

ALASKA LEGISLATURE

2591

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

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House Finance approves seafood branding tax bill

Wednesday, March 24, 2004

The Associated Press

Fishermen could tax themselves to pay for development and marketing of regional brands of seafood under a bill approved Tuesday by the House Finance Committee.

Fishermen in several areas of the state have begun marketing some of their fish under regional brand names, such as "Kenai Wild," caught by Cook Inlet fishermen.

But Rep. Dan Ogg, R-Kodiak, who is sponsoring the bill, said the regional branding groups currently depend on a mix of state and federal grants for funding.

Jerry McCune of United Fishermen of Alaska said that funding is drying up.

Under House Bill 419, fishermen could vote to form regional seafood development associations and tax themselves to provide marketing and development dollars. The tax could range from .5 to 2 percent of what fishermen are paid for their catch.

All the fishermen in a region could participate in an association, or it could be limited to a specific species or gear type.

Permit holders would be eligible to vote on the tax, which would require approval by 51 percent of those voting, Ogg said.

The money could be used on facilities to improve quality of the branded fish, such as cold storage, as well as marketing, Ogg said.

SENATE COMMITTEE REPORT

DATE: 04/01/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/27/04

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 419(RES)

HB 419 REGIONAL SEAFOOD DEVELOPMENT ASS'NS./TAX

"An Act relating to regional seafood development associations and to regional seafood development taxes."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- Same Title
- New Title

House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

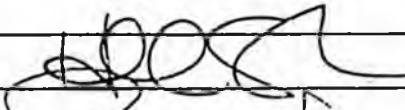
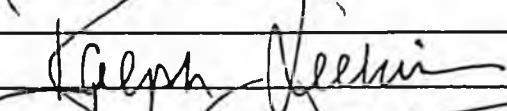
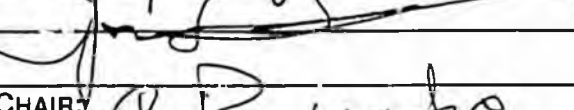
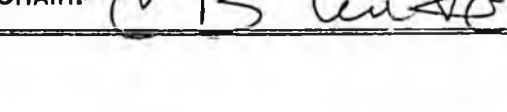
NEW FISCAL NOTE(S):

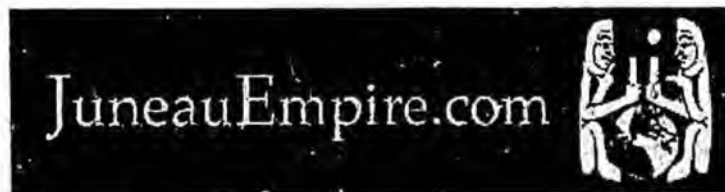
Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	2/8/04		✓		2
DCED	2/19/04			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
French 			X	
Seidman 			✓	
G. Stevens 	X			
Burde  CHAIR				✓



[Click here to return to the original story](#)

Fishermen unite to create regional brands, revive sagging salmon sales

Monday, March 3, 2003

By DAN JOLING
THE ASSOCIATED PRESS

ANCHORAGE - In the new world of Alaska regional seafood marketing, sockeye salmon will be on ice seconds after being plucked from the sea. They'll be coddled like newborns to prevent bruising.

And they'll have brand names that remind customers of where they come from: Aleutia. Kenai Wild. Copper River. Kodiak.

Desperate to revive sales that have tanked because of sluggish foreign economies and competition from farmed fish, some Alaska salmon fishermen are banding together to create regional brands for customers willing to pay a premium for fresh, wild fish.

"The whole idea of the project is to develop a situation where the fishermen in that region have a long-term relationship with a specific group of customers," said Marc Jones, executive director of the Alaska Fisheries Development Foundation, which helped launch the Aleutia brand with fishermen in the Aleutians East Borough.

Along with names that fishermen hope will catch on, the newest brands sport third-party inspection to ensure quality.

"Otherwise, you're just talking about a cute sticker," Jones said.

Alaska fishermen have not always had to market so hard.

In the early 1980s, Alaska supplied nearly half the world's salmon. Demand gave rise to fish farms in Norway, Canada and Chile. Owners of pen-reared Atlantic salmon began delivering fresh fish any time of year, in any size fillet desired by restaurant chefs or grocers. And consumers didn't seem to care whether their fish grew up eating pellets.

In 2000, Alaska supplied just 19 percent of world's salmon.

The state has been slow to react. Legislators now are talking about changes in a state-regulated fishing system designed to maximize the

number of people fishing, which include built-in inefficiencies such as limits on the size of fishing boats.

The state's official marketing arm, the Alaska Seafood Marketing Institute, is prohibited from promoting a particular region, company or fisherman's catch. Instead, it has made its research and quality standard resources available to regional marketers, said Ray Riutta, executive director.

The first region to push a brand was Cordova at the southeast end of Prince William Sound, a few miles from the salmon-rich Copper River.

The area established a niche market during the past 25 years by promoting itself as Alaska's first major salmon run. After the long winter, the first catch of Copper River kings and sockeye command premium prices as they're whisked off boats and jetted to Seattle and other markets.

Alaskans launched two other regional brands last year.

Cook Inlet fishermen caught salmon for the Kenai Wild label. With help from the Kenai Peninsula Borough, the Alaska Manufacturers Association and the state, Cook Inlet Salmon Brand Inc. is planning a five-year marketing program.

Farther west, fishermen at the tip of the Alaska Peninsula and the start of the Aleutian Islands launched Aleutia brand.

Aleutia fishermen want to take advantage of one of Alaska's latest runs of sockeye, delivering fresh fish in September when most other fishermen have hung up their nets.

To kick off the program, the Alaska Fisheries Development Foundation, backed by federal grants, last fall bought sockeye graded out as premium for 95 cents per pound, more than double the 45-cent going rate.

Kenai Wild and Aleutia promoters hired private third-party inspectors from Seattle to certify the quality of fish. Before any were caught, the inspectors trained fishermen to handle them to meet the industry's highest standards.

Trident Seafoods custom processed Aleutia fish at Sand Point in the Aleutians. To be graded premium, fish had to meet standards set by buyers: fish bled while they were still alive, immediate icing, gently handling to avoid bruising and scale loss. Salmon had to be of good, red color - the easiest requirement for wild Alaska sockeye. Fillets had to be free of cuts inflicted by nets or sea lions.

The foundation hoped to buy 100,000 pounds of sockeye. A small run resulted in the foundation purchasing just 15,000 pounds, Jones said.

The smaller amount may have been a blessing in disguise as logistics could be worked out without being overwhelmed by the higher volume of fish. Among the challenges: Everyone who touches the fish - fishermen,

processors, transporters, wholesalers and marketers - must be committed to maintaining the high standards for a highly perishable product. It doesn't help that each component is a separate business.

"Someone's got to keep them all in their traces," Jones said.

Another challenge is moving fresh fish quickly at a reasonable expense. It cost 92 cents per pound to transport salmon from Sand Point to Boston last year, Jones said. A whopping 60 cents of that involved moving the fish from Sand Point to Anchorage.

Mark Powell, president of Cook Inlet Salmon Branding, said the first year of the Kenai Wild project showed that many more fish than originally thought possible can qualify as premium grade if fishermen adhere to handling standards.

Webber of Cordova applauds the marketing efforts in other regions and expects it to be a growth area for Alaska fishermen.

"I'm glad to see the rest of the state wants to step up to the quality plate," Webber said.

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Greg Fisk is ^{-DCED}
also here for
questions

Per Rep Ogg's Office

SENATE FINANCE COMMITTEE

SIGN - IN

HB 419-REGIONAL SEAFOOD DEVELOPMENT ASS'NS./TAX

NAME: Chuck Harlamert Subject/Bill No: HB 419
Co./Dept./Title: Dept. of Revenue Phone: 2320
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Jerry McCune Subject/Bill No: HB 419
Co./Dept./Title: United Fishermen of Alaska Phone: 586-2820
Address: 2114th suite 110 JUNEAU AK Zip: 99801
Do you wish to testify? Yes No Respond To Questions

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

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

HB

422

HFIN

FILE

CS FOR HOUSE BILL NO. 422(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/8/04
Referred: Finance

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the special subaccount established in the constitutional budget
2 reserve fund; and providing for an effective date."

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

4 * Section 1. AS 37.10.430(c) is repealed.

5 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 TRANSITION. The special subaccount investments established under
8 AS 37.10.430(c), repealed by sec. 1 of this Act, merge with other assets of the budget reserve
9 fund (art. IX, sec. 17, Constitution of the State of Alaska) into a single account.

10 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB422
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Budget Reserve Fund Investment BRU Revenue Programs & Services
Component Treasury Management
Sponsor House Finance
Requester House State Affairs Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Constitutional Budget Reserve Fund)	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>
TOTAL	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

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 a separate page if necessary)

This legislation would eliminate the requirement to invest the CBRF subaccount in equity securities. Investing in equities requires contracting with investment managers. The current cost of the investment contracts is \$125.0 per year. These fees would no longer be required if this legislation passes.

The legislation would also require the CBRF to invest only in investment grade fixed income securities. Less diversification may result in lower investment returns if there is a substantial increase in equity prices. However, the decline in the CBRF fund balance creates a compelling need for a more conservative asset allocation to preserve the fund.

Prepared by: Gary Bader Phone 465-4399
Division: Treasury Date/Time: 2/9/04 9:45 AM
Approved by: Tom Boutin Date: 2/9/2004
Agency: Department of Revenue

Constitutional Budget Reserve Subaccount

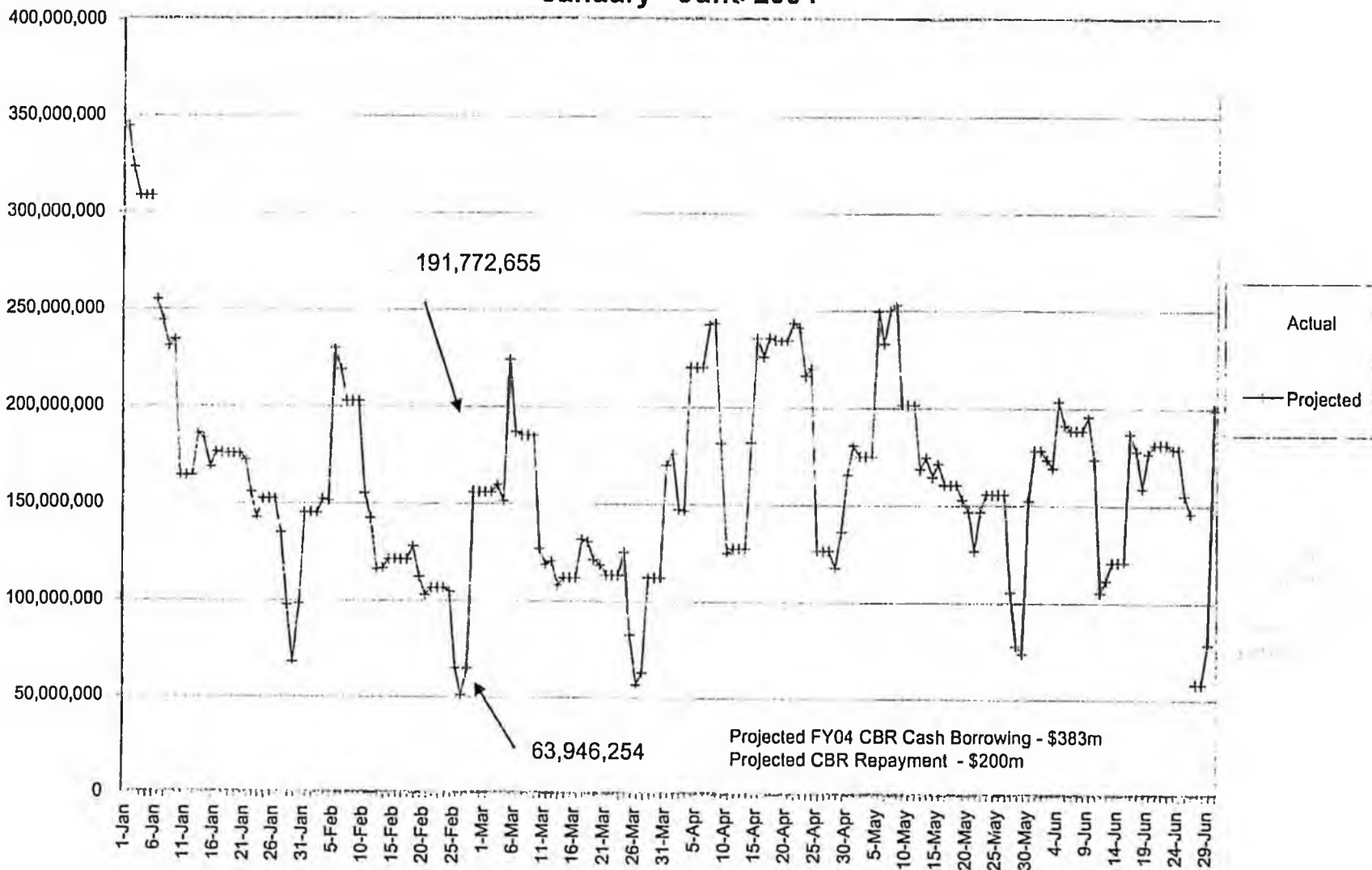
AY10 CBRF Subaccount As of 12/31/03	Actual Allocation	Target Allocation	3 Months	YTD	1 Year	3 Year	5 Year
Broad Market Fxd Income Russell 3000 Index	39.76%	44%					
Short Term Pool	0.00%	0%					
SOA International Equity	17.45%	17%					
Total	100%	100%	7.81	19.17	19.17	1.79	
Benchmark			7.77	20.09	20.09	1.73	
Market Value As of 12/31/03	\$409,785,494						

Constitutional Budget Reserve

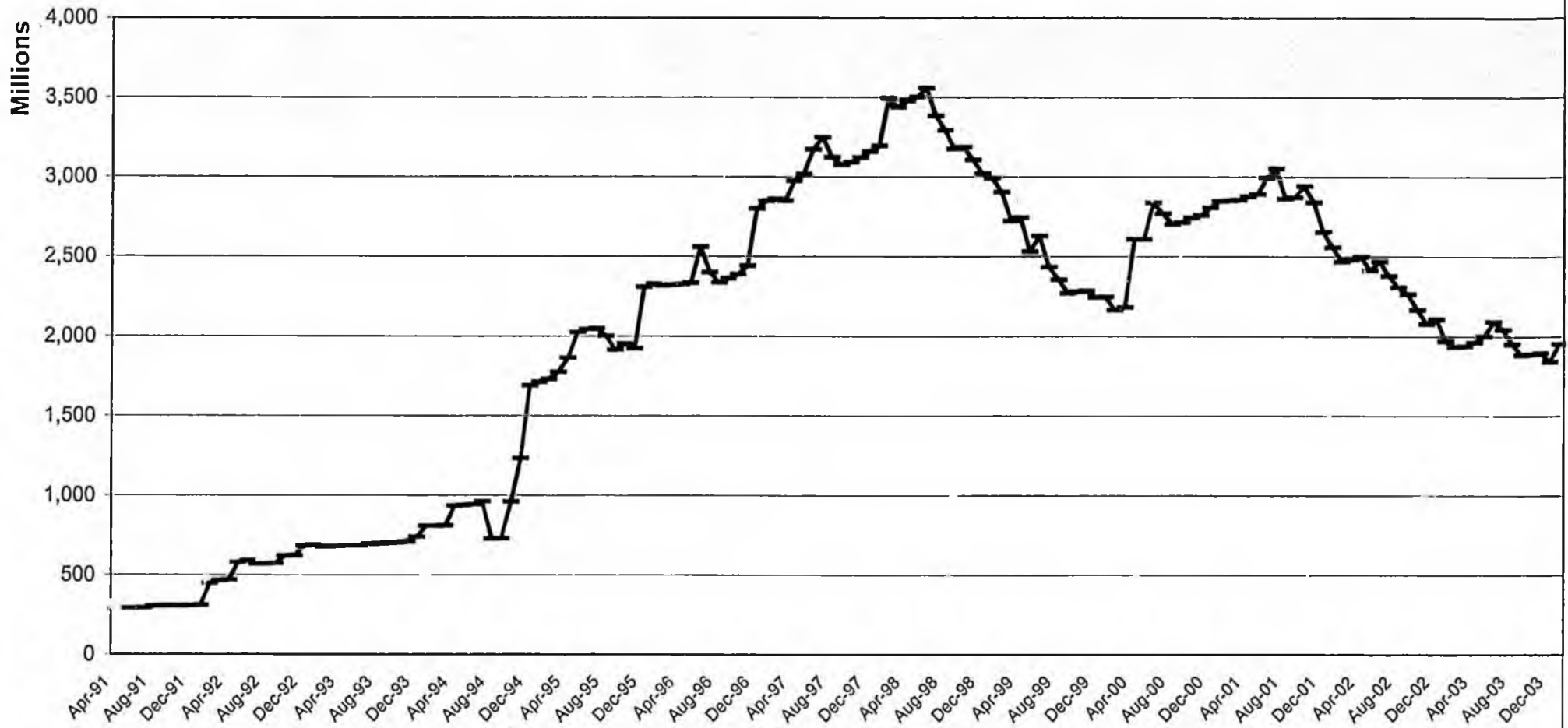
AY19 Constitutional Budget Reserve Fund As of 12/31/03	Actual Allocation	Target Allocation	3 Months	YTD	1 Year	3 Year	5 Year
Broad Market Fxd Income	20.00%	20%					
Short Term Pool	20.12%	20%					
Intermediate Term Fxd Income	59.88%	60%					
Total	100%	100%	0.30	3.50	3.50	5.93	5.62
Benchmark			0.13	2.57	2.57	6.07	5.67
Market Value As of 12/31/03	\$1,430,965,670						

THE
FOLLOWING
DOCUMENT(S)
ARE
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COPIES

FY04(B)
General Fund Sufficiency Balance Projection
January - June 2004

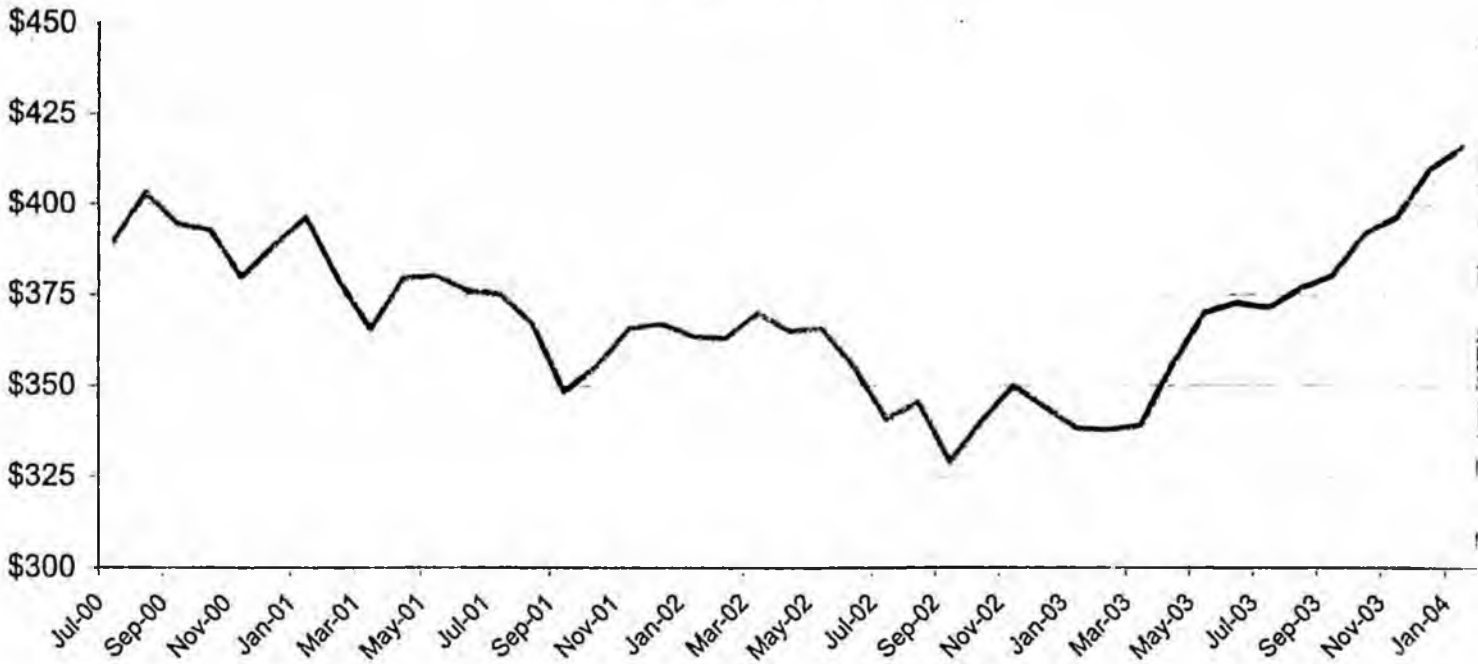


**Constitutional Budget Reserve Fund Monthly Ending Balance
April/1991 to January/2004**

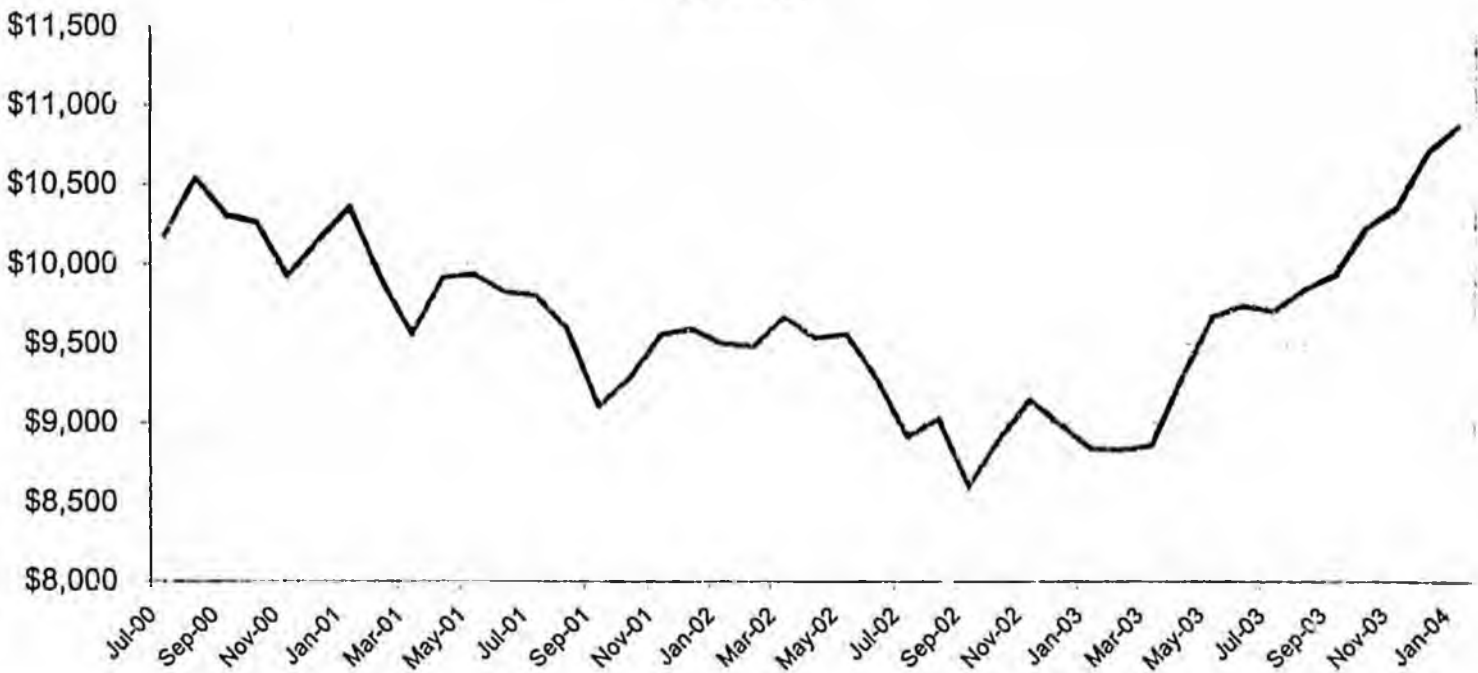


Notes: CBRF Subaccount starts July/2000.
 Withdrawals from the CBRF occur when the General Fund sufficiency balance slips below \$100 million.
 Deposits to the CBRF occur when settlement money is received or when the General Fund sufficiency balance exceeds \$200 million.

CBR Subaccount Monthly Ending Balance
 July/2000 to January/2004
 (in Millions)



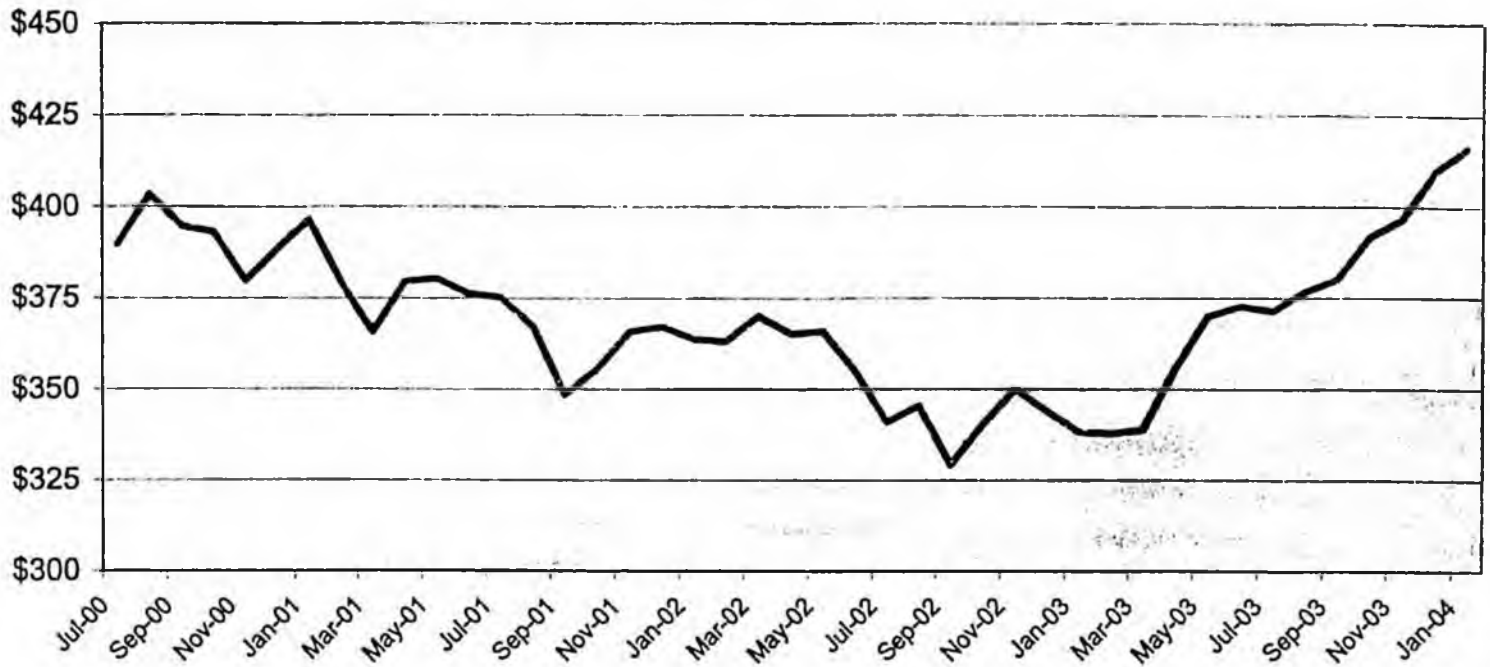
CBR Subaccount Estimated Monthly Fees Paid
 July/2000 to January/2004
 (actual \$)



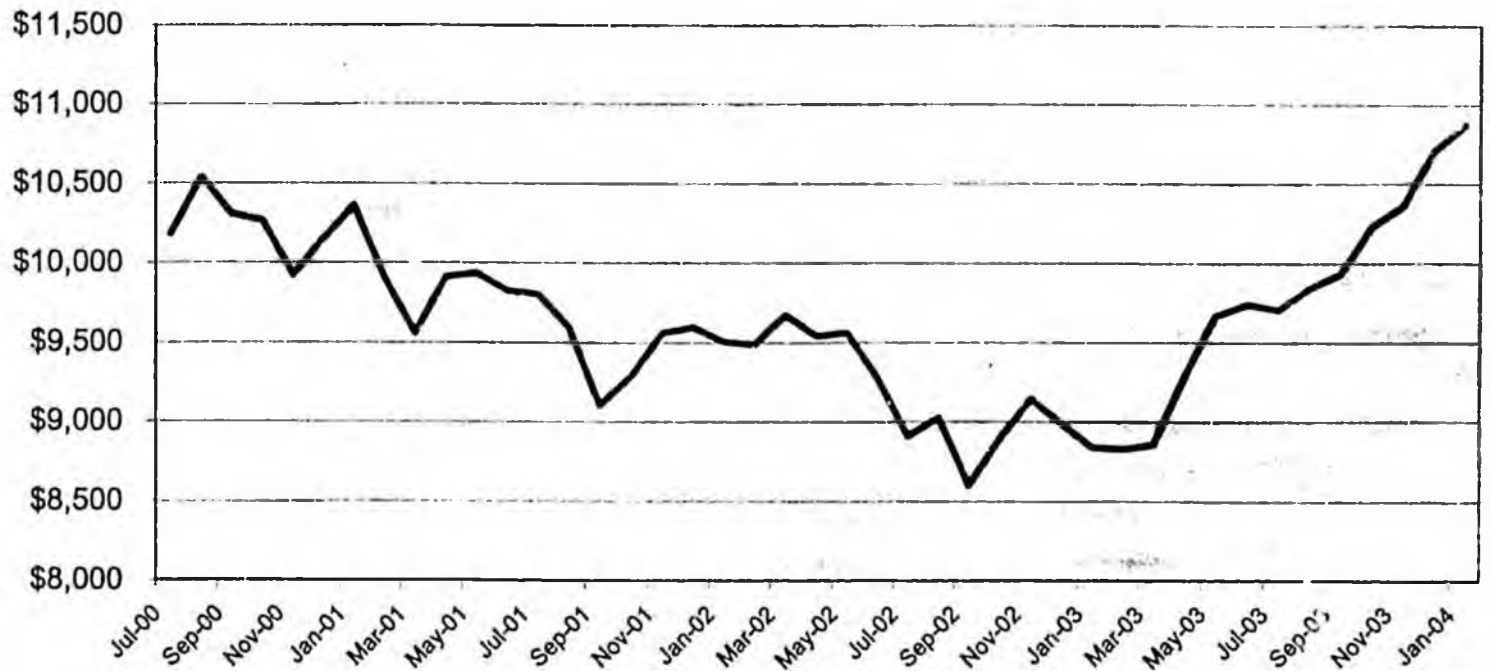
Annual Returns	CBRF	Subaccount
2000*	9.2%	-1.5%
2001	7.6%	-5.5%
2002	6.7%	-6.3%
2003	3.5%	19.2%
2003 - 3 Year Annualized	5.9%	1.8%

*Note: Only 3 months in 2000 for CBRF Subaccount

CBR Subaccount Monthly Ending Balance
 July/2000 to January/2004
 (in Millions)



CBR Subaccount Estimated Monthly Fees Paid
 July/2000 to January/2004
 (actual \$)



Alaska State Legislature
House Finance Committee

REPRESENTATIVE
BILL WILLIAMS

Co-Chair
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Fax: (907) 465-3793

INTERIM ADDRESS
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Ketchikan, Alaska 99901
(907) 247-4627
Fax: (907) 225-7157



State Capitol, Juneau, Alaska 99801-1182

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JOHN HARRIS

Co-Chair
(907) 465-4855
Fax: (907) 465-3799

INTERIM ADDRESS
State Capitol, Room 507
Juneau, AK 99801-1182

Sponsor Statement for
House Bill 422

An Act relating to the existence and management
of the sub account in the Constitutional Budget Reserve Fund

House Bill 422 would repeal the Constitutional Budget Reserve (CBR) sub account and allow the entire CBR balance to be invested in fixed income securities along with the general fund and other non-segregated money.

In 2000, the legislature passed Senate Bill 312 that transferred \$400 million from the CBR into a separate sub account in an effort to obtain a higher yield by investing the funds with a long-term outlook. The legislation also directed the Commissioner of Revenue to assume that sub account funds will not be needed for at least five years.

However, current budget projections show the CBR being continually drawn down rather than being periodically increased to historically higher balances. While the CBR may extend beyond five years, a CBR balance of at least \$1 billion is needed to meet cash flow needs and prudent financial management given the state's dependence upon oil prices. HB 422 also repeals the five-year provision enacted by SB 312.

The almost certain continual decline in the CBR balance creates a compelling need for a more conservative asset allocation.

Additionally, HB 422 is a cost savings measure as the state would not incur the annual \$125,000 in sub account management fees.

Government Finance Associates, Inc.

590 Madison Avenue, 21st Floor
New York, New York 10022
(212) 521-4090
Fax (212) 521-4092

March 1, 2004

TO: TOM BOUTIN
DEPUTY COMMISSIONER OF REVENUE

FROM: GOVERNMENT FINANCE ASSOCIATES, INC.

SUBJECT: CHANGE IN INVESTMENT POLICY FOR CBRF

As you know, Government Finance Associates, Inc., (GFA), has been the financial advisor to the Alaska State Bond Committee since 1983. As such, we have worked with the State over many economic cycles and have aggressively sought to maintain the State's bond rating at high quality levels. We are in constant communication with the nationally recognized rating agencies, on behalf of the State of Alaska as well as on behalf of our other state clients. Furthermore, as you know, both principals of the firm, who are the day-to-day advisors to the State, began their respective careers at Moody's Investors Service with one of the team members having spent 21 years at Moody's, twelve of which as head of the Public Finance Department. GFA prides itself on its unique credit rating agency knowledge and proven track record with Alaska. For example, during all of 1991 through the first half of 1992, Alaska was the only state that had its investment grade rating increased by either of the nationally recognized rating agencies.

You have asked our opinion of a change in the investment policy for the Alaska Constitutional Budget Reserve Fund (CBRF). It is our opinion that an adjustment in the investment guidelines for the State will not pose a credit concern for the rating agencies. Shifting the CBRF's investments from a mix of equities and fixed income securities to all fixed income securities will be viewed as a conservative investment approach which diminishes risk. Since the State has, in recent years, been utilizing the corpus of the CBRF for budget balancing purposes, the purpose of the CBRF has changed from that of a financial cushion to needed operating cash. Therefore, a more conservative investment approach for the CBRF will, actually, create a more dependable reserve, taking into account the extreme volatility that has existed in the equities market over the last several years. More limited reserves require a more conservative investment approach to provide a guarantee of funds for future budgets. Until such time as the State can match recurring expenditures against recurring revenues and not utilize the CBRF for budget balancing purposes, the reserves will be tapped and a conservative investment approach is a prudent one.

HB

422

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 09 2004
SENATE FINANCE
COMMITTEE

DATE: 5/2/04

FURTHER:

DATE TURNED
IN TO OFFICE: 9 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 422(STA)

HB 422 BUDGET RESERVE FUND INVESTMENT

"An Act repealing the special subaccount established in the constitutional budget reserve fund; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	2/3/04	(125.0)			#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>		X		
COCHAIR:				
COCHAIR: <i>[Signature]</i>	✓			

MAY 09 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 422(STA)
(H) Publish Date: 3/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Budget Reserve Fund Investment BRU Revenue Programs & Services
Component Treasury Management
Sponsor House Finance
Requester House State Affairs Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Constitutional Budget Reserve Fund)	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>
TOTAL	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>	<125.0>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

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 a separate page if necessary)

This legislation would eliminate the requirement to invest the CBRF subaccount in equity securities. Investing in equities requires contracting with investment managers. The current cost of the investment contracts is \$125.0 per year. These fees would no longer be required if this legislation passes.

The legislation would also require the CBRF to invest only in investment grade fixed income securities. Less diversification may result in lower investment returns if there is a substantial increase in equity prices. However, the decline in the CBRF fund balance creates a compelling need for a more conservative asset allocation to preserve the fund.

Prepared by: Gary Bader Phone 465-4399
Division: Treasury Date/Time 2/9/04 9:45 AM
Approved by: Tom Boutin Date 2/9/2004
Agency: Department of Revenue

Alaska State Legislature
House Finance Committee

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INTERIM ADDRESS

State Capitol, Room 507

Juneau, AK 99801-1182

MEMORANDUM

To: Senator Gary Wilken
Co-Chair, Senate Finance Committee

From: Representative Bill Williams, Co-Chair *JA to A.B.W.*
House Finance Committee

Re: Hearing Request for HB 422- relating to the existence and management of the sub account in the Constitutional Budget Reserve Fund

Date: May 3, 2004

We request that you schedule House Bill 422, an act relating to the existence and management of the sub account in the Constitutional Budget Reserve Fund (CBR), for a hearing in your committee.

House Bill 422 would repeal the CBR sub account and allow the entire CBR balance to be invested in fixed income securities along with the general fund and other non-segregated money.

In 2000, the legislature passed Senate Bill 312 that transferred \$400 million from the CBR into a separate sub account in an effort to obtain a higher yield by investing the funds with a long-term outlook. The legislation also directed the Commissioner of Revenue to assume that sub account funds will not be needed for at least five years.

However, current budget projections show the CBR being continually drawn down rather than being periodically increased to historically higher balances. While the CBR may extend beyond five years, a CBR balance of at least \$1 billion is needed to meet cash flow needs and prudent financial management given the state's dependence upon oil prices. HB 422 also repeals the five-year provision enacted by SB 312.

If you have any questions, please contact James Armstrong at 6875.

BW/jja

Constitutional Budget Reserve

AY19 Constitutional Budget Reserve Fund As of 3/31/04	Actual Allocation	Target Allocation	Bands	3 Months	YTD	1 Year	3 Year	5 Year
Broad Market Fxd Income	20.19%	20%	+/- 8%					
Short Term Pool	23.11%	20%	+/- 8%					
Intermediate Term Fxd Income	56.71%	60%	+/- 8%					
Total	100%	100%		1.51	1.51	3.75	5.44	5.97
Benchmark				1.48	1.48	3.20	5.62	6.01
Market Value As of 3/31/04	\$1,553,853,060							

Provided by
 Doe 5/7/04

Constitutional Budget Reserve Subaccount

FY10 CBRF Subaccount As of 3/31/04	Actual Allocation	Target Allocation	Bands	3 Months	YTD	1 Year	3 Year	5 Year
Broad Market Fxd Income	39.77%	44%	+/- 7%					
Russell 3000 Index	42.70%	39%	+/- 7%					
Short Term Pool	0.01%	0%						
SOA International Equity	17.52%	17%	+/- 5%					
Total	100%	100%		2.41	2.41	23.84	4.70	
Benchmark				2.78	2.78	26.06	4.87	
Market Value As of 3/31/04	\$419,649,294							

SENATE FINANCE COMMITTEE

SIGN-IN

HB 422-BUDGET RESERVE FUND INVESTMENT

NAME: TOM Boutin Subject/Bill No: _____
Co./Dept./Title: Revenue Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

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

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

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

SENATE FINANCE COMMITTEE

SIGN-IN

HB 422-BUDGET RESERVE FUND INVESTMENT

NAME: Tom Bowd Subject/Bill No: HB422

Co./Dept./Title: Dept Revenue Phone: 465-2301

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

HB 422-BUDGET RESERVE FUND INVESTMENT

NAME: Tom Boutin* Subject/Bill No: HB 422

Co./Dept./Title: Dept of Revenue Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

* note: also have bill in HSC fin so will be looking in on that from time to time.

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

424

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB424CS(JUD)-DHSS-DAS-03-24-04

Revision Date/Time (Note if correction): _____

() Publish Date: _____
Dept. Affected: Health & Social Services

Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS

RDU Departmental Support Services

Component Commissioner's Office

Sponsor HOLM

Requester _____

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will not result in significant costs to the Department of Health and Social Services.

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division Office of the Commissioner

Date/Time 03/24/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 03/24/2004

Agency Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 424 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
Title "An Act relating to review by BRU Legislative Council
LAA of certain state agency..." Component Council and Subcommittees
Sponsor Representative Holms
Requester House Finance Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

W.F. Williams
Co-Chair Williams, House Finance Committee
John Harris
Co-Chair Harris, House Finance Committee

Phone 465-3424
Date/Time 3/24/04 11:24 AM
Date 3/24/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB424CS-LAW-L&R-3-2
Bill Version: CSHB 424 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to review of regulations under the RDU ADMINISTRATION & SUPPORT
Administrative Procedure Act by the Legislative Affairs Agency..." Component Legislation & Regulations
Sponsor Representative Holm
Requester House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:

- 1) The Department of Law will need to provide training to covered state agencies and to update the Drafting Manual for Administrative Regulations to reflect the new process;
- 2) The Department of Law may be consulted during the review process to discuss legal concerns with the Legislative Affairs Agency and the covered state agency;
- 3) Department of Law will be notified in writing if any proposed regulations fail to meet the legal standards set out in this bill.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 3/24/04 3:48 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 3/24/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 424

ANALYSIS CONTINUATION

any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



119 N. Cushman
Fairbanks, AK 99701
TEL 456-7423, FAX 451-9293

State Capitol
Juneau, AK 99801
TEL 465-3466, FAX 465-2937

HB 424

Sectional Analysis

Version CSHB 424(JUD) (23-LS0732/U)

"An Act relating to review by the Legislative Affairs Agency of certain state agency regulations proposed for adoption, amendment, or repeal under the Administrative Procedure Act; repealing provisions relating to annulment of regulations; and providing for an effective date."

Section 1 amends AS 18.56.088(a) to make conforming amendments for the repeal of AS 44.62.320(a) regarding legislative annulment of regulations by concurrent resolution. See sec. 7 of the bill.

Section 2 adds a new section AS 24.20.105, establishing standards for legislative review of proposed regulations.

Subsection (a) expressly authorizes the Legislative Affairs Agency to review administrative regulations. The subsection also requires that the review be conducted by an attorney employed at that agency.

Subsection (b) establishes an order of priority for the review authorized by subsection (a) of administrative regulations.

Subsection (c) requires that the notice of proposed regulatory actions, along with a copy of the proposed regulations, be forwarded electronically to named legislative agencies and committees, and to the legislative council.

Subsection (d) requires the Legislative Affairs Agency to assign one or more attorneys, within available staff resources and priorities of legislative council, to conduct the review. The subsection establishes the legal standards for the review.

Subsection (e) authorizes the assigned attorneys to consult with the Department of Law, with the legislative committee or legislative council that requested the review, and with the affected state agency. If the assigned attorney in the Legislative Affairs Agency determines that the proposed regulations do not meet the standards set in the bill, the assigned attorney shall notify in writing the Department of Law, the state agency, the Administrative Regulation Review Committee, the president of the senate, and the speaker of the house.

Subsection (f) requires the assigned attorney to notify the Administrative Regulations Review Committee, the president of the senate, and the speaker of the house of any provision of the proposed regulation that may be inconsistent with legislative intent and appropriate for additional legislative oversight.

Subsection (g) precludes the Legislative Affairs Agency from releasing information about the review, except as provided in the section.

Subsection (h) expressly clarifies that the process of review does not affect the state agency's authority to complete its proposed regulatory action, and that suggestions for changes to a proposed regulation are not binding on the state agency.

Subsection (i) prohibits an action from being brought for a failure of the Legislative Affairs Agency to conduct a review under this section.

Subsection (j) makes the provisions of (b) - (i) of AS 24.20.105 not applicable to proposed regulations by the Board of Fisheries or the Board of Game.

Subsection (k) provides a definition of "proposed regulations."

Section 3 is a conforming amendment to recognize the repeal of AS 44.62.320. *See* sec. 7 of the bill.

Section 4 makes notification and communications regarding the review under AS 24.20.105 not accessible through a public records request.

Section 5 requires the affected state agency to provide electronic copies of notices and proposed regulations as required by proposed AS 24.20.105(c). *See* sec. 2 of the bill.

Section 6 is a conforming amendment for the repeal of AS 44.62.320(a).

Section 7 repeals AS 24.20.460(5) and AS 44.62.320(a). In *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court found that the provisions of AS 44.62.320(a) by which the legislature, by concurrent resolution adopted by a vote of both houses, might annul regulations of an agency or department violated art. II of the state constitution.

Section 8 establishes an effective date of July 1, 2004 for the bill.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 424(JUD)
 (H) Publish Date: 3/8/04
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS
 RDU Departmental Support Services
 Component Commissioner's Office

Sponsor HOLM

Requester HOUSE (JUD) Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will likely result in significant costs to the Department of Health and Social Services. However those costs are indeterminate given the department's inability to predict with any certainty the timeliness or consequences of the Legislative Affairs Agency's reviews of the department's regulations.

Under current law incumbent legislators and the Legislative Affairs Agency receive copies of notices of regulatory changes as part of the normal public comment process. Individual legislators, legislative committees including the Administrative Regulation Review Committee, and Legislative Affairs all have the ability to comment on the proposed regulations.

Prepared by: Sherry Hill, Special Assistant
 Division Office of the Commissioner
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-1618
 Date/Time 02/23/2004
 Date 02/23/2004

FISCAL NOTE

FN # 1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 424(JUD)

ANALYSIS CONTINUATION

The proposed legislation would require the Department of Law to provide a copy of proposed regulations to the Legislative Affairs Agency prior to opening the normal public comment period. The bill prohibits the agency from adopting the regulations pending receipt of the Legislative Affairs Agency review.

At this point in time a majority of the department's new regulations are necessary to achieve cost-savings in order for the department to live within its budget. Many of these cost-savings have been explicitly mandated by the legislature as discrete transactions in the department's budget. It is likely that the reviews conducted by the Legislative Affairs Agency will result in delays in implementing cost-containment activities. Delays may result from 1) Lack of timeliness of reviews; 2) Additional redrafting of regulations to address perceived deficiencies; or 3) Legal challenges arising from an unfavorable review.

If the department is unable to achieve its cost containment goals through the timely adoption of regulations, the department would have two choices: 1) To request a supplemental appropriation; or 2) Undertake alternative cost containment activities which may not have been envisioned in the budget passed by the legislature and signed by the Governor.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 424(JUD)
 (H) Publish Date: 3/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to review of regulations under the RDU ADMINISTRATION & SUPPORT
Administrative Procedure Act by the Legislative Affairs Agency..." Component Legislation & Regulations
 Sponsor Representative Holm
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:

- 1) The Department of Law is required to submit regulations to the Legislative Affairs Agency for review;
- 2) the Legislative Affairs Agency may consult with the Department of Law in the review process;
- 3) Department of Law will be notified of Legislative Affairs Agency's conclusions and assist agencies in analyzing comments.
- 4) Regulations may not be adopted until after the Department of Law receives notice from Legislative Affairs Agency that the review has been completed.

It is anticipated that the Legislative Affairs Agency's review will lengthen the time for finalizing

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division Administrative Services Date/Time 2/25/04 9:05 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/25/2004
 Agency Department of Law

FISCAL NOTE #2

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. CSHB 424(JUD)

ANALYSIS CONTINUATION

regulations. The Drafting Manual will require revision to reflect the changes in the process and training will be needed on the changes. Agencies will require assistance from the Department of Law in responding to public records requests for the analysis produced by the Legislative Affairs Agency. Precluding agencies from acting on regulations absent approval from Legislative Affairs creates a separation of powers issue, and may result in a court test on constitutionality.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 424(JUD)
(H) Publish Date: 3/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
Title "An Act relating to review by the BRU Legislative Council
Legislative Affairs Agency of certain state agency...." Component: Council and Subcommittees
Sponsor Representative Holm
Requestor Representative Holm Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	98.0	98.0	98.0	98.0	98.0	98.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	98.0	98.0	98.0	98.0	98.0	98.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	98.0	98.0	98.0	98.0	98.0	98.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	98.0	98.0	98.0	98.0	98.0	98.0

Estimate of any current year (FY2004) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CS HB424 (JUD) proposes establishing in statute, a review of proposed regulations, other than regulations of the Boards of Game or Fisheries, that would implement newly enacted legislation, or any proposed regulations a standing legislative committee, the Administrative Regulation Review Committee, or the Legislative Council requested be reviewed as implicating major policy development. This review would be conducted by the LAA-Legal and Research Services Division, within available staff resources and priorities set by Legislative Council. This legislation directs the Legislative Affairs Agency to assign one or more attorneys to conduct a review of the proposed regulations. Legal Services is currently at it's workload capacity and could not, without additional staff, review more than one, possible two, regulations per year.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626
Division Administrative Services Date/Time 3/8/04 2:01 PM
Approved by: Pamela Varni, Executive Director Date 3/8/2004
Agency Legislative Affairs Agency

STATE OF ALASKA
2004 LEGISLATIVE SESSION
ANALYSIS CONTINUATION

A legislative staff regulation reviewer in Colorado, which performs a limited regulation review function, estimates that reviewing one regulation of average complexity could take up to 5 hours. Taking on the additional responsibilities of regulation review with existing division staff is unworkable because the impact of reviewing regulations as the session is gearing up in December, on top of the need to adequately research and draft prefiled bills for the upcoming session, or at the end of session when attorneys are working on rewrites or amendments does not allow time to perform this new function. During the remaining portion of the year, the division is not fully staffed as some employees are seasonal and others are on annual leave. The division performs interim projects on other matters such as examining and preparing a report on all court decisions and opinions of the Attorney General construing Alaska Statutes, contract and litigation work, and interim projects such as title reviews and annual statute revision to incorporate new laws. During the interim the division receives and assigns between 50 and 100 new drafting requests per month.

The language in the legislation states that the Legislative Affairs Agency

- 1."...may review each proposed regulation.."
- 2."...that the review by LAA-Legal Services does not affect a state agency's authority to complete its proposed action regarding the regulation.."
- 3."...suggestions for changes to a proposed regulation by the Legislative Affairs Agency are not binding on a state agency..."
- 4."...No action may be brought for the failure of the Legislative Affairs Agency to conduct a legal review under this section..."

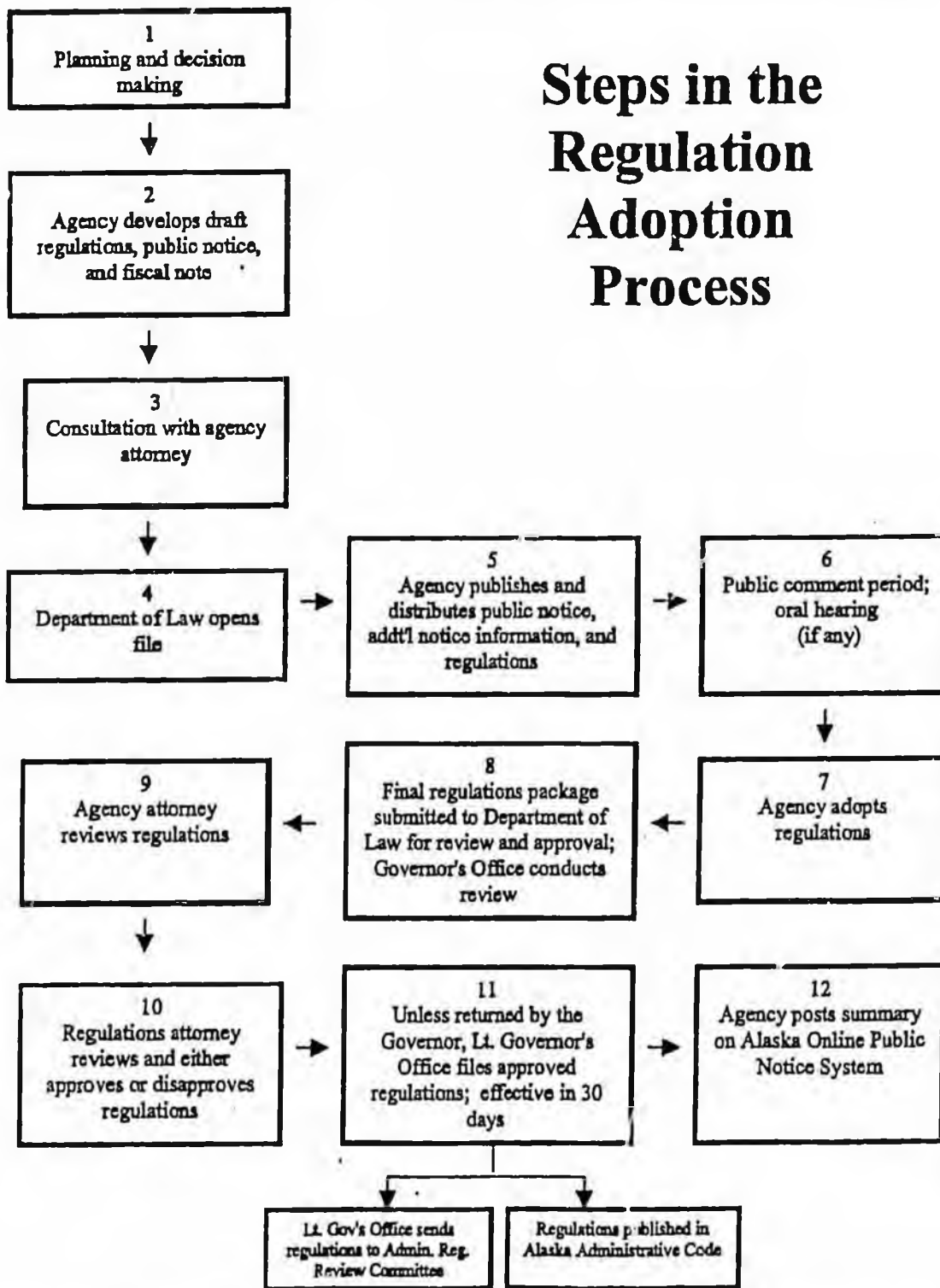
This makes it is clear that there are no consequences if the Legislative Affairs Agency does not have the staff to carry out the legislation. The legislation does make it very clear that the Legislature would like to have the ability to review a certain percentage of regulations proposed by state agencies over the course of a year.

As we are unable to determine exactly how many regulations, whether simple or complex, would actually be reviewed under this legislation, we have included funding for one attorney to perform this work. It is anticipated that the Legislature would wish to review, at a minimum, 30% of all proposed regulations. The 98.0 included in this fiscal note to fund the new attorney position represents approximately 30% of the 348.4 cost to review all proposed regulations for the State of Alaska. If the demand by the Legislature for regulation review exceeded the amount of work one attorney could accomplish, the Legislature would have at least two ways of increasing funding for this function, or they could choose to cease reviewing regulations. Method one for increasing funding for this function would be to increase the Legislative Affairs Agency budget request in subsequent fiscal years to include more positions and more funding for Legal Services. Method two would be for the Legislative Council to authorize the expenditure of Legislative Council funds for the Legislative Affaris Agency to retain a law firm to accomplish the review of specific regulations.

Personal Services

Legal Admin Reg Review Attorney IV position (R24) - 98.0

Steps in the Regulation Adoption Process



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FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)

Effect of amendments. — The 1994 amendment, effective June 3, 1994, in subsection (b), made a section reference substitution and substituted "and to avoid exemptions from open meeting requirements and unnecessary executive sessions" for "and avoid unnecessary executive sessions."

NOTES TO DECISIONS

Public disclosure of applications. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316 (Alaska 1982).
Quoted in *Hammond v. North Slope Borough*, 645

P.2d 750 (Alaska 1982); *Alaska Community Colleges Fed'n of Teachers, Local 2404 v. University of Alaska*, 677 P.2d 886 (Alaska 1984); *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 706 P.2d 1317 (Alaska 1985); *KILA, Inc. v. State, Dept of Admin.*, 876 P.2d 1102 (Alaska 1994).
Cited in *Anchorage Sch. Dist. v. Anchorage Daily News*, 779 P.2d 1191 (Alaska 1989); *Hickel v. Southeast Conference*, 368 P.2d 919 (Alaska 1994).

Article 7. Legislative Review of Rules.

Section
320. Legislative annulment of regulations and review

Sec. 44.62.320. Legislative annulment of regulations and review. (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Committee for review under AS 24.20.400 — 24.20.460 together with the fiscal information required to be prepared under AS 44.62.195. (§ 1 art VII (ch 1) ch 143 SLA 1959; am § 3 ch 149 SLA 1962; am § 2 ch 72 SLA 1963; am § 2 ch 27 SLA 1975; am § 5 ch 64 SLA 1978; am § 3 ch 16 SLA 1980)

NOTES TO DECISIONS

Legislative veto unconstitutional. — The legislative veto contained in subsection (a), which provides that the "legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department," violates art. II of the state constitution. *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).

No implied general power to veto agency regulations by informal legislative action exists. *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).
Cited in *Wickersham v. State, Com. Fisheries Entry Comm'n*, 680 P.2d 1135 (Alaska 1984).

Article 8. Administrative Adjudication.

Section
330. Application of AS 44.62.330 — 44.62.630
340. Delegation of power by agencies
350. Appointment of hearing officers
360. Accusation
370. Statement of issues
380. Service of accusation

Section
390. Notice of defense
400. Amended or supplemental accusation
410. Time and place of hearing
420. Form of notice of hearing
430. Subpoenas; witness fees
440. Depositions

Section
450. Hearing
460. Evidence
470. Evidence
480. Official r
490. Amendr
500. Decision
510. Form an
520. Effective
530. Default
540. Reconsid

Applicabili hearings. — employed by termination he represented by

Sec. 44.6:
state boards
reorganizati
44.62.630. T
issues, servi
concerning e
judicial revis
contempt, m
chapter, notv
commissions
under AS 44.

- (1) [Repeal
- (2) Board
- (3) Board
- (4) State E
- (5) [Repeal
- (6) Board
- (7) [Repeal
- (8) State M
- (9) Division
- (10) Board
- misappropria
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- (11) Board
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- (15) Alaska
- expressly prov
- (16) Depart
- aeronautics ar
- (17) [Repeal
- (18) [Repeal
- (19) [Repeal

HB 424

Looking Out For Business...

A report from the Alaska State Chamber of Commerce - The Voice of Alaska Business



ALASKA
 ★ STATE ★
CHAMBER
 OF COMMERCE

With 40,000 regulations in Alaska and 93% of all regulations proposed becoming law, it is important for business to watch exactly how regulations are formed, enforced and reviewed to ensure we are able to navigate the system. Senator Gene Therriault has introduced a three-tier package on regulatory reform this session to render the system more efficient and flexible. The three bills are: SB 203, Fair Hearing Bill, SB 287, Legislative Legal Review of Proposed Regulations and SB 333, Judicial Extraction from Administrative Review.

Currently State agencies that write and enforce administrative law also hear complaints against those laws. This can be compared to getting a traffic ticket, going to court to appeal the ticket and finding the judge not only wrote the law but also is the officer who gave you the ticket. SB 203 provides a fix for this system by separating the administrative adjudication process from the agencies.

SB 203 establishes a central hearing panel that gives hearing officers a more independent and protected station from which to deliver timely due process through fair and objective hearings, thereby creating an efficient and more professional administrative hearing process. Initial start-up costs will be recouped and significant savings will accrue through these efficiencies over time. The reductions in time due to the efficiencies will also reduce costs to businesses.

SB 287 addresses two segments of the administrative regulatory development process in need of reform: 1) the lack of formal legal review before proposed regulations are put out for public comment, and 2) a review for consistency, conformity and quality of all regulations by the legislative legal team. Text of regulations adopted are often not the same as the proposed regulations on which the public commented because currently the Attorney General's Office can not conduct their final review and make changes until after public comment. Regulations amended by the AG's office do not always go back for public comment before final certification. SB 287 would establish a legislative legal services review prior to the public comment period thus ensuring that the public comments on regulations that

are closer to their final form. It also makes sense that the Legal Services team, who actually drafts the legislation and follow it's evolution throughout the entire process, reviews the regulations for quality control.

The two steps above will not only mean higher quality proposed regulations, but also more timely and less frequently challenged regulations. This reform will create savings to government, to the public, to the Attorney General, and a more stable and responsible regulatory scheme for businesses.

The final tier of Sen. Therriault's package is SB 333, which allows a person (petitioner) who is unable to obtain a final administrative

decision from a government agency to ask the Superior Court for assistance. Under the present system, agency regulators have the power to keep a petitioner tied up in its process for extended periods of time because they cannot be sent to the court system until administrative remedies are exhausted. Abuse of authority can block or delay due process, especially if a state agency fears losing a contested rule in court. Long delays can mean high costs to the state and the petitioner and damage to the integrity of the administrative process itself. Some petitioners who have been bogged down by the agency review process have called this bill "The Jaws of Life".

These bills can be read on line in their entirety by going to www.legis.state.ak.us and selecting "Bill Search". Reform of the regulatory system has been a priority of the business community for many years. If you support these bills, it is important that you let your legislators know.

"These bills are designed to require government to administer a more efficient, fair and timely regulation process."

Senator Gene Therriault

Join ASCC today and be heard through the "Voice of Alaska Business"

*e-mail: info@alaskachamber.com
www.alaskachamber.com*

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



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State Capitol
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SPONSOR STATEMENT

HB 424

Legislative Review of Proposed Regulations

3/4/4

House Bill 424 requires legislative legal review of regulations before they are finalized.

Under current statute, only the Attorney General formally reviews proposed regulations, and this review comes late in the process, when public comment has already been closed. After the Attorney General approves proposed regulations they are transmitted to the Lt. Governor's office, where they are seldom changed. And then the public justifiably gets frustrated when they see regulations adopted that are different from the ones on which they commented.

Under HB 424, legislative attorneys who actually draft the bills will review regulations being promulgated from those bills. By working cooperatively with the Attorney General's office, differences of opinion can be worked out before the regs are finalized. In the event differences cannot be worked out, the legislature will have an opportunity for input.

Overall impact to the state's economy will be positive. Adding legislative review to the regulation process will help eliminate conflicts, create a more stable business environment, and increase the public's trust in government.

HB

424

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 04/02/04

FURTHER:

DATE TURNED
IN TO OFFICE:

REPORTED OUT

MAY 04 2004

SENATE FINANCE
COMMITTEE

4 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 424(JUD)

HB 424 REGULATION REVIEW / ANNULMENT

"An Act relating to review by the Legislative Affairs Agency of certain state agency regulations proposed for adoption, amendment, or repeal under the Administrative Procedure Act; repealing provisions relating to annulment of regulations; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- Same Title
- New Title

House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
H&SS	3/24/04			✓	#4
Legislative	7/25/04			✓	#5
Law	7/24/04		*		#6

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

MAY 04 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSHB 424(JUD)
(H) Publish Date: 3/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to review of regulations under the RDU ADMINISTRATION & SUPPORT
Administrative Procedure Act by the Legislative Affairs Agency..." Component: Legislation & Regulations
Sponsor: Representative Holm
Requester: House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:

- 1) The Department of Law will need to provide training to covered state agencies and to update the Drafting Manual for Administrative Regulations to reflect the new process;
- 2) The Department of Law may be consulted during the review process to discuss legal concerns with the Legislative Affairs Agency and the covered state agency;
- 3) Department of Law will be notified in writing if any proposed regulations fail to meet the legal standards set out in this bill.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division: Administrative Services Date/Time 3/24/04 3:48 PM
Approved by: Kathryn Daughhete for Gregg D. Renkos, Attorney General Date 3/24/2004
Agency: Department of Law

FISCAL NOTE #6

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 424(JUD)

ANALYSIS CONTINUATION

any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

MAY 4 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSHB 424(JUD)
 (H) Publish Date: 3/25/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title "An Act relating to review by BRU Legislative Council
LAA of certain state agency..." Component Council and Subcommittees
 Sponsor Representative Holms
 Requester House Finance Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Co-Chair Williams, House Finance Committee

Co-Chair Harris, House Finance Committee

Phone 465-3424

Date/Time 3/25/04 9:18 AM

Date 3/25/2004

MAY 04 2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 424(JUD)
 (H) Publish Date: 3/25/04
 Dept. Affected: Health & Social Services

SENATE FINANCE
COMMITTEE

Revision Date/Time (Note if correction):

Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS

RDU Departmental Support Services

Component Commissioner's Office

Sponsor HOLM

Requester _____

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will not result in significant costs to the Department of Health and Social Services.

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division Office of the Commissioner

Date/Time 03/24/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 03/24/2004

Agency Department of Health and Social Services

COMMITTEE COPY

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



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SPONSOR STATEMENT

HB 424

Legislative Review of Proposed Regulations

3/26/4

The Legislature writes laws - which are then often implemented by the Administration's regulations. Under current statute, only the Administration's Attorney General formally reviews these regulations, and this review comes late in the process when public comment has already been closed.

HB 424 establishes a formal framework for adding Legislative review to the process.

Under this bill, first the covered state agencies will e-mail their proposed regulations to the Legislative Affairs Agency, Legislative Council, the chairs of the appropriate standing committees, and the Administrative Regulation Review Committee. Then attorneys at the Legislative Affairs Agency may conduct a legal review.

If the proposed regulations fail to comply with statutory authority or legislative intent, written notice is sent to the Department of Law, the affected state agency, the Administrative Regulation Review Committee, the President of the Senate, and the Speaker of the House, where appropriate Legislative action can occur.

Adding legislative review to the regulation process will have a positive impact on the state's economy, help eliminate conflicts, create a more stable business environment, and increase the public's trust in government.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



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CS HB 424 (JUD)

Regulation Review

Sectional Analysis

4/4/4

Section 1 amends AS 18.56.088(a) to make conforming amendments for the repeal of AS 44.62.320(a) regarding legislative annulment of regulations by concurrent resolution. See sec. 7 of the bill.

Section 2 adds a new section AS 24.20.105, establishing standards for legislative review of proposed regulations.

Subsection (a) expressly authorizes the Legislative Affairs Agency to review administrative regulations. The subsection also requires that the review be conducted by an attorney employed at that agency.

Subsection (b) establishes an order of priority for the review authorized by subsection (a) of administrative regulations.

Subsection (c) requires that the notice of proposed regulatory actions, along with a copy of the proposed regulations, be forwarded electronically to named legislative agencies and committees, and to the legislative council.

Subsection (d) requires the Legislative Affairs Agency to assign one or more attorneys, within available staff resources and priorities of legislative council, to conduct the review. The subsection establishes the legal standards for the review.

Subsection (e) authorizes the assigned attorneys to consult with the Department of Law, with the legislative committee or legislative council that requested the review, and with the affected state agency. If the assigned attorney in the Legislative Affairs Agency determines that the proposed regulations do not meet the standards set in the bill, the assigned attorney shall notify in writing the Department of Law, the state agency, the Administrative Regulation Review Committee, the president of the senate, and the speaker of the house.

Subsection (f) requires the assigned attorney to notify the Administrative Regulations Review Committee, the president of the senate, and the speaker of the house of any provision of the proposed regulation that may be inconsistent with legislative intent and appropriate for additional legislative oversight.

Subsection (g) precludes the Legislative Affairs Agency from releasing information about the review, except as provided in the section.

Subsection (h) expressly clarifies that the process of review does not affect the state agency's authority to complete its proposed regulatory action, and that suggestions for changes to a proposed regulation are not binding on the state agency.

Subsection (i) prohibits an action from being brought for a failure of the Legislative Affairs Agency to conduct a review under this section.

Subsection (j) makes the provisions of (b) - (i) of AS 24.20.105 not applicable to proposed regulations by the Board of Fisheries or the Board of Game.

Subsection (k) provides a definition of "proposed regulations."

Section 3 is a conforming amendment to recognize the repeal of AS 44.62.320. *See* sec. 7 of the bill.

Section 4 makes notification and communications regarding the review under AS 24.20.105 not accessible through a public records request.

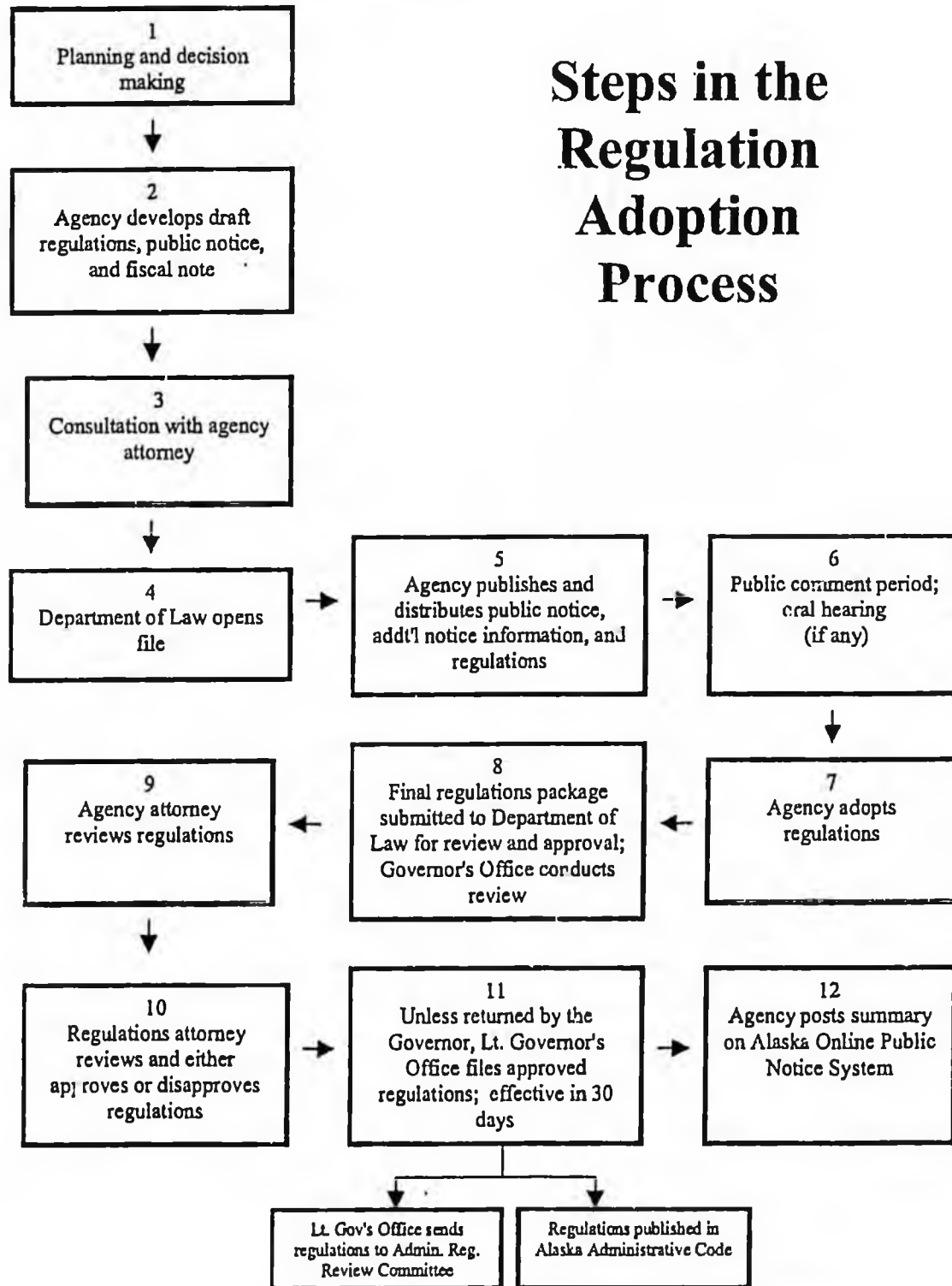
Section 5 requires the affected state agency to provide electronic copies of notices and proposed regulations as required by proposed AS 24.20.105(c). *See* sec. 2 of the bill.

Section 6 is a conforming amendment for the repeal of AS 44.62.320(a).

Section 7 repeals AS 24.20.460(5) and AS 44.62.320(a). In *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court found that the provisions of AS 44.62.320(a) by which the legislature, by concurrent resolution adopted by a vote of both houses, might annul regulations of an agency or department violated art. II of the state constitution.

Section 8 establishes an effective date of July 1, 2004 for the bill.

Steps in the Regulation Adoption Process



Distributed by Rep. Holm

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)

Effect of amendments. — The 1994 amendment, effective June 3, 1994, in subsection (b), made a section reference substitution and substituted "and to

avoid exemptions from open meeting requirements and unnecessary executive sessions" for "and avoid unnecessary executive sessions."

NOTES TO DECISIONS

Public disclosure of applications. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316 (Alaska 1982).

Quoted in *Hammond v. North Slope Borough*, 645

P.2d 750 (Alaska 1982); *Alaska Community Colleges' Fed'n of Teachers, Local 2404 v. University of Alaska*, 677 P.2d 886 (Alaska 1984); *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 702 P.2d 1317 (Alaska 1985); *KILA, Inc. v. State, Dep't of Admin.*, 876 P.2d 1102 (Alaska 1994).

Cited in *Anchorage Sch. Dist. v. Anchorage Daily News*, 779 P.2d 1191 (Alaska 1989); *Hickel v. Southeast Conference*, 863 P.2d 919 (Alaska 1994).

Article 7. Legislative Review of Rules.

Section

320. Legislative annulment of regulations and review

Sec. 44.62.320. Legislative annulment of regulations and review. (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Committee for review under AS 24.20.400 — 24.20.460 together with the fiscal information required to be prepared under AS 44.62.195. (§ 1 art VII (ch 1) ch 143 SLA 1959; am § 3 ch 149 SLA 1962; am § 2 ch 72 SLA 1963; am § 2 ch 27 SLA 1975; am § 5 ch 64 SLA 1978; am § 3 ch 16 SLA 1980)

NOTES TO DECISIONS

Legislative veto unconstitutional. — The legislative veto contained in subsection (a), which provides that the "legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department," violates art. II of the state constitution. *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).

No implied general power to veto agency regulations by informal legislative action exists. *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).

Cited in *Wickersham v. State, Com. Fisheries Entry Comm'n*, 680 P.2d 1135 (Alaska 1984).

Article 8. Administrative Adjudication.

Sections 1, 3, 6, & 7 of CSHB424(JUD) all relate to the repeal of 44.62.320(a).

Section

- 390. Notice of defense
- 400. Amended or supplemental accusation
- 410. Time and place of hearing
- 420. Form of notice of hearing
- 430. Subpoenas; witness fees
- 440. Depositions

NOTE:

*

*

HB

4.25

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 425
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title "An Act relating to funding for school districts RDU K-12 Support
operating secondary school boarding programs..... Component Boarding Home Grants
Sponsor Representative Coghill
Requester House HESS Component No. 148

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	1,179.0	1,179.0	1,179.0	1,179.0	1,179.0	
Miscellaneous						
TOTAL OPERATING	1,179.0	1,179.0	1,179.0	1,179.0	1,179.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,179.0	1,179.0	1,179.0	1,179.0	1,179.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	1,179.0	1,179.0	1,179.0	1,179.0	1,179.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This Act would make a stipend available to districts currently providing a residential boarding home program. The stipend would be used for one round trip ticket per year for any boarding home student to travel within the state to attend the school in the district with the dormitory.

The restrictions on students who come from communities that have daily access to an appropriate grade would be removed until July 1, 2009.

A community with an ADM of less than 10 will still be counted as a school if the decline is due to students enrolling in another district's secondary school boarding program.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
Division Education and Support Services Date/Time 3/10/04 9:10 AM
Approved by: _____ Date 3/10/2004
Agency Education & Early Development

Alaska Department of Education & Early Development
 Residential Programs
 Prepared 2/27/04 by Elwin Blackwell Updated 3/10/04

District	Community	Capacity	Monthly Stipend	Yearly Cost	Estimated Round trip	Annual Airfair	Estimated Grant	Comments
Galena	Galena*	92	577	477,756	800	73,600	551,356	180 day program
Lower Kuskokwim	Bethel	35	490	154,350	500	17,500	171,850	180 day program
Nenana	Nenana	96	472	407,808	500	48,000	455,808	180 day program
Totals		223		1,039,914		139,100	1,179,014	

Iditarod	Takotna	40	490					Inactive program
Northwest Arctic	Kotzebue	40	577					Inactive program
Nome - Beltz HS.	Nome	40	577					2 week Voc-Ed program

*Galena's capacity was reduced by the 8 students that they are currently being reimbursed for under the Boarding Home program.

ALASKA STATE HOUSE OF REPRESENTATIVES

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Fax# (907)-488-4271**



**Session Contact :
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT

CSHB 425(EDU) SECONDARY BOARDING SCHOOLS

HB 425 puts into statute DOE's current practice. This legislation supports existing programs that are successful. Under this bill a student would not have to pass the current entrance standards. The bill would give students a choice of going to a school that something different to offer than may be available in their hometown.

This legislation by statute reimburses to full school year secondary boarding schools costs incurred by the district operating the program.

The legislation limits the program to schools already operating boarding schools on January 1, 2004.

There are five boarding schools that would qualify for reimbursement for a per-pupil stipend and one round trip between the student's community of residence and the school during the school year if the district expends money for the trip.

These schools will participate in a five-year pilot project that the Department of Education will evaluate for the legislature.

The hold harmless section of this bill allows a student's district of residence to count a student for the ADM count even though the student is attending a secondary boarding school. This avoids the possibility of paying the base allocation twice for the same student.

ALASKA STATE HOUSE OF REPRESENTATIVES

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North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271



Session Contact:
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

Sectional For Committee Substitute for House Bill 425(EDU)

Section 1.

(a) Provides that a school district that was operating a secondary boarding school prior to January 1, 2004 could be reimbursed for the cost of operating the boarding school providing they have a suitable student dormitory and provide daily access to a public school offering the grades 9-12 classes.

(b) The district can be reimbursed for a per-pupil stipend determined by the Department of Education and for one round trip per student that travels from their community.

(c) Defines district as "a city or borough school district or a regional educational attendance area.

Also defines district secondary school boarding program as "a public school operated for a full school year by a district in which the domiciliary services are provided for students in grades nine through 12. The full school year was added to the language in the Special Committee on Education and this resulted in a reduction in the fiscal note of \$227,700.

Section 2.

Provides a hold harmless clause for school districts that have children move out of the district to attend a secondary boarding school. The students moving from the district would be counted in the average daily membership of the home district.

Section 3.

This is a sunset clause that repeals the substance of this bill on July 1, 2009.

Section 4.

Puts into place an effective date of July 1, 2004.

RECEIVED

FEB 26 2004



P.O. Box 442 *** Nenana, AK 99760
(907) 832-2000 *** fax: 832-5277
dormprincipa@nenana.ncsd.schoolaccess.net

Senator Gary Wilken
State Capitol, Room 518
Juneau, AK 99801-1182

February 19, 2004

Dear Senator Wilken,

Thank you for allowing students from the NSLC and myself the opportunity to meet with you and your staff last month. I do appreciate the cordial way that you greeted us and received our request for your support of House Bill 425.

During the course of our discussion you mentioned an apparent discrepancy in figures that we used to show state savings of ADM monies that resulted from students attending the Nenana City Public School system. Thank you for providing the report entitled K-12 Public Education School Operating Fund. I have re-worked those figures using the table on tab 15 (State revenue per student) in your publication. I included only those monies that come from the state general fund. I have included the original table that included all monies received from the state and a revised table including only those monies coming from the general fund.

I was pleased to note that both tables show a substantial saving to the state. I am hoping that you consider these savings when considering the elements of House Bill 425. I am available to provide any additional information and data that you may require in considering this proposal.

Thanks again for your interest and hospitality. Your efforts are appreciated!

Sincerely,

A handwritten signature in cursive script that reads "Ralph Lindquist".

R. Lindquist
Dean of Students

Enclosures

Cc: John Coghill, Nenana City School Board, Interested parties

STATE OF ALASKA
DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT

BOARDING HOME PROGRAM

Application Instructions and Payment Rates Effective
July 1, 2003 Through June 30, 2004

- I. Legal References: AS 14.07.030(2) and 4 AAC 09.050.
- II. Eligibility:
 - A. Secondary school students who do not have daily access to a school of the appropriate grade level by being transported a reasonable distance are eligible for the program. Such students qualify for state assistance under the provisions of 4 AAC 09.050.
 - B. The school district receiving a student is responsible for providing the following:
 1. Housing, meals and out-of-school supervision.
 2. Round-trip transportation.
 3. Daily access to a school offering the appropriate grade level program.
 - C. Placement of secondary students outside their district of residence requires a Memorandum of Agreement, form 05-96-022, signed by both districts, and a Resolution passed by the school board of the sending district explaining why such students cannot be educated at a school within their district of residence.
- III. Applications for State Reimbursement:
 - A. The district in which the student resides will prepare the basic application, which consists of the following two forms, submitted together, and completed as indicated:
 1. Boarding Home Program Report, Form 05-96-021.
 - a. Enter school district name and fiscal year at the top.
 - b. Complete column A using the budget instructions in paragraph V.
 - c. Sign line A in the block titled "Program Application". (This must be signed by the school district official authorized to sign financial documents.)
 2. Individual attendance - Boarding Home Program Reports, Form 05-96-023.
 - a. Enter receiving district at top left.
 - b. Enter reporting period.
 - c. Enter student data in column 1 and 2. In column 1 be sure to enter both student name and village of residence.

B. For students placed in another school district, the application must also include:

1. The school board resolution specified in section II C above; and,
2. Memorandum of Agreement, request for Non-Resident Student Placement, Form 05-96-022.
 - a. The sending school district completes and signs the form, and forwards the total application package to the receiving district.
 - b. The receiving school district signs the memo of agreement and sends all originals to the Department of Education & Early Development.
 - c. The Department of Education & Early Development will return copies of the entire packet when all required signatures are obtained.

C. Applications for students entering for first semester must be received in the Department of Education no later than October 15. New applications for students entering at second semester (third quarter) must be received within 30 calendar days of the starting date specified in the school calendar. Applications received after these dates may be rejected.

D. State funding of students is based upon the approved application. Changes in participating students require submission of an amended Individual Attendance Report. No payments will be made for students who are unreported, or who are ineligible for the basic program. The State will reduce the allowable budget when numbers of students decrease.

E. Payments for out-of-district students will be made to the district administrating the program. Boarding Home students are the primary responsibility of the sending district in all matters involving the care and education of students in placement.

IV. Payment Rates:

- A. Payment rates for food and housing were updated for FY90 using the following survey data. Food costs were adjusted using December 1987 University of Alaska Cooperative Extension service survey data. Housing costs were updated using the State Dept. of Administration's Alaska Geographic Differential Study survey data on an urban family budget for Anchorage in April 1985, then adjusting costs from the CPI's to 1988, then determining the proportional cost of housing per person. Payment rates have been adjusted by the 2002 Consumer Price Index for Anchorage. School districts were grouped by region considering climatic and transportation characteristic, relating them to the communities for which cost-of-living data was available.

<u>B. Regional Rates</u>	Total Stipend Month/Day
<u>Region 1 - Southeast</u> Annette, Chatham, Craig, Haines, Hoonah, Hydaburg, Juneau, Kake, Ketchikan, Klawock, Pelican, Petersburg, Sitka, Southeast Island Skagway, Wrangell, Yakutat	\$390 / \$13.00
<u>Region 2 - Southcentral</u> Anchorage, Chugach, Cordova, Kenai, Kodiak, Mat-Su, Valdez	\$380 / \$12.67
<u>Region 3 - Interior</u> Alaska Gateway, Copper River, Delta/Greely, Denali, Fairbanks, Nenana	\$460 / \$15.33
<u>Region 4 - Southwest</u> Adak, Aleutian Region, Aleutians East, Bristol Bay, Dillingham, Iditarod, Kuspuk, Lake & Peninsula, Lower Kuskokwim, Lower Yukon, Pribilof, Southwest Region, St. Mary's Unalaska	\$477 / \$15.90
<u>Region 5 - Northern (Remote)</u> Bering Strait, Galena, Nome, NW Arctic, North Slope, Tanana Yukon Flats, Yukon-Koyukuk	\$562 / \$18.73

V. Budgets and Allowable Costs:

- A. WITHIN DISTRICT: State reimbursement will be for monthly/daily food and housing costs based on the rates established above. The days a student arrives and departs the boarding home are reimbursable. The daily rate is 1/30th of the monthly rate. Round trip travel to and from the home of residence and the community in which the student attends school is paid at cost for one trip per school year. Clothing, personal care costs and allowances are a parental responsibility. (Such costs for students who may be legal wards of the State are normally provided by the Department of Health and Social Services.) For students attending school within their home district, costs (including indirect costs) of placement supervision, counseling and program administration are the responsibility of the school district.

B. OUT-OF-DISTRICT: State reimbursement includes the approved rate for food and housing, one round trip per student at cost, and funding for placement supervision and indirect administrative costs of the administrating school district as follows:

1. Placement Supervision: Up to 30% of the stipend amounts for out-of-district students may be approved.
2. Administrative costs are limited to the Department-approved indirect cost rate computed against actual expenditures for the out-of-district students.
3. For budgeting purposes, the applicable indirect cost rate is that for the district administrating the program.

VI. Reporting and Reimbursements:

A. Forms

05-96-021	Boarding Home Program Report
05-96-023	Individual Attendance Report

B. Reporting Periods and Due Dates:

<u>Period</u>	<u>Months</u>	<u>Due</u>
First Quarter	July 1 - September 30	October 15
Second Quarter	October 1 - December 31	January 15
Third Quarter	January 1 - March 31	April 15
Final Quarter	April 1 - end of school	June 15

C. Financial Procedures:

1. An initial budget is the school district's estimate of students participating and related costs. Department of Education & Early Development will acknowledge receipt, and use estimates only for state budget planning.
2. First quarter reports must include revision of the initial budget to reflect actual student participation. School districts not providing first quarter reports may be subjected to prorated payments if the state appropriation is insufficient for full funding of the program.
3. For simplified reporting:
 - a. Enter reimbursement amounts on the original approved Boarding Home Program Report.
 - b. Copy the original prior to the signature on line B.
 - c. Sign and submit the copy. Retain the unsigned original for the next report.

- d. On the individual attendance report, enter the termination dates for students dropped during the prior quarter and add new students at the bottom. Copy the report and use the copy to enter information in columns 3 through 8. Retain the original with columns 3 through 9 blank as a master copy for future quarterly reports.
- e. Both reports must be submitted together for payment. The BHP report must be signed on line B.

VIII. Licensing of Boarding Homes:

State law requires that homes providing care for unrelated children under 16 years of age must be licensed by the Department of Health and Social Services (DHSS). The school district receiving and placing students is responsible for assuring that any student under age 16 is placed in a licensed home. (7 AAC 50.030)

VIII. Health and Medical Care:

Routine health care costs are a parental responsibility. For out-of-district boarding home students, the sending district is responsible for assuring that emergency medical care costs are met

MEMORANDUM OF AGREEMENT

REQUEST FOR BOARDING STUDENT PLACEMENT

BETWEEN

Sending School District

AND

Receiving School District

1. The Department of Education & Early Development shall pay to the administrating district the boarding cost for the students listed on the attached Form 05-96-023.
2. This memorandum is effective when signed by the Department of Education & Early Development, Superintendent of the Sending School District, and the Superintendent of the Receiving School District.

Date

Department of Education & Early Development

Date

Superintendent of Sending District

Date

Superintendent of Receiving District

Why is House Bill 425 a good deal for the State of Alaska, its families, its students, and the quality of education?

**Total ADM money the NSLC saves the state:
\$358,939.00**

(Table B: based on "K-12 Public Education School Operating Fund , published by Senator Gary Wilken, October 3, 2003)

**\$5,055.48.00 per student
(based on 2003-04 funding for 71 students)**

**Total Money That House Bill 425 Would Fund The NSLC For 2004-05 School Year:
\$316,263.40**

**(based on 2003-04 funding for 71 students)
\$4,454.40 per student**

The money this bill would generate for the NSLC would save the state (bottom line)

**\$42,675.60 Total Savings
\$601.06 per student**