

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3280

152

HB

419

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 419 (FIN)
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Administration
Title: "An Act relating to state lease-purchases of equipment and other personal property..." RDU: Centralized Administrative Services
Sponsor: House Finance Committee Component: General Services
Requestor: House Finance Committee Component Number: 60

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The House Finance Committee believes there will be no fiscal impact with the adoption of CSHB 419 (FIN).

Prepared by: House Finance Committee
Division: _____
Approved by: Rep. Kevin Meyer, Co-Chairman
Rep. Mike Chenault, Co-Chairman

Phone: 465 6875
Date/Time: _____
Date: 3/31/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 419 ()
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Governor
Title "An Arct relating to state lease-purchases of equipment and other personal property..." RDU OMB
Component OMB
Sponsor House Finance Committee
Requester House Finance Committee Component Number 2144

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The committee substitute for HB 419 requires that the Office of Management and Budget submit a list to the Legislature by January 15 of each year, that details each lease-purchase agreement entered into by an agency during the immediately preceding fiscal year. The list must include a description of the property acquired and financial details, including the purchase price, the term for payments, the amount of each payment, and the amount of interest or financing charges paid.

It is the intent of the House Finance Committee that the provisions of HB 419 pertaining to OMB will not increase operating costs for the division.

Prepared by: House Finance Committee
Division: _____
Approved by: Rep. Kevin Meyer, Co-Chairman *Kevin Meyer*
Rep. Mike Chenault, Co-Chairman *Mike Chenault*

Phone: 465-6875
Date/Time: 3/27/08 11:02 a.m.
Date: 3/27/2008



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

HOUSE BILL 419

"An Act prohibiting certain state leases and lease-purchase agreements for equipment and other personal property; and providing for an effective date."

House Bill 419 was introduced to eliminate the use of the master lease line of credit that some departments are utilizing as a means to purchase equipment or other non-real property items.

The state's master lease line of credit was established in 2001 in response to inefficient leasing of equipment by state agencies. The State Bond Committee selected Key Municipal Financial as the provider of a \$25 million master lease line of credit in June 2001. In September 2005, the committee approved an increase in the master lease line of credit to \$50 million. Lease obligations can be increased above the \$50 million threshold through the use of the master lease program or through independent lease purchase agreements, including vendor lease purchase agreements or a third party lease purchase.

The first transaction using the master lease line of credit occurred in September 2001. This transaction was for the purchase of two photocopiers by the Permanent Fund Dividend Division for \$21,065. Following this transaction, a minimum of \$50,000 was established for accessing the master lease program. In October, 2007, the 29th transaction was closed. Equipment financed since the inception of the master lease line of credit have included land radio systems, heavy equipment, technology purchases, rolling stock and a jet.

Generally the limitations on departments' ability to enter operating lease purchases for non real property purchases are broad. AS 36.30.085 provides the ability for departments to enter into lease purchase agreements to perform the duties and statutory functions of the department. The statute limits the term of the lease to 40 years, requires that the lease be subject to annual appropriation, and otherwise is generally non-limiting.

The policy questions that arise from the master lease line of credit program are:

- 1) Is this a circumvention of the legislative appropriation process?
- 2) Where do the payments for the participating agencies show up in the agencies budgets?
- 3) Why do we pay interest at a time when general funds are available to purchase equipment?
- 4) Who controls the dollar amounts available within the master lease program?

Through this legislation, these questions and others that may arise need to be addressed by the Legislature. This is the impetus for House Bill 419.

The State of Alaska's master lease line of credit was established in June 2001 in response to inefficient leasing of equipment by state agencies. The State had completed several stand alone private placements of debt for equipment in the years preceding 2001. These transactions were relatively costly to structure and issue due to the unique nature of each sale. At the same time, state agencies were entering into operating leases with vendors for equipment where interest rates as high as 13% were being charged.

Key Municipal Finance was selected as the provider of a \$25 million master lease line of credit through a competitive procurement process by the State Bond Committee in June 2001. In September 2005 the State Bond Committee approved an increase in the master lease line of credit to \$50 million.

A streamlined process was initiated for state agencies to participate in the program as allowed by existing statute. Agencies must complete a notice of intent to lease purchase which describes equipment to be financed and the term of the repayment desired. This is followed by a review process at Key Municipal Finance to verify the ability to finance the equipment being purchased, setting the interest rate for the equipment purchase based on a current US Treasury index rate, and a closing where documents are signed and funds are transferred. Key Municipal Finance then holds the lease in their portfolio to maturity, with the State retaining the ability to prepay at any time without penalty. A variety of agency equipment purchases can be funded in one lease, or the master lease program can be used to partially fund a purchase.

In September 2001 the first transaction in the master lease line of credit was closed for a \$19,765.54 purchase of photocopiers. Following this transaction a threshold of \$50,000 was established for accessing the master lease program. In October 2007 the 29th transaction was closed. Equipment financed over this six year period have included heavy equipment, buses, a land radio system, a state marine vessel, technology purchases, rolling stock, and a jet.

Generally the limitations on departments' ability to enter operating lease purchases for non real property purchases are broad. 36.30.085 provides the ability for departments to enter into lease purchase agreements to perform the duties and statutory functions of the department. The statute limits the term of the lease to 40 years, requires that the lease be subject to annual appropriation, and otherwise is generally non-limiting.

The index that the master lease funds rate is based on is the H-15 index. You can go to <http://www.federalreserve.gov/releases/h15/update/> for today's rates on the 3, 5 or 10 year rate that would apply to any master lease program initiated today. There is no increment to the rates stated.

3/27/08 N/D

~~adopted~~

25-LS1567\K
Cook
3/26/08

CS FOR HOUSE BILL NO. 419()

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

BY

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state lease-purchases of equipment and other personal property;
2 and providing for an effective date."

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

4 * Section 1. AS 36.30.085(a) is amended to read:

5 (a) To perform its duties and statutory functions, the department, the Board of
6 Regents of the University of Alaska, the legislative council, or the supreme court may
7 enter into lease-purchase agreements for real property. The department, the Board of
8 Regents, the legislative council, or the supreme court may enter into a lease-purchase
9 agreement only if the department, the Board of Regents, the legislative council, or the
10 supreme court is the lessee under the agreement.

11 * Sec. 2. AS 36.30 is amended by adding a new section to article 1 to read:

12 Sec. 36.30.086. Lease-purchase of personal property. (a) To perform its
13 duties and statutory functions, an agency, the Board of Regents of the University of
14 Alaska, the legislative council, or the supreme court may enter into lease-purchase

1 agreements for the acquisition of equipment or other personal property. The agency,
2 the Board of Regents of the University of Alaska, the legislative council, or the
3 supreme court is the lessee under the agreement.

4 (b) If a government entity enters into a lease-purchase agreement under (a) of
5 this section that exceeds \$100,000 in payments by the state, the government entity
6 shall provide notice to the presiding officers and finance committee chairs of the house
7 and senate. The notice must describe the property that is the subject of the agreement
8 and must set out the terms of the lease-purchase.

9 * Sec. 3. AS 37.07.040 is amended to read:

10 **Sec. 37.07.040. Office of management and budget.** The Alaska office of
11 management and budget shall

12 (1) assist the governor in the preparation and explanation of the
13 proposed comprehensive program and financial plan, including the coordination and
14 analysis of state agency goals and objectives, plans, and budget requests;

15 (2) prepare for submission to the governor an annually updated six-
16 year capital improvements program and the proposed capital improvements budget for
17 the coming fiscal year, the latter to include individual project justification with
18 documentation of estimated project cost;

19 (3) develop procedures to produce the information needed for effective
20 policy decision making, including procedures to provide for the dissemination of
21 information about plans, programs, and budget requests to be included in the annual
22 budget and opportunity for public review and comment during the period of budget
23 preparation;

24 (4) assist state agencies in their statement of goals and objectives to
25 achieve, among other things, the legislature's mission and desired results, preparation
26 of plans, assessments of the extent to which missions and desired results have been
27 achieved, budget requests, and reporting of program performance; all documents
28 forwarded by the office to a state agency containing instructions for the preparation of
29 program plans and budget requests and the reporting of program performance are
30 public information after the date they are forwarded;

31 (5) administer its responsibilities under the program execution

1 provisions of this chapter so that the policy decisions and budget determinations of the
2 governor and the legislature are implemented;

3 (6) provide the legislative finance division with the budget information
4 it may request;

5 (7) provide the legislative finance division with an advance copy of the
6 governor's budget workbooks at least seven days before the legislature convenes in a
7 regular session;

8 (8) prepare the proposed capital improvements budget for the coming
9 fiscal year evaluating both state and local requests from the standpoint of need, equity,
10 and priorities of the jurisdiction; other factors such as project amounts, population,
11 local financial match, federal funds being used for local match, municipality or
12 unincorporated community acceptance of the facility, and all associated costs of the
13 facility may be considered;

14 (9) for each department in the executive branch, report to the
15 legislature by the 45th day of each regular session the amount of money appropriated
16 to the department that is expected to lapse into the general fund at the end of the
17 current fiscal year;

18 (10) establish and administer a state agency program performance
19 management system involving planning, performance budgeting, performance
20 measurement, and program evaluation; the office shall ensure that information
21 generated under this system is useful for managing and improving the efficiency and
22 effectiveness of agency operations;

23 (11) by January 15, list each lease-purchase agreement entered
24 into by an agency during the immediately preceding fiscal year for the
25 acquisition of equipment or other personal property, together with a description
26 of the property acquired and financial details, including the purchase price, the
27 term for payments, the amount of each payment, and the amount of interest or
28 financing charges paid.

29 * Sec. 4. This Act takes effect July 1, 2008.

FISCAL NOTE

replaced

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 419
() Publish Date: _____

Identifier (file name): HB419-DOA-DGS-3-14-08 Dept. Affected: Administration
Title: "An Act prohibiting certain state leases and lease-purchase..." RDU: Centralized Administrative Services
Sponsor: House Finance Committee Component: General Services
Requester: _____ Component Number: 60

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
OPERATING EXPENDITURES							
Personal Services	*	0.0	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*
TOTAL OPERATING	*	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	*	0.0	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*
1005 GF/Program Receipts			*	*	*	*	*
1037 GF/Mental Health			*	*	*	*	*
Other Interagency Receipts			*	*	*	*	*
TOTAL	*	0.0	*	*	*	*	*

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill would prohibit the state from leasing equipment and personal property. This division, like the majority of other divisions in the state, leases various items when it is in our best interests to do so, and when funding the acquisition of equipment over time is more beneficial than an outright purchase. The fiscal impact to the division could be significant but cannot be determined because of uncertainty on the need to lease office equipment, equipment for our Central Mail operations, and building systems in the coming years.

Prepared by: Vern Jones, Chief Procurement Officer
Division: General Services
Approved by: Kevin Brooks, Deputy Commissioner
Department of Administration

Phone: 465-5684
Date/Time: 3/14/08 12:00 AM
Date: 3/14/2008

Master Lease Summary

3/19/08
HB 419

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
1	18286	9/15/2001	Dept. of Revenue - Permanent Fund Division	21,065	11	4.06	N/A	10/3/2005	\$ -	Photocopiers (2)	Fully paid.	N/A				
2	18422	12/11/2001	Dept. of Transportation & Public Facilities	246,692	12	3.87	N/A	Paid in full prior to FY05 - exact date unknown.	\$ -	Loader/ ramp blade/ & Snow Bucket	Fully paid.	N/A		Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	
3	18641	4/15/2002	Department of Administration	237,104	16	4.755	N/A	In FY03	\$ -	Carpet on 10th Floor SOB	Fully paid.	N/A		Unknown. Current rules of the program would not allow carpet to be financed.	Commissioner's Office	Eric Swanson
4	18766	7/15/2002	Dept. of Transportation & Public Facilities	213,629	32	4.45	N/A	Paid in full prior to FY05 - exact date unknown.	\$ -	Road Crusher	Fully paid.	N/A		Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	
5	18947	10/15/2002	Department of Administration, Information Technology Group	4,264,942	12	3.19	N/A	10/15/2005	\$ -	Land Radios	Fully paid.	N/A	N/A	Timing issues. Federal funding was anticipated, but radios were needed before the funding was available.	Commissioner's Office	Eric Swanson
6	19167	2/14/2003	Department of Administration - General Services Division, Central Mail Services)	408,692	40	3.73	2/15/2013		\$ 178,595.68	20 pieces mail room equipment	AR 11978	SLA 07, Chap 20, pg 2	75485	Equipment was badly needed in a short period of time. The MLOC provided for purchases to be made as equipment was needed.	Commissioner's Office	Eric Swanson
7	19166	2/15/2003	Department of Military and Veterans Affairs (Alaska Military Youth Academy)	186,375	28	3.56	N/A	6/23/2006	\$ -	Three commercial buses	Fully paid.	N/A				
8	35165	7/15/2003	Department of Transportation & Public Facilities	217,000	28	2.9	7/15/2010	No	\$ 82,593.17	Road Crusher	AR 57506 & AR 57694	296-40	75480	Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	Howard Thies
9	35280	9/2/2003	Department of Fish and Game	75,000	20	3.54	8/15/2008	Sep-04	\$ -	Improvements to RV Solstice	Fully paid. CF Central Region AR 41504 Commercial Fisheries used operating funds to make 3 payments and then paid off the "Key Bank loan" in September 04 with the sale of the RV Montague proceeds (AR 43575).	N/A	73270	Needed funds to complete work on RV Solstice which had just been purchased by the dept	Kevin Brooks ADF&G Admin Service Director signed the agreement	Roberta Fisher, Commercial Fisheries Admin Officer

Master Lease Summary

No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
10	35383	10/15/2003	Department of Administration - General Services, Central Mail Services	214,800	20	3.15	10/15/2008	No	\$ 34,412.91	Mail Room Equipment - four pieces	AR 11978	SLA 07, Chap 28, pg 2	75485	Equipment was badly needed in a short period of time. The MLOC provided for purchases to be made as equipment was needed.	Commissioner's Office	Eric Swanson
11	35729	4/1/2004	Department of Corrections	117,482	24	3.1	4/15/2010	1/3/2008	\$ -	Wheel Loader State Tag #35260 Serial No: JEE0135705 - purchased from Yukon Equip, Anch, AK	Spring Creek Corr Ctr AR 50674		75480	DOC desire to participate in a Master Financing Contract for acquisition of State property.	Jerry Burnett, Director Admin Serv DOC, and Dept of Revenue staff	Laura Lynk, Accountant 465-4641
12	35805	5/3/2004	Dept. of Transportation & Public Facilities	170,085	20	3.55	4/15/2009	No	\$ 45,307.43	Pothole Patcher	AR 57506 & AR 57694	296-40	75480	Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	Howard Thies
13	36498	1/15/2005	Department of Administration	564,302	12	3.47	1/15/2008	1/15/2008	\$ -	Websense	AR 11972	SLA 07, Chap 28, pg 3	75485	Timing issues. Funding was needed for the bandwidth conservation and security measures provided by Websense. Other software solutions were failing, which added to the urgency.	Commissioner's Office	Eric Swanson
14	36499	1/14/2005	Dept of Transportation & Public Facilities	238,646	20	3.65	1/15/2010	7/10/2007	\$ -	Front End Loader	Fully paid. AR 57506 & AR 57694	N/A	75480	Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	Howard Thies

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
15	36616	3/30/2005	Department of Health and Social Services - Alaska Psychiatric Institute	441,867	20	4.09	N/A	8/8/2007	\$ -	Cisco IP Telphony equipment, software, and extended maintenance agreements.	Fully paid. AR 26675-05 AR 24028-06 AR 23617-06 AR 24028-07	CH85/SLA99/P9/L9 CH4/SLA05/P18/L21 CH8/SLA94/P3/L30 CH33/SLA06/P19/L3	73822 73402 73402 73687	The original plan for the new API facility was to bring over existing phone system from old API at a very nominal cost to the project. In fact ACS, the State's contractor at that time, was in the process of pulling cable in the new facility when the previous administration terminated their contract. As a result ACS stopped pulling cable in the middle of the project. We were then informed that GCI had been awarded the contract and that the State's technology group had determined the new state standard for phone systems would be VoIP. The Department was required to comply. The cost of this system was over \$400,000. We were concerned that there was insufficient contingency funds to cover both a VoIP system and other changes that could occur prior to project completion of the new API.	The decision was made by the Assistant Commissioner, in consultation with the API project team. In consultation with DOT's Project Manager and the DHSS project team, it was determined that we would lease purchase the VoIP system and make payments from API's operating budget and pay off the lease with any left over capital project funds.	Arnold Liebelt - 465-1871

Master Lease Summary

No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
16	36985	9/15/2005	Dept. of Public Safety	143,343		4.14	9/15/2010	2/21/2006	\$ -	Genetic Analyzer	Laboratory Services (Crime Lab)	FY2008 book, page 255-12	75870	Fed Receipts existed, however, the actual receipt of sufficient grant funds was delayed, so the master lease program was used. Only one quarterly payment (using existing Fed \$) was made on the master lease prior to receiving the additional Fed funds from a FFY05 DNA Capacity Enhancement grant. Once received, the Fed funds were used to pay off the remaining principal. The reason for the timing of the purchase was due to receiving a significantly reduced price by purchasing the equipment on sale.	Commissioner Tandeske	Dan Spencer
17	37117	11/7/2005	Dept. of Public Safety	2,692,600	60	4.73	12/15/2020	8/23/2007	\$ -	Westwind II	Capital: AR 47927 & AR 47962	N/A	75751		Governor's Office	Dan Spencer
18	37262	12/30/2005	Dept. of Transportation, Central Region	727,819	53	4.73	4/15/2019	No	\$ 672,169.42	Building upgrades	AR 57670 & AR 57845	259-11	73526	Will provide energy cost savings - those savings are being used to pay the debt service.	Statewide Facilities Chief and Regional Director	Joel St. Aubin
19	37269	12/30/2005	Department of Administration, General Services Division	1,319,609	44	4.71	1/15/2017	No	\$ 1,172,220.71	Building upgrades	Facilities AR 11801	SLA 07, Chap 28, pg 3	73526	Timing issues. Funding to pay for the contracts, which provide energy efficiencies in state owned facilities, was required in a short period of time. The efficiencies were estimated to result in cost savings in excess of the cost of the contracts.	Commissioner's Office	Eric Swanson

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
20	37270	12/30/2005	Department of Administration, General Services Division	765,573	40	4.68	1/15/2016	No	\$ 652,948.73	Building upgrades	Non-PBF Facilities AR 11810	SLA 07. Chap 28, pg 3	73526	Timing issues. Funding to pay for the contracts, which provide energy efficiencies in state owned facilities, was required in a short period of time. The efficiencies were estimated to result in cost savings in excess of the cost of the contracts.	Commissioner's Office	Eric Swanson
21	37494	4/14/2006	University of AK	863,755	40	4.77	4/15/2016	No	\$ 712,350.86	Equipment Fleet (trucks)	Fairbanks Campus Vehicle purchases are considered a part of UA's normal operating expenditures and therefore do not go through the capital budget process. The yearly debt payments are recouped through all departments that are utilizing the vehicles.	FY09 146-1	NA	This is an expense that will re-occur on a 5 - 10 year cycle. This program allows it to be built into the operating budget.	UAF Vice Chancellor	Myron Dosch 450-8070
22	5323110	4/14/2006	Dept. of Transportation & Public Facilities	440,759	24	4.71	N/A	paid in full 8/29/06	\$ -	Two Loaders	AR 60984	N/A	75760	Timing issue to meet fleet requirement and cash needs - not an appropriation issue.	State Equipment Fleet General Manager	Diana Rotkis
23	5328770	5/13/2006	Regulatory Commission of AK	750,750	20	4.68	5/15/2011	No	\$ 507,603.51	Content & Case Management system	AR 29640-07 29640-08 29640-09 29640-10 29640-11		75485	Lease program and two capital appropriations were used. Lease allowed the starting of the IT project sooner.	Previous Chair of the RCA and previous director of Administrative Services	Phil Bennett
24	5451820	11/20/2006	University of AK, Fairbanks	1,116,796	40	4.677	10/15/2016	No	\$ 941,206.87	Equipment Fleet (vehicles)	Fairbanks Campus	FY09 146-1	N/A	This is an expense that will re occur on a 5 - 10 year cycle. This program allows it to be built into the operating budget.	UAF Vice Chancellor	Myron Dosch 450-8070
25	38095	4/13/2007	Dept. of Transportation & Public Facilities	3,389,102	20	4.21	4/15/2012	No	\$ 2,839,863.06	Articulating Motor Grader	AR B2802	Capital project #30628	75760	Timing issue to meet fleet requirement and cash needs - not an appropriation issue.	State Equipment Fleet General Manager	Diana Rotkis
26	38173	6/8/2007	Dept. of Transportation & Public Facilities	1,338,428.83	20	4.32	7/15/2012	No	\$ 1,223,287.75	Two graders Paratransit bus Pole setter Two dump trucks One tractor trailer	AR B2802	Capital project #30628	75760	Timing issue to meet fleet requirement and cash needs - not an appropriation issue.	State Equipment Fleet General Manager	Diana Rotkis

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
27	38180	6/15/2007	University of AK, Fairbanks	135,324	40	4.53	4/15/2017	No	\$ 126,904.03	Loader/Zamboni	Fairbanks Campus The yearly debt payments for the loader are recouped through parking fees. The yearly debt payments for the zamboni are recovered through less charged to use the Patty Ice Arena.	FY09 146-1	N/A	This is an expense that will re-occur on a 5 - 10 year cycle. This program allows it to be built into the operating budget.	UAF Vice Chancellor	Myron Dosch 450-8070
28	38252	7/25/2007	Department of Administration, Enterprise Technology Services	3,686,854.54	12	4.25	7/15/2010	No	\$ 3,101,211.50	World Wide Tech/Cisco Systems maintenance contract	ETS AR 11972	SLA 07, Chap 28, pg 3	75485	Timing issues. Funding was quickly needed to purchase Smart Net, a software and hardware assurance contract, to provide software patching and equipment failure replacement. By purchasing a three-year contract we saved \$120,000, including financing costs, over what it would have cost for three one-year contracts.	Commissioner's Office	Eric Swanson
29	38431	10/10/2007	Department of Administration, Enterprise Technology Services	15,000,750	28	4.27	10/15/2014	No	\$ 14,019,874.25	IP Phones/Land Radio	Debt appropriation	sec 26, ch 30, SLA 2007, page 154		This was appropriated with the Master Lease financing mechanism in the FY2008 capital budget.	Commissioner's Office	Eric Swanson

Sec. 36.30.990. Definitions.

In this chapter, unless the context in which a term is used clearly requires a different meaning or a different definition is prescribed for a particular provision,

(1) "agency"

(A) means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, the Alaska Veterans' Home, or other administrative unit of the executive branch of state government;

(B) does not include

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation;

(iii) the Alaska Housing Finance Corporation;

(iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Development Corporation;

(vii) the Alaska State Pension Investment Board;

(viii) the Alaska Seafood Marketing Institute;

(2) "change order" means a written order signed by the procurement officer, directing the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order without the consent of the contractor;

(3) "commissioner" means the commissioner of administration;

(4) "competitive sealed bidding" means the procedure under AS 36.30.100 - 36.30.190;

(5) "competitive sealed proposals" means the procedure under AS 36.30.200 - 36.30.260;

(6) "construction" means the process of building, altering, repairing, maintaining, improving, or demolishing a public highway, structure, building, or other public improvement of any kind to real property other than privately owned real property leased for the use of agencies; it includes services and professional services relating to planning and design required for the construction; it does not include the routine operation of a public improvement to real property nor does it include the construction of public housing;

(7) "contract" means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction;

(8) "contract modification" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract;

(9) "department" means the Department of Administration;

(10) "design-build construction contract" means a contract to provide construction in accordance with a design provided by the contractor;

(11) "employment program" means a nonprofit program to increase employment opportunities for individuals with physical or mental disabilities that constitute substantial handicaps to employment;

(12) "grant" means property furnished by the state, whether real or personal, designated by law, including an appropriation Act, as a grant;

(13) "hearing" does not include a hearing in an arbitration;

(14) "lease-financing agreement" means a lease-purchase agreement that secures or is related to financing instruments of the lessor, including revenue bonds or certificates of participation;

(15) "lease-purchase agreement" means a lease that

(A) transfers ownership of the property to the lessee by the end of the lease term;

(B) contains a purchase option at a price less than the fair market value of the property on the date the option is exercisable;

(C) has a term, at inception, equal to 75 percent or more of the economic life of the property; or

(D) contains minimum lease payments, including minimum lease payments during a renewal provided for in the agreement, whose present value at the inception of the agreement equals 90 percent or more of the fair market value at the inception of the agreement of the real property that is the subject of the agreement; the present value shall be determined by using as a discount rate the most recent Bond Buyer 20-Bond G.O. Index;

(16) "person" means a business, individual, union, committee, club, other organization, or group of individuals;

(17) "procurement" means buying, purchasing, renting, leasing, or otherwise acquiring supplies, equipment for the state fleet, services or construction; it also includes functions that pertain to the obtaining of a supply, equipment for the state fleet, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(18) "procurement officer" means a person authorized to enter into and administer contracts for an agency and make written determinations with respect to them; it also includes an authorized representative of a procurement officer acting within the limits of authority;

(19) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;

(20) "public building" means improved real property leased to the state for governmental, public, or educational use, but does not include improved real property owned by the University of Alaska Heating Corporation and leased to the University of Alaska for a purpose within the scope, as of July 1, 1986, of the heating corporation's charter;

(21) "services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance; it does not include employment agreements or collective bargaining agreements;

(22) "state money" means any money appropriated to an agency or spent by an agency irrespective of its source, including federal assistance except as otherwise specified in A.S. 36.30.890, but does not include money held in trust by an agency for a person;

(23) "state official" means a public employee, public officer, or official of an agency;

(24) "supplies" means all property of an agency, including equipment, materials, and insurance; it includes privately owned real property leased for the use of agencies, such as office space, but does not include the acquisition or disposition of other interests in land.

History -

(Sec. 2 ch 106 SLA 1986; am Sec. 19 ch 102 SLA 1989; am Sec. 10 ch 30 SLA 1990; am Sec. 10 ch 181 SLA 1990; am Sec. 7 ch 88 SLA 1991; am Sec. 10 ch 31 SLA 1992; am Sec. 3 ch 94 SLA 1992; am Sec. 114 ch 4 FSSLA 1992; am Sec. 2 ch 102 SLA 1995; am Sec. 45 ch 137 SLA 1996; am Sec. 5 ch 35 SLA 1999; am Sec. 15 ch 144 SLA 2003; am Sec. 6 ch 59 SLA 2004)

Revisors Notes -

The paragraphs in this section were renumbered in 1989, 1990, 1996, 1999, and 2003 to retain alphabetical order.

Amendment Notes -

The 2003 amendment, effective October 14, 2003, added paragraph (13).

The 2004 amendment, effective July 1, 2004, inserted "the Alaska Veterans' Home" in paragraph (1)(A), and made stylistic changes.

AG Opinions -

The State Procurement Code does not apply to contracts for the administration of insurance license tests by the Division of Insurance, where the division does not pay any money to the testing service. Instead, all test fees are paid by the applicants directly to the testing service, and therefore, these fees paid do not fit within the definition of state money. Aug. 13, 1991 Op. Att'y Gen.

Decisions -

Cited in *Gunderson v. University of Alaska*, 922 P.2d 229 (Alaska 1996).

HT 4.19

State of Alaska Deals

<u>Schedule</u>	<u>Lease #</u>	<u>Department</u>	<u>Maturity Date</u>	<u>3/14/2008</u> <u>Outstanding Principal Balance</u>
1	18286	Dept. of Revenue - Permanent Fund Division	7/15/2004	\$ -
2	18422	Dept. of Transportation & Public Facilities	12/15/2004	\$ -
3	18641	Department of Administration	4/15/2006	\$ -
4	18766	Dept. of Transportation & Public Facilities	7/15/2010	\$ 75,044.52
5	18947	Department of Administration, Information Technology Group	10/15/2005	\$ -
6	19167	Department of Administration - General Services Division, Central Mail Services)	2/15/2013	\$ 178,595.68
7	19166	Department of Military and Veterans Affairs (Alaska Military Youth Academy)	1/15/2010	\$ -
8	35165	Department of Transportation & Public Facilities	7/15/2010	\$ 82,583.17
9	35280	Department of Fish and Game	8/15/2008	\$ -
10	35383	Department of Administration - General Services, Central Mail Services	10/15/2008	\$ 34,412.91
11	35729	Department of Corrections	4/15/2010	\$ -
12	35805	Dept. of Transportation & Public Facilities	4/15/2009	\$ 45,307.43
13	36498	Department of Administration	1/15/2008	\$ -
14	36499	Dept. of Transportation & Public Facilities	1/15/2010	\$ -
15	36618	Department of Health and Social Services - Alaska Psychiatric Institute	4/15/2010	\$ -
16	36985	Dept. of Public Safety	9/15/2010	\$ -
17	37117	Dept. of Public Safety	12/15/2020	\$ -
18	37262	Dept. of Transportation, Central Region	4/15/2019	\$ 672,169.42
19	37269	Department of Administration, General Services Division	1/15/2017	\$ 1,172,220.71
20	37270	Department of Administration, General Services Division	1/15/2016	\$ 662,948.73
21	37494	University of AK	4/15/2016	\$ 712,350.86
22	5323110	Dept. of Transportation & Public Facilities	4/15/2012	\$ -
23	5328770	Regulatory Commission of AK	5/15/2011	\$ 507,603.51
24	5451820	University of AK, Fairbanks	10/15/2016	\$ 941,206.87
25	38095	Dept. of Transportation & Public Facilities	4/15/2012	\$ 2,839,863.06
26	38173	Dept. of Transportation & Public Facilities	7/15/2012	\$ 1,223,287.75
27	38180	University of AK, Fairbanks	4/15/2017	\$ 128,904.03
28	38252	Department of Administration, Enterprise Technology Services	8/15/2010	\$ 3,101,211.50
29	38431	Department of Administration, Enterprise Technology Services	10/15/2014	\$ 14,019,874.25
TOTAL			\$	26,395,584.40

Master Lease Summary

Transaction	Date of Entry	Agency	Amount	Term (quarter)	Interest Rate	Purchase
1	9/15/2001	PFD Division	21,065	11	4.06	Photocopiers (2)
2	12/11/2001	DOT	246,692	12	3.87	Loader/ ramp blade/ & Snow Bucket
3	4/15/2002	DOA - Admin. Serv.	237,104	16	4.755	Carpet on 10th Floor SOB
4	7/15/2002	DOT	213,629	32	4.45	Road Crusher
5	10/15/2002	DOA - ITG	4,264,942	12	3.19	Land Radios
6	2/14/2003	DOA - Gen. Svcs.	408,692	40	3.73	20 pieces mail room equipment
7	2/15/2003	DMVA	186,375	28	3.56	three commercial buses
8	7/15/2003	DOT	217,000	28	2.9	Road Crusher
9	9/2/2003	Fish and Game	75,000	20	3.54	Improvements to R/V Solstice
10	10/15/2003	DOA - Gen. Svcs.	214,800	20	3.15	Mail Room Equipment - four pieces
11	4/1/2004	DOC	117,482	24	3.1	Wheel Loader
12	5/3/2004	DOT	170,085	20	3.55	Pothole Patcher
13	1/15/2005	DOA - ETS	564,302	12	3.47	Websense
14	1/14/2005	DOT	238,646	20	3.65	Front End Loader
15	3/30/2005	DH&SS	441,867	20	4.09	Seven phone items
16	9/15/2005	DPS	143,345		4.14	Genetic Analyzer
17	11/7/2005	DPS	2,692,600	60	4.73	Westwind II
18	12/30/2005	DOT	727,819	53	4.73	Building upgrades
19	12/30/2005	DOA	1,319,609	44	4.71	Building upgrades
20	12/30/2005	DOA	765,573	40	4.68	Building upgrades
21	4/14/2006	University	863,755	40	4.77	Equipment Fleet (trucks)
22	4/14/2006	DOT	440,759	24	4.71	Two Loaders
23	5/15/2006	RCA	750,750	20	4.68	Content & Case Management system
24	11/20/2006	University	1,116,796	40	4.677	Equipment Fleet (vehicles)
25	4/13/2007	DOT/PF	3,289,102	20	4.21	Articulating Motor Grader
26	6/8/2007	DOT/PF	1,338,428.83	20	4.32	2 graders/paratransit bus/pole setter/2 dump trucks 1 tractor trailer
27	6/15/2007	University	135,324	40	4.53	Loader/Zamboni
28	7/25/2007	Administration	3,686,854.54	12	4.25	World side tech/cisco systems maintenance contract
29	10/10/2007	Administration	15,000,750	28	4.27	IP Phones/Land Radio

1 * Sec. 10. The following appropriation items are for capital projects and grants from the
 2 general fund or other funds as set out in section 11 of this Act by funding source to the
 3 agencies named for the purposes expressed and lapse under AS 37.25.020, unless otherwise
 4 noted.

	Appropriation	General	Other
	Allocations	Items	Funds
	Funds	Funds	Funds
	*****	*****	
	***** Department of Administration *****		
	*****	*****	
10	State of Alaska		10,000,000 -10,000,000
11	Telecommunications System		
12	(SATS)/Alaska Land Mobile		
13	Radio (ALMR) Build Out and		
14	Support Projects (HD 1-40)		
15	Statewide Administrative		41,000,000 -41,000,000
16	Systems Replacement Phase 2		
17	- Financials and		
18	Procurement System (HD 1-40)		
19	Telephone System		17,000,000 -17,000,000
20	Replacement and		
21	Stabilization Phase 3 (HD		
22	1-40)		
23	The preceding appropriations affecting the department of administration replace the master		
24	lease line of credit fund source with general funds. It is the intent of the legislature that		
25	agencies using the master lease line of credit make debt service payments from regular		
26	operating appropriations.		
27	*****	*****	
28	***** Department of Commerce, Community and Economic Development *****		
29	*****	*****	
30	Climate Change Impact	1,100,000	1,100,000
31	Mitigation Program (HD 1-40)		

1 of 1 DOCUMENT

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF ALASKA

File No. 663-88-0094

1987 Alas. AG LEXIS 180; 1987-2 Op. (Inf) Atty Gen. Alas. 235

September 17, 1987

TYPE: INFORMAL OPINION

SYLLABUS:

[*1]

SUBJECT: Equipment lease purchase Your file no.: 9095H

REQUESTBY:

Milt Barker
Deputy Commissioner
Department of Revenue

OPINIONBY:

Robert M. Maynard, Assistant Attorney General, Governmental Affairs-Juneau

OPINION:

MEMORANDUM

You have asked for our opinion on the applicability of *AS 36.30.080(c)*, which requires approval by law of lease-financing by the Department of Administration with annual rents exceeding \$ 1 million (effective January 1, 1988), to equipment financing or refinancing. In particular, you are contemplating a proposal whereby the various equipment leases now spread throughout state government would be consolidated under one or more new (or replacement) "master leases" through a particular vendor.

As we read your request, you are asking two questions. First, whether equipment-lease financing falls within the procurement code, and second, whether the provisions of *AS 36.30.080* relating to legislative approval applies to equipment, rather than simply space, leases. The answer to both questions is that equipment-lease financing is covered by the new procurement code and the statutory requirement of legislative approval.

AS 36.30.850(b) provides that "[t]his chapter applies to every expenditure [*2] of state funds irrespective of their sources" except for some carefully worded exceptions that do not apply here. Since the new master lease will involve some expenditure of state funds (even though that expenditure, in some instances, may be less than would otherwise be the case), the provisions of *AS 36.30* apply.

Second, although *AS 36.30.080(a)* is limited by its terms to space leasing, that limitation does not appear in either subsections (b) or (c). The only two potential sources for implying that limitation would come either from the use of the term "rent" in subsection (c), or, as you inquire, by the identification of leases by the "department" as applying to only the Department of Administration (which is presently responsible for space leasing).

Although most commonly used in connection with land or space leases, "rent" is also a term applying to lease payments for other types of property. One may, for example, "rent" a car. *Wells v. Allstate Ins. Co.*, 327 F. Supp. 622, 631 (D. S.C. 1971). Given the broad coverage of the state procurement act, we see no reason to imply a limitation to only real property rents that is not expressed

Second, the indication that it [*3] is leases of the "department," meaning Department of Administration, does not imply a limitation on the type of leases covered by that section. With the effective date of the new procurement code, all leases, not just space leases, will be the responsibility of the Department of Administration. *AS 36.30.005(a)*. Although this authority may be subsequently delegated to other agencies (*AS 36.30.015(a)*), the identification of the Department of Administration in *AS 36.30.080(b)* and (c) does not imply a limitation on the type of leases covered by those sections.

You have not asked, nor do we address, the question of the constitutionality of the requirement of legislative approval in *AS 36.30.080(c)*. We would note, however, that the position of the Department of Law has consistently been that such requirements of legislative approval are unconstitutional as a violation of the doctrine of separation of powers. On the other hand, the consistent practice of administrations has been to respect the Legislature's desire to be involved in major transactions (which lease financings with annual payments of over \$ 1,000,000 would certainly be). Thus, as a matter of comity in these types of [*4] situations, administrations have as a matter of contract made legislative approval a requirement. Since lease-financing arrangements require a high degree of certainty that all applicable laws have been followed, the provisions of *AS 36.30.080(c)* will likely be followed in any event in order to eliminate potential uncertainties.

We would further note, in response to your inquiry, that the provision for legislative approval applies only where a particular lease, master lease, or contract exceeds \$ 1 million in annual rent. If the department enters into two separate master leases with a \$ 500,000 annual payment each, then legislative approval is not required (as long as a separate procurement in conformance with the Code is done for each agreement).

If you have any questions, please do not hesitate to call.

Legal Topics:

For related research and practice materials, see the following legal topics:

Contracts LawTypes of ContractsLease AgreementsGeneral OverviewLabor & Employment LawEmployment RelationshipsEmployment ContractsConditions & TermsGeneral Overview

Sec. 36.30.080. Leases.

(a) The department shall lease space for the use of the state or an agency wherever it is necessary and feasible, subject to compliance with the requirements of this chapter. A lease may not provide for a period of occupancy greater than 40 years. An agency requiring office, warehouse, or other space shall lease the space through the department.

(b) [Repealed, Sec. 11 ch 75 SLA 1994].

(c) If the department, the Board of Regents of the University of Alaska, the legislative council, or the supreme court intends to enter into or renew a lease of real property with an annual rent to the department, University of Alaska, legislative council, or supreme court that is anticipated to exceed \$500,000, or with total lease payments that exceed \$2,500,000 for the full term of the lease, including any renewal options that are defined in the lease, the department, the Board of Regents, the legislative council, or supreme court shall provide notice to the legislature. The notice must include the anticipated annual lease obligation amount and the total lease payments for the full term of the lease. The department, the Board of Regents, the legislative council, and the supreme court may not enter into or renew a lease of real property

(1) requiring notice under this subsection unless the proposed lease or renewal of a lease has been approved by the legislature by law; an appropriation for the rent payable during the initial period of the lease or the initial period of lease renewal constitutes approval of the proposed lease or renewal of a lease for purposes of this paragraph;

(2) under this subsection if the total of all optional renewal periods provided for in the lease exceeds the original term of the lease exclusive of the total period of all renewal options.

(d) When the department is evaluating proposals for a lease of space, the department shall consider, in addition to lease costs, the life cycle costs, function, indoor environment, public convenience, planning, design, appearance, and location of the proposed building.

(e) When the department is considering leasing space, the department should consider whether leasing is likely to be the least costly means to provide the space.

(f) When the department is acquiring leased space of 3,000 square feet or less, the department may procure the leased space using the procedures for small procurements under AS 36.30.320, providing public notice is given to prospective offerors in the market area.

History -

(Sec. 2 ch 106 SLA 1986; am Sec. 1 ch 58 SLA 1990; am Sec. 8, 9 ch 181 SLA 1990; am Sec. 2, 5 ch 73 SLA 1992; am Sec. 3 ch 37 SLA 1993; am Sec. 6, 11 ch 75 SLA 1994; am Sec. 10 ch 137 SLA 1996)

Editors Notes -

Section 3, ch. 58, SLA 1990 provides that the 1990 amendment to AS 36.30.080(c) by Sec. 1, ch. 58, SLA 1990 "applies to an agreement that is entered into on or after June 5, 1990, and does not apply to a lease or to the renewal of a lease if the lease is in existence on June 5, 1990."

AG Opinions -

Equipment-lease financing is covered by the procurement code and the statutory requirement of legislative approval. Sept. 17, 1987 Op. Att'y Gen.

Decisions -

Lease-purchase agreement between Department of Natural Resources and Alaska Court System. - This section (prior to June 7, 1994), Sec. 38.05.035, and Sec. 12, ch. 75, SLA 1994, provided the Department of Natural Resources with authority to enter into a lease-purchase agreement with Alaska Court System for the purchase of a building. Carr-Gottstein Properties v. State, 899 P.2d 136 (Alaska 1995).

Funds placed in escrow for the renovation of a building that was the subject of a lease-purchase agreement between the Department of Natural Resources and Alaska Court System did not constitute unrestricted "program receipts" for deposit in the state treasury and did not violate Alaska Const., art. IX, Sec. 13. Carr-Gottstein Properties v. State, 899 P.2d 136 (Alaska 1995).

HB

419

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/3/08

FURTHER:

DATE TURNED IN TO OFFICE: 4-10-08

Finance Committee considered CS FOR HOUSE BILL NO. 419(FIN)

HB 419 STATE LEASE-PURCHASE AGREEMENTS

"An Act relating to state lease-purchases of equipment and other personal property; and providing for an effective date."

and recommends:

- be replaced with SCS or CS CSHB 419 (FIN)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> New Title	
<hr/>	
HOUSE BILL:	
<input checked="" type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	


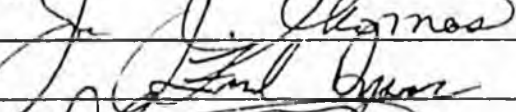
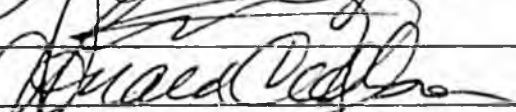


NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indel.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indel.	Zero	FN#
HFC/ADM	3/31/08			✓	1
HFC/GOV	3/27/08			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton Thomas	✓			
	Dnsou	✓			
	Margarita Olson	✓			
CO-CHAIR: 					
CO-CHAIR: 					

SENATE CS FOR CS FOR HOUSE BILL NO. 419(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state lease-purchases of equipment and other personal property;
2 and providing for an effective date."

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

4 * Section 1. AS 36.30.085(a) is amended to read:

5 (a) To perform its duties and statutory functions, the department, the Board of
6 Regents of the University of Alaska, the legislative council, or the supreme court may
7 enter into lease-purchase agreements for real property. The department, the Board of
8 Regents, the legislative council, or the supreme court may enter into a lease-purchase
9 agreement only if the department, the Board of Regents, the legislative council, or the
10 supreme court is the lessee under the agreement.

11 * Sec. 2. AS 36.30 is amended by adding a new section to article 1 to read:

12 Sec. 36.30.086. Lease-purchase of personal property. (a) To perform its
13 duties and statutory functions, an agency, the Board of Regents of the University of
14 Alaska, the legislative council, the Legislative Budget and Audit Committee, the

1 office of victims' rights, the office of the ombudsman, or the supreme court may enter
 2 into lease-purchase agreements for the acquisition of equipment or other personal
 3 property. The government entity is the lessee under the agreement.

4 (b) If a government entity enters into a lease-purchase agreement under (a) of
 5 this section that exceeds \$100,000 in payments by the state, the government entity
 6 shall provide notice to the presiding officers and finance committee chairs of the house
 7 and senate. The notice must describe the property that is the subject of the agreement
 8 and must set out the terms of the lease-purchase.

9 * Sec. 3. AS 37.07.040 is amended to read:

10 **Sec. 37.07.040. Office of management and budget.** The Alaska office of
 11 management and budget shall

12 (1) assist the governor in the preparation and explanation of the
 13 proposed comprehensive program and financial plan, including the coordination and
 14 analysis of state agency goals and objectives, plans, and budget requests;

15 (2) prepare for submission to the governor an annually updated six-
 16 year capital improvements program and the proposed capital improvements budget for
 17 the coming fiscal year, the latter to include individual project justification with
 18 documentation of estimated project cost;

19 (3) develop procedures to produce the information needed for effective
 20 policy decision making, including procedures to provide for the dissemination of
 21 information about plans, programs, and budget requests to be included in the annual
 22 budget and opportunity for public review and comment during the period of budget
 23 preparation;

24 (4) assist state agencies in their statement of goals and objectives to
 25 achieve, among other things, the legislature's mission and desired results, preparation
 26 of plans, assessments of the extent to which missions and desired results have been
 27 achieved, budget requests, and reporting of program performance; all documents
 28 forwarded by the office to a state agency containing instructions for the preparation of
 29 program plans and budget requests and the reporting of program performance are
 30 public information after the date they are forwarded;

31 (5) administer its responsibilities under the program execution

1 provisions of this chapter so that the policy decisions and budget determinations of the
2 governor and the legislature are implemented;

3 (6) provide the legislative finance division with the budget information
4 it may request;

5 (7) provide the legislative finance division with an advance copy of the
6 governor's budget workbooks at least seven days before the legislature convenes in a
7 regular session;

8 (8) prepare the proposed capital improvements budget for the coming
9 fiscal year evaluating both state and local requests from the standpoint of need, equity,
10 and priorities of the jurisdiction; other factors such as project amounts, population,
11 local financial match, federal funds being used for local match, municipality or
12 unincorporated community acceptance of the facility, and all associated costs of the
13 facility may be considered;

14 (9) for each department in the executive branch, report to the
15 legislature by the 45th day of each regular session the amount of money appropriated
16 to the department that is expected to lapse into the general fund at the end of the
17 current fiscal year;

18 (10) establish and administer a state agency program performance
19 management system involving planning, performance budgeting, performance
20 measurement, and program evaluation; the office shall ensure that information
21 generated under this system is useful for managing and improving the efficiency and
22 effectiveness of agency operations;

23 (11) by January 15, list each lease-purchase agreement entered
24 into by an agency during the immediately preceding fiscal year for the
25 acquisition of equipment or other personal property, together with a description
26 of the property acquired and financial details, including the purchase price, the
27 term for payments, the amount of each payment, and the amount of interest or
28 financing charges paid.

29 * Sec. 4. This Act takes effect July 1, 2008.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 419(FIN)
(H) Publish Date: 3/31/2008

Identifier (file name): _____ Dept. Affected: Administration
Title: "An Act relating to state lease-purchases of equipment and other personal property..." RDU: Centralized Administrative Services
Sponsor: House Finance Committee Component: General Services
Requester: House Finance Committee Component Number: 60

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The House Finance Committee believes there will be no fiscal impact with the adoption of CSHB 419 (FIN).

Prepared by: House Finance Committee
Division: _____
Approved by: Rep. Kevin Moyer, Co-Chairman
Rep. Mike Chenault, Co-Chairman

Phone: 465-6875
Date/Time: _____
Date: 3/31/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 419(FIN)
(H) Publish Date: 3/31/2008

Identifier (file name): _____ Dept. Affected: Governor
Title: "An Act relating to state lease-purchases of equipment and other personal property..." RDU: OMB
Sponsor: House Finance Committee Component: OMB
Requester: House Finance Committee Component Number: 2144

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The committee substitute for HB 419 requires that the Office of Management and Budget submit a list to the Legislature by January 15 of each year, that details each lease-purchase agreement entered into by an agency during the immediately preceding fiscal year. The list must include a description of the property acquired and financial details, including the purchase price, the term for payments, the amount of each payment, and the amount of interest or financing charges paid.

It is the intent of the House Finance Committee that the provisions of HB 419 pertaining to OMB will not increase operating costs for the division.

Prepared by: House Finance Committee
Division: _____
Approved by: Rep. Kevin Meyer, Co-Chairman
Rep. Mike Chenault, Co-Chairman

Phone: 465-6875
Date/Time: 3/27/08 11:02 a.m.
Date: 3/27/2008

adopted 4-9-08

25-LS1567/V
Cook
4/9/08

SENATE CS FOR CS FOR HOUSE BILL NO. 419(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state lease-purchases of equipment and other personal property;
2 and providing for an effective date."

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

4 * Section 1. AS 36.30.085(a) is amended to read:

5 (a) To perform its duties and statutory functions, the department, the Board of
6 Regents of the University of Alaska, the legislative council, or the supreme court may
7 enter into lease-purchase agreements for real property. The department, the Board of
8 Regents, the legislative council, or the supreme court may enter into a lease-purchase
9 agreement only if the department, the Board of Regents, the legislative council, or the
10 supreme court is the lessee under the agreement.

11 * Sec. 2. AS 36.30 is amended by adding a new section to article 1 to read:

12 **Sec. 36.30.086. Lease-purchase of personal property.** (a) To perform its
13 duties and statutory functions, an agency, the Board of Regents of the University of
14 Alaska, the legislative council, the Legislative Budget and Audit Committee, the

1 office of victims' rights, the office of the ombudsman, or the supreme court may enter
2 into lease-purchase agreements for the acquisition of equipment or other personal
3 property. The government entity is the lessee under the agreement.

4 (b) If a government entity enters into a lease-purchase agreement under (a) of
5 this section that exceeds \$100,000 in payments by the state, the government entity
6 shall provide notice to the presiding officers and finance committee chairs of the house
7 and senate. The notice must describe the property that is the subject of the agreement
8 and must set out the terms of the lease-purchase.

9 * Sec. 3. AS 37.07.040 is amended to read:

10 **Sec. 37.07.040. Office of management and budget.** The Alaska office of
11 management and budget shall

12 (1) assist the governor in the preparation and explanation of the
13 proposed comprehensive program and financial plan, including the coordination and
14 analysis of state agency goals and objectives, plans, and budget requests;

15 (2) prepare for submission to the governor an annually updated six-
16 year capital improvements program and the proposed capital improvements budget for
17 the coming fiscal year, the latter to include individual project justification with
18 documentation of estimated project cost;

19 (3) develop procedures to produce the information needed for effective
20 policy decision making, including procedures to provide for the dissemination of
21 information about plans, programs, and budget requests to be included in the annual
22 budget and opportunity for public review and comment during the period of budget
23 preparation;

24 (4) assist state agencies in their statement of goals and objectives to
25 achieve, among other things, the legislature's mission and desired results, preparation
26 of plans, assessments of the extent to which missions and desired results have been
27 achieved, budget requests, and reporting of program performance; all documents
28 forwarded by the office to a state agency containing instructions for the preparation of
29 program plans and budget requests and the reporting of program performance are
30 public information after the date they are forwarded;

31 (5) administer its responsibilities under the program execution

1 provisions of this chapter so that the policy decisions and budget determinations of the
2 governor and the legislature are implemented;

3 (6) provide the legislative finance division with the budget information
4 it may request;

5 (7) provide the legislative finance division with an advance copy of the
6 governor's budget workbooks at least seven days before the legislature convenes in a
7 regular session;

8 (8) prepare the proposed capital improvements budget for the coming
9 fiscal year evaluating both state and local requests from the standpoint of need, equity,
10 and priorities of the jurisdiction; other factors such as project amounts, population,
11 local financial match, federal funds being used for local match, municipality or
12 unincorporated community acceptance of the facility, and all associated costs of the
13 facility may be considered;

14 (9) for each department in the executive branch, report to the
15 legislature by the 45th day of each regular session the amount of money appropriated
16 to the department that is expected to lapse into the general fund at the end of the
17 current fiscal year;

18 (10) establish and administer a state agency program performance
19 management system involving planning, performance budgeting, performance
20 measurement, and program evaluation; the office shall ensure that information
21 generated under this system is useful for managing and improving the efficiency and
22 effectiveness of agency operations;

23 (11) by January 15, list each lease-purchase agreement entered
24 into by an agency during the immediately preceding fiscal year for the
25 acquisition of equipment or other personal property, together with a description
26 of the property acquired and financial details, including the purchase price, the
27 term for payments, the amount of each payment, and the amount of interest or
28 financing charges paid.

29 * Sec. 4. This Act takes effect July 1, 2008.

*adopted
4-7-08*

25-LS1567/O
Cook
4/3/08

SENATE CS FOR CS FOR HOUSE BILL NO. 419(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain state leases and lease-purchase agreements for equipment
2 and other personal property; and providing for an effective date."

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

4 * Section 1. AS 36.30.080 is amended by adding a new subsection to read:

5 (g) The department, the Board of Regents, the legislative council, or the court
6 system may not lease equipment or other personal property.

7 * Sec. 2. AS 36.30.085(a) is amended to read:

8 (a) To perform its duties and statutory functions, the department, the Board of
9 Regents of the University of Alaska, the legislative council, or the supreme court may
10 enter into lease-purchase agreements for acquisition or improvement of real
11 property. The department, the Board of Regents, the legislative council, or the
12 supreme court may enter into a lease-purchase agreement only if the department, the
13 Board of Regents, the legislative council, or the supreme court is the lessee under the
14 agreement. The department, the Board of Regents, the legislative council, or the

1
2
3

supreme court may not enter into a lease-purchase agreement for equipment or other personal property.

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

SENATE CS FOR CS FOR HOUSE BILL NO. 419(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to state lease-purchases of equipment and other personal property;**
2 **and providing for an effective date."**

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

4 *** Section 1. AS 36.30.085(a) is amended to read:**

5 (a) To perform its duties and statutory functions, the department, the Board of
6 Regents of the University of Alaska, the legislative council, or the supreme court may
7 enter into lease-purchase agreements for real property. The department, the Board of
8 Regents, the legislative council, or the supreme court may enter into a lease-purchase
9 agreement only if the department, the Board of Regents, the legislative council, or the
10 supreme court is the lessee under the agreement.

11 *** Sec. 2. AS 36.30 is amended by adding a new section to article 1 to read:**

12 **Sec. 36.30.086. Lease-purchase of personal property.** (a) To perform its
13 duties and statutory functions, an agency, the Board of Regents of the University of
14 Alaska, the legislative council, the Legislative Budget and Audit Committee, the

1 office of victims' rights, the office of the ombudsman, or the supreme court may enter
2 into lease-purchase agreements for the acquisition of equipment or other personal
3 property. The government entity is the lessee under the agreement.

4 (b) If a government entity enters into a lease-purchase agreement under (a) of
5 this section that exceeds \$100,000 in payments by the state, the government entity
6 shall provide notice to the presiding officers and finance committee chairs of the house
7 and senate. The notice must describe the property that is the subject of the agreement
8 and must set out the terms of the lease-purchase.

9 * Sec. 3. AS 37.07.040 is amended to read:

10 **Sec. 37.07.040. Office of management and budget.** The Alaska office of
11 management and budget shall

12 (1) assist the governor in the preparation and explanation of the
13 proposed comprehensive program and financial plan, including the coordination and
14 analysis of state agency goals and objectives, plans, and budget requests;

15 (2) prepare for submission to the governor an annually updated six-
16 year capital improvements program and the proposed capital improvements budget for
17 the coming fiscal year, the latter to include individual project justification with
18 documentation of estimated project cost;

19 (3) develop procedures to produce the information needed for effective
20 policy decision making, including procedures to provide for the dissemination of
21 information about plans, programs and budget requests to be included in the annual
22 budget and opportunity for public review and comment during the period of budget
23 preparation;

24 (4) assist state agencies in their statement of goals and objectives to
25 achieve, among other things, the legislature's mission and desired results, preparation
26 of plans, assessments of the extent to which missions and desired results have been
27 achieved, budget requests, and reporting of program performance; all documents
28 forwarded by the office to a state agency containing instructions for the preparation of
29 program plans and budget requests and the reporting of program performance are
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1 provisions of this chapter so that the policy decisions and budget determinations of the
2 governor and the legislature are implemented;

3 (6) provide the legislative finance division with the budget information
4 it may request;

5 (7) provide the legislative finance division with an advance copy of the
6 governor's budget workbooks at least seven days before the legislature convenes in a
7 regular session;

8 (8) prepare the proposed capital improvements budget for the coming
9 fiscal year evaluating both state and local requests from the standpoint of need, equity,
10 and priorities of the jurisdiction; other factors such as project amounts, population,
11 local financial match, federal funds being used for local match, municipality or
12 unincorporated community acceptance of the facility, and all associated costs of the
13 facility may be considered;

14 (9) for each department in the executive branch, report to the
15 legislature by the 45th day of each regular session the amount of money appropriated
16 to the department that is expected to lapse into the general fund at the end of the
17 current fiscal year;

18 (10) establish and administer a state agency program performance
19 management system involving planning, performance budgeting, performance
20 measurement, and program evaluation; the office shall ensure that information
21 generated under this system is useful for managing and improving the efficiency and
22 effectiveness of agency operations;

23 (11) by January 15, list each lease-purchase agreement entered
24 into by an agency during the immediately preceding fiscal year for the
25 acquisition of equipment or other personal property, together with a description
26 of the property acquired and financial details, including the purchase price, the
27 term for payments, the amount of each payment, and the amount of interest or
28 financing charges paid.

29 * Sec. 4. This Act takes effect July 1, 2008.

Alaska Bankers Association

P.O. Box 100720 - Anchorage, Alaska 99510 - 907.777.3011 - Fax 907.777.3029

RECEIVED

APR - 8 2008

April 8, 2008

Honorable Senator Bert Stedman
Co-chairman, Senate Finance Committee
State Capitol Room 516
Juneau, Alaska 99801-1182

Subject: Support for House passed version of HB 419

Dear Senator Stedman,

The Senate Finance draft committee substitute distributed yesterday prohibits certain state agencies from entering into lease purchase agreements for equipment or other personal property.

The Alaska Bankers Association and its member banks oppose any version of HB 419 that prohibits the use of lease purchase agreements.

Tax-exempt lease/purchasing financing is an accepted practice used by state and local government entities throughout the United States. This financing structure:

- Provides availability to efficient capital financing solutions that would otherwise be costly or unavailable.
- Facilitates the acquisition of needed capital assets without putting the undue strain of full purchase funding on the government.
- Creates the ability to pay for an asset over its useful life, allocating the cost to the taxpayers who are receiving the benefit.

The lease purchase option provides a number of benefits to the leasing agency. The lease is considered a current expense, reflected in the agencies operating budget and does not impact debt limits. Payment amounts are fixed at the time of acceptance for the term of the lease. The process is streamlined, low cost and efficient.

The lease purchase option is a valuable financial resource for state agencies and departments. Restricting the options available for the acquisition and financing of personal property by state agencies may result in the unintended consequence of higher costs and additional contract risk for the State of Alaska.

The House passed version of HB 419 contains a clear definition of lease purchase and includes reporting requirements that safeguard the master lease program from abuse. We respectfully encourage the Senate Finance committee to pass the House passed version of HB 419.



David A. Lawer
President, Alaska Bankers Association



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

COMMITTEE SUBSTITUTE FOR HOUSE BILL 419 (FIN)

"An Act relating to state lease-purchases of equipment and other personal property; and providing for an effective date."

House Bill 419 places into statute authorization for state departments and other agencies such as the such as the Supreme Court, the Board of Regents of the University of Alaska and Legislative Council to enter into lease-purchase contracts for equipment and other properties that are not considered real property.

Generally, there were no limitations on a department's ability to enter into lease purchases for non-real property purchases. The department's and the administration interpreted an Attorney General's opinion from 1987 to give them the power to enter into these agreements. The new section of House Bill 419, AS 36.30.086, provides the explicit authorization for departments to enter into lease-purchase agreements for equipment to perform the duties and statutory functions of the department.

This legislation requires that any agency that enters into a lease-purchase contract that exceeds \$100,000 provide written notice to the House and Senate presiding officers and the Finance Committee chairs. It also requires the Office of Management and Budget to submit a report containing each lease-purchase agreement entered into by an agency during the preceding fiscal year. This report is to include the purchase price, term of payments, the amount of each payment and the amount of interest or financing charges paid.

James F. Lynch
Associate Vice President
Phone: (907) 450-8121
Fax: (907) 450-8023



UNIVERSITY
of ALASKA
Many Traditions One Alaska

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PO Box 755120
Fairbanks, AK 99775-5120
Jim.Lynch@alaska.edu

April 2, 2008

The Honorable Michael Chenault
Alaska State Capitol, Room 505
Juneau, AK 99801-1182

RE: HIB 419 Prohibiting Certain Lease and Lease Purchase Agreements

Dear Representative Chenault:

This letter is written in support of your effort to minimize potential abuse of the lease purchase provisions of the procurement code and express concern that the cure not place unnecessary constraints on the procurement professionals or the programs that effectively utilize lease purchases and lease financing. I am the associate vice president for treasury and procurement services for the University of Alaska, and during my 30-year association with the university, have served as its external auditor, internal auditor, chief finance officer, and chief procurement officer. I recently had an opportunity to listen to a recording of the March 27th House Finance Committee discussion of HIB 419.

I believe it was Representative Hawker who expressed concern that certain transactions, which are truly lease purchases from an accounting perspective, might not be captured by the term lease purchase as used in the procurement arena. The definition of a lease purchase in AS 36.30.990 is very broad and virtually identical to the accounting definition of a capital lease. Neither the failure to transfer title, nor the lack of intent to take ownership, prevents a lease from being a "lease purchase" under AS 36.30.

My comments below are based on several observations: (1) that Vern Jones is a very experienced and competent procurement professional and is in a better position than anyone to assess what controls will best minimize the risk of abuse in this area; (2) that lease purchasing and financing is an important procurement vehicle in many circumstances, particularly for departments with constrained or limited budgets; and (3) the university's procurement offices and the state's are seriously understaffed and do not need more broad-based, after-the-fact reporting requirements.

As with any form of risk management, the first step in risk reduction is to isolate the high risk transactions, so that the limited resources available can be utilized most effectively. In this case, isolation based on dollar value is probably the most practical (I would defer to Vern Jones on the appropriate amount). The next step would be to identify the

University of Alaska

The Honorable Michael Chenault

April 2, 2008

Page 2

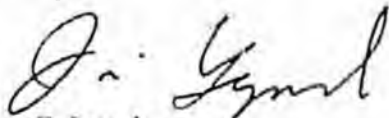
responsible parties and make them personally accountable for the decision. Consider making the head of the user department or agency responsible for identifying the source of repayment and justifying, in writing, that a lease purchase or lease financing option is a better alternative than outright purchase. Then require the procurement officer to make a determination that the lease purchase or lease financing is in the best interest of the state. Intentional violations of best interest documentation and determinations under AS 36.30 are subject to both civil and criminal penalties.

In my opinion, the state's current lease financing program is of such quality and at such competitive rates that instead of prohibiting its use, the state should require that it be used for all large lease purchases and lease financings, unless otherwise approved by an accountable official. This would allow all of the high risk transactions, which you have expressed concern about, to flow through one control process and provide an audit trail of documentation and accountability.

Please do not require detailed reporting to OMB on all lease purchases (consider those over \$50,000, \$100,000 or some reasonable number). This information will have to be calculated and collected by hand because it is not available within our financial systems.

If I can be of any assistance to you in this matter, please let me know.

Sincerely,



James F. Lynch

cc: Vern Jones, State of Alaska Chief Procurement Officer
Pete Kelly, University of Alaska Director for State Relations

State of Alaska Deals

<u>Schedule</u>	<u>Lease #</u>	<u>Department</u>	<u>Maturity Date</u>	<u>3/14/2008</u> <u>Outstanding Principal Balance</u>
1	18286	Dept. of Revenue - Permanent Fund Division	7/15/2004 \$	-
2	18422	Dept. of Transportation & Public Facilities	12/15/2004 \$	-
3	18641	Department of Administration	4/15/2006 \$	-
4	18766	Dept. of Transportation & Public Facilities	7/15/2010 \$	75,044.52
5	18947	Department of Administration, Information Technology Group	10/15/2005 \$	-
6	19167	Department of Administration - General Services Division, Central Mail Services)	2/15/2013 \$	178,595.68
7	19166	Department of Military and Veterans Affairs (Alaska Military Youth Academy)	1/15/2010 \$	-
8	35165	Department of Transportation & Public Facilities	7/15/2010 \$	82,583.17
9	35280	Department of Fish and Game	8/15/2008 \$	-
10	35383	Department of Administration - General Services, Central Mail Services	10/15/2008 \$	34,412.91
11	35729	Department of Corrections	4/15/2010 \$	-
12	35805	Dept. of Transportation & Public Facilities	4/15/2009 \$	45,307.43
13	36498	Department of Administration	1/15/2008 \$	-
14	36499	Dept. of Transportation & Public Facilities	1/15/2010 \$	-
15	36616	Department of Health and Social Services - Alaska Psychiatric Institute	4/15/2010 \$	-
16	36985	Dept. of Public Safety	9/15/2010 \$	-
17	37117	Dept. of Public Safety	12/15/2020 \$	-
18	37262	Dept. of Transportation, Central Region	4/15/2019 \$	672,169.42
19	37269	Department of Administration, General Services Division	1/15/2017 \$	1,172,220.71
20	37270	Department of Administration, General Services Division	1/15/2016 \$	662,948.73
21	37494	University of AK	4/15/2016 \$	712,350.86
22	5323110	Dept. of Transportation & Public Facilities	4/15/2012 \$	-
23	5328770	Regulatory Commission of AK	5/15/2011 \$	507,603.51
24	5451820	University of AK, Fairbanks	10/15/2016 \$	941,206.87
25	38095	Dept. of Transportation & Public Facilities	4/15/2012 \$	2,839,863.06
26	38173	Dept. of Transportation & Public Facilities	7/15/2012 \$	1,223,287.75
27	38180	University of AK, Fairbanks	4/15/2017 \$	126,904.03
28	38252	Department of Administration, Enterprise Technology Services	8/15/2010 \$	3,101,211.50
29	38431	Department of Administration, Enterprise Technology Services	10/15/2014 \$	14,019,874.25
TOTAL			\$	26,397,584.40

Master Lease Summary

Transaction	Date of Entry	Agency	Amount	Term (quarter)	Interest Rate	Purchase
1	9/15/2001	PFD Division	21,065	11	4.06	Photocopiers (2)
2	12/11/2001	DOT	246,692	12	3.87	Loader/ ramp blade/ & Snow Bucket
3	4/15/2002	DOA - Admin. Serv.	237,104	16	4.755	Carpet on 10th Floor SOB
4	7/15/2002	DOT	213,629	32	4.45	Road Crusher
5	7/15/2002	DOA - ITG	4,264,942	12	3.19	Land Radios
6	2/14/2003	DOA - Gen. Svcs.	408,692	40	3.73	20 pieces mail room equipment
7	2/15/2003	DMVA	186,375	28	3.56	three commercial buses
8	7/15/2003	DOT	217,000	28	2.9	Road Crusher
9	9/2/2003	Fish and Game	75,000	20	3.54	Improvements to R/V Solstice
10	10/15/2003	DOA - Gen. Svcs.	214,800	20	3.15	Mail Room Equipment - four pieces
11	4/1/2004	DOC	117,482	24	3.1	Wheel Loader
12	5/3/2004	DOT	170,085	20	3.55	Pothole Patcher
13	1/15/2005	DOA - ETS	564,302	12	3.47	Websense
14	1/14/2005	DOT	238,646	20	3.65	Front End Loader
15	3/30/2005	DH&SS	441,867	20	4.09	Seven phone items
16	9/15/2005	DPS	143,345		4.14	Genetic Analyzer
17	11/7/2005	DPS	2,692,600	60	4.73	Westwind II
18	12/30/2005	DOT	727,819	53	4.73	Building upgrades
19	12/30/2005	DOA	1,319,609	44	4.71	Building upgrades
20	12/30/2005	DOA	765,573	40	4.68	Building upgrades
21	4/14/2006	University	863,755	40	4.77	Equipment Fleet (trucks)
22	4/14/2006	DOT	440,759	24	4.71	Two Loaders
23	5/15/2006	RCA	750,750	20	4.68	Content & Case Management system
24	11/20/2006	University	1,116,796	40	4.677	Equipment Fleet (vehicles)
25	4/13/2007	DOT/PF	3,289,102	20	4.21	Articulating Motor Grader
26	6/8/2007	DOT/PF	1,338,428.83	20	4.32	2 graders/paratransit bus/pole setter/2 dump trucks 1 tractor trailer
27	6/15/2007	University	135,324	40	4.53	Loader/Zamboni
28	7/25/2007	Administration	3,686,854.54	12	4.25	World side tech/cisco systems maintenance contract
29	10/10/2007	Administration	15,000,750	28	4.27	IP Phones/Land Radio

1 * Sec. 10. The following appropriation items are for capital projects and grants from the
 2 general fund or other funds as set out in section 11 of this Act by funding source to the
 3 agencies named for the purposes expressed and lapse under AS 37.25.020, unless otherwise
 4 noted.

	Appropriation	General	Other
	Allocations	Funds	Funds
	Items		
	*****	*****	
	***** Department of Administration *****		
	*****	*****	
10	State of Alaska	10,000,000	-10,000,000
11	Telecommunications System		
12	(SLATS)/Alaska Land Mobile		
13	Radio (ALMR) Build Out and		
14	Support Projects (HD 1-40)		
15	Statewide Administrative	41,000,000	-41,000,000
16	Systems Replacement Phase 2		
17	- Financials and		
18	Procurement System (HD 1-40)		
19	Telephone System	17,000,000	-17,000,000
20	Replacement and		
21	Stabilization Phase 3 (HD		
22	1-40)		
23	The preceding appropriations affecting the department of administration replace the master		
24	lease line of credit fund source with general funds. It is the intent of the legislature that		
25	agencies using the master lease line of credit make debt service payments from regular		
26	operating appropriations.		
27	*****	*****	
28	***** Department of Commerce, Community and Economic Development *****		
29	*****	*****	
30	Climate Change Impact	1,100,000	1,100,000
31	Mitigation Program (HD 1-40)		

1 of 1 DOCUMENT

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF ALASKA

File No. 663-88-0094

1987 Alas. AG LEXIS 180; 1987-2 Op. (Inf.) Atty Gen. Alas. 235

September 17, 1987

TYPE: INFORMAL OPINION

SYLLABUS:

[*1]

SUBJECT: Equipment lease purchase Your file no.: 9095H

REQUESTBY:

Milt Barker
Deputy Commissioner
Department of Revenue

OPINIONBY:

Robert M. Maynard, Assistant Attorney General, Governmental Affairs-Juneau

OPINION:

MEMORANDUM

You have asked for our opinion on the applicability of *AS 36.30.080(c)*, which requires approval by law of lease-financing by the Department of Administration with annual rents exceeding \$ 1 million (effective January 1, 1988), to equipment financing or refinancing. In particular, you are contemplating a proposal whereby the various equipment leases now spread throughout state government would be consolidated under one or more new (or replacement) "master leases" through a particular vendor.

As we read your request, you are asking two questions. First, whether equipment-lease financing falls within the procurement code, and second, whether the provisions of *AS 36.30.080* relating to legislative approval applies to equipment, rather than simply space, leases. The answer to both questions is that equipment-lease financing is covered by the new procurement code and the statutory requirement of legislative approval.

AS 36.30.850(b) provides that "[t]his chapter applies to every expenditure [*2] of state funds irrespective of their sources" except for some carefully worded exceptions that do not apply here. Since the new master lease will involve some expenditure of state funds (even though that expenditure, in some instances, may be less than would otherwise be the case), the provisions of *AS 36.30* apply.

Second, although *AS 36.30.080(a)* is limited by its terms to space leasing, that limitation does not appear in either subsections (b) or (c). The only two potential sources for implying that limitation would come either from the use of the term "rent" in subsection (c), or, as you inquire, by the identification of leases by the "department" as applying to only the Department of Administration (which is presently responsible for space leasing).

Although most commonly used in connection with land or space leases, "rent" is also a term applying to lease payments for other types of property. One may, for example, "rent" a car. *Wells v Allstate Ins. Co.*, 327 F. Supp. 622, 631 (D. S.C. 1971). Given the broad coverage of the state procurement act, we see no reason to imply a limitation to only real property rents that is not expressed.

Second, the indication that it [*3] is leases of the "department," meaning Department of Administration, does not imply a limitation on the type of leases covered by that section. With the effective date of the new procurement code, all leases, not just space leases, will be the responsibility of the Department of Administration. *AS 36.30.005(a)*. Although this authority may be subsequently delegated to other agencies (*AS 36.30.015(a)*), the identification of the Department of Administration in *AS 36.30.080(b)* and (c) does not imply a limitation on the type of leases covered by those sections.

You have not asked, nor do we address, the question of the constitutionality of the requirement of legislative approval in *AS 36.30.080(c)*. We would note, however, that the position of the Department of Law has consistently been that such requirements of legislative approval are unconstitutional as a violation of the doctrine of separation of powers. On the other hand, the consistent practice of administrations has been to respect the Legislature's desire to be involved in major transactions (which lease financings with annual payments of over \$ 1,000,000 would certainly be). Thus, as a matter of comity in these types of [*4] situations, administrations have as a matter of contract made legislative approval a requirement. Since lease-financing arrangements require a high degree of certainty that all applicable laws have been followed, the provisions of *AS 36.30.080(c)* will likely be followed in any event in order to eliminate potential uncertainties.

We would further note, in response to your inquiry, that the provision for legislative approval applies only where a particular lease, master lease, or contract exceeds \$ 1 million in annual rent. If the department enters into two separate master leases with a \$ 500,000 annual payment each, then legislative approval is not required (as long as a separate procurement in conformance with the Code is done for each agreement)

If you have any questions, please do not hesitate to call.

Legal Topics:

For related research and practice materials, see the following legal topics:

Contracts LawTypes of ContractsLease AgreementsGeneral OverviewLabor & Employment LawEmployment RelationshipsEmployment ContractsConditions & TermsGeneral Overview

Sec. 36.30.080. Leases.

(a) The department shall lease space for the use of the state or an agency wherever it is necessary and feasible, subject to compliance with the requirements of this chapter. A lease may not provide for a period of occupancy greater than 40 years. An agency requiring office, warehouse, or other space shall lease the space through the department.

(b) [Repealed, Sec. 11 ch 75 SLA 1994].

(c) If the department, the Board of Regents of the University of Alaska, the legislative council, or the supreme court intends to enter into or renew a lease of real property with an annual rent to the department, University of Alaska, legislative council, or supreme court that is anticipated to exceed \$500,000, or with total lease payments that exceed \$2,500,000 for the full term of the lease, including any renewal options that are defined in the lease, the department, the Board of Regents, the legislative council, or supreme court shall provide notice to the legislature. The notice must include the anticipated annual lease obligation amount and the total lease payments for the full term of the lease. The department, the Board of Regents, the legislative council, and the supreme court may not enter into or renew a lease of real property

(1) requiring notice under this subsection unless the proposed lease or renewal of a lease has been approved by the legislature by law; an appropriation for the rent payable during the initial period of the lease or the initial period of lease renewal constitutes approval of the proposed lease or renewal of a lease for purposes of this paragraph;

(2) under this subsection if the total of all optional renewal periods provided for in the lease exceeds the original term of the lease exclusive of the total period of all renewal options.

(d) When the department is evaluating proposals for a lease of space, the department shall consider, in addition to lease costs, the life cycle costs, function, indoor environment, public convenience, planning, design, appearance, and location of the proposed building.

(e) When the department is considering leasing space, the department should consider whether leasing is likely to be the least costly means to provide the space.

(f) When the department is acquiring leased space of 3,000 square feet or less, the department may procure the leased space using the procedures for small procurements under AS 36.30.320, providing public notice is given to prospective offerors in the market area.

History -

(Sec. 2 ch 106 SLA 1986; am Sec. 1 ch 58 SLA 1990; am Sec. 8, 9 ch 181 SLA 1990; am Sec. 2, 3 ch 73 SLA 1992; am Sec. 3 ch 37 SLA 1993; am Sec. 6, 11 ch 75 SLA 1994; am Sec. 10 ch 137 SLA 1996)

Editors Notes -

Section 3, ch. 58, SLA 1990 provides that the 1990 amendment to AS 36.30.080(c) by Sec. 1, ch. 58, SLA 1990 "applies to an agreement that is entered into on or after June 5, 1990, and does not apply to a lease or to the renewal of a lease if the lease is in existence on June 5, 1990."

AG Opinions -

Equipment-lease financing is covered by the procurement code and the statutory requirement of legislative approval. Sept. 17, 1987 Op. Att'y Gen.

Decisions -

Lease-purchase agreement between Department of Natural Resources and Alaska Court System. - This section (prior to June 7, 1994), Sec. 38.05.035, and Sec. 12, ch. 75, SLA 1994, provided the Department of Natural Resources with authority to enter into a lease-purchase agreement with Alaska Court System for the purchase of a building. Carr-Gottstein Properties v. State, 899 P.2d 136 (Alaska 1995).

Funds placed in escrow for the renovation of a building that was the subject of a lease-purchase agreement between the Department of Natural Resources and Alaska Court System did not constitute unrestricted "program receipts" for deposit in the state treasury and did not violate Alaska Const., art. IX, Sec. 13. Carr-Gottstein Properties v. State, 899 P.2d 136 (Alaska 1995).

Sec. 36.30.990. Definitions.

In this chapter, unless the context in which a term is used clearly requires a different meaning or a different definition is prescribed for a particular provision,

(1) "agency"

(A) means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, the Alaska Veterans' Home, or other administrative unit of the executive branch of state government;

(B) does not include

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation;

(iii) the Alaska Housing Finance Corporation;

(iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Development Corporation;

(vii) the Alaska State Pension Investment Board;

(viii) the Alaska Seafood Marketing Institute;

(2) "change order" means a written order signed by the procurement officer, directing the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order without the consent of the contractor;

(3) "commissioner" means the commissioner of administration;

(4) "competitive sealed bidding" means the procedure under AS 36.30.100 - 36.30.190;

(5) "competitive sealed proposals" means the procedure under AS 36.30.200 - 36.30.260;

(6) "construction" means the process of building, altering, repairing, maintaining, improving, or demolishing a public highway, structure, building, or other public improvement of any kind to real property other than privately owned real property leased for the use of agencies; it includes services and professional services relating to planning and design required for the construction; it does not include the routine operation of a public improvement to real property nor does it include the construction of public housing;

(7) "contract" means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction;

(8) "contract modification" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract;

(9) "department" means the Department of Administration;

(10) "design-build construction contract" means a contract to provide construction in accordance with a design provided by the contractor;

(11) "employment program" means a nonprofit program to increase employment opportunities for individuals with physical or mental disabilities that constitute substantial handicaps to employment;

(12) "grant" means property furnished by the state, whether real or personal, designated by law, including an appropriation Act, as a grant;

(13) "hearing" does not include a hearing in an arbitration;

(14) "lease-financing agreement" means a lease-purchase agreement that secures or is related to financing instruments of the lessor, including revenue bonds or certificates of participation;

(15) "lease-purchase agreement" means a lease that

(A) transfers ownership of the property to the lessee by the end of the lease term;

(B) contains a purchase option at a price less than the fair market value of the property on the date the option is exercisable;

(C) has a term, at inception, equal to 75 percent or more of the economic life of the property; or

(D) contains minimum lease payments, including minimum lease payments during a renewal provided for in the agreement, whose present value at the inception of the agreement equals 90 percent or more of the fair market value at the inception of the agreement of the real property that is the subject of the agreement; the present value shall be determined by using as a discount rate the most recent Bond Buyer 20-Bond G.O. Index;

(16) "person" means a business, individual, union, committee, club, other organization, or group of individuals;

(17) "procurement" means buying, purchasing, renting, leasing, or otherwise acquiring supplies, equipment for the state fleet, services, or construction; it also includes functions that pertain to the obtaining of a supply, equipment for the state fleet, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(18) "procurement officer" means a person authorized to enter into and administer contracts for an agency and make written determinations with respect to them; it also includes an authorized representative of a procurement officer acting within the limits of authority;

(19) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;

(20) "public building" means improved real property leased to the state for governmental, public, or educational use, but does not include improved real property owned by the University of Alaska Heating Corporation and leased to the University of Alaska for a purpose within the scope, as of July 1, 1986, of the heating corporation's charter;

(21) "services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance; it does not include employment agreements or collective bargaining agreements;

(22) "state money" means any money appropriated to an agency or spent by an agency irrespective of its source, including federal assistance except as otherwise specified in AS 36.30.890, but does not include money held in trust by an agency for a person;

(23) "state official" means a public employee, public officer, or official of an agency;

(24) "supplies" means all property of an agency, including equipment, materials, and insurance; it includes privately owned real property leased for the use of agencies, such as office space, but does not include the acquisition or disposition of other interests in land.

History -

(Sec. 2 ch 106 SLA 1986; am Sec. 19 ch 102 SLA 1989; am Sec. 10 ch 30 SLA 1990; am Sec. 10 ch 181 SLA 1990; am Sec. 7 ch 88 SLA 1991; am Sec. 10 ch 31 SLA 1992; am Sec. 3 ch 94 SLA 1992; am Sec. 114 ch 4 FSSLA 1992; am Sec. 2 ch 102 SLA 1995; am Sec. 45 ch 137 SLA 1996; am Sec. 5 ch 35 SLA 1999; am Sec. 15 ch 144 SLA 2003; am Sec. 6 ch 59 SLA 2004)

Revisors Notes -

The paragraphs in this section were renumbered in 1989, 1990, 1996, 1999, and 2003 to retain alphabetical order.

Amendment Notes -

The 2003 amendment, effective October 14, 2003, added paragraph (13).

The 2004 amendment, effective July 1, 2004, inserted "the Alaska Veterans' Home" in paragraph (1)(A), and made stylistic changes.

AG Opinions -

The State Procurement Code does not apply to contracts for the administration of insurance license tests by the Division of Insurance, where the division does not pay any money to the testing service. Instead, all test fees are paid by the applicants directly to the testing service, and therefore, these fees paid do not fit within the definition of state money. Aug. 13, 1991 Op. Att'y Gen.

Decisions -

Cited in *Gunderson v. University of Alaska*, 922 P.2d 229 (Alaska 1996).

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
1	18266	9/15/2001	Dept. of Revenue - Permanent Fund Division	21,066	11	4.06	N/A	10/3/2005	\$ -	Photocopiers (2)	Fully paid	N/A				
2	18422	12/11/2001	Dept. of Transportation & Public Facilities	246,692	12	3.87	N/A	Paid in full prior to FY05 - exact date unknown.	\$ -	Loader/ ramp blade/ & Snow Bucket	Fully paid.	N/A		Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	
3	18641	4/15/2002	Department of Administration	237,104	16	4.755	N/A	In FY03	\$ -	Carpet on 10th Floor SOB	Fully paid.	N/A		Unknown. Current rules of the program would not allow carpet to be financed.	Commissioner's Office	Eric Swanson
4	18766	7/15/2002	Dept. of Transportation & Public Facilities	213,629	32	4.45	N/A	Paid in full prior to FY05 - exact date unknown.	\$ -	Road Crusher	Fully paid.	N/A		Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	
5	18947	10/15/2002	Department of Administration, Information Technology Group	4,264,942	12	3.19	N/A	10/15/2005	\$ -	Land Radios	Fully paid.	N/A	N/A	Timing issues. Federal funding was anticipated, but radios were needed before the funding was available.	Commissioner's Office	Eric Swanson
6	19167	2/14/2003	Department of Administration - General Services Division, Central Mail Services)	408,592	40	3.73	2/15/2013		\$ 170,595.68	20 pieces mail room equipment	AR 11978	SLA 07, Chap 28, pg 2	75485	Equipment was badly needed in a short period of time. The MLOC provided for purchases to be made as equipment was needed.	Commissioner's Office	Eric Swanson
7	19166	2/15/2003	Department of Military and Veterans Affairs (Alaska Military Youth Academy)	186,175	28	3.56	N/A	6/23/2006	\$ -	Three commercial buses	Fully paid.	N/A				
8	35165	7/15/2003	Department of Transportation & Public Facilities	217,000	28	2.9	7/15/2010	No	\$ 82,583.17	Road Crusher	AR 57506 & AR 57694	296-40	75480	Insufficient HEWCF funding available to meet department's immediate operations needs.	Regional Director	Howard Thies
9	35280	9/2/2003	Department of Fish and Game	75,000	20	3.54	8/15/2008	Sep-04	\$ -	Improvements to RV Solstice	Fully paid. CF Central Region AR 41504 Commercial Fisheries used operating funds to make 3 payments and the bid off the 'Key Bar k' in September, 04 in the sale of the RV Montague proceeds (AR 43375)	N/A	73270	Needed funds to complete work on RV Solstice which had just been purchased by the dept.	Kevin Brooks ADF&G Admin Service Director signed the agreement	Roberta Fisher, Commercial Fisheries Admin Officer

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
10	35383	10/15/2003	Department of Administration - General Services, Central Mail Services	214,800	20	3.15	10/15/2008	No	\$ 34,412.91	Mail Room Equipment - four pieces	AR 11978	SLA 07, Chap 28, pg 2	75485	Equipment was badly needed in a short period of time. The MLOC provided for purchases to be made as equipment was needed.	Commissioner's Office	Eric Swanson
11	35729	4/1/2004	Department of Corrections	117,482	24	3.1	4/15/2010	1/3/2008	\$ -	Wheel Loader State Tag #35260 Serial No: JEE0135705 - purchased from Yukon Equip, Anch, AK	Spring Creek Corr Ctr AR 50674		75480	DOC desire to participate in a Master Financing Contract for acquisition of State property.	Jerry Burnett, Director Admin Serv DOC, and Dept of Revenue staff	Laura Lynk, Accountant 465-4641
12	35805	5/3/2004	Dept. of Transportation & Public Facilities	170,085	20	3.55	4/15/2009	No	\$ 45,307.43	Pothole Patcher	AR 57506 & AR 57694	296-40	75480	Insufficient HEWCF funding available to meet department's immediate operations needs	Regional Director	Howard Thies
13	36498	1/15/2005	Department of Administration	564,302	12	3.47	1/15/2008	1/15/2008	\$ -	Websense	AR 11972	SLA 07, Chap 28, pg 3	75485	Timing issues. Funding was needed for the bandwidth conservation and security measures provided by Websense. Other software solutions were failing, which added to the urgency.	Commissioner's Office	Eric Swanson
14	36499	1/14/2005	Dept. of Transportation & Public Facilities	238,646	20	3.65	1/15/2010	7/10/2007	\$ -	Front End Loader	Fully paid. AR 57506 & AR 57694	N/A	75480	Insufficient HEWCF funding available to meet department's immediate operations needs	Regional Director	Howard Thies

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
15	36616	3/30/2005	Department of Health and Social Services - Alaska Psychiatric Institute	441,867	20	4.09	N/A	8/8/2007	\$ -	Cisco IP Telphony equipment, software, and extended maintenance agreements.	Fully paid. AR 26675-05 AR 24028-06 AR 23617-06 AR 24028-07	CH85/SLA99/P9/L9 CH4/SLA05/P18/L21 CH8/SLA94/P3/L30 CH33/SLA06/P19/L3	73822 73402 73402 73687	The original plan for the new API facility was to bring over existing phone system from old API at a very nominal cost to the project. In fact ACS, the State's contractor at that time, was in the process of pulling cable in the new facility when the previous administration terminated their contract. As a result ACS stopped pulling cable in the middle of the project. We were then informed that GCI had been awarded the contract and that the State's technology group had determined the new state standard for phone systems would be VoIP. The Department was required to comply. The cost of this system was over \$400,000. We were concerned that there was insufficient contingency funds to cover both a VoIP system and other changes that could occur prior to project completion of the new API.	The decision was made by the Assistant Commissioner, in consultation with the API project team. In consultation with DOT's Project Manager and the DHSS project team, it was determined that we would lease purchase the VoIP system and make payments from API's operating budget and pay off the lease with any left over capital project funds.	Arnold Liebelt - 465-1870

Master Lease Summary

No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
16	36985	9/15/2005	Dept. of Public Safety	143,345		4.14	9/15/2010	2/21/2006	\$ -	Genetic Analyzer	Laboratory Services (Crime Lab)	FY2008 book, page 255-12	75870	Fed Receipts existed, however, the actual receipt of sufficient grant funds was delayed, so the master lease program was used. Only one quarterly payment (using existing Fed \$) was made on the master lease prior to receiving the additional Fed funds from a FFY05 DNA Capacity Enhancement grant. Once received, the Fed funds were used to pay off the remaining principal. The reason for the timing of the purchase was due to receiving a significantly reduced price by purchasing the equipment on sale.	Commissioner Tandeske	Dan Spencer
17	37117	11/7/2005	Dept. of Public Safety	2,692,600	60	4.73	12/15/2020	8/23/2007	\$ -	Westwind II	Capital AR 47927 & AR 47962	N/A	75751		Governor's Office	Dan Spencer
18	37262	12/30/2005	Dept. of Transportation, Central Region	727,819	53	4.73	4/15/2019	No	\$ 672,169.42	Building upgrades	AR 57670 & AR 57845	259-11	73526	Will provide energy cost savings - those savings are being used to pay the debt service.	Statewide Facilities Chief and Regional Director	Jcel St. Aubin
19	37269	12/30/2005	Department of Administration, General Services Division	1,319,609	44	4.71	1/15/2017	No	\$ 1,172,220.71	Building upgrades	Facilities AR 11801	SLA 07, Chap 2B, pg 3	73526	Timing issues. Funding to pay for the contracts, which provide energy efficiencies in state owned facilities, was required in a short period of time. The efficiencies were estimated to result in cost savings in excess of the cost of the contracts	Commissioner's Office	Eric Swanson

Master Lease Summary

Lease No.	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
20	37270	12/30/2005	Department of Administration, General Services Division	765,573	40	4.68	1/15/2016	No	\$ 662,948.73	Building upgrades	Non-PBF Facilities AR 11810	SLA 07, Chap 28, pg 3	73526	Timing issues. Funding to pay for the contracts, which provide energy efficiencies in state owned facilities, was required in a short period of time. The efficiencies were estimated to result in cost savings in excess of the cost of the contracts.	Commissioner's Office	Eric Swanson
21	37494	4/14/2006	University of AK	863,755	40	4.77	4/1/2016	No	\$ 712,350.86	Equipment Fleet (trucks)	Fairbanks Campus Vehicle purchases are considered a part of UA's normal operating expenditures and therefore do not go through the capital budget process. The yearly debt payments are recouped through all departments that are utilizing the vehicles.	FY09 146-1	NA	This is an expense that will re-occur on a 5 - 10 year cycle. This program allows it to be built into the operating budget.	UAF Vice Chancellor	Myron Dosch 450-8070
22	5323110	4/14/2006	Dept of Transportation & Public Facilities	440,759	24	4.71	N/A	paid in full 8/29/06	\$ -	Two Loaders	AR 60964	N/A	75760	Timing issue to meet fleet requirement and cash needs - not an appropriation issue.	State Equipment Fleet General Manager	Diana Rotkis
23	5328770	5/15/2006	Regulatory Commission of AK	750,750	20	4.68	5/15/2011	No	\$ 507,603.51	Content & Case Management system	AR 29640-07 29640-08 29640-09 29640-10 29640-11		75755	Lease program and two capital appropriations were used. Lease allowed the starting of the IT project sooner.	Previous Chair of the RCA and previous director of Administrative Services	Phil Bennett
24	5451820	11/20/2006	University of AK, Fairbanks	1,116,756	40	4.677	10/15/2016	No	\$ 941,206.87	Equipment Fleet (vehicles)	Fairbanks Campus	FY09 146-1	N/A	This is an expense that will re-occur on a 5 - 10 year cycle. This program allows it to be built into the operating budget.	UAF Vice Chancellor	Myron Dosch 450-8070
25	38095	4/13/2007	Dept of Transportation & Public Facilities	3,289,102	20	4.21	4/15/2012	No	\$ 2,839,863.06	Articulating Motor Grader	AR 82802	Capital project #30628	75760	Timing issue to meet fleet requirement and cash needs - not an appropriation issue.	State Equipment Fleet General Manager	Diana Rotkis
26	38173	6/8/2007	Dept of Transportation & Public Facilities	1,338,428.83	20	4.32	7/15/2012	No	\$ 1,223,287.75	Two graders Paratransit bus Pole setter Two dump trucks One tractor trailer	AR 82802	Capital project #30628	75760	Timing issue to meet fleet requirement and cash needs - not an appropriation issue.	State Equipment Fleet General Manager	Diana Rotkis

Master Lease Summary

No	Lease Number	Date of Entry	Agency	Amount	Term (quarters)	Interest Rate	Maturity Date	Paid off? If so, when?	Outstanding Principal Balance as of 3/14/08	Purchase	Describe where funds are derived to pay for master lease costs (Component and AR)	Detail budget book page number	AKSAS exp. code	Why was the decision made to use the master lease program and not through an appropriation process, such as the capital budget?	Who made the decision to use the master lease program?	Department Contact for any additional questions.
27	38180	6/15/2007	University of AK, Fairbanks	135,324	40	4.53	4/15/2017	No	\$ 126,904.03	Loader/Zamboni	Fairbanks Campus The yearly debt payments for the loader are recouped through parking fees. The yearly debt payments for the zamboni are recovered through fees charged to use the Patty Ice Arena.	FY09 146-1	N/A	This is an expense that will re-occur on a 5 - 10 year cycle. This program allows it to be built into the operating budget.	UAF Vice Chancellor	Myron Dosch 450-8070
28	38252	7/25/2007	Department of Administration, Enterprise Technology Services	3,686,854.54	12	4.25	7/15/2010	No	\$ 3,101,211.50	World Wide Tech/Cisco Systems maintenance contract	ETS AR 11972	SLA 07, Chap 28, pg 3	75485	Timing issues. Funding was quickly needed to purchase Smart Net, a software and hardware assurance contract, to provide software patching and equipment failure replacement. By purchasing a three-year contract we saved \$120,000, including financing costs, over what it would have cost for three one-year contracts.	Commissioner's Office	Eric Swanson
29	38431	10/10/2007	Department of Administration, Enterprise Technology Services	15,000,750	28	4.27	10/15/2014	No	\$ 14,019,874.25	IP Phones/Land Radio	Debt appropriation	sec 26, ch 30, SLA 2007, page 154		This was appropriated with the Master Lease financing mechanism in the FY2008 capital budget	Commissioner's Office	Eric Swanson

HB

422

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number _____
Bill Version HB 422
() Publish Date _____

Identifier (file name): HB422-CED-CRA-03-31-08 Dept. Affected: DCCED
Title Children's Trust Grant for Endowment RDU Comm Asst & Ec Dev (405)
Component Community & Regional Affairs
Sponsor Health, Education & Social Services
Requester Health, Education & Social Services Component Number 2879

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0	0.0

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

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 00

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation would require the department to prepare and execute a grant agreement with a named recipient. The purpose of the grant would be to administer six specific provisions relating to the management and use of an endowment fund to benefit community based programs and projects in the state that aid in the prevention of child abuse and neglect. These provisions would be contingent upon the appropriation of the unencumbered balance of the Alaska children's trust as a grant to a named recipient for these purposes and would be effective upon the date of the appropriation. The department assumes this would be a straight pass-through grant to a named recipient and that the division would not be required to provide any program assistance or assistance in developing the six specific grant provisions. This would be accomplished with existing resources. Any work beyond finalizing the grant and making one-time annual grant agreements to the named recipient would require resources.

Prepared by Tara Jollie, Director
Division Community and Regional Affairs
Approved by Emil R. Notti, Commissioner
Agency Commerce, Community, and Economic Development

Phone 907 269 7959
Date/Time 3/31/08 12:41 PM
Date 3/31/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 422
 (H) Publish Date: 3/31/08
 Dept. Affected: Health & Social Services
 RDU: Children's Services
 Component: Children's Trust Programs

ID(File name) HB422-DHSS-CTP-03-28-08
 Title: CHILDREN'S TRUST GRANT FOR ENDOWMENT
 Sponsor: HOUSE HES
 Requester: HOUSE HES

Component No. 2251

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation		Information					
	Required		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel	(13.2)	13.2	(13.2)	(13.2)	(13.2)	(13.2)	(13.2)	(13.2)
Contractual	(790.0)	790.0	(790.0)	(790.0)	(790.0)	(790.0)	(790.0)	(790.0)
Supplies	(1.5)	1.5	(1.5)	(1.5)	(1.5)	(1.5)	(1.5)	(1.5)
Equipment								
Land & Structures								
Grants & Claims	(415.0)	415.0	(415.0)	(415.0)	(415.0)	(415.0)	(415.0)	(415.0)
Miscellaneous								
TOTAL OPERATING	(1,219.7)	1,219.7	(1,219.7)	(1,219.7)	(1,219.7)	(1,219.7)	(1,219.7)	(1,219.7)
CAPITAL EXPENDITURES								
CHANGE IN REVENUES (0)								

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(630.0)	630.0	(630.0)	(630.0)	(630.0)	(630.0)	(630.0)
1003 GF Match							
1004 GF							
1037 GF/Mental Health							
Other(Interagency Receipts 1006)	(40.0)	40.0	(40.0)	(40.0)	(40.0)	(40.0)	(40.0)
Other(1098 & 1099-see * below)	(549.7)	549.7	(549.7)	(549.7)	(549.7)	(549.7)	(549.7)
TOTAL	(1,219.7)	1,219.7	(1,219.7)	(1,219.7)	(1,219.7)	(1,219.7)	(1,219.7)

Estimate of any current year (FY2008) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

* NOTE: Due to limited space, the fund source information located in the bottom "Other" line is a combination of fund 1098, Children's Trust Earnings -399.7 and 1099, Children's Trust Principal -150.0 for a total of -549.7.

This bill repeals the Alaska Statutes pertaining to the Alaska Children's Trust and transfers the unencumbered balance of the funds to a named recipient organized for charitable purposes to hold in trust for child abuse and neglect prevention activities and programs.

Unusable federal and interagency receipt authority will be deleted as well as the one position associated with the Alaska Children's Trust component. (Continued on Page 2)

Prepared by: Tammy Sandoval, Director
 Division: Office of Children's Services
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 269-3410
 Date/Time: 03/28/2008
 Date: 03/28/2008

STATE OF ALASKA
2008 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

This bill does not address the remaining federal funds granted by the Department of Justice, Office of Juvenile Justice for the project titled Child Abuse Prevention Project. These funds have been used mainly to purchase educational advertising regarding child abuse prevention and have been managed through the trust. The current balance of the grant is \$265.6 and the grant is scheduled to expire Sept. 30, 2008.

SW

AMENDMENT 1

OFFERED IN THE HOUSE
TO: HB 422

By: Rep. Meyer
by Request

- 1 Page 3, lines 6 - 7:
- 2 Delete "Department of Commerce, Community, and Economic Development"
- 3 Insert "Department of Health and Social Services"
- 4
- 5 Page 3, line 7, following "recipient":
- 6 Insert ", to be administered by the Department of Commerce, Community, and
- 7 Economic Development,"
- 8
- 9 Page 3, line 19, following "revenue":
- 10 Insert ", the commissioner of commerce, community, and economic development,"



Health, Education, and Social Services Committee
Alaska State Legislature
House of Representatives
Representative Peggy Wilson - Chair

SPONSOR STATEMENT

House Bill 422

"An act repealing the Alaska Children's Trust; establishing conditions for a grant of the balance of the Alaska Children's Trust; designating certain receipts as available for grants to the recipient of the amount representing the assets of the Alaska Children's Trust; and providing for an effective date."

The Alaska Children's Trust (ACT) was established in 1988 with the goal of improving the status of children in Alaska by generating funds and committing resources to eliminate child abuse and neglect. The initial legislative appropriation was made in 1996 for \$6 million. Today, the Alaska Children's Trust totals nearly \$12 million. The Alaska Children's Trust Board is established in the Office of the Governor, and receives grants and contract support from the Department of Health and Human Services. Seven trustees, appointed by the Governor oversee the fiduciary and grant-making functions of the Alaska Children's Trust. A portion of the interest from the earnings of the Trust funds grants to community-based prevention programs and services. The dollars available for annual grant making are limited to a maximum amount by state statute.

The Trustees of the Alaska Children's Trust (ACT) and the Board of Directors of the Friends of the Alaska Children's Trust (FACT), the 501(c)(3) non-profit organization established to raise funds and advocate for the mission of the Alaska Children's Trust, have engaged in activities to assess the effectiveness of the Trust in accomplishing its mission and to plan for the future of the Trust including how FACT can help to accomplish that mission. These activities included strategic planning, research on the structure of children's trusts in other states, and an organizational assessment completed by The Giving Practice (Philanthropy Northwest). The ACT and FACT boards have determined that:

- Under the current structure, FACT is unable to accomplish its primary purposes, which are to raise funds and advocate for the Alaska Children's Trust. Donors do not want to make contributions to the State, FACT is not able to guarantee donor intent is honored, and FACT Directors are not willing to raise money that may or may not be used as donors intend.
- Unless significant changes are made, the current administrative structure of the Trust within the State does not allow for reliable, stable budget funding for grant-making.
- Given the Trust's small operating budget and the size of the grant awards, many community-based organizations that are well poised to offer community-based solutions are unlikely to apply because of the administrative burden relative to the small size of grant awards.

Testimony for House Bill 422 for Finance Committee

My name is Kaye Kanne and I am a Certified Direct-Entry Midwife and the Executive Director of the Juneau Family Birth Center. I am testifying in support of the decision of the trustees that the Alaska Children's Trust be privatized. It is the belief that the mission of the Trust to prevent the abuse of Alaska's children would more effectively and efficiently be carried through a private entity, and that the Trust will be more successful in attracting new private donations as a non-governmental entity.

I understand that the House version of this bill will not only preserve the assets of the Trust to support programs that address child abuse awareness and prevention, but retains state influence through the Governors appointment of a majority of board members and preserves the present revenue sources of license plates and birth and death certificate for the trust.

The Alaska Children's Trust is a valuable funding organization trying to meet a crucial need in Alaska to provide funding for organizations that work to prevent child abuse and neglect. I fully support their mission and wish to see a more streamlined and simplified administrative structure would greatly enhance the Trust's ability to pursue its mission efficiently and effectively. This legislation will help them achieve that goal.

The **Strength in Families Program**, a program of the Juneau Family Birth Center, is a prevention and support program designed to positively influence families, parents, and children before child abuse or neglect occurs. This program is generously funded by the Alaska Children's Trust and has been designed to serve all families -- but especially families who are at-risk and under-served -- and exists as a program within the context of a community family center, birth center, and clinic. The program utilizes education, support, and health care from a team of providers including a physician, midwives, doulas, and educators. Without the support of the Alaska Children's Trust we would not be able to offer this valuable program.

Kaye Kanne, CDM
P.O. Box 22256
Juneau, Alaska 99802
(h) 907-586-0184
(c) 907-321-0184

ALASKA CHILDREN'S TRUST



Kids. You gotta love 'em!

April 4, 2008

Representative Kevin Meyer
Alaska State Legislature
State Capitol, Room 515
Juneau, AK 99801-1182

Dear Representative Meyer:

Please accept this letter as an indication of our support for **HB 422, CHILDREN'S TRUST GRANT FOR ENDOWMENT**. As trustees for the Alaska Children's Trust (ACT), it is our belief that transitioning management of the ACT fund into an endowment model capitalizes on best practices in the endowment world, and will result in greater performance and growth of the ACT fund over time.

The Alaska Children's Trust, was founded in 1988 and now maintains a stewardship of nearly \$12 million. ACT awards grants to community-based child abuse prevention programs in the state of Alaska and collaborates with national and statewide organizations to identify and promote prevention strategies with proven effectiveness.

- Funding is focused on programs which promote healthy parenting skills and strengthen families.
- The ACT created the Alaska Parent Line, 1-800-643-KIDS, to provide a way for parents to seek help if they need it.
- Through its funding practices, media messages and collaborations, the ACT is helping to reframe the discussion around child abuse and neglect from one which focuses on deficits and fear to one which promotes family strengths and resiliency. This effort will better serve to engage the community as a whole and reach more families with prevention strategies long before the risk of abuse occurs.

We truly appreciate your support for our ongoing efforts to eliminate child abuse and neglect in the State of Alaska. Please feel free to contact the ACT's Executive Director, Pam Lucier to answer any questions about the activities of the Children's Trust. She can be reached at 907-248-7676.

Sincerely,

Kaye Saxon
Chair

ALASKA CHILDREN'S TRUST
BOARD OF TRUSTEES

- ◆ Kaye Saxon, Chair
- ◆ Karleen Jackson
Commissioner, Health &
Social Services
- ◆ Barbara Thompson,
Commissioner
Education & Early
Development
- ◆ Diane Kaplan
- ◆ Manguerita Maassen-
Gilbertson
- ◆ Margaret Volz

EXECUTIVE DIRECTOR

- ◆ Pam Lucier

THE ALASKA PARENT LINE:
1-800-643-KIDS (5437)

P.O. Box 92155 • Anchorage, Alaska 99509-2155 • 248-7676

Building community support to eliminate child abuse and neglect in Alaska



Health, Education, and Social Services Committee
Alaska State Legislature
House of Representatives
Representative Peggy Wilson - Chair

SPONSOR STATEMENT

House Bill 422

"An act repealing the Alaska Children's Trust; establishing conditions for a grant of the balance of the Alaska Children's Trust; designating certain receipts as available for grants to the recipient of the amount representing the assets of the Alaska Children's Trust; and providing for an effective date."

The Alaska Children's Trust (ACT) was established in 1988 with the goal of improving the status of children in Alaska by generating funds and committing resources to eliminate child abuse and neglect. The initial legislative appropriation was made in 1996 for \$6 million. Today, the Alaska Children's Trust totals nearly \$12 million. The Alaska Children's Trust Board is established in the Office of the Governor, and receives grants and contract support from the Department of Health and Human Services. Seven trustees, appointed by the Governor oversee the fiduciary and grant-making functions of the Alaska Children's Trust. A portion of the interest from the earnings of the Trust funds grants to community-based prevention programs and services. The dollars available for annual grant making are limited to a maximum amount by state statute.

The Trustees of the Alaska Children's Trust (ACT) and the Board of Directors of the Friends of the Alaska Children's Trust (FACT), the 501(c)(3) non-profit organization established to raise funds and advocate for the mission of the Alaska Children's Trust, have engaged in activities to assess the effectiveness of the Trust in accomplishing its mission and to plan for the future of the Trust including how FACT can help to accomplish that mission. These activities included strategic planning, research on the structure of children's trusts in other states, and an organizational assessment completed by The Giving Practice (Philanthropy Northwest). The ACT and FACT boards have determined that:

- Under the current structure, FACT is unable to accomplish its primary purposes, which are to raise funds and advocate for the Alaska Children's Trust. Donors do not want to make contributions to the State, FACT is not able to guarantee donor intent is honored, and FACT Directors are not willing to raise money that may or may not be used as donors intend.
- Unless significant changes are made, the current administrative structure of the Trust within the State does not allow for reliable, stable budget funding for grant-making.
- Given the Trust's small operating budget and the size of the grant awards, many community-based organizations that are well poised to offer community-based solutions are unlikely to apply because of the administrative burden relative to the small size of grant awards.



Health, Education, and Social Services Committee
Alaska State Legislature
House of Representatives
Representative Peggy Wilson - Chair

- Current Trust statute does not allow donations to the ACT to be used for programming. Therefore, federal, or any other potential programming donations must currently be funneled either through the state government or to FACT, complicating the ACT board's ability to properly exercise its responsibilities or easily influence the use of funds.
- While the Trust greatly benefits from gubernatorial appointment of trustees, it would also benefit from expanding the size of the board. A combination of gubernatorial appointees and self-appointed board members would ensure both the adequate oversight of the public dollars and individuals who are able to actively engage in promoting the mission of the organization.

The legal opinion from the Legislative Affairs Agency for the State of Alaska, stated, "Privatizing the fund would require a repeal of the fund and some transfer provision for the existing principal."

HB 422 would formulate legislation that would preserve the present revenue sources of license plates and birth and marriage certificates for the trust and allow for State oversight of the funds through a Governor-appointed board. The current governance structure of the Trust will remain intact with the Governor of Alaska continuing to appoint a majority of trustees and the Commissioners of the Departments of Health and Social Services and Education and Early Development remain ex-officio, voting members of the Trust. Furthermore, through privatization, the mission of the Trust to prevent the abuse of Alaska's children would more effectively and efficiently be carried through a private entity, and the Trust will be more successful in attracting new private donations as a non-governmental entity.

HB 422 would allow the legislature to use the annual estimated balance of the account maintained by the commissioner of administration to make a named recipient grant to the Alaska Community Foundation to be governed by the gubernatorially appointed ACT board. Under the Alaska Community Foundation, the ACT will have greater flexibility to create a more streamlined and simplified administrative structure that would greatly enhance the Trust's ability to pursue its mission efficiently and effectively.

The Trustees of the Alaska Children's Trust, with the support of the Friends of the Alaska Children's Trust have recommended to the Governor and the Alaska Legislature that the Alaska Children's Trust be privatized.