4 (1) engage in experimental projects relating to available or future
5 modes of transportation and any means of improving existing transportation facilities
6 and service;

7 (2) acquire and dispose of land or interests in land by deed,
8 agreement, or lease of space and exercise the power of eminent domain, including
9 the declaration of taking as provided in AS 09.55;

10 (3) publish plans, schedules, directories, guides, and manuals for
11 distribution, with or without charge, to private or public entities or persons;

12 (4) operate state housing in support of the department's statutory
13 responsibilities and charge rent that is consistent with applicable collective bargaining
14 agreements, or, if no collective bargaining agreement is applicable, competitive with
15 market conditions;

16 (5) charge reasonable fees to cover the costs of issuing easements,
17 licenses, and permits and to cover the costs of reproduction, printing, mailing, and
18 distribution of contract and bid documents and design and construction standards
19 manuals;

20 (6) charge and collect fees for training services and technical
21 assistance provided by department personnel;

22 (7) delegate to another agency the authority to maintain buildings
23 and similar facilities.

24 * Sec. 29. AS 47.10.150 is amended to read:

25 Sec. 47.10.150. GENERAL POWERS OF DEPARTMENT OVER JUVENILE
26 INSTITUTIONS. The department may

27 (1) subject to AS 36.30 (State Procurement Code), through the
28 Department of Transportation and Public Facilities, purchase, lease, or construct
29 buildings or other facilities for the care, detention, rehabilitation, and education of
30 children in need of aid or delinquent minors;

31 (2) subject to AS 35.05.010, adopt plans, through the Department

1 of Transportation and Public Facilities, for physical construction of juvenile homes,
2 juvenile detention facilities, and other juvenile institutions;

3 (3) adopt standards and regulations under this chapter for [THE
4 DESIGN, CONSTRUCTION, REPAIR, MAINTENANCE, AND] operation of all
5 juvenile detention homes, facilities, and institutions;

6 (4) inspect periodically each juvenile detention home, facility, or other
7 institution to ensure that the standards and regulations adopted are being maintained;

8 (5) reimburse cities maintaining and operating juvenile detention
9 homes and facilities;

10 (6) enter into contracts and arrangements with cities and state and
11 federal agencies to carry out the purposes of this chapter;

12 (7) do all acts necessary to carry out the purposes of this chapter;

13 (8) adopt the regulations necessary to carry out this chapter;

14 (9) accept donations, gifts, or bequests of money or other property for
15 use in construction of juvenile homes, institutions, or detention facilities;

16 (10) operate juvenile homes when municipalities are unable to do so;

17 (11) receive, care for, and place in a juvenile detention home, the
18 minor's own home, a foster home, or correctional school or treatment institution all
19 minors committed to its custody under this chapter.

20 * Sec. 30. AS 44.21.020(5) is repealed.

21 * Sec. 31. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
22 pending under a law amended or repealed by this Order, or in connection with functions
23 transferred by this Order, continue in effect and may be continued and completed
24 notwithstanding a transfer or amendment or repeal provided for in this Order.

25 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
26 or repealed by this Executive Order, and in effect on June 30, 1993, remain in effect
27 notwithstanding this Order's taking effect. Records, equipment, appropriations, and other
28 property of agencies of the state whose functions are transferred under this Order shall be
29 transferred to implement the provisions of this Order.

30 * Sec. 32. This Order takes effect July 1, 1993.

DATED: _____

Walter J. Hickel
Governor

EO 87

-12-

EO0087a

New Text Underlined [DELETED TEXT BRACKETED]

S



RECORDS CERTIFICATION



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Signature of Camera Operator

1-13-97
Date

SB

5

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/7/93

FURTHER: _____

DATE TURNED INTO OFFICE: _____

The Finance Committee considered **SPONSOR SUBSTITUTE FOR SENATE BILL NO. 5**

Implementing an option available under federal law to extend Medicaid eligibility to certain persons who are eligible to be institutionalized but who are not in institutions; relating to Medicaid waivers; reordering the priorities assigned to groups of persons served under the Medicaid program; efd.

Died in SFC

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS.

OTHER RECOMMENDATIONS:

1. _____
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

SENATE COMMITTEE REPORT

DATE: 3/25/93

FURTHER: FINANCE

Jan

DATE TURNED INTO OFFICE: 4-7-93

STATE AFFAIRS Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 5
Medicaid for Certain Disabled Children
 Implementing an option available under federal law to extend Medicaid eligibility to certain persons who are eligible to be institutionalized but who are not in institutions; relating to Medicaid waivers; reordering the priorities assigned to groups of persons served under the Medicaid program; e'f'd.

and recommends:

*may
omit*

- replace with _____ CS _____
- or adopt previous _____ CS SS SB 5 (HES)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

do pass

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation

4 p FOI's

individual recommendations

NEW FISCAL NOTES *previous*

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
CS(HES) DHSS-Medicaid	4-6-93		115.7
CS(HES) DHSS-Facilities	4-6-93		499.6
CS(HES) DHSS-Eligibility	4-6-93		55.8
CS(HES) DHSS-Claims	4-6-93		25.1

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

John Ellis
Robin L. Taylor

Loren A. Leman
 Chair: Signature and Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

Jan

DATE: 1/11/93
3/19/93--SS intro

FURTHER: STATE AFFAIRS
FINANCE

Date of 5-Day Notice: 3/18/93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/25/93

HES Committee considered SSSB 5
Medicaid for certain disabled children

Implementing an option available under federal law to extend Medicaid eligibility to certain persons who are eligible to be institutionalized but who are not in institutions; relating to Medicaid waivers; reordering the priorities assigned to groups of persons served under the Medicaid program; efd.
and recommends it be replaced with

and recommends:

replace with _____ CS SSSB 5 (HES)

- same title
- new title
- technical title change (HB only)

attaches amendment(s) _____ and do pass

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

HES

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
<i>SSSB/CS</i> DHSS	<i>3/23/93</i>		<i>1,165.7</i>
<i>" / "</i> DHSS	<i>3/23/93</i>		<i>499.6</i>
<i>" / "</i> DHSS	<i>3/23/93</i>		<i>55.8</i>
<i>14/11</i> DHSS	<i>3/23/93</i>		<i>25.1</i>

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

Miller
Dun
Bel
Solo
Lem
Sharp
Dr. Pass

OTHER RECOMMENDATIONS:

Chair: Signature and Recommendation

ALASKA STATE LEGISLATURE
SENATE BILL NO. 5

HISTORY IN THE SENATE

1993
1/11
3/19
3/25
4/7

Read first time and referred to:
HES STA FIN
SS intro: HES STA FIN

RPT() CS 7 DP NR DNP AM
New Title Same Title Previous FN
4 FN OFN To STA

STA RPT() CS 3 DP NR DNP AM
New Title Same Title 4 Previous FN
FN OFN To FIN

RPT() CS DP NR DNP AM
New Title Same Title Previous FN
FN OFN To

Rules Calendar() CS AM Other
New Title Same Title Previous FN
FN OFN

Read second time

CS Adopted () New Title
Amended Advanced

Read third time

Letter of Intent adopted
Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Reconsideration
Reconsideration not taken up

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Reported correctly engrossed
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:

RPT CS() New Title
DP DNP NR AM
FN OFN Previous FN

RPT CS() New Title
DP DNP NR AM
FN OFN Previous FN

RPT CS() New Title
DP DNP NR AM
FN OFN Previous FN

Read second time
CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Intent adopted

Reconsideration
Reconsideration not taken up

PASSED ON RECON. EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19

Received from the House

Version: _____

Concur in House amendment

Y ___ N ___ E ___ A ___

___ Efd same or Y ___ N ___ E ___ A ___

Failed to concur in House amendment, ask House recede

Y ___ N ___ E ___ A ___

House failed to / receded from amendment

Y ___ N ___ E ___ A ___

CC appointed by Senate _____ Chair

CC appointed by House _____ Chair

(S) Granted Limited Powers of Free Conference

(H) Granted Limited Powers of Free Conference

19

(S) Adopted CC Rpt _____

Y ___ N ___ E ___ A ___

___ Efd same or Y ___ N ___ E ___ A ___

(H) Adopted CC Rpt _____

Y ___ N ___ E ___ A ___

___ Efd same or Y ___ N ___ E ___ A ___

To enrolling

Received from enrolling

Sent to Governor

_____ By Governor

Chapter Number _____

Filed with Lieutenant Governor

FISCAL NOTE

No. 4

STATE OF ALASKA
1993 LEGISLATIVE SESSION

B1 Bill Version: SSSB 5
(S) Publish Date: 3-25-93

Revision Date: 3/19/93 Dept. Affected: Health and Social Services
 Title: An Act relating to Medicaid eligibility of persons eligible to be institutionalized ... BRU: Medical Assistance
 Component: Medicaid Non-Facility
 Sponsor: Ellis, Salo, Lincoln, Duncan
 Requestor: Senate HESS Committee COMPONENT SERIAL NO. 229

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	1,165.7	692.2	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	1,165.7	692.2	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	582.8	346.1	0.0	0.0	0.0	0.0
1003 GF Match	582.9	346.1	0.0	0.0	0.0	0.0
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1,165.7	692.2	0.0	0.0	0.0	0.0

POSITIONS:

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

Changes in SSSB 5 HES reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
3/25/93 *kh*

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

The fiscal impact of this bill results from adding new Medicaid recipients. Cost calculations are shown on attached page. Cost per recipient and number of new recipients are taken from home and community-based services waiver applications and supporting documents.

The Department of Health and Social Services has submitted a budget amendment for Medicaid home and community-based service waivers. Some of the cost impact of SB 5 would be increased if that amendment is not fully funded.

The Department has limited experience identifying children living in the community who need an institutional level of care. Any variance with the predicted number of those eligible will impact costs.

Prepared by: Kimberly B. Busch
 Division: Division of Medical Assistance

Phone: 465-3355
 Date: 03/22/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 3/23/93

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ANALYSIS (cont.):

Cost Estimate (thousands of dollars)

FY 94:

FY 94 Medicaid service costs per recipient needing hospital or nursing facility level of care:	\$102.2
Number of new recipients, not on waivers, in FY 94 needing hospital or NF level of care:	21
Percent of time in FY 94 recipients are covered in FY 94	50%
Total FY 94 cost of Medicaid services for new recipients needing hospital or nursing facility level of care:	
$\$102.2 \times 21 \times 50\% =$	<u>\$1,073.1</u>

FY 94 Medicaid service costs per recipient needing ICF/MR level of care:	\$32.9
Number of new recipients, not on waivers, in FY 94 needing ICF/MR level of care:	36
Percent of time in FY 94 recipients are covered in FY 94	50%
Total FY 94 cost of Medicaid services for new recipients needing ICF/MR level of care:	
$\$32.9 \times 36 \times 50\% =$	<u>\$592.2</u>

Total FY 94 cost of Medicaid services for all new recipients:	
$\$1,073.1 + \$592.2 =$	<u>\$1,665.3</u>

Component Breakout:

Medicaid Non-Facility (70 percent of total costs)	\$1,165.7
Medicaid Facility (30 percent of total costs)	\$499.6

FY 95

FY 95 Medicaid service costs per recipient needing hospital or nursing facility level of care:	\$111.1
Number of new recipients, not on waivers, in FY 95 needing hospital or NF level of care:	6
Percent of time in FY 95 recipients are covered in FY 95	100%
Total FY 95 cost of Medicaid services for new recipients needing hospital or nursing facility level of care:	
$\$111.1 \times 6 \times 100\% =$	<u>\$666.6</u>

FY 95 Medicaid service costs per recipient needing ICF/MR level of care:	\$35.8
Number of new recipients, not on waivers, in FY 95 needing ICF/MR level of care:	9
Percent of time in FY 95 recipients are covered in FY 95	100%
Total FY 95 cost of Medicaid services for new recipients needing ICF/MR level of care:	
$\$35.8 \times 9 \times 100\% =$	<u>\$322.2</u>

Total FY 95 cost of Medicaid services for all new recipients:	
$\$666.6 + \$322.2 =$	<u>\$988.8</u>

Component Breakout:

Medicaid Non-Facility (70 percent of total costs)	\$692.2
Medicaid Facility (30 percent of total costs)	\$296.6

FY 96 – FY 99:

It is assumed that all new eligibles covered under this bill in FY 96 or after would receive coverage under waivers if this bill did not pass.