ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5526 SSTA SB 327 - SB 328

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX O, JUNEAU, ALASKA 99811-1800 (907) 465-2600

POSITION PAPER SB 327

Title

An Act Relating to Oil Discharge Contingency Plans

Effect of the Bill

The bill would require that holders of oil discharge contingency plans maintain the capability to carry out their approved plans. The bill would also establish penalties for failure to maintain this capability.

Department Position

The Department supports the bill.

Fiscal Effect

The Department has provided a zero fiscal note on the bill.

Dennis D. Kelso
Commissioner

March 25, 1988
Date

STEVE COWPER
GOVERNOR

'27

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the requirements for oil discharge contingency plans.

Under AS 46.04.030, the operators of large oil terminal facilities, offshore exploration or production facilities, tank vessels, and oil barges must submit oil spill contingency plans to the Department of Environmental Conservation. The purpose of the contingency plans is to demonstrate the operator's ability to contain, clean up, and mitigate the effects of oil spills into the environment. Recent spills have shown that the contingency plan requirement may be inadequate if the operators do not in fact have the capability of carrying out their own contingency plans. This bill would clarify that the department may require operators to show that they are actually capable of implementing their contingency plans, and that filing a plan without having the capability of carrying it out is a violation of state law.

Section 1 of the bill amends AS 46.04.030(e) to make explicit that the department may require an operator to demonstrate its ability to carry out the plan, by requiring training, spill exercises, and inventories of equipment and personnel that would actually be available in the case of a spill.

Section 2 makes explicit that the operator is actually required to have the capability to carry out its plan, and that the existing sanctions for violations of the chapter would apply if the operator failed to maintain that capability and failed to use it when necessary.

I urge your support of this measure.

Sincerely,

Steve Cowper
Governor

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION :
PUBLISH DATE :

FISCAL NOTE

REQUEST:

Revision Date:
Title : Oil Discharge Contingency Plans
Sponsor : Rules Committee
Requestor : Governor

Agency Affected : DEC
BRU : Environmental Quality
Components : All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The proposal will have no fiscal impact.

Prepared by : Amy Kyle akk
Division : Commissioner's Office
Phone : 465-2600
Date : 3 Dec 87

Approved by Commissioner : [signature]
Agency : DEC
Date : 9 Dec 87

Distribution (by preparer) :
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

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OFFICE OF THE COMMISSIONER
P.O. BOX O, JUNEAU, ALASKA 99811-1800

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C

January 29, 1988

RECEIVED JAN 29 1988

The Honorable Mitch Abood
Chairman
State Affairs Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

I am writing to request that you schedule SB 327 for hearing before the Senate State Affairs committee.

This bill, introduced by Governor Cowper, would improve the state's existing law governing prevention and response to oil spills. The bill will address deficiencies identified in part as a result of the oil spill in Cook Inlet from the tanker Glacier Bay last summer.

The state's oil pollution control program requires that oil terminals and tankers over a certain size prepare plans to respond to oil spills. These are referred to as oil spill contingency plans.

The bill would do two things. First, it would establish penalties for facilities that fail to maintain the capability to implement their approved oil spill contingency plans. This is important so that we can ensure that the contingency planning process is not just a paper exercise, but results in actual readiness.

The second purpose of the bill is to give the Department the clear authority to require drills or other specific steps needed to ensure that plans are capable of being carried out in the field.

I believe that this legislation is very important to the state's oil pollution control program and would very much appreciate an early hearing on this subject. Thank you very much for your consideration.

Sincerely,

Amy D Kyle / for
Dennis D. Kelso
Commissioner

cc: Senator Rick Uehling
Senator Willie Hensley
Senator Joe P. Josephson
Senator Ken Fanning

(8) "vessel" means any form or manner of watercraft, whether or not capable of self-propulsion, except offshore platforms. (§ 1 ch 129 SLA 1977; am §§ 1-3 ch 128 SLA 1978; am § 110 ch 59 SLA 1982; am § 19 ch 59 SLA 1986)

Revisor's notes. — In 1987, a reference in paragraph (b)(1) to "(3) of this subsection" was changed to "(2) of this subsection" to correct a manifest error.

Cross references. — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

For schedule of civil penalties under (b) of this section, see 18 AAC 75.510 — 18 AAC 75.600.

Effect of amendments. — The 1986 amendment repealed subsection (k), concerning the "oil spill mitigation account."

Editor's notes. — The effective date (referred to in (e) of this section) of the regulation adopting the schedules is April 19, 1978.

Sec. 46.03.760. Civil action for pollution; damages. (a) A person who violates or causes or permits to be violated a provision of this chapter other than AS 46.03.250 — 46.03.314, or a provision of AS 46.04 or AS 46.09, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04 or AS 46.09 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than $500 nor more than $100,000 for the initial violation, nor more than $5,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, which shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged.

(b) Except as determined by the court under (f)(4) of this section, actions under this section may not be used for punitive purposes, and sums assessed by the court must be compensatory and remedial in nature.

(c) The court, upon motion of the department or upon its own motion, may defer assessment of all or part of that portion of the sum imposed upon a person under (a)(3) of this section conditioned upon the person complying, within the shortest feasible time, with the requirement for which a violation is shown.

(d) As used in this section, "economic savings" means that sum which a person would be required to expend for the planning, acquisition, siting, construction, installation and operation of facilities necessary to effect compliance with the standard violated.

(e) In addition to liability under (a) — (d) of this section, a person who violates or causes or permits to be violated a provision of AS 46.03.740 — 46.03.750 is liable to the state, in a civil action brought under AS 46.03.822, for the full amount of actual damages caused to the state by the violation, including direct and indirect costs associated with the abatement, containment or removal of the pollutant, restoration of the environment to its former state, and all incidental administrative costs.

(f) A person who violates or causes or permits to be violated a provision of AS 46.03.250 — 46.03.314, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under AS 46.03.250 — 46.03.314 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than $500 nor more than $100,000 for the initial violation, nor more than $10,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged; and

(4) the need for an enhanced civil penalty to deter future noncompliance. (§ 3 ch 120 SLA 1971; am § 9 ch 220 SLA 1976; am § 5 ch 266 SLA 1976; am §§ 5, 6 ch 116 SLA 1980; am §§ 5 — 7 ch 77 SLA 1984; am § 9 ch 59 SLA 1986)

Cross references. — For oil pollution control, see AS 46.04. For provision that actions brought under (a) and (e) of this section may be brought directly against insurers or other persons providing evidence of financial security, see AS 46.04.040(e).

Effect of amendments. — The 1984 amendment substituted "other than AS 46.03.250 — 46.03.314, or a provision of" for "or" in the introductory language of subsection (a) and made a series of technical changes through the rest of this subsection, added "Except as determined by the court under (f)(4) of this section" at the beginning of subsection (b), and added subsection (f).

The 1986 amendment in the introductory language of subsection (a) inserted "or AS 46.09" in two places.

NOTES TO DECISIONS

This section and AS 46.03.790 held not unconstitutional. — See Stock v. State, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974) decided prior to the 1976 amendment of those sections.

Quoted in State v. Alaska Int'l Air, Inc., Sup. Ct. Op. No. 1409 (File No. 2808), 562 P.2d 1064 (1977).

Collateral references. — Injunction against pollution of stream by private persons or corporations. 46 ALR 8.

When statute of limitations commences to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

Tenant's remedy against stranger for wrongful pollution of waters. 12 ALR2d 1234.

Measure and elements of damages for pollution of well, cistern, or spring. 19 ALR2d 769.

Measure and elements of damages for pollution of stream. 49 ALR2d 253.

Landowner's right to relief against pollution of his water supply by industrial or commercial waste. 39 ALR3d 910.

Maintainability in state court of class action for relief against air and water pollution. 47 ALR3d 769.

Preliminary mandatory injunction to prevent, correct, or reduce effects of polluting practices. 49 ALR3d 1239.

Liability of water supplier for damages resulting from furnishing impure water. 54 ALR3d 936.

Validity of state statutory provision permitting administrative agency to impose monetary penalties for violation of environmental pollution statute. 81 ALR3d 1258.

Recovery in trespass for injury to land caused by airborne pollutants. 2 ALR4th 1054.

Sec. 46.03.765. Injunctions. The superior court has jurisdiction to enjoin a violation of this chapter, AS 46.04, or AS 46.09 or of a regulation, a lawful order of the department, or permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter, AS 46.04, or AS 46.09. In actions brought under this section, temporary or preliminary relief may be obtained upon a showing of an imminent threat of continued violation, and probable success on the merits, without the necessity of demonstrating physical irreparable harm. The balance of equities in actions under this section may affect the timing of compliance, but not the necessity of compliance within a reasonable period of time. (§ 10 ch 220 SLA 1976; am § 6 ch 266 SLA 1976; am § 7 ch 116 SLA 1980; am § 10 ch 59 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence inserted "or AS 46.09" in two places and substituted a comma for "or" following "this chapter" in two places in the first sentence.

Sec. 46.03.770. Detention of vessel without warrant as security for damages. A vessel that is used in or in aid of a violation of AS 46.03.740 — 46.03.750 may be detained after a valid search by the department, an agent of the department, a peace officer of the state, or an authorized protection officer of the Department of Fish and Game.

Revisor's notes. — In 1982, three references in (a) of this section were changed from "AS 43.04" to "AS 46.04" to correct a manifest error.

Effect of amendments. — The 1986 amendment in subsection (a) inserted "or AS 46.09," in three places and substituted a comma for "or" following "this chapter" in three places.

Sec. 46.03.790. Criminal penalties. (a) Except as provided in (d) — (f) of this section, a person who negligently violates a provision of this chapter, AS 46.04, or AS 46.09, or of a regulation, lawful order of the department, or permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter, AS 46.04, or AS 46.09 is guilty of a class B misdemeanor.

(b) Except as provided in (d) — (f) of this section, a person who knowingly violates a provision of this chapter, AS 46.04, or AS 46.09, or of a regulation, lawful order of the department, or permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter, AS 46.04, or AS 46.09 is guilty of a class A misdemeanor.

(c) Each day on which a violation described in this section occurs is considered a separate violation.

(d) Notwithstanding (a) and (b) of this section, a person who fails to provide or falsely states information required under AS 46.03.755, AS 46.04, or AS 46.09 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $25,000, or by imprisonment for not more than one year, or by both. Each unlawful act constitutes a separate offense.

(e) Notwithstanding (a) and (b) of this section, a person who knowingly (1) transports any hazardous waste to a facility without a permit required under AS 46.03.250 — 46.03.314; (2) treats, stores, or disposes of hazardous waste without a permit required under AS 46.03.250 — 46.03.314; or (3) makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with the hazardous waste provisions of AS 46.03.250 — 46.03.314 or regulations adopted under those provisions, is punishable by a fine of not more than $10,000 per day or by imprisonment for not more than one year, or both.

(f) Notwithstanding the penalty provisions of (a) — (e) of this section, a defendant that is an organization is, upon conviction of a violation of any of the provisions listed in this section, subject to the penalties set out in AS 12.55.035 (c). (§ 3 ch 120 SLA 1971; am § 11 ch 220 SLA 1976; am § 8 ch 266 SLA 1976; am §§ 8, 9 ch 116 SLA 1980; am §§ 11, 12 ch 93 SLA 1981; am § 112 ch 59 SLA 1982; am § 8 ch 77 SLA 1984; am §§ 12 — 14 ch 59 SLA 1986)

Cross references. — For sentences for misdemeanors, see AS 12.55.035 and 12.55.135.

Effect of amendments. — The 1984 amendment substituted "Except as provided in (d) — (f) of this section, a person who negligently violates" for "A person who violates or who causes or permits a violation of" in subsection (a) and "Except as provided in (d) — (f) of this section, a person who knowingly violates a provision of this chapter or AS 46.04" for "A person who wilfully violates a provision of this chapter" in subsection (b), deleted "(a) or (b) of" preceding "this section" in subsection (c), added "Notwithstanding (a) and (b) of this section" at the beginning of the first sentence in subsection (d), and added subsections (e) and (f).

The 1986 amendment inserted "or AS 46.09" in subsection (a) in two places, in subsection (b) in two places and in subsection (d) and made related word and punctuation changes.

Opinions of attorney general. — Proposed regulation establishing compliance with management practice under AS 41.17 and regulations as an affirmative defense to prosecution for alleged water quality violations for the forestry industry alone would cause an equal protection problem; executive agency cannot, by regulation, create an affirmative defense to what the legislature has determined should be prosecuted. 1980 Op. Att'y Gen. No. 10.

NOTES TO DECISIONS

This section and AS 46.03.760 held not unconstitutional. — See Stock v. State, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974) decided prior to the 1976 amendment of those sections.

Collateral references. — Necessity of showing scienter, knowledge, or intent, in prosecution for violation of air pollution or smoke control statute or ordinance. 46 ALR3d 758.

Sec. 46.03.800. Water nuisances. (a) A person is guilty of creating or maintaining a nuisance if the person puts a dead animal carcass, or part of one, excrement, or a putrid, nauseous, noisome, decaying, deleterious, or offensive substance into, or in any other manner befouls, pollutes, or impairs the quality of, a spring, brook, creek, branch, well, or pond of water which is or may be used for domestic purposes.

(b) A person who neglects or refuses to abate the nuisance upon order of the department is guilty of a misdemeanor and is punishable as provided in AS 46.03.790. In addition to this punishment, the court shall assess damages against the defendant for the expenses of abating the nuisance. (§ 3 ch 120 SLA 1971)

Collateral references. — Balance of convenience or social utility: modern status of rules as to balance of convenience or social utility as affecting relief from nuisance. 40 ALR3d 601.

Pollution control agency: right to maintain action to enjoin public nuisance as affected by existence of pollution control agency. 60 ALR3d 665.

Cross references. — For civil penalties for discharges of oil, see AS 46.03.758. For civil actions for pollution, see AS 46.03.760. For provisions imposing strict liability for discharge of hazardous substances, see AS 46.03.822.

Editor's notes. — Section 311 of the Clean Water Act, referred to in subsections (b) and (c), may be found in 33 U.S.C. § 1321.

Sec. 46.04.025. Confidential information. The department may maintain the confidentiality of a manufacturer's proprietary technical information relating to chemical and biological agents used to control or mitigate the effects of an oil discharge. The department may refuse to release the information unless the manufacturer authorizes its release or unless a court orders its release. The department may provide the information to the Department of Fish and Game and other state and federal agencies if the department or other agency requesting the information agrees to maintain its confidentiality. (§ 2 ch 116 SLA 1980)

Sec. 46.04.030. Oil discharge contingency plans. (a) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge contingency plan for the facility has been approved by the department. The department is the only state agency which has the power to approve an oil discharge contingency plan for the purposes of this section.

(b) After January 1, 1981, a person may not cause or permit the operation of an offshore exploration or production facility in the state unless an oil discharge contingency plan for the facility has been approved by the department.

(c) A person may not cause or permit the transfer of oil to or from a tank vessel, or, after January 1, 1981, to or from an oil barge, unless an oil discharge contingency plan for the tank vessel or oil barge has been approved by the department. Except for prosecutions under AS 46.03.790(b), it is not a defense to an action brought for violation of this subsection that the person charged believed that a current oil discharge contingency plan for the tank vessel or oil barge had been approved by the department.

(d) An oil discharge contingency plan must be renewed at least every three years.

(e) The department may attach reasonable terms and conditions to its approval of an oil discharge contingency plan which it determines are necessary to insure that the applicant for an oil discharge contingency plan has access to sufficient resources to protect environmentally sensitive areas and to contain, clean up, and mitigate potential oil discharges from the facility or vessel within the shortest feasible time. The oil discharge contingency plan must provide for the use of the best available technology by the applicant. The department may require an applicant to undertake discharge exercises.

(f) The department, after notice and opportunity for hearing, may modify its approval of an oil discharge contingency plan if it determines that a change has occurred in the operation of a facility, marina or vessel necessitating an amended or supplemented plan, or the operator's discharge experience demonstrates a necessity for modification. The department, after notice and opportunity for hearing, may revoke its approval of an oil discharge contingency plan if it determines that

(1) approval was obtained by fraud or misrepresentation;

(2) the operator does not have access to the quality or quantity of resources identified in the plan; or

(3) a term or condition of approval has been violated. (§ 2 ch 116 SLA 1980)

Cross references. — For status and renewal of oil and spill contingency plans approved during fiscal year 1980 under AS 30.25, see § 13(a), ch. 116, SLA 1980, in the Temporary and Special Acts and Resolves.

Sec. 46.04.040. Proof of financial responsibility. (a) A person may not cause or permit the operation of an oil terminal facility in the state unless the person has furnished proof of financial ability to respond in damages which has been accepted by the department. Ability to respond in damages need not exceed $50,000,000 but must be in an amount (1) not less than $10, per incident, for each barrel of storage capacity at the oil terminal facility; or (2) $1,000,000, whichever is greater.

(b) After July 1, 1981, a person may not cause or permit the operation of an offshore exploration or production facility in the state unless proof of financial ability to respond in damages has been accepted by the department. Proof of financial responsibility may not be less than $35,000,000 per incident.

(c) A person may not cause or permit the transfer of oil to or from a tank vessel, or, after January 1, 1981, to or from an oil barge, unless proof of financial responsibility for the tank vessel or barge has been accepted by the department. Financial responsibility under this subsection shall be in the following amounts:

(1) for a tank vessel or oil barge involved in the transportation of trans-Alaska pipeline oil, the amount required by the Federal Maritime Commission under 43 U.S.C. 1653(c)(3) (sec. 204 (c)(3), Trans-Alaska Pipeline Authorization Act);

(2) for any other oil barge, the amount required by § 311(p)(1) of the Clean Water Act, or $1,000,000, whichever is greater;

(3) for any other tank vessels, the amount required by § 311(p)(1) of the Clean Water Act, or $20,000,000, whichever is greater.

(d) Except for prosecutions under AS 46.03.790(b), it is not a defense to an action brought for violation of (c) of this section that the person charged believed in good faith that the vessel operator possessed proof of financial responsibility accepted by the department.

SB
328

STATE OF ALASKA

DEPARTMENT OF REVENUE

TREASURY DIVISION

STEVE COWPER, GOVERNOR

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX SB
JUNEAU, ALASKA 99811-0400

March 3, 1988

The Honorable Mitch Abood
Chairman, Senate State Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

The enclosed materials contain proposed amendments to SB 328 and SB 341 that would do three things:

1. generally authorize in permanent statutes the Alaska State Building Authority ("ASBA") to provide lease-financing for state equipment subject to approval by law (SB 341 amendments);

2. specifically authorize ASBA to provide lease-financing or refinancing for state equipment under a master lease program (SB 328, amendment nos. 1 - 5);

3. place the provisions contained in section 3 of SB 341, allowing transfer of ASBA land and buildings (or equipment) to governmental entities at less than appraised value, in SB 328 as well (SB 328, amendment no. 6).

The amendments to SB 341 are necessary to have a tax-exempt entity to serve as lessor under the master lease program that the state may undertake, as described in the enclosed letter of March 1, 1988 from John Andrews, Commissioner of Administration.

The third item above (SB 328, amendment no. 6) will help ensure that costs of the Anchorge court facility financing are minimized if SB 341 does not pass but SB 328 does. This amendment is necessary because ASBA owns part of the property on which the facility would be constructed.

Sincerely,

Milton B. Barker

Milton B. Barker
Deputy Commissioner

MBB/gb
88-60

Enclosures

04-D12LH

SB 328
Amendments
Suggested by Department of Revenue

Amendment No. 1

Change title to "An Act authorizing three Alaska State Building Authority public building projects, equipment lease-financing projects, [AND] lease-financing agreements for the projects, and sale of Alaska State Building Authority land or public buildings or equipment at less than appraised value; and providing for an effective date."

Amendment No. 2

Insert a new section 4 to read:

> * Sec. 4. The Alaska State Building Authority may acquire new equipment or equipment on lease to the state at the time of its acquisition by the authority, and provide financing or refinancing for such acquisitions, for lease to the state under a master lease program.

and renumber succeeding sections.

Amendment No. 3

Amend renumbered section 5 (existing section 4) to read:

> * Sec. 5. Sections 1 through 4 [, 2, AND 3] of this Act give the approval referred to in AS 18.55.100(d).

Amendment No. 4

Insert a new section 7 to read:

> * Sec. 7. The Department of Administration may enter into one or more lease-financing agreements with the Alaska State Building Authority for the financing or refinancing of equipment purchases by the state under a master lease program.

and renumber succeeding sections.

Amendment No. 5

Amend renumbered section 8 (existing section 6) to read:

* Sec. 7 Sections [SECTION 5] 6 and 7 of this Act give [GIVES] the approval referred to in AS 36.30.080(c).

Amendment No. 6

Insert a new section 9 to read:

* Sec. 8. AS 18.55.255 is amended to read:

Sec. 18.55.255. PROCEDURE FOR SALE OF LAND OR PUBLIC BUILDINGS OR EQUIPMENT (a) Except as provided in (b) of this section, sale [SALE] of land or a public building or equipment must [SHALL] be by public auction or by sealed bids at a price not lower than the fair market value determined by an appraisal made within 180 days before [OF] the sale by a qualified appraiser. Public notice must [SHALL] be given by publishing notice of the sale at least once a week for two consecutive weeks in a newspaper of general circulation within the area in which the property to be sold is located, and by posting notice of sale in at least two public places in the area. In no event may [SHALL] the auction be held less than 30 days after the last day of publication. If no acceptable bids are received, the authority may sell the property at negotiated sale[,] within six months after [OF] the date of the auction. A negotiated sale may not be made on an appraisal made more than nine months before the date of sale. The price at a negotiated sale may not be less than the appraised value.

(b) Land or a public building or equipment may be sold to a state or federal agency, or political subdivision, for less than the appraised value without competitive bidding, upon terms that the board determines to be fair and proper and in the best interests of the public. The board shall consider both the nature of the agency's or political subdivision's public services or functions and the terms under which the land or public building or equipment was acquired by the authority.

and renumber existing section 7 as section 10.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

Bill Version: CS SB 328 (SA)
Publish Date:

FISCAL NOTE

REQUEST:
Revision Date:
Agency Affected: State Bond Committee
Title: Authorizing 3 Alaska State Building Authority Projects & Equipment Lease-Financing
BRU:
Sponsor: Senate State Affairs
Components:
Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-		-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	(2741.1)	52.6	2506.5	11407.2	12308.2
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	(2741.1)	52.6	2506.5	11407.2	12308.2
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
GENERAL FUND	-	(2741.1)	52.6	2506.5	11407.2	12308.2
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page for analysis.

Prepared By: Mill Barker MB
Phone: 465-2350
Division: Treasury
Date: March 2, 1988

Approved by Commissioner:
Date:
Agency: Department of Revenue

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CS SB 328 (SA)
Fiscal Note Analysis

The projected annual savings on refinancing state equipment leases and the Seward Student Service Center through its acquisition by the Alaska State Building Authority as well as the additional annual lease-financing rental payments for the Anchorage and Fairbanks court facilities are estimated in the attached table.

The present value of the savings on the Seward facility would be $1,177,246, representing a savings of 21.6 percent of the amount of bonds issued. This is far above the State Bond Committee's criteria of 3 percent savings to justify a refinancing.

The Seward refinancing would reduce the required lease payments to be made by the State Bond Committee for Seward as detailed in the attached January 6, 1988 memo. However, because the actual interest rate on the refunding debt--and therefore the actual reduction in debt service--will not be known until the bonds are sold, no reduction should be made to the $11,769,042.33 appropriation to the State Bond Committee for FY 89 lease payments. The FY 89 savings would lapse and future appropriations would be reduced.

Please see the attached letter of December 4, 1987 from John Andrews for additional information on the Seward refinancing.

No appropriation is required for FY 89 or FY 90 lease payments for the court facilities. They will be paid as capitalized interest from bond proceeds. Subsequent lease payments will require appropriation.

The court facilities have already been authorized by law. The lease costs shown for the court facilities generally are expected to be incurred with or without this legislation. This legislation, by possibly substituting the Alaska State Building Authority for municipal or other issuers, should reduce financing costs.

The savings from a master lease refinancing of state equipment leases would accrue to individual agency budgets. As presently envisioned, the State Bond Committee would make the lease payments on the master lease but these payments would be funded by Reimbursable Services Agreements (RSA's) from the agencies that purchased the equipment. Information developed from implementation of the program should permit identification of specific lease costs and savings in specific agencies which could be deleted and replaced with a single appropriation to the State Bond Committee.

The present value of the savings from a master lease refinancing of state equipment leases was estimated in June of 1987 at $424,000 or 6.3 percent of the amount of the refinancing. Interest rates are currently below the June 1987 level. Please see the attached letter of March 1, 1988 from John Andrews for more information on the master lease program.

CS SB 328 (SA)
Fiscal Note Analysis
Lease-Financing Costs (Savings)

Fiscal Year	Seward Student Service Center	Anchorage Court Facility	Fairbanks Court Facility	Equipment Lease Refinancing	Total
1989	$ (597,605)	-	-	$(2,143,460)	$ (2,741,065)
1990	(83,811)	-	-	136,406	52,595
1991	(77,056)	$ 1,855,000	$ 630,000	98,534	2,506,478
1992	(88,251)	8,222,750	2,793,385	479,273	11,407,157
1993	(90,453)	8,221,350	2,795,505	1,381,766	12,308,168
1994 to maturity	(615,152)	148,972,828	50,290,143	-	198,647,819
Total	$(1,552,328)	$167,271,928	$56,509,033	$ (47,480)	$222,181,152

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: Jay Hogan
Associate Director
Budger Review
Office of Management & Budget

FROM: Milton B. Barker MB
Deputy Commissioner
Department of Revenue

DATE: January 6, 1988

RE: FY 89 Debt Service and Front Sections

The amounts required for debt service and trustee fees to be paid by the State Bond Committee during FY 89 are:

	Debt Service	Trustee Fees	Fund Source
General Obligation Bonds	$135,511,971	$80,000	General Fund
International Airports Revenue Bonds	8,716,705	50,000	International Airports Revenue Fund

New "front sections" of the general appropriations bill are proposed to appropriate the lease rental payments that the State is required to make to

1. the Alaska State Building Authority for lease of facilities constructed with the proceeds of lease revenue bonds issued by that agency, at the time, the Alaska State Housing Authority;

2. the City of Seward for lease of the Spring Creek Correctional Center which was constructed with the proceeds of Certificates of Participation issued by the City;

3. Delta Fox, Ltd. for lease of the Seward Student Service Center which was constructed with the proceeds of Certificates of Participation issued by Delta Fox, Ltd; and

4. the City of Palmer for lease by the Court System of a courthouse in Palmer which is to be constructed with the proceeds of revenue bonds issued by the city.

The State's lease payments are the security for the bonds and certificates. As indicated by the attached letter from Standard & Poor's, failure to make these lease payments would have similar consequences for the State's credit standing and ability to borrow as a default on the State's general obligation bonds would have.

The proposed "front section" would read:

> * Sec. . The sum of $11,769,042.33 is appropriated from the general fund to the State Bond Committee for lease payments to the Alaska State Building Authority, City of Seward, Delta Fox, Ltd, and City of Palmer.

This appropriation is not net of a $39,115.40 rebate of Seward Student Service Center rent that the Department of Administration had received pursuant to Section 5.6 of the Seward Student Service Center Commercial Lease (attached). The rebate would no longer be used for payments on other facilities as it was when the lease-purchase rental payments were part of a global lease appropriation. Instead, the rebate will be deposited in the general fund as unrestricted revenue.

The amounts of lease payments to maturity of the lease revenue bonds and certificates are as follows:

	ASBA Bonds	Spring Creek	Student Service Center[1]	Palmer Courthouse
FY 89	$ 6,541,035.25	$ 4,018,766.88	$ 842,275.20	$ 366,965.00
FY 90	6,555,108.39	4,333,923.84	850,697.95	366,527.50
FY 91	6,550,755.90	4,333,923.84	850,697.95	365,577.50
FY 92	6,567,048.41	4,333,923.84	850,697.95	366,117.50
FY 93-94	9,096,153.75	8,667,847.68	1,701,395.90	726,545.00
FY 95-06	1,536,107.50	53,090,568.18	4,295,603.52	5,008,528.75
	$36,846,209.20	$78,778,954.26	$9,391,368.47	$7,338,037.50

FY 87 actual expenditures for the above items were:

General Obligation Bonds	$154,922,445.86
International Airports Revenue Bonds	
Revenue Fund	$5,467,306.83
Construction Fund	2,016,255.33
	$7,483,562.16

1 These amounts are not net of the $39,115.40 rebate. The amounts for FY 90 through FY 94 are escalated per Section 5.2 of the Commercial Lease assuming a 10% increase in the CPI and escalated further for FY 95 - 99 assuming a further 10% CPI increase to $859,120.70 per annum.

Alaska State Building Authority Lease Payments	$6,518,100.00
Certificates of Participation	$5,326,653.20

Like the FY 88 general appropriations act, an additional "front section" for FY 89 is required which would read as follows:

* Sec. , The amount of the Rebate Requirement, as defined by Resolution No. 86-5 of the state bond committee, is appropriated from the International Airports Revenue Fund to the state bond committee for deposit in the Rebate Fund established by Resolution No. 86-5 of the state bond committee.

The section appropriates the arbitrage earned on International Airports Revenue Bonds, Series G, to a Rebate Fund for payment to the United States government. The arbitrage rebate is required by the Internal Revenue Code and regulations. The appropriation request from the International Airports Revenue Fund is required by section 16.09 of Resolution No. 86-5 of the State Bond Committee which authorizes the Series G bonds and which reads in part:

> "Rebate Fund. There is hereby created and established with the Trustee a Rebate Fund. Not- withstanding anything in the Resolution to the contrary, amounts deposited in the Rebate Fund shall not constitute Revenues and are not pledged as security for payment of the Bonds of Series G or any other Bonds or obligations issued pursuant to the Resolution, but shall be held by the Trustee hereunder solely in trust for the benefit of the United States.
>
> Prior to December 31 of each Fiscal Year, the State shall estimate the amount of the Rebate Requirement for the next succeeding Fiscal Year (including any deficiencies in the amounts deposited in the Rebate Fund with respect to any prior Fiscal Year), and shall include such amount in the budget for the Revenue Fund for such next succeeding Fiscal Year."

MBB/gb

Attachment

cc: Hugh Malone
Marsha Hubbard

9419H

Standard & Poor's Corporation
25 Broadway. New York. New York 10004

December 29, 1983

Mr. Milt Barker
Deputy Commissioner
Department of Revenue
11th Floor State Office Bldg.
Pouch, SB
Juneau, Alaska 99811

Dear Mr. Barker:

I would like to respond to your letter of December 13, regarding our views on lease obligations.

Lease Payments are viewed in essentially the same light as debt service on general obligation bonds, regardless of whether the obligation is cancellable due to non-appropriation. In fact, debt obligations secured by lease payments are included in our computations for overall debt burden.

Many states do not consider lease rental debt under debt limitation laws, primarily because legal interpretations view the obligations to pay rent as an annual budget item, and not a long term debt with a continuing appropriation. The fact remains, however, that the debt is still outstanding, and payable for as long as the property is being used by the lessee. While many leases permit non-payment of rent and cancellation of lease obligations, Standard & Poor's would be very concerned about an issuer's general obligation rating, in those cases where leases were cancelled as a ploy to avoid paying debt obligations.

I've enclosed some information regarding our approach to rating lease-rental debt obligations. If you have any further questions, feel free to contact Vladimir Stadnyk or myself at (212) 201-1767.

Very Truly Yours,

Richard P. Larkin
Managing Vice President
Municipal Finance Department

cc: V. Stadnyk
T. Arthur

issued for each July. The percentage increase, if any, in the CPI issued for July 1989 and July 1994 over the CPI issued for July 1984 will determine the maximum allowable adjustment of variable costs over the original Rent. The adjustment is not cumulative; it is to be computed from the base CPI, July 1984 for both the 1990 and the 1995 adjustment actions. Adjusted annual Rental Rate will be computed as follows:

[(10% x Rent) x % of change in CPI] + Rent = Adjusted Annual Rental Rate

No retroactive adjustments will be allowed:

5.3. State's Obligations and Remedies

State's obligation to pay Rent due with respect to the Premises and to perform and observe all other covenants and agreements of State contained herein shall be absolute and unconditional except for the failure of the Legislature to appropriate funds; and the Rent due and payable hereunder shall be made without notice or demand and without set-off, counterclaim, abatement, deduction or defense except that State may offset against the Rent an amount not to exceed $10,000 for claims due to State by Landlord under this Lease and the Ground Lease. However, nothing herein shall be construed to release Landlord from the performance of its obligation and State may institute such legal action against Landlord as State may deem necessary to compel the performance of such obligation.

5.4 Nonsubstitution

If this Lease is terminated by State in accordance with Section 3.1, State agrees for a period of one year that its Department of Education will not to construct, purchase, lease, operate, contract for or use any facilities which are functionally similar to the Premises or any of the uses which are functionally similar to any of the uses of the Premises, and agrees not to permit functions similar to those performed through the use of the Premises to be performed by an agency or entity affiliated with or hired by or for the Department of Education.

5.5 Budget Request and Appropriation

State will, prior to the commencement of each fiscal year for which this Lease is in effect, include the Rent due in such fiscal year in its annual budget request to the Legislature. State agrees to use any appropriation legally available for the Rent and to immediately encumber available appropriations for such payments prior to allocating or encumbering funds for the projects or costs for which no legal obligation to pay exists.

5.6 Consideration for Advance Rent

Concurrently with the payment by State of the Annual Rent, Landlord shall pay to State the sum of $39,115.40 as consideration for payment of the Rent one year in advance, except that such payment shall be proportionately reduced to the extent that State exercises a right of offset pursuant to Section 5.3.

STATE OF ALASKA

DEPARTMENT OF REVENUE

TREASURY DIVISION

STEVE COWPER, GOVERNOR

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX SB
JUNEAU, ALASKA 99811-0400

December 4, 1987

The Honorable Jan Faiks
Senate President
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

In compliance with AS 36.30.080(c), I wish to inform you that the Department of Administration intends to enter into a lease-financing agreement for the Seward Student Service Center which may have annual rent in excess of $1,000,000 to be paid by the State. The agreement is expected to be with the Alaska State Building Authority (ASBA) as lessor. The State would assign its purchase option under an existing lease-financing agreement to ASBA. ASBA would issue debt and use the proceeds to exercise the purchase option. State lease rental payments under the new lease-financing agreements with ASBA would pay the debt service on ASBA debt. The reason for this undertaking is that the State's lease rental payments will decrease significantly under the new lease-financing agreement as a result of declines in interest rates. The current lessor's proceeds from sale of the leased facilities to ASBA will be used to payoff currently outstanding debt issued by the current lessor.

Under the proposed lease-financing agreement, ASBA would acquire the Seward Student Service Center from Delta Fox, Ltd. (formerly Dick Fischer Development, Inc.) at one of the prices listed below:

Seward Student Service Center

Closing Date of Property Sale	Price
July 1 - July 30, 1988	$5,236,740.00
July 1 - July 30, 1989	$4,988,016.00
July 1 - July 30, 1990	$4,717,860.00
July 1 - July 30, 1991	$4,422,324.00
July 1 - July 30, 1992	$4,094,[illegible]40.00
July 1 - July 30, 1993	$3,778,756.00
July 1 - July 30, 1994	$3,360,876.00
July 1 - July 30, 1995	$2,942,952.00
July 1 - July 30, 1996	$2,474,832.00
July 1 - July 30, 1997	$1,952,004.00
July 1 - July 30, 1998	$1,370,520.00
July 1 - July 30, 1999	$ 722,484.00

The Seward Student Service Center is a student lounge and recreation com for the Alaska Vocational-Technical (Vo-Tec) Center at Seward. The Vo-Tec Center is the only State-operated adult vocational training facility in the State. The Center was completed and occupied by the State in April 1985.

Assuming the sale is closed during July 3 to July 30, 1988, the purchase price would be $5,236,740. The anticipated amount of the ASBA financing for this project would be $5,440,000 including the costs of issuance. The resulting anticipated annual lease rental payments by the State compared to existing payments would be:

Seward Student Service Center

Fiscal Year	Anticipated Rent	Existing Rent	Savings
1989	$ 205,555	$ 803,160	$ 597,605
1990	719 349	803,160	83,811
1991	729,292	806,348	77,056
1992	721,299	809,550	88,251
1993	722,311	812,763	90,453
1994	713,554	815,990	102,437
1995	726,705	819,230	92,524
1996	716,044	822,482	106,438
1997	726,954	825,747	98,793
1998	720,573	829,025	108,452
1999	725,809	832,317	106,508
TOTAL	$7,427,445	$8,979,772	$1,552,328

Notes to Seward Student Service Center Table:

1. 1989 anticipated rent is reduced by $460,872.50; the reduction is calculated as follows: June 10, 1988 Existing Rent Payment of $723,592.30 which is net of $79,567.50 to be paid to the State on July 2, 1988, representing savings on the 1986 refunding certificates - credit for payment one year advance - (certificates outstanding X 103% call premium - purchase price - reserve fund).
2. 1989 and later existing rents are reduced by the credit for payment one year in advance.
3. 1991 and later existing rents have been escalated by the July 1984 to July 1986 increase in the Anchorage CPI pursuant to inflation adjustment provision of the lease.

The present value of the savings to the State is estimated at $1,177,246 using the estimated 6.9144 percent true interest cost on the proposed ASBA financing.

Sincerely yours,

John Andrews
Commissioner of Administration

JA/MB/gb

8534H

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX C
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200

March 1, 1988

The Honorable Jan Faiks
Senate President
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Madam President:

In compliance with AS 36.30.080(c), I wish to inform the Legislature that the Department of Administration intends to enter into one or more lease-financing agreements for the financing or refinancing of State equipment purchases. Enclosed is an Attorney General's opinion of September 17, 1987 indicating that equipment lease-financing is subject to AS 36.30.080(c).

This project or projects would involve the consolidation of individual lease-purchases from any or all State agencies into one or more "master leases." All equipment purchases under a given master lease would be financed in a single transaction. The enclosed memorandum of September 28, 1987 from Government Finance Associates, Inc. describes the project in more detail.

The main advantage in using a master lease is a significant reduction in interest cost. The average interest rate on State equipment leases outstanding as of July 1, 1987 was 13.86%. Interest costs on a master lease-financing would currently be expected to be in the range of six to seven percent. Vendor financing on current equipment purchases could be expected to be in the range of 9.5 percent.

The refinancing of outstanding State equipment leases is estimated to require issuance of financing obligations in the amount of approximately $10 million with annual rental payments of approximately $2.85 million assuming a 6.5% interest cost and four year final maturity. The amount of outstanding State equipment leases as of July 1, 1987 was $6,617,494. The estimated $10 million financing would allow for some increase in outstanding leases prior to the refinancing, a possible reserve fund, and other costs of issuance.

The enclosed proposal of Shearson Lehman Brothers estimated in June of 1987 that refinancing equipment leases would produce present value savings of $424,000 which would be 6.3% of the amount of the refinancing. Interest rates are currently below the June 1987 level. The State bond committee has used a 3% savings as its guideline for endorsing refinancings.

The financing of new equipment purchases during fiscal year 1989 could require issuance of financing obligations up to the amount of approximately $30 million, resulting in annual rental payments of approximately $8.55 million

02-89LH

assuming a 6.5% interest cost and four year final maturity. The amount of potential financing includes $9,060,100 for equipment purchases contained in the Governor's proposed fiscal year 1989 operating budget and $17,442,100 in the capital budget, as well as allowance for possible reserve funds and issuance costs.

The dollar amount of $30 million is undoubtedly a high estimate. The capital budget figure is the total for all line items which include equipment. Many line items include purposes other than equipment. Enclosed is a listing of the items in the capital budget with those which include equipment underscored. The largest single item is $10 million for a State equipment fleet replacement program.

The availability of a master lease program will save money for the State where equipment has been or would otherwise be purchased through vendor or other lease-financing. Where the equipment would otherwise be purchased for cash, the master lease would engender additional State outlays over time for interest costs and increase total State indebtedness.

The $30 million financing amount for new equipment is based on proposed appropriations for cash purchases. Undoubtedly, many such purchases would be consummated for cash. However, in some cases, agencies might want to use a master lease program. To the extent this occurred, fiscal year 1989 appropriations might be lapsed, to be replaced by increased contractual services appropriations in subsequent years.

Because lease-financing that is used in place of cash purchases [illegible] concerns about increased debt loads and increased future bu[illegible]s, the Administration will carefully consider implementation of any m[illegible]ase program for new equipment purchases. Availability of master lease financing may be restricted in those cases where appropriations for cash purchases are available, except for overriding concerns that might arise, such as a cash shortage in the general fund. Thus, far less than $30 million would actually be expected in master lease financing for new equipment purchases.

Yours truly,

John M. Andrews
Commissioner of Administration

JMA/MB/mem
Enclosures

MEMORANDUM

State of Alaska

Department of Law

TO: Milt Barker
Deputy Commissioner
Department of Revenue

DATE: September 17, 1987

FILE NO: 663-88-0094

TELEPHONE NO: 465-3600

THRU:

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

FROM: Robert M. Maynard
Assistant Attorney General
Governmental Affairs-Juneau

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 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 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 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.

RMM:jf

Government Finance Associates, Inc.

1300 S.W. 5th Avenue, Suite 2929
Portland, Oregon 97201
503/222-1405

SEPTEMBER 28, 1987

TO: COMMISSIONER HUGH MALONE
MILT BARKER
TOM BOUTIN

FROM: GOVERNMENT FINANCE ASSOCIATES, INC.

RE: STATE OF ALASKA MASTER LEASE PROGRAM

I. INTRODUCTION

Lease purchase financing can be an attractive alternative to individual vendor leases or to general obligation financing. A governmental body wishing to purchase facilities through the lease program enters into a lease agreement with either a bank or a leasing corporation acting as escrow agent/lessor. Certificates or bonds are then issued based on the expected lease revenues. In order to qualify as a tax exempt financing the final ownership of the equipment must be with a public entity and the equipment or facilities must have limited private use. These lease rental payments are set at a level equal to the debt service requirements and are paid through the annual appropriation process. The lessor, upon receipt of the lease payments, distributes the payments to the bond or certificate holders. The arrangement is actually a type of installment sales agreement for the purchase of equipment.

Some governments have used lease purchase financing to manage a yearly "master lease" program. This type of program brings together, into a single transaction, all of the individual lease purchases the government plans during the upcoming year. A master lease can reduce the overall administrative efforts in multiple lease agreements as well as reduce the interest cost of the leases. A master lease program is appropriate only for equipment purchases; a different mechanism should be established for the planning and coordination of leasing and/or lease purchase financing of facilities.

There will be a number of policy, as well as financial, matters the State will want to consider as it determines its need for a master lease program. This memorandum will review those considerations as well as outline the process for implementing such a program.

II. DETERMINATION OF NEED

The State may have several reasons to pursue a master lease financing. These needs fall into several areas.

A. Policy issues

1. Coordination and planning

From a management standpoint, it is advantageous to coordinate purchasing through a central location, reducing the redundant costs of multiple agreements. A focal point for administering the leases also may coordinate future purchasing requirements. The Shearson Lehman proposal included 71 different existing lease contracts. A master lease program would bring all of those contracts (and their resultant payments) under a single master contract with coordinated payments. The State could choose to make only two payments a year, as is typical in Certificates of Participation, or monthly payments, as is typical in traditional leases.

In considering the centralization of lease financing through a master lease program, the State should consider limits on the amount of leasing each year as well as the type or cost of equipment leased. While the programmatic need is the first stage of the decision process, the State should set a standard limit on the yearly total amount of lease financing of equipment. This limit may be set as a percent of total budget, a percent of True Cash Value, or a dollars per capita figure. In this way, the State does not risk inordinate increases in lease financing which might become detrimental to its credit rating. A further limit on the type or cost of equipment financed should be articulated in that some equipment might more reasonably be purchased through current appropriations.

2. Lower cost financing

Individual vendor leases usually charge a higher rate than the borrowing rate for the overall governmental issuer. In some instances, vendor rates range up to 18%. In the State's case, Shearson Lehman calculated the average interest rate on outstanding leases to be 13.86%. By pooling the individual smaller leases, the cost of borrowing can be lowered to near the general obligation debt rate.

3. Financing within the annual budget process

Lease purchases are financed within the operating budget and therefore are not subject to the normal debt issuance approval process. The concept is based in the rationale that, through a lease purchase financing, facilities or equipment can be purchased at a lower cost than they can be leased or rented through individual vendors. The lease obligation is not debt in the traditional sense; it is rather a purchasing arrangement with ownership of the equipment/facilities dependent on fulfilling the terms of the agreement.

4. Administration of the master lease program

A central administrative unit will serve to coordinate the process. This is most commonly accomplished through the department of general services. This does not mean, however, that all the costs of the leases should be removed from the program budgets. One of the concerns of master lease programs is that leases are suddenly seen as free budget increments to the departments initiating the lease. The result is often an explosion in the number of lease financings, which is clearly contrary to the purpose of the master lease program. General Services should establish an accounting system which tracks, and bills to the departments, the costs associated with the lease purchases initiated by those departments. These costs should include the yearly principal and interest due, the pro rata share of the issuance costs, and any administrative costs incurred by General Services and other state agencies in managing the transaction.

B. Review of upcoming needs

The size of the financing should reflect upcoming needs over the next reasonably predictable purchasing period. Estimated purchase prices and time lines should be established. As an alternative to the estimation process, purchases may be accumulated through a bank line of credit and re-financed later based on known costs.

C. Review of outstanding leases

In the case of a first master lease, the existing leases should be reviewed as it may be possible to buy out the remaining portions of their leases and re-finance the remainder as part of the master lease. The outstanding balance on leases should be determined as well as any prepayment penalties. The remaining economic life of the equipment should also be determined, as it limits the potential term of the financing.

As the refinancing of existing leases will result in lower costs on existing leases, the State will need to develop a policy for the budget treatment of savings.

III. TERMS OF THE FINANCING

The following should be determined when structuring the issue:

A. Useful life of the financed equipment

The equipment should not be financed for a period longer than its useful life. With equipment purchases, this is usually 3 to 5 years.

B. Repayment schedule

The repayment schedule should meet the cash flow abilities of the governing body. The principal payment typically occurs within the first few months of the fiscal year.

C. Establishment of Trustee

A trustee or escrow agreement will be established with either a bank or leasing company to provide nominal ownership of the equipment or facilities during the purchase period. This agreement establishes an agreement between the governing body and the trustee (or escrow agent) regarding payment for the equipment. This document is usually drafted by bond counsel.

D. Security interest

The lease documents may provide security interest in the purchased (leased) equipment during the purchase period. This means the certificate holders actually own the equipment (through the trustee) until the last payment has been made. This allows the certificate (bond) holders the added security, in case of non-payment, of actually seizing property which may be resold or re-leased in an attempt to offset the remaining payments owed them.

Since the lease purchase agreement is aimed at the purchase of specific property, usually it will contain language itemizing the exact property or equipment to be purchased. An additional clause which prohibits substitution of other non-secured equipment for that equipment which has been identified in the security agreement is also usually required. In effect, this language does not generally prohibit substitution but rather requires notification and approval by the trustee of any substitutions for the original equipment.

E. Security enhancements

Security enhancements such as a debt service reserve fund or an bond insurance policy can be included to overcome certificate purchasers' concerns about the ultimate repayment of the securities. These types of enhancements should be evaluated by a cost-benefit analysis. It seems unlikely that insurance or a debt reserve fund would be necessary for a master lease with the State, however. With longer term lease financings, some concern regarding repayment may be reasonable, but the short term nature of master lease purchase financings reduces these concerns.

F. Non-Appropriation Clause

Most lease purchase arrangements are subject to an annual appropriation process. This distinguishes the agreements from other forms of indebtedness in that the long term commitment can be revoked. No future governing body nor populace is committed to make payments based on past decisions. (There are certain practical obligations which should not be ignored.) However, some governing bodies have the ability to enter into lease purchase agreements which are not subject to the annual appropriation process. This authority is usually found in the charter or statutory authority of the governing body. A "non-appropriation" clause, which subjects lease payments to the annual budget process, reduces the security of the issue, thus generally increasing the interest cost to the governmental body.

G. Non-Substitution Clause

A non-substitution clause precludes a government body from acquiring the same or similar equipment for a period of time in the event of non-appropriation. This type of clause has been traditionally included to give investors comfort that non-appropriation will not be used to get a better deal should one arise at a later date.

IV. RFP FOR SERVICES

After the general needs and terms of the proposed issue have been determined, a Request for Proposals for Leasing/Underwriting services should be forwarded to major firms dealing in this type of transaction. This list might include leasing corporations, banks and/or underwriters. In some cases, this list may be expanded to private placements.

A. General RFP for services

Given the diversity of types of financing instruments, the RFP can take a variety of forms. RFPs should be fairly specific in describing the proposed terms of the financing but should also allow proposers to recommend methods specific to their strengths.

1. Negotiated or competitive sale

Given the nature of these transactions, most lease purchases are negotiated. In certain market conditions and with certain types of issuers, a competitive sale may be more advantageous. This determination needs to be made on an issue-by-issue basis. It seems likely, however, that the stature of the State's name would allow a competitive sale to proceed with no disadvantage to the State.

A special kind of negotiated sale is the sale of bonds directly to the final purchaser of the bonds. This is called a private placement. A number of issuance costs can be eliminated in this type of sale in return for somewhat higher interest rates in general. This combination may reduce the total cost associated with the issuance of the bonds.

2. Interest rates

In a negotiated sale, the RFP should specifically ask the proposer to indicate the expected interest rates for the proposed transaction. These rates should be modified only if the market experiences significant movement.

3. Other fees

Each type of transaction has its own set of costs. Some interest rate proposals will be "all inclusive" in terms of issuance costs. The RFP should ask the proposer to estimate any and all additional costs of the transaction that the issuer might expect to pay.

4. Structure of financing

The proposed structure of the financing should be specified to the extent possible. This allows realistic prices for the financing in the proposals. The structure includes the various "terms" described in section III.

B. Evaluation of Proposals

The evaluation of proposals usually presents some problems given their diversity. The three most significant areas of evaluation are:

1. Present value of cash requirements

Ultimately all financings result in a series of payments made by the borrower to the lender. This is the important measure of the economics of the proposal. The evaluation should create the expected cash requirements as a result of the proposal and discount future cash requirements at the appropriate discount rate for the issuer. The discount rate should be the same in comparing each of the proposals and is generally the then-current borrowing rate for the issuer. The "present value" of the various proposals can then be compared by discounting the future cash flows to the present.

2. Required terms

Each of the various proposals will have some distinct financing terms such as the payment frequency, costs exclusive of interest rates and legal documents required. Some of these terms will be quantifiable and therefore can be included in the present value analysis; others may be policy issues that will have to be weighed on an individual basis.

3. Capacity to execute financing

Basic to the evaluation is the capacity of the proposer to actually do what they propose. The RFP should request an explanation of similar types of financings in which the underwriter has been involved and their level of involvement.

V. PROCEDURE FOR FINANCING

The procedure for the financing involves getting the necessary individuals together to produce the requisite set of documents.

A. Required Documents

The required documents include:

1. *The Lease purchase agreement*, which is an agreement between the lessee and the escrow agent/vendor. It is prepared by bond counsel.

2. *The Trust indenture or Escrow agreement*, which establishes the various accounts and administrative procedures used by the trustee or escrow agent. It is considered an agreement between the issuer and the trustee for the investors. It is prepared by bond counsel.

3. *Authorizing documents*, which include the resolutions or ordinances passed allowing the governing body to enter into a lease purchase agreement. At the state level these documents are usually statutes or rules. These documents are usually prepared by either local or bond counsel.

4. *Documents relating to underwriting and sale of securities*, which include the official statement or offering memorandum, the bond sales agreement with the underwriter, the notice of sale and any other local or state notification requirements. These documents are usually prepared by the financial advisor and governmental staff.

5. *A legal opinion*, which is always required in the sale of tax-exempt securities. The opinion, which is prepared by bond counsel, states the issuer has authority to issue this type of obligation and that the issue meets federal and state requirements for tax -exemption.

B. Select Team

The necessary individuals include:

1. *The Trustee or Escrow agent*, as lessor, will be responsible for holding title to the equipment or facilities until the terms of the agreement have been met.

2. *The Financial Advisor*, who will provide advice in setting the terms of the financing and coordinate the development of the necessary documents. Sometimes underwriters provide this type of service as part of the purchase price of the securities, but the potential conflict between advising the issuer on what is best for the issuer and buying the securities at the best price for the underwriting company often lead governments to the use of an independent financial advisory firm.

3. *The Bond Counsel*, who will prepare most of the legal documents and render an opinion on the tax-exempt status of the issue.

4. *The underwriter, leasing company, bank or private investor*, who will purchase the securities. Banks are not generally barred from purchasing certificates of participation but are not currently allowed to underwrite revenue bonds. On occasion a private investor, usually an insurance company or credit company, will directlv purchase securities from an issuer.

5. *Central/State administrative agency*, which will act as lessee. In master lease programs this is usually the general or administrative services department.

C. Key Tasks

The following are the key tasks included in the financing:

1. Programs determine the need for equipment
2. General Services coordinate the needs, determining the total amount of the financing.
3. Determine terms and the schedule for the financing
4. Prepare documents
5. Submit draft documents to rating agencies (if rated)
6. Finalize official statement/disclosure documents
7. Sell or price the certificates (bonds)
8. Prepare closing documents
9. Close (exchange the money for the certificates)

10. Purchase equipment/facilities
11. Pay lease payments
12. Bill departments for their pro rata share of lease payments
13. Transfer ownership at end of payments

GLOSSARY

Bank line of credit - an established agreement between a bank and an individual or entity. The bank allowing a stated amount of funds, with terms, available for use by the individual or entity when needed.

Bond insurance policy - a covenant between a bond insuring entity and a bond issuer that the insurer will pay investors in the case of default.

Certificate of Participation - representative of a share in the purchase of capital property for a municipality. The investor purchases the certificate with the agreement that the government will make payments at a given rate over a agreed upon period.

Competitive sale - method of sale in which underwriters submit sealed bids. Bids are opened at a specified time and the sale is awarded on the basis of the lowest interest cost bid.

Cost benefit analysis - a financial study to determine the costs relative to benefits in a given situation.

Debt issuance approval process - the steps necessary to obtain permission to issue bonds. In addition to the constitution, statute or charter enabling language, an election is sometimes also required.

Debt service reserve fund - a fund established as a reserve for the payment of principal and interest on debt should insufficient funds be available during any given year.

Escrow agent - the third party placed in trust to hold the ownership document until certain conditions are fulfilled.

General obligation rate - the existing average market rate on general obligation bonds.

Interest - the amount of money paid for the privilege to use another party's money.

Lease purchase contract/agreement - an agreement with terms to pay a stated amount over an agreed upon period for property which may include eventual ownership.

Lease revenue bonds - revenue bonds paid from lease payments made by projects financed by the bonds.

Lessee - the individual or entity receiving the benefits or property that is at issue in an agreement.

Lessor - the individual or entity giving the benefits or property that is at issue in an agreement.

Master lease - a transaction combining individual lease agreements into one.

Municipal corporation - a political and corporate body established with state authorization for the purpose of providing governmental services and regulations for its inhabitants. It has defined boundaries and a population and is usually organized with the consent of its residents. Cities and towns are usually municipal corporations.

Negotiated sale - refers to a direct sale between an issuer and underwriter. The price, interest, issue structure, and terms are agreed upon and set jointly.

Nominal owner - an owner in name only and not in fact.

Present value - the valuation of what an amount of money expected in the future is worth today given alternative usage, and economic considerations and expectations.

Private placement - a sale of securities to the end owner. This type of sale usually by passes the typical relation of financing and underwriter in that the issuer deals directly with the purchaser. No secondary sale or underwriting exists. This type of sale often is accomplished with fewer documents than typical financings in that the buyer is considered a "sophisticated and knowledgeable" investor and intends to hold the securities to maturity.

Re-financed - to obtain funds preferably at a lower rate and to fully pay an existing debt held at a higher rate.

Remaining economic life - the period of time remaining from optimum usage value to diminished value of property.

Securities - this term is broadly used to refer to notes, bonds, certificates and other various investments.

SHEARSON
LEHMAN
BROTHERS

June 16, 1987

Mr. Robert J. Link
Director, Division of General Services & Supply
State of Alaska
Department of Administration
Pouch C (MS-0210)
Juneau, Alaska 99811

Dear Bob:

Shearson Lehman Brothers Inc. and Seattle-Northwest Securities Corporation are pleased to present our analysis and program proposal for the refinancing of State equipment leases. As detailed herein, the results of our preliminary investigation reveal that approximately $424,000 of savings on a present value basis can be achieved under current market conditions. The present value savings, expressed as a percentage of the principal amount of Certificates of Participation ("COPs") to be issued, are 6.3%. To put in the proper context, issuers of refunding bonds or COPs (including the State Bond Committee) typically set a minimum threshold present value savings level of 3%.

Shearson and Seattle-Northwest expect to explore both the public and private placement markets in order to achieve the lowest refinancing rate with the most advantageous terms. For instance, we have had discussions with Ford Motor Credit Company, the purchaser of the recent refunding COPs for the Spring Creek Correctional Facility, about this potential refinancing and their rate for the period ending May 31, 1987 is contained herein.

In addition to the lease payment savings discussed above, the Department of Administration also can secure the following additional benefits through a consolidation of its future equipment lease purchase activities into a Master Lease Purchase financing:

Foster & Marshall Division
Shearson Lehman Brothers Inc
999 Third Avenue
Suite 4000
Seattle WA 98104
206 344 3598

<u>Cost Reduction</u> - Master Lease Purchase financing consolidates the redundancy of lease purchase for each separate item of equipment. This reduction may save as much as 10% when compared to interest rates charged by vendors and leasing companies. State administrative costs are dramatically lessened by reducing the number of lease payments made. Approximately 1,020 lease payments need to be made under the Department's existing system between July, 1987 and July, 1991. With the Master Lease program, there would be eight payments to be made during the same timeframe. This will obviously cut the personnel time required for processing, freeing staff time for other activities.

<u>Standardization and Centralization of Operations</u> - By standardizing and centralizing lease purchase documentation, more accurate accounting and financial controls on the equipment acquired by the State can be implemented. Typically, the rating agencies view this as a very positive development in financial management practices.

Shearson Lehman and Seattle-Northwest are prepared to continue to commit the necessary resources to structure, design and implement a successful Master Lease Purchase financing. As evidence of our commitment to this endeavor, we as a team (and Seattle-Northwest in particular) have devoted a substantial amount of time and effort in analyzing over 71 State equipment leases. We look forward to discussing this proposal with you and other officials in greater detail.

Very truly yours,

John C Moore

John C. Moore
Senior Vice President
Shearson Lehman Brothers

Miriam Sevy

Miriam N. Sevy
Assistant Vice President
Seattle-Northwest Securities Corp.

JCM:jm48m

I. <u>Summary Analysis of Savings to be Derived from Refinancing Existing Equipment Leases</u>

Existing Lease Obligations Outstanding as of July 1, 1987

Total Principal Outstanding	$6,617,494
Total Interest Outstanding	1,392,390
Total	$8,009,884
Interest Rate on Outstanding Leases	13.86%(1)
Present Value of Total Principal and Interest Payments	$6,875,275(2)

Proposed Refinancing Under Master Lease Purchase Structure as of July 1, 1987

<u>Public Offering Option</u>

Principal	$7,785,000
Interest (average rate of 7.127%)	1,205,025
Total	$8,990,025(3)
Present Value Savings	$ 424,045
- As a Percent of Existing Leases	5.3%

<u>Private Placement Option</u>

Principal	$6,960,000
Interest (average rate of 7.515%)(4)	1,356,458
Total	$8,316,458
Present Value Savings	$ 274,400
- As a Percent of Existing Leases	3.43%

(1) Calculated as rate necessary to discount total principal and interest requirements ($8,009,884) to principal amount outstanding as of July 1, 1987 ($6,617,494).

(2) Based on the individual interest rate on each lease, a present value calculation was made. The total of these calculations is $6,875,275. This is the amount necessary to retire the outstanding leases with the new Master Lease.

(3) Includes a Reserve Fund equal to 10% of the principal amount of COPs; the Reserve Fund, together with a portion of the earnings thereon, will be used to fund the final year's requirement. The total net debt service requirements are $7,962,405.

(4) Provided by Ford Motor C edit Company on July 16, 1987.

II. Next Steps

Shearson Lehman Brothers and Seattle-Northwest Securities Corporation are able to provide the Department of Administration with the most complete package of services available towards completing the proposed financing.

Provided below are the key activities needed to develop the Master Lease and administer it over time. We have assumed that the State Bond Committee's bond counsel and financial advisor will play an important role with the transaction.

Event	Process	Responsibility
Review Existing Leases Develop Demand Survey	- Determine the extent of existing lease agreements or installment sales contracts which can be refinanced to produce lower annual payments. Also,determine the demand for lease acquisition over the next two-three years of the categories of equipment encompassed by the program.	Dept. of Admin., SLB & SNWSC (completed June 15, 1987)
	- Agreement to proceed.	
Evaluate Demand Survey	- Refine refinancing analysis.	SLB, SNWSC
	- Review new equipment requests to be included in the program for "essential use" test and useful life (optional).	Dept. of Admin, SLB & SNWSC
	- Aggregate equipment demand by category and prepare debt amortization schedules matching useful lives to maturity schedules.	SLB & SNWSC
Prepare for Issuance of Certificates of Participation ("COPs")	- Determine issuer of COPs and select a Lessor.	Working Group
	- Prepare drafts of legal documents including Master Lease Purchase Agreement,standard sublease agreement, Preliminary Official Statement ("POS") or Private Placement Memorandum ("PPM"), Trust Indenture, etc.	Special Tax Counsel & Underwriter's Counsel
	- Size the COP issue based upon demand survey results and amount of leases to be refinanced.	SLB & SNWSC
	- Decide upon cost effectiveness of credit enhancement and type of offering (public vs. private placement).	Dept. of Admin., SLB & SNWSC
	- If applicable, submit application to credit enhancers and rating agencies.	SLB & SNWSC
Issue COPs and Execute Master Lease	- Mail POS to investors or negotiate directly with institutional purchasers (i.e., financing subsidiaries of major industrial manufacturers, lease financing companies, commercial banks, casualty insurance companies).	SLB & SNWSC

Event	Process	Responsibility
	- Execute COP Purchase Contract, Master Lease Purchase Contract, Trust Indenture, etc.	Dept. of Admin., SLB, SNWSC, Lessor & Trustee
Refinance Existing Leases	- Trustee issues checks, approved by Lessor, to be delivered to existing vendor/lessor to buy-out lease.	Lessor & Trustee
	- Lessor delivers to Dept. of Admin. new schedule of lease payments.	Lessor
	- On first lease payment date (about 6 months from closing), Dept. of Admin. sends lease payment to Trustee.	Dept. of Admin.
	- Trustee aggregates lease payments together with earnings on unexpended COP proceeds to pay COP investors.	Trustee

The State can realize savings in lease payments by incorporating new equipment purchases into a Master Lease for fiscal years 1988-1991. Shown below are the additional steps necessary to implement a Master Lease program.

Execute New Equipment Purchases	- Dept. of Admin. determines equipment needs and selects model and vendor.	Dept. of Admin.
	- Procurement form sent to Lessor.	Dept. of Admin.
	- Lessor reviews request for "essential purpose" and useful life.	Lessor
	- Lessor sends payment to equipment vendor.	Lessor
	- Vendor delivers equipment to Dept. of Admin. Dept. of Admin. verifies equipment as that requested and notifies Lessor.	Dept. of Admin. & Lessor
	- Lessor delivers to Dept. of Admin. a schedule of lease payments and records lease schedule as part of Master Lease.	Lessor
	- On first lease payment date (about 6 months from closing), Dept. of Admin. sends lease payment to Trustee.	Dept. of Admin.
	- Trustee aggregates lease payments with earnings on unexpended COP proceeds to pay COP proceeds.	Trustee
	- As equipment categories are fully utilized (based upon original demand survey) requests for new equipment purchases may be refused due to depletion of Master Lease funds.	Lessor
	- Lessor notifies Dept. of Admin. as certain equipment categories are fully utilized and Dept. of Admin. conducts new demand survey as a first step in replenishing the Master Lease loan fund.	Dept. of Admin.

III. Public Offering vs. Private Placement/Costs of Issuance

As your investment bankers on the proposed COP financing, Shearson and Seattle-Northwest will explore all markets for the COPs and make recommendations of the type of offering that result in the lowest interest costs and best terms. We are prepared to support either a negotiated public sale or private placement after a more complete evaluation is completed with your input. We have outlined the major differences between a public offering and private placement below.

Provision	Negotiated Public Offering	Private Placement
Interest Rates	Lowest	Highest
Nature of Covenants	Least Restrictive	Most Restrictive
Lead Time to Complete	Longest	Shortest
Initial Issuance Cost	Highest	Lowest
Overall Cost of Capital	Lowest	Highest

Based on current market conditions, the negotiated public sale method is more attractive. We would continue, however, to advise the Department of Administration and the State Bond Committee of this changing environment if private placement opportunities should arise. For instance, we are aware that the State was successful in arranging for the recent private placement of the Spring Creek Correctional Facility Refunding COPs with Ford Motor Credit Corporation at a very favorable interest rate. We recently held discussions with Ford and several other major credit and/or leasing subsidiaries about their interest in purchasing tax-exempt equipment leases from various states. As a result of these discussions, we understand their policies, guidelines and interest rate parameters on equipment leases and we are prepared to share the results of our investigation with you. We will prepare a pricing analysis to support our recommendation. This analysis will include all costs of the transaction and a schedule of lease payments.

Costs of Issuance. The following is our estimate of the categories and amounts of the issuance costs when issuing the proposed COPs. We have assumed a COP issue of $7,785,000 which only represents a refinancing of existing leases. These estimates represent our best efforts to provide realistic expense projections rather than unreasonably low figures that later might be a source of disappointment or embarrassment.

	"A" Rated Public Offering	Non-Rated Private Placement
Special Tax Counsel	$10,000	$10,000
Rating Agencies	6,000	N/A
Trustee	2,500	2,500
Lessor	12,000	N/A
Financial Advisor	7,500	7,500
COP Printing & Registration	2,000	N/A
Printing & Distributing Offering Documents	5,000	500
Total	$45,000	$20,500

These costs will vary depending upon final structure and negotiations with each party. For example, if municipal bond insurance is judged to be beneficial, insurance premiums would be added to the above estimate for the public offering option.

Underwriters' Discount. For a public offering, our compensation would be paid out of the discount or "spread" between the price we pay for the COPs and the price at which we sell them. Of course, the discount is entirely contingent upon a successful sale. Our estimated spread would vary depending upon market conditions and structure. Again, we have been conservative to depict the most realistic amounts, as follows:

	"A" Rated Public Offering
Management Fee	.35%
Underwriting	.20
Takedown (sales commissions)	.50
Expenses(1)	.20
Total	1.25%

Private Placement Fee. For a private placement, our compensation would take the form of a fee, payable from the proceeds of the COPs. Our fee will not exceed .875%.

(1) Includes underwriters' counsel, clearance, travel and out-of-pocket expenses, and miscellaneous courier services and conference call charges.

IV. Credit Considerations for a Public Offering

The establishment of an acceptable security can be one of the major obstacles to completing a tax-exempt lease financing. Understanding these points is critical to an appreciation of how a municipal lease-backed Certificate of Participation will be rated for a public offering. It is important to note that investors in a publicly offered COP issue will be looking for much of the same covenants and clauses that the Department of Administration is already providing on its existing equipment leases. For instance, the Department of Administration's existing leases contain nonappropriation language, security interest and remedy provisions, indemnification of lessor provisions and nonsubstitution clauses.

Non-Appropriation Clause. The lease and the subsequent financing provided by the lessor in most cases is not considered a debt obligation of the governmental body because the lease would be subject to annual appropriation (in some states such as Michigan and New Jersey, it is not considered to be debt even if there is a contractual obligation to make payments for the entire lease period). For this reason, lease-purchase financing is often used in situations where governments are constrained by debt limitations or referendum requirements regarding the issuance of debt. The rating ascribed to the issue on a COP financing, however, reflects the ability of the lessee to release his obligation, through non-appropriation, and the increased possibility that the transaction structure will be collapsed in such a circumstance. Typical non-appropriation language included in the lease, would be similar to the following:

> Lessee reasonably believes funds can be obtained sufficient to make all lease payments due during the term of the lease. Lessee hereby covenants that it will do all things lawfully within its power to obtain and maintain funds from which lease payments may be made, including making provisions for such payments to the extent necessary in each annual budget submitted for the purpose of obtaining funds, using its bona fide best efforts to have such portion of the budget approved, and exhausting all available review and appeals in the event such portion of the budget is not approved.
>
> In the event that the lessee is unable to obtain funding for any renewal term, lessee shall have the right to terminate this lease at the conclusion of the then current term of the lease and shall neither be obligated to make any lease payments due beyond the current term, nor to make any concluding payment whatsoever, and this lease shall terminate as to that leased facility or equipment. Provided, however, that in the event lessee does not appropriate such funds, lessee will use its good faith best efforts to acquire the necessary funding from other agencies or sources. Upon termination as provided for above, lessor or its agents should have the right to take possession of the leased equipment/facility and lessee shall be liable to return the leased equipment/facility to lessor in full operational and good working order.

Security Interest and Remedy Provisions. Due to the provision for non-appropriation, the security provided to the certificate holders in the event that the government unit ceases to make lease payments, and therefore provide for Certificate debt service, is a critical element to the COP issue's rating. The most fundamental issue will be the ability to grant a security interest, or, in other words, give the certificate holders the right to the ownership of the equipment or facility being financed in the event that payments are no longer made. The ability to grant such an interest is not universal, and in certain states this security feature cannot be included. In those states where a security interest is not a legal remedy, the need to develop strong alternative remedies for the certificate holders is a major concern. One such alternative is to provide to the certificate holders the proceeds of a subsequent sale of the equipment or facility. Increased use of tax-exempt leases has provided a number of examples of how to structure an adequate remedy in those states where a security interest is not available.

Indemnification of Lessor. In a lease financing, the lessor is a party to the primary agreement in the structure - the Lease-Purchase Contract. Although the lessor will typically transfer all rights and obligations to an agent, a claim against the lessor could conceivably collapse the transaction. In order to minimize the likelihood of such an occurrence, the state will typically indemnify the lessor against all claims relating to the use or ownership of the equipment. The need for such a clause relates to the possibility of a liability suit filed relating to an improper use of leased equipment or facility, which names the lessor, or a tax that may be established at some point in time that would apply to the lease payments made to the lessor. In certain states, the lessee has not been able to grant such an indemnification. In those cases, a private corporation is effectively precluded from acting as lessor, and a state agency is alternatively used as the nominal lessor.

Credit Enhancement. Municipal bond insurance provides a third party guarantee of timely payment of principal and interest on a tax-exempt bond issue. The insurance policy is given in exchange for a one-time premium paid upon issuance and calculated as a percentage of total principal and interest payments over the life of the bonds. The insurance provides a AAA rating from one or both of the major credit rating agencies, which can result in substantial savings after the cost of the insurance is taken into account.

Until a few years ago, tax-exempt leases which depended upon annual appropriations were not considered insurable. More recently, because of new entrants into the municipal bond insurance industry and more experience with annual appropriation risk, lease purchase transactions with strong security features have been eligible for such insurance. Typical insurance premium costs range from .65% to 1% of total principal and interest.

Similarly, a letter of credit from a commercial bank provides a guarantee that substitutes the bank's credit for that of the issuer. The letter of credit, however, is provided in exchange for an annual fee expressed as a percentage of the outstanding principal amount of the bonds. The letter of credit usually is available only for less than the life of a long-term bond issue and would have to be renewed (usually every five to seven years) to remain in effect. This can be a particularly attractive option for equipment financings where typical final maturities are in the same range. Typical fees for a letter of credit are presently in the range of three-eighths to one-half of a percentage point per annum, depending on the risk undertaken and the demand for letters of credit.

An issuer and its investment banker would first evaluate the potential costs and economic benefits of using either an insurance policy or a letter of credit for a given COP issue. Conclusions would be drawn based on the interest cost savings of enhancement. The savings would be calculated on a present value basis. In most market conditions, a lease purchase issue which would otherwise be rated A or lower will benefit from the use of insurance, while ratings lower than BBB- are generally not insurable. Next, the availability of such credit enhancement would have to be determined. This will often depend on the legal constraints on the issuer and the degree to which the issuer is willing to comply with the restrictive covenants which the insurer or bank may require as prerequisites to an agreement. The investment banker then would negotiate with one or more firms providing credit enhancement to find the most advantageous terms.

<u>Essential Use Facility/Bondholder's Security</u>. In assessing the cash flow support of instruments backed by a lease-purchase agreement, investors and rating agencies evaluate the possibility of an event of non-appropriation by the lessee. In this regard, the nature of the facility being financed and its importance to the lessee's responsibility of providing essential services are pivotal. Lease purchase financing of non-essential public facilities, such as convention centers, is not as well received by investors as bonds backed by lease-purchase agreements associated with the financing of more vital facilities. Correctional facilities, for example, represent an extreme in essential use because governments obviously must avoid closing down a correctional facility and releasing prisoners. Investors, for this reason, regard lease-purchase financing involving such facilities as representing a strong and attractive credit. To formalize this situation, investors sometimes request the state or local government lessee to provide a letter setting forth the essential nature of the leased property.

<u>Non-Substitution Clause</u>. Investors traditionally have been comforted by inclusion of a non-substitution clause in the lease-purchase agreement which would preclude the governmental body from acquiring the same or a similar facility for a period of time in the event of non-appropriation. This can reduce the risk of early termination of the lease for other than the legitimate absence of sufficient funds. Typical non-substitution language would read as follows:

The lessee agrees that in the event the lessee exercises its right to terminate this lease in accordance with the non-appropriation provisions contained herein, the lessee will not purchase, lease, or rent other property for the purchase of performing the functions and projects which were to be performed by the leased facility for a period of one year from the date of termination of this lease.

Credit Ratings. The rating agencies generally rate lease-purchase issues at least one full grade below the general obligation rating of the lessee. For example, if a state or local government is rated AA, the lease-purchase issue generally would be rated A. This rating policy stems from the risk of non-appropriation. Factors which could improve such a rating are: (i) extremely strong security features on the lease, including a lengthy lease term, automatic lease renewals, a contractual requirement to make lease payments or a non-substitution clause; (ii) additional security backing (such as insurance or a bank letter of credit) or specific additional revenues pledged toward payment on the bonds; (iii) powerful evidence of the essentiality of the facility; and (iv) clear statutory authority for leasing and historical experience by the lessee in making appropriations for tax-exempt municipal leasing. The lower rating will result in a higher interest rate as compared to the lessee's general obligation bonds. If the state or local government has the choice for a given project of using either general obligation or lease-purchase financing with equal annual payments, the impact of either on the governmental body's overall credit rating would be the same. When the lease-purchase financing can be structured to cost less than general obligation financing, the lease purchase issue would have less of an impact on the governmental body's debt capacity and thus help to preserve the credit rating.

FY '89 CAPITAL PROJECTS INCLUDED IN THE GOVERNOR'S BUDGET PROPOSAL

	GENERAL FUND	OTHER FUNDS	TOTAL
* * * DEPARTMENT OF ADMINISTRATION * * *			
STATEWIDE PAYROLL SYSTEM	3,000.0	0.0	3,000.0
STATEWIDE PIONEER'S HOMES MAINTENANCE	750.0	0.0	750.0
* * * AGENCY TOTALS * * *	3,750.0	0.0	3,750.0
* * * DEPARTMENT OF REVENUE * * *			
DEPT OF REVENUE REORGANIZATION/SPACE CONSOLIDATION	90.3	73.9	164.2
OIL AND GAS AUDIT - COMPUTER INTEGRATION SYSTEM	300.0	0.0	300.0
* * * AGENCY TOTALS * * *	390.3	73.9	464.2
* * * DEPARTMENT OF EDUCATION * * *			
SEWARD ELEMENTARY SCHOOL	8,940.0	0.0	8,940.0
REPLACEMENT OF EMMONAK ELEMENTARY SCHOOL-PLANNING & DESIGN	500.0	0.0	500.0
MCGRATH WASTE WATER DISPOSAL	500.0	0.0	500.0
KOTZEBUE JR. HIGH SCHOOL RENOVATION	3,500.0	0.0	3,500.0
LKSD KIPNUK SCHOOL REPLACEMENT	550.0	0.0	550.0
SITKA HIGH SCHOOL RE-SIDING COMPLETION	100.0	0.0	100.0
MT EDGECUMBE ASBESTOS ABATEMENT, DEMOLITION AND RENOVATION	1,800.0	0.0	1,800.0
AVTEC MAJOR MAINTENANCE, EQUIPMENT, & TRAINING MATERIALS	500.0	0.0	500.0
AHERA ASBESTOS COMPLIANCE GRANTS	500.0	0.0	500.0
LIBRARY MATERIALS, EQUIPMENT AND FURNITURE	200.0	0.0	200.0
PUBLIC LIBRARY CONSTRUCTION GRANTS-FEDERAL	0.0	150.0	150.0
STUDENT LOAN PROGRAM EQUIPMENT	0.0	73.8	73.8
* * * AGENCY TOTALS * * *	17,090.0	223.8	17,313.8
* * * DEPARTMENT OF HEALTH & SOCIAL SERVICES * * *			
DHSS REPAIR, RENOVATION, MAINTENANCE AND EQUIPMENT	1,000.0	0.0	1,000.0

DEPARTMENT OF HEALTH & SOCIAL SERVICES (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
* * * AGENCY TOTALS * * *	1,000.0	0.0	1,000.0
* * * DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT * * *			
CAPITAL MATCHING GRANT PROGRAM	800.0	0.0	800.0
MARICULTURE DEVELOPMENT	130.4	0.0	130.4
ARDOR GRANT PROGRAM	300.0	0.0	300.0
APA-BRADLEY LAKE HYDRO PROJECT (POWER DEVELOPMENT FUND)	0.0	7,000.0	7,000.0
APA-WASTE HEAT PROGRAM	0.0	200.0	200.0
APA-RURAL TECHNICAL ASSISTANCE	0.0	500.0	500.0
APA-METERING INSTALLATION AND SURVEY	0.0	150.0	150.0
APA-RURAL PUBLIC UTILITIES EFFICIENCY IMPROVEMENTS	0.0	300.0	300.0
APA-RURAL END-USE EFFICIENCY PILOT PROJECT	0.0	300.0	300.0
APA-BOND ISSUANCE COSTS	0.0	300.0	300.0
APA-SNETTISHAM PROJECT TRANSFER	0.0	100.0	100.0
APA-SOUTHEAST INTERTIE FEASIBILITY	0.0	200.0	200.0
APA-UNALASKA GEOTHERMAL FINANCING	0.0	495.0	495.0
APA-BETHEL AREA INTERTIE PERMITTING AND ROW	0.0	50.0	50.0
APA-WHITE MOUNTAIN POWER SYSTEM UPGRADE	0.0	75.0	75.0
APA-INTERIOR WESTERN ALASKA TRANSMISSION GRID	0.0	100.0	100.0
APA-BREVIG MISSION TO TELLER INTERTIE	0.0	150.0	150.0
APA-MANOKOTAK ELECTRIC SYSTEM UPGRADE	0.0	100.0	100.0
APA-APPLIED/APPROPRIATE TECHNOLOGY PROGRAM	0.0	300.0	300.0
APA-KOTZEBUE COAL FEASIBILITY	0.0	200.0	200.0
APA-NAKNEK SUB-REGION FEASIBILITY	0.0	50.0	50.0
* * * AGENCY TOTALS * * *	1,230.4	10,570.0	11,800.4
* * * DEPARTMENT OF MILITARY & VETERANS AFFAIRS * * *			
UPGRADE NATIONAL GUARD FACILITIES	1,000.0	1,627.0	2,627.0

DEPARTMENT OF MILITARY & VETERANS AFFAIRS (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
* * * AGENCY TOTALS * * *	1,000.0	1,627.0	2,627.0
* * * DEPARTMENT OF NATURAL RESOURCES * * *			
DNR NORTHERN REGION OFFICE COMPLEX	637.7	0.0	637.7
PARKS PUBLIC HEALTH AND SAFETY NEEDS	350.0	0.0	350.0
REHAB AND EXPANSION OF PARKS FACILITIES	0.0	200.0	200.0
LAND AND WATER CONSERVATION FUND	0.0	1,000.0	1,000.0
NATIONAL HISTORIC PRESERVATION FUND	0.0	640.0	640.0
MUNICIPAL SPECIAL ASSESSMENT	50.0	0.0	50.0
* * * AGENCY TOTALS * * *	1,037.7	1,840.0	2,877.7
* * * DEPARTMENT OF FISH & GAME * * *			
VESSELS MAJOR MAINTENANCE	180.0	0.0	180.0
GAME LAB WALK-IN FREEZER	36.3	0.0	36.3
PUBLIC ACCESS ACQUISITION	408.0	1,224.2	1,632.2
REPLACEMENT EQUIPMENT AND FACILITY REPAIRS	600.0	0.0	600.0
SOUTHEAST PATHOLOGY LAB ELECTRON MICROSCOPE	85.0	0.0	85.0
* * * AGENCY TOTALS * * *	1,309.3	1,224.2	2,533.5
* * * DEPARTMENT OF PUBLIC SAFETY * * *			
FISH AND WILDLIFE PROTECTION MAJOR VESSEL REPAIR	150.0	0.0	150.0
PUBLIC SAFETY EQUIPMENT	270.0	0.0	270.0
FORENSIC EQUIPMENT	131.0	0.0	131.0
* * * AGENCY TOTALS * * *	551.0	0.0	551.0
* * * DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES * * *			
STATE EQUIPMENT FLEET REPLACEMENT PROGRAM	0.0	10,000.0	10,000.0
SURVEY EQUIPMENT REPLACEMENT	0.0	150.0	150.0

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
AIA MAINTENANCE EQUIPMENT FY89	0.0	540.0	540.0
AIA MONITORING SYSTEM	0.0	400.0	400.0
FIA RUNWAY BROOMS PURCHASE	0.0	600.0	600.0
UMTA TRANSIT GRANTS	0.0	500.0	500.0
ANNUAL BRIDGE INSPECTION AND INVENTORY	0.0	400.0	400.0
GEOREFERENCING MONUMENTATION	0.0	400.0	400.0
NATIONAL HIGHWAY INSTITUTE	0.0	25.0	25.0
INDUSTRIAL USE HIGHWAYS MAINTENANCE	82.5	0.0	82.5
STANDARDS MANUALS PUBLISHING	65.0	0.0	65.0
REIMBURSABLE AUTHORITY	10,000.0	0.0	10,000.0
RURAL AIRPORTS FEE IMPLEMENTATION	221.0	0.0	221.0
GENERAL FUND MATCH FOR FEDERAL-AID HIGHWAYS	16,350.0	0.0	16,350.0
GENERAL FUND MATCH FOR FEDERAL-AID AVIATION	3,750.0	0.0	3,750.0
OFF-SYSTEM BRIDGE APPROACHES	100.0	0.0	100.0
STATEWIDE RESEARCH PROGRAM	870.0	600.0	1,470.0
ANNUAL TRANSPORTATION PLANNING WORK PROGRAM	610.0	835.0	1,445.0
STATEWIDE BARRIER FREE PROGRAM	480.0	0.0	480.0
STATEWIDE ADVANCED PROJECT DEFINITION	350.0	0.0	350.0
HIGHWAYS & AVIATION NON-ROUTINE MAINTENANCE	700.0	0.0	700.0
STATEWIDE GRAVEL STOCKPILES	250.0	0.0	250.0
MAINTENANCE DELIVERY SYSTEM	100.0	0.0	100.0
MATERIALS LAB TESTING EQUIPMENT	0.0	40.0	40.0
STATEWIDE BRUSHING	100.0	0.0	100.0
STATEWIDE FACILITY REPAIRS	350.0	0.0	350.0
CENTRAL REGION SAFETY IMPROVEMENTS	0.0	1,350.0	1,350.0
MAT-SU HIGHWAY CHANNELIZATION, LIGHTING & TRAFFIC CONTROL	0.0	521.0	521.0

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
CENTRAL REGION GUARDRAIL UPGRADE	0.0	345.8	345.8
CENTRAL REGION BRIDGE REPLACEMENT	0.0	800.0	800.0
CENTRAL REGION RAILROAD CROSSING IMPROVEMENTS	0.0	450.0	450.0
PLATINUM AIRPORT RELOCATION STUDY	0.0	187.5	187.5
AIA GA ENVIRONMENTAL ASSESSMENT/DESIGN	0.0	500.0	500.0
WASILLA AIRPORT RELOCATION	0.0	3,750.0	3,750.0
DILLINGHAM AIRPORT GA APRON EXPANSION	0.0	2,437.5	2,437.5
OLD HARBOR AIRPORT RECONSTRUCT/RELOCATE	0.0	1,150.0	1,150.0
CENTRAL REGION AVIATION PRELIMINARY ENGINEERING	0.0	1,125.0	1,125.0
EAGLE RIVER BRIDGE/HILAND DRIVE PHASE 1 (ROAD SEGMENTS)	0.0	11,838.6	11,838.6
GLENN HIGHWAY - NORTH EAGLE RIVER I/C	0.0	3,400.0	3,400.0
BETHEL AIRPORT ROAD REHABILITATION	0.0	4,567.5	4,567.5
CENTRAL REGION HIGHWAYS PRELIMINARY ENGINEERING	0.0	2,786.7	2,786.7
ANCHORAGE TRANSIT	0.0	1,950.0	1,950.0
AIA REMOTE FUELING APRON EXPANSION	0.0	4,500.0	4,500.0
AIA RESURFACE TAXIWAY "K"	0.0	3,000.0	3,000.0
AIA RECONSTRUCT TAXIWAY "G"	0.0	2,213.0	2,213.0
AIA RECONSTRUCTION OF RAMP AREAS FY89	0.0	1,000.0	1,000.0
AIA GENERAL AVIATION PAVING FY89	0.0	1,000.0	1,000.0
AIA INTERNAL ROAD IMPROVEMENTS	0.0	1,000.0	1,000.0
AIA ANNUAL IMPROVEMENTS FY89	0.0	650.0	650.0
ANCHORAGE RIDESHARING	0.0	135.0	135.0
AIA SURVEY/UPDATE LAND OCCUPANCY MAP	0.0	300.0	300.0
NUNAPITCHUK DRAINAGE	34.0	0.0	34.0
NOORVIK AIRPORT RUNWAY EROSION REPAIRS	0.0	900.0	900.0
NOME RUNWAY REPAIRS, PHASE 3 CONSTRUCTION	0.0	4,000.0	4,000.0

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
NOME RUNWAY REPAIRS, PHASE 2 CONSTRUCTION	0.0	3,920.0	3,920.0
BOUNDARY AIRPORT RUNWAY RESURFACING SUPPLEMENTAL	0.0	400.0	400.0
RAMPART AIRPORT IMPROVEMENT SUPPLEMENTAL	0.0	300.0	300.0
BETTLES AIRPORT IMPROVEMENT SUPPLEMENTAL	0.0	68.0	68.0
GALENA AIRPORT MASTER PLAN	0.0	150.0	150.0
GEIST ROAD EXTENSION, ILLINOIS RECONSTRUCTION	0.0	18,270.0	18,270.0
NORTHERN REGION PE, ROW, AND UTILITIES	0.0	5,891.0	5,891.0
OLD STEESE, WENDELL EXPRESSWAY	0.0	4,500.0	4,500.0
RICHARDSON HIGHWAY, MP 0 NORTH REHABILITATION	0.0	3,471.3	3,471.3
BADGER ROAD RECONSTRUCTION	0.0	2,675.1	2,675.1
NORTHERN REGION SAFETY PROGRAM	0.0	2,300.0	2,300.0
RICHARDSON HIGHWAY, EIELSON NORTH REHABILITATION	0.0	2,300.0	2,300.0
UNIVERSITY AVENUE/COLLEGE INTERSECTION IMPROVEMENTS	0.0	2,000.0	2,000.0
CHENA HOT SPRINGS ROAD WIDENING	0.0	1,940.0	1,940.0
DAVIS ROAD WIDENING	0.0	1,800.0	1,800.0
AIRPORT WAY RESURFACING	0.0	1,650.0	1,650.0
OLD RICHARDSON HIGHWAY WIDENING	0.0	1,600.0	1,600.0
LACEY-NOBLE CONNECTOR CONSTRUCTION	0.0	1,500.0	1,500.0
SOUTH CUSHMAN WIDENING	0.0	1,450.0	1,450.0
COLLEGE ROAD WIDENING	0.0	1,250.0	1,250.0
WILBUR STREET EXTENSION	0.0	1,100.0	1,100.0
LATHROP STREET, EXPRESSWAY - VAN HORN RECONSTRUCTION	0.0	785.0	785.0
PARKS/CHENA RIDGE INTERCHANGE	0.0	686.0	686.0
PARKS HIGHWAY EROSION CONTROL	0.0	663.1	663.1
BADGER/HOLMES CONSTRUCTION	0.0	593.8	593.8
STEESE EXPRESSWAY REHABILITATION	0.0	300.0	300.0

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
FMATS TRAFFIC SYSTEM IMPROVEMENTS	0.0	275.0	275.0
NABESNA ROAD RECONSTRUCTION, RECONNAISSANCE	0.0	250.0	250.0
SELAWIK AIRPORT IMPROVEMENTS	0.0	2,950.0	2,950.0
BARROW APRON EXPANSION	0.0	2,850.0	2,850.0
NORTHERN REGION AVIATION P.E., ROW, AND UTILITIES	0.0	1,600.0	1,600.0
CHANDALAR LAKE AIRPORT IMPROVEMENTS	0.0	950.0	950.0
DEADHORSE RUNWAY HEAT REFLECTIVE TREATMENT	0.0	880.0	880.0
KOTZEBUE RUNWAY RESURFACING, PRELIMINARY ENGINEERING	0.0	300.0	300.0
WILLOW AIRPORT RUNWAY LIGHTING	0.0	234.4	234.4
FIA CFR BUILDING UPGRADE CONSTRUCTION	0.0	2,000.0	2,000.0
FIA ANNUAL IMPROVEMENTS FY89	0.0	300.0	300.0
FIA WEST APRON SLURRY SEAL	0.0	300.0	300.0
ST. PAUL HARBOR	4,000.0	0.0	4,000.0
SOUTHEAST REGION HIGHWAY SAFETY IMPROVEMENTS	0.0	400.0	400.0
HOONAH AIRPORT IMPROVEMENTS SUPPLEMENTAL	0.0	3,100.0	3,100.0
SOUTHEAST REGION AIRPORT MASTER PLANS-3 (KLAWOCK & KAKE)	0.0	200.0	200.0
GLACIER HIGHWAY-INDIAN POINT TO TEE HARBOR RECONSTRUCTION	0.0	3,289.0	3,289.0
KLAWOCK RIVER BRIDGE REPLACEMENT 8 APPROACHES	0.0	2,250.0	2,250.0
EGAN EXPRESSWAY PAVEMENT REHABILITATION	0.0	2,056.0	2,056.0
GLACIER HIGHWAY-FRED MEYER TO MCNUGGET SUPPLEMENTAL	0.0	200.0	200.0
SITKA AIRPORT - REPAVE AND GROOVE RUNWAY	0.0	2,000.0	2,000.0
CRAIG SEAPLANE BASE EXPANSION	0.0	1,700.0	1,700.0
METLAKATLA SEAPLANE FLOAT EXPANSION	0.0	630.0	630.0
THORNE BAY SEAPLANE FACILITIES	0.0	500.0	500.0
WHALE PASS SEAPLANE FACILITY	0.0	388.0	388.0
KASAAN SEAPLANE FLOAT	0.0	254.0	254.0

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
EDNA BAY SEAPLANE FLOAT	0.0	180.0	180.0
HYDER SEAPLANE FLOAT	0.0	120.0	120.0
YAKUTAT AIRPORT GENERATOR & TAXIWAY LIGHTS	0.0	100.0	100.0
HAINES AIRPORT IMPROVEMENTS	0.0	400.0	400.0
SOUTHEAST REGION HIGHWAY PRELIMINARY ENGINEERING	0.0	1,348.0	1,348.0
SITKA BOAT MAINTENANCE FACILITY	400.0	0.0	400.0
SITKA KATLIAN STREET TURN LANE	85.0	0.0	85.0
PELICAN CITY RE-SURVEY	100.0	0.0	100.0
ELFIN COVE BOARDWALK REPAIRS	30.0	0.0	30.0
PORT ALEXANDER BOARDWALK REPAIRS	25.0	0.0	25.0
M/V TUSTUMENA REFURBISHMENT PHASE 3	0.0	2,488.2	2,488.2
HAINES UPLANDS IMPROVEMENTS	0.0	525.3	525.3
M/V LECONTE REPOWER AND MACHINERY REFURBISHMENT	0.0	250.0	250.0
SOUTHERN TERMINUS PRELIMINARY ENGINEERING	0.0	228.4	228.4
ALASKA MARINE HIGHWAY SYSTEM IMPROVEMENTS	700.0	0.0	700.0
* * * AGENCY TOTALS * * *	39,752.5	167,407.2	207,159.7
* * * DEPARTMENT OF ENVIRONMENTAL CONSERVATION * * *			
OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND	500.0	0.0	500.0
DOUGLAS LABORATORY DESIGN/SPACE CONSOLIDATION	500.0	0.0	500.0
VSW-HUSLIA SEWER UPGRADE PHASE I	450.0	0.0	450.0
VSW-HUGHES SUMMER WATER/PRIVIES/PUMPER	162.0	0.0	162.0
VSW-GRAYLING WATER/SEWER UPGRADE	400.0	0.0	400.0
VSW-UPPER KALSKAG STUDY	12.0	0.0	12.0
NUNAPITCHUK SEWAGE SYSTEM	550.0	0.0	550.0
TANANA WATER PLANT UPGRADE	97.0	0.0	97.0

DEPARTMENT OF ENVIRONMENTAL CONSERVATION (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
* * * AGENCY TOTALS * * *	2,671.0	0.0	2,671.0
* * * DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS * * *			
SUPPLEMENTAL HOUSING DEVELOPMENT FUND	3,500.0	0.0	3,500.0
WEATHERIZATION AND ENERGY CONSERVATION	250.0	1,700.0	1,950.0
COMMUNITY BLOCK GRANTS	0.0	3,000.0	3,000.0
OIL OVERCHARGE SETTLEMENT FUNDS	0.0	7,480.0	7,480.0
TENAKEE COMMUNITY CENTER COMPLETION	50.0	0.0	50.0
MCGRATH ENERGY CONSERVATION GRANT	200.0	0.0	200.0
KOYUKUK PRESCHOOL BUILDING REPLACEMENT GRANT	90.0	0.0	90.0
* * * AGENCY TOTALS * * *	4,090.0	12,180.0	16,270.0
* * * DEPARTMENT OF CORRECTIONS * * *			
RENOVATION, REPAIR, EQUIPMENT AND EXPANSION	1,000.0	0.0	1,000.0
* * * AGENCY TOTALS * * *	1,000.0	0.0	1,000.0
* * * UNIVERSITY OF ALASKA * * *			
UAS KETCHIKAN COLLEGE PAUL BUILDING FIRE DETECTION SYSTEM	55.0	0.0	55.0
UAS KETCHIKAN COLLEGE ZIEGLER BUILDING FIRE DETECTION SYSTEM	56.1	0.0	56.1
UAF SEWARD IMS HAZARDOUS MATERIALS STORAGE	30.0	0.0	30.0
STATEWIDE UNIVERSITY OF ALASKA LEASE/PURCHASE COMPUTER UPGRADE	366.0	0.0	366.0
UA ANCHORAGE NEW AND REPLACEMENT EQUIPMENT	500.0	0.0	500.0
UA FAIRBANKS NEW AND REPLACEMENT CAPITAL EQUIPMENT	500.0	0.0	500.0
UA SOUTHEAST NEW AND REPLACEMENT CAPITAL EQUIPMENT	150.0	0.0	150.0
ALASKA CENTER FOR INTERNATIONAL BUSINESS ENDOWMENT	2,500.0	0.0	2,500.0
ROSIE CREEK FIRE RESEARCH PROJECT	150.0	0.0	150.0

UNIVERSITY OF ALASKA (CONT.)

	GENERAL FUND	OTHER FUNDS	TOTAL
* * * AGENCY TOTALS * * *	4,307.1	0.0	4,307.1
* * * ALASKA COURT SYSTEM * * *			
STATEWIDE COURT SECURITY IMPROVEMENTS	250.0	0.0	250.0
* * * AGENCY TOTALS * * *	250.0	0.0	250.0
* * * ECONOMIC ASSISTANCE CAPITAL PROJECTS * * *			
ECONOMIC ASSISTANCE PROJECTS - TO BE DEVELOPED WITH THE LEGISL	150,000.0	0.0	150,000.0
* * * AGENCY TOTALS * * *	150,000.0	0.0	150,000.0

SB 341
Amendments
Suggested by Department of Revenue

Amendment No. 1

Insert new sections to read:

* Sec. 3. AS 18.55.010 is amended to read:

Sec. 18.55.010. PURPOSE OF AS 18.55.010--18.55.290. The purpose of AS 18.55.010--18.55.290 is to remedy the acute housing shortage that exists in certain localities of the state by undertaking slum clearance, low-cost housing projects, housing for persons and their families engaged in national defense activities in the state, and housing projects and housing for veterans of World War II and other citizens of the state and to remedy the short supply of necessary public buildings <u>and equipment</u> by providing for the financing, construction and acquisition of public buildings <u>and equipment</u> for lease to the state.

* Sec. 4. AS 18.55.080 is amended to read:

Sec. 18.55.080. MEMBERS OR EMPLOYEES PROHIBITED FROM ACQUIRING INTEREST IN PROJECTS. A member or employee of the authority may not acquire an interest, direct or indirect, in a housing or public building <u>or equipment</u> project, or in property or a contract for materials or services included or planned to be included in a project. If a member or employee owns or controls an interest, the member or employee shall immediately disclose the interest in writing to the authority. Failure to make disclosure constitutes misconduct in office.

* Sec. 5. AS 18.55.100(a)(15) is amended to read:

(15) arrange or contract for the financing, design, construction and acquisition of public buildings <u>and equipment</u> for lease to the state in accordance with AS 18.55.010--18.55.290.

* Sec. 6. AS 18.55.100(d) is amended to read:

(d) Notwithstanding (a)(7) and (15) of this section, a proposed public building <u>or equipment</u>

project shall be submitted by the authority to the legislature for review. The authority may proceed with the public buildings <u>or equipment</u> project only if it is approved by law. An appropriation does not constitute approval by law for purposes of this subsection.

* Sec. 7. AS 18.55.150 is amended to read:

Sec. 18.55.150. SECURITY FOR BONDS. The authority may issue bonds including but not limited to bonds on which the principal and interest are payable (1) exclusively from the income and revenue of the housing project financed with the proceeds of the bonds, (2) exclusively from the income and revenue of designated housing projects whether or not they are financed in whole or in part with the proceeds of the bonds, (3) from its revenue generally, or (4) exclusively from rents collected on public buildings <u>or equipment</u>. Bonds may be additionally secured by a pledge of a grant or contribution from the federal government or from another source, or by a pledge of income or revenue of the authority, or by a mortgage of a housing project or other property of the authority.

* Sec. 8. AS 18.55.180 is amended to read:

Sec. 18.55.180. ISSUANCE AND SALE OF BONDS AND NOTES. Bonds and notes of the authority are authorized by adoption of a resolution prescribing the date of issuance and maturity, interest rate, denomination, form, conversion privilege, rank or priority, execution, terms or redemption, medium and place of payment. Bonds and notes may be sold in the manner, on the terms, and at the price the authority determines. Each bond and note is negotiable. The signature of a member or an officer upon a bond or note or coupon is not invalidated by that person's ceasing to hold office before the delivery of the bond or note. The recitation of a bond or note that it has been issued in the financing of a housing or public building <u>or equipment</u> project under AS 18.55.010--18.55.290 is conclusive as to the issuance of the bond or note and the character of the project in a challenge of the validity of the bond or note or the security for it.

* Sec. 9. AS 18.55.200(4) is amended to read:

(4) covenant with respect to limitations on

its right to sell, lease or otherwise dispose of a housing or public building <u>or equipment</u> project or a part of a housing or public building <u>or equipment</u> project;

* Sec. 10. AS 18.55.200(10) is amended to read:

(10) covenant subject to the limitations contained in AS 18.55.010--18.55.290 as to the rents and fees to be charged in the operation of a housing or public building <u>or equipment</u> project, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition of these revenues;

* Sec. 11. AS 18.55.200(15) is amended to read:

(15) vest in one or more trustees the right, in the event of a default by the authority, to take possession of a housing or public building <u>or equipment</u> project or a part of the project, and so long as the authority continues in default to retain possession and to use, operate and manage the project, and to collect the rents and revenues from the project, and to dispose of the money according to the agreement between the authority and the trustees;

* Sec. 12. AS 18.55.220(1) and (2) are amended to read:

(1) to have possession of a housing or public building <u>or equipment</u> project or part of one surrendered to the obligee, with possession retained by the obligee as long as the authority continues in default;

(2) to obtain the appointment of a receiver of a housing or public building <u>or equipment</u> project or part of one and its rents and profits, who may enter, take possession and for the duration of the default opeate and maintain it, collect and receive all fees, rents, revenues or other charges thereafter arising, and keep the money in a separate account or accounts to be applied in accordance with the obligations of the authority as the court directs;

* Sec. 13. AS 18.55.240 is amended to read:

Sec. 18.55.240. POWER OF AUTHORITY TO OBTAIN FEDERAL AID AND COOPERATION. The authority may borrow, accept contributions, grants or other financial assistance from the federal government in aid of any housing or public building or equipment project and for this purpose may comply with conditions and enter into the mortgages, trust indentures, leases or agreements that are necessary, convenient or desirable in order to obtain financial aid or cooperation from the federal government in the undertaking, construction, maintenance, or operation of a housing or public building or equipment project.

* Sec. 14. AS 18.55.250 is amended to read:

Sec. 18.55.250. EXEMPTION FROM TAXES AND ASSESSMENTS. The property of the authority is public property used for essential public and governmental purposes and this property and the authority are exempt from all taxes and special assessments of a municipality, the state, or political subdivision of the state. However, instead of taxes, the authority may make payments to the municipality or political subdivision for improvements, services and facilities furnished by it for the benefit of a housing or public building or equipment project.

and renumber succeeding sections accordingly.

Amendment No. 2

(a) Page 2, line 4:

After "LAND", insert "OR PUBLIC BUILDINGS OR EQUIPMENT"

(b) Page 2, line 6:

After "building", insert "or equipment"

(c) Page 2, line 20:

After "building", insert "or equipment"

(d) Page 2, line 26

After "building", insert "or equipment"

RECEIVED
JAN 28 1988

January 25, 1988

(C)

The Honorable Mitch Abood, Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

lets look at
Scheduling soon. M

Dear Senator Abood:

At the request of our Board Chair, Bill Miles, enclosed is a copy of a letter filed with Senator Faiks regarding the introduction of SB 328, currently under review in Senate State Affairs.

The Alaska State Building Authority, formerly the Alaska State Housing Authority, is an independent public corporation operating for the benefit and within the auspices of State government. It has historically financed many state facilities. The legislation before you proposes to continue this role for three specific projects in Anchorage, Fairbanks and Seward. Our role is primarily in financing although we also have the capability, if desired, to oversee new project construction as well.

These services are provided to the State in response to requests from either the State Bond Committee or signatories to the Memorandum of Understanding (MOU) that covers such financings. A copy of this MOU is enclosed for your information. To summarize, we provide a passive role with regard to determining the need, size and scope of such facilities for the State. Once determined, and approved by the Legislature, we provide an active role in seeking and obtaining the necessary financing. Questions about the projects themselves are best directed to the requesting agencies. Questions about the financing may be answered by either this office or the staff to the State Bond Committee in the Department of Revenue.

Thank you for your review of this legislation. We look forward to providing these services to the State.

Sincerely,

ALASKA STATE BUILDING AUTHORITY

Barbara Morse-Quinn

Barbara Morse-Quinn
Executive Director

enclosures

cc: Bill Miles
Milt Barker
State Affairs Committee Members

January 12, 1988

The Honorable Jan Faiks
President
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear President Faiks:

The assistance of the Alaska State Building Authority has been requested by the Alaska Department of Administration and the Alaska Court System to provide lease financing for three public building projects--the Seward Student Service Center and the Anchorage and Fairbanks Court Facilities. The three projects are briefly described below and are being submitted for review by the legislature pursuant to AS 18.55.100(d).

Seward Student Service Center

This project is essentially a refinancing of an existing State lease-financed project. The refinancing would result in substantial savings in lease rental payments over the payment schedule to which the State is now committed. The refinancing contemplates a purchase by the Authority of the facility from the current lessor, Delta Fox, Ltd. (formerly Dick Fischer Development, Inc.). The Authority would issue financing in an amount sufficient to provide the $5,236,740 needed for the purchase as well as a reserve fund and costs of issuance. The Department of Revenue has estimated an issuance of $5,440,000 for the Student Center. The new lease of the facility to the State is estimated by the Department of Revenue to result in present value savings in State rental payments of $1,177,246. The enclosed letter from Commissioner John Andrews contains information in more detail concerning this refinancing.

Under AS 10.55.100(d), approval by law of the project is a prerequisite to the undertaking of any public building project by the Authority.

Fairbanks Court Facility

This project is a lease financing for a court facility which has already been authorized by law but not yet financed or constructed. The Authority would provide financing for the Fairbanks Court Facility authorized by Section 2, Ch. 92, SLA 1986. The project cost was estimated at $27,645,000 in the fiscal note for the original legislation. The total financing has been estimated at $28,645,000 in the fiscal note for the present legislation. Annual debt service and corresponding lease payments by the State are estimated to be $2,795,000, assuming 23-year maximum maturity and a true interest cost of 7.96 percent.

ALASKA STATE BUILDING AUTHORITY
ANCHORAGE, ALASKA
TELECOPIER (907) 786-6248

Anchorage Court Facility

This project is a lease financing for a court facility which has already been authorized by law but not yet financed or constructed. The Authority would provide financing for the Anchorage Court Facility authorized by Section 2, Ch. 78, SLA 1984. The project cost has been estimated at $70,000,000, and the total financing at $84,285,000 in the fiscal note for the present legislation. Annual debt service and corresponding lease payments by the State are estimated to be $8,220,000, assuming 23-year maximum maturity and a true interest cost of 7.89 percent.

The Alaska State Building Authority welcomes this opportunity to serve the State in realizing cost savings in the financing of public building projects.

Sincerely,

ALASKA STATE BUILDING AUTHORITY

Barbara Morse-Quinn

Barbara Morse-Quinn
Executive Director

sms

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX SB
JUNEAU, ALASKA 99811-0400

December 4, 1987

The Honorable Jan Faiks
Senate President
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

In compliance with AS 36.30.080(c), I wish to inform you that the Department of Administration intends to enter into a lease-financing agreement for the Seward Student Service Center which may have annual rent in excess of $1,000,000 to be paid by the State. The agreement is expected to be with the Alaska State Building Authority (ASBA) as lessor. The State would assign its purchase option under an existing lease-financing agreement to ASBA. ASBA would issue debt and use the proceeds to exercise the purchase option. State lease rental payments under the new lease-financing agreements with ASBA would pay the debt service on ASBA debt. The reason for this undertaking is that the State's lease rental payments will decrease significantly under the new lease-financing agreement as a result of declines in interest rates. The current lessor's proceeds from sale of the leased facilities to ASBA will be used to payoff currently outstanding debt issued by the current lessor.

Under the proposed lease-financing agreement, ASBA would acquire the Seward Student Service Center from Delta Fox, Ltd. (formerly Dick Fischer Development, Inc.) at one of the prices listed below:

Seward Student Service Center

Closing Date of Property Sale	Price
July 1 - July 30, 1988	$5,236,740.00
July 1 - July 30, 1989	$4,988,016.00
July 1 - July 30, 1990	$4,717,860.00
July 1 - July 30, 1991	$4,422,324.00
July 1 - July 30, 1992	$4,094,640.00
July 1 - July 30, 1993	$3,778,756.00
July 1 - July 30, 1994	$3,360,876.00
July 1 - July 30, 1995	$2,942,952.00
July 1 - July 30, 1996	$2,474,832.00
July 1 - July 30, 1997	$1,952,004.00
July 1 - July 30, 1998	$1,370,520.00
July 1 - July 30, 1999	$ 722,484.00

04-D12LH

The Seward Student Service Center is a student lounge and recreation complex for the Alaska Vocational-Technical (Vo-Tec) Center at Seward. The Vo-Tec Center is the only State-operated adult vocational training facility in the State. The Center was completed and occupied by the State in April 1985.

Assuming the sale is closed during July 3 to July 30, 1988, the purchase price would be $5,236,740. The anticipated amount of the ASBA financing for this project would be $5,440,000 including the costs of issuance. The resulting anticipated annual lease rental payments by the State compared to existing payments would be:

Seward Student Service Center

Fiscal Year	Anticipated Rent	Existing Rent	Savings
1989	$ 205,555	$ 803,160	$ 597,605
1990	719,349	803,160	83,811
1991	729,292	806,348	77,056
1992	721,299	809,550	88,251
1993	722,311	812,763	90,453
1994	713,554	815,990	102,437
1995	726,705	819,230	92,524
1996	716,044	822,482	106,438
1997	726,954	825,747	98,793
1998	720,573	829,025	108,452
1999	725,809	832,317	106,508
TOTAL	$7,427,445	$8,979,772	$1,552,328

Notes to Seward Student Service Center Table:

1. 1989 anticipated rent is reduced by $460,872.50; the reduction is calculated as follows: June 10, 1988 Existing Rent Payment of $723,592.30 which is net of $79,567.50 to be paid to the State on July 2, 1988, representing savings on the 1986 refunding certificates - credit for payment one year advance - (certificates outstanding X 103% call premium - purchase price - reserve fund).
2. 1989 and later existing rents are reduced by the credit for payment one year in advance.
3. 1991 and later existing rents have been escalated by the July 1984 to July 1986 increase in the Anchorage CPI pursuant to inflation adjustment provision of the lease.

The present value of the savings to the State is estimated at $1,177,246 using the estimated 6.9144 percent true interest cost on the proposed ASBA financing.

Sincerely yours,

John Andrews
Commissioner of Administration

JA/MB/gb

8534H

Revised fiscal note

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 328
Publish Date: 1/12

REQUEST:

Revision Date: 1/12
Title: Authorizing 3 Alaska State Building Authority projects & lease-financing
Sponsor: Rules by Request of Govenror
Requestor:

Agency Affected: REVENUE
BRU: TREASURY

Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	(597.6)	(83.8)	2407.9	10927.9	10926.4
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	(597.6)	(83.8)	2407.9	10927.9	10926.4
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
GENERAL FUND	-	(597.6)	(83.8)	2407.9	10927.9	10926.4
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: See attached analysis.

Prepared By: Milt Barker MB
Division: Treasury
Phone: 465-2350
Date: December 4, 1987

Approved by Commissioner: H Malone
Agency: Department of Revenue
Date: 1/8/88

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Fiscal Note Analysis
for
An Act Authorizing three Alaska State Building Authority public building projects, and lease-financing agreements for the projects; and providing for an effective date.

The projected annual savings on refinancing the Seward Student Service Center through its acquisition by the Alaska State Building Authority as well as the additional annual lease-financing rental payments for the Anchorage and Fairbanks court facilities are estimated as follows:

Fiscal Year	Seward Student Service Center	Anchorage Court Facility	Fairbanks Court Facility	Total
1989	$ (597,605)	-	-	$ (597,605)
1990	(83,811)	-	-	(83,811)
1991	(77,056)	$ 1,855,000	$ 630,000	2,407,944
1992	(88,251)	8,222,750	2,793,385	10,927,884
1993	(90,453)	8,221,350	2,795,505	10,926,402
1994 to maturity	(615,152)	148,972,828	50,290,143	198,647,819
Total	$(1,552,328)	$167,271,928	$56,509,033	$222,228,633

The present value of the savings on the Seward facility would be $1,177,246, representing a savings of 21.6 percent of the amount of bonds issued. This is far above the State Bond Committee's criteria of 3 percent savings to justify a refinancing.

The Seward refinancing would reduce the required lease payments to be made by the State Bond Committee for Seward as detailed in the attached November 8, 1987 memo. However, because the actual interest rate on the refunding debt--and therefore the actual reduction in debt service--will not be known until the bonds are sold, no reduction should be made to the $11,769,042.33 appropriation to the State Bond Committee for FY 89 lease payments. The FY 89 savings would lapse and future appropriations would be reduced.

Please see the attached letter from John Andrews for additional information on the Seward refinancing.

No appropriation is required for FY 89 or FY 90 lease payments for the court facilities. They will be paid as capitalized interest from bond proceeds. Subsequent lease payments will require appropriation.

The court facilities have already been authorized by law. The lease costs shown for the court facilities generally are expected to be incurred with or without this legislation. This legislation, by possibly substituting the Alaska State Building Authority for municipal or other issuers, should reduce financing costs.

Sen Banning
S 15 3-28

Sec. 18.55.050. Quorum. Three members is a quorum. (§ 40-7-3 ACLA 1949)

Sec. 18.55.070. Officers and employees. The members shall select a chairman and a vice chairman from among its members. The authority may employ an executive director, technical experts, and other officers, agents and employees it requires. (§ 40-7-3 ACLA 1949)

Sec. 18.55.080. Members or employees prohibited from acquiring interest in projects. A member or employee of the authority may not acquire an interest, direct or indirect, in a housing or public building project, or in property or a contract for materials or services included or planned to be included in a project. If a member or employee owns or controls an interest, the member or employee shall immediately disclose the interest in writing to the authority. Failure to make disclosure constitutes misconduct in office. (§ 40-7-4 ACLA 1949; am § 2 ch 99 SLA 1965)

Sec. 18.55.090. Removal of members. [Repealed, § 2 ch 9 SLA 1965.]

Sec. 18.55.100. Powers of authority. (a) The authority has all powers necessary to carry out the purposes of AS 18.55.010 — 18.55.290 including but not limited to the following:

(1) sue and be sued;

(2) adopt a seal;

(3) have perpetual succession;

(4) adopt, amend and repeal bylaws and regulations;

(5) make and execute contracts and other instruments;

(6) in its own name, own, exchange, transfer, lease, rent, convey, or acquire by eminent domain under AS 09.55.240 — 09.55.460, or otherwise, real and personal property; provided that no project site or part of a project site may be acquired by eminent domain until the authority has secured, through negotiation, options for the purchase of at least 50 per cent of the properties included in the site, except in disaster areas; in an eminent domain proceeding the court may, upon motion and after a hearing, fix the time when and the terms upon which the parties in possession are required to surrender possession to the plaintiff; if the court finds that urgent public necessity requires, it may grant the plaintiff possession at any time after the proceeding has been commenced;

(7) to provide, subject to the applicable planning, zoning, sanitary and building laws, ordinances, and regulations for the construction, improvement, alteration, or repair of a housing or public building

project or any part of a housing or public building project, and also, subject to the same restrictions, to provide for the construction, improvement, alteration, repair, planning, financing, and interim operation of a sewer or water system, or part of a sewer or water system, to foster, encourage, and permit the development of housing projects by private and public developers and builders;

(8) operate those housing projects and to act as agent or lessee in developing or administering housing projects undertaken by the federal government;

(9) arrange or contract for services, privileges, works or facilities for or in connection with a housing project or the occupants of a housing project and notwithstanding anything to the contrary contained in AS 18.55.010 — 18.55.470 or in any other provision of law, include in the contract stipulations that the contractor and subcontractors comply with requirements as to minimum wages and maximum hours of labor, with any conditions that the federal government may have attached to its financial aid of the project, and with any pertinent state law;

(10) establish and revise rent schedules;

(11) insure any real or personal property or operations of the authority against any risks or hazards;

(12) invest in property or securities in which banks or trust companies may legally invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement;

(13) purchase its bonds at a price not more than the principal amount of the bonds and accrued interest, all bonds so purchased to be canceled;

(14) investigate and study living and housing conditions and the clearing and reconstructing of slum areas;

(15) arrange or contract for the financing, design, construction and acquisition of public buildings for lease to the state in accordance with AS 18.55.010 — 18.55.290.

(b) Notwithstanding any other provisions in AS 18.55.010 — 18.55.470

(1) when the local governing body certifies that an area is in need of a housing project under any of the provisions or powers within AS 18.55.010 — 18.55.470 as a result of the earthquakes of 1964 and all results and aftereffects respecting which the governor of the state has certified the need for disaster assistance, the authority may plan, undertake, and carry out the project in the disaster area;

(2) with the approval of the local governing body, and immediately after the approval, the authority may acquire real property for the purposes of AS 18.55.010 — 18.55.470, and demolish and remove any structure on the property, and it may pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses, unless payment of the costs are contrary to applicable federal law or regulation;

(3) *[Repealed, § 1 ch 116 SLA 1968.]*

(4) for the purposes of this subsection, AS 18.55.130 and 18.55.330 do not apply.

(c) Any two or more authorities may join or cooperate with one anotner in the exercise of any or all of the power conferred by the housing authorities law for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of one or more of the authorities.

(d) Notwithstanding (a)(7) and (15) of this section, a proposed public building project shall be submitted by the authority to the legislature for review. The authority may proceed with the public building project only if it is approved by law. An appropriation does not constitute approval by law for purposes of this subsection. (§ 40-7-6 ACLA 1949; am § 2 ch 8 SLA 1949; am § 1 ch 38 SLA 1964; am § 1 ch 79 SLA 1964; am §§ 3, 4 ch 99 SLA 1965; am § 2 ch 60 SLA 1966; am § 2 ch 118 SLA 1967; am §§ 1, 2 ch 116 SLA 1968; am § 1 ch 151 SLA 1975; am § 2 ch 103 SLA 1986)

Effect of amendments. — The 1986 amendment added subsection (d).

NOTES TO DECISIONS

Cited in Hardy v. Island Homes, Inc., Sup. Ct. Op. No. 48 (File No. 39), 363 P.2d 637 (1961).

Sec. 18.55.105. Lease of authority's public buildings to political subdivisions. [Repealed, § 3 ch 118 SLA 1967.]

Sec. 18.55.110. Cooperation with and aid of federal government. The authority may do all things necessary or desirable to cooperate with or act as agent for the federal government, or to secure financial aid for housing projects for veterans of World War II and other citizens of the state, provided that those projects may not be undertaken unless an acute shortage of housing exists. With respect to those projects, the authority may not be subject to limitations, restrictions or requirements of other laws, except those relating to land acquisition, prescribing or limiting the procedure or action to be taken in the development or administration of any buildings, property, public works, undertakings or projects of municipal or public corporations or agencies of the state. (§ 40-7-7 ACLA 1949; am § 3 ch 8 SLA 1949)

Sec. 36.30.070. Supply management. The commissioner shall adopt regulations governing the

(1) management of supplies during their entire life cycle;

(2) sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, or other appropriate method;

(3) purchase of surplus supplies by an employee of the using or disposing agency; and

(4) transfer of excess supplies. (§ 2 ch 106 SLA 1986)

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) The department may enter into lease-financing agreements, including lease-purchase agreements and agreements related to the issuance of certificates of participation. A lease-financing agreement must provide that lease payments are subject to annual appropriation.

(c) If the department intends to enter into a lease or lease-financing agreement with an annual rent to the state anticipated to exceed $1,000,000, the department shall provide notice to the legislature. The notice must include the anticipated annual lease obligation amount and the anticipated total construction, acquisition, or other costs of the project. The department may not enter into an agreement under this subsection unless the project has been approved by the legislature by law. An appropriation for the project does not constitute approval of the project for purposes of this subsection. (§ 2 ch 106 SLA 1986)

Article 2. Competitive Sealed Bidding.

Effective date of article. — Section 69, ch. 106, SLA 1986, as amended by § 27, ch. 65, SLA 1987, provides that this article takes effect January 1, 1988.

Collateral references. — Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

MEMORANDUM OF UNDERSTANDING

This is a MEMORANDUM OF UNDERSTANDING (MOU) between the Alaska State Building Authority (the Authority) and the State of Alaska (State) which is comprised of the State Bond Committee of the State of Alaska (SBC), the Department of Administration of the State of Alaska (DOA), the Department of Transportation and Public Facilities of the State of Alaska (DOTPF), the Alaska Court System (Court System), and the University of Alaska (University).

WHEREAS, the State of Alaska is authorized to lease space for the use of the State or any agency of the State through the DOA by AS 37.05.280 (repealed, effective January 1, 1988) and AS 36.30.080 (effective January 1, 1988), through the Court System by AS 22.05.025, and through the University by AS 14.40.040; and

WHEREAS, the Authority is willing to provide for the financing, design, construction, or acquisition of public buildings by the issuance of obligations of the Authority, which obligation shall be paid by rents on such public buildings appropriated annually by the State; and

WHEREAS, DOTPF and the University Division of Facilities Planning and Construction are experienced with the management of development, construction, and related services for public buildings; and

WHEREAS, the amount of the State's annual rental payment obligations affects the State's operating budget, which may have an effect upon the creditworthiness of the State and the Authority; and

WHEREAS, the State of Alaska and the Authority desire to minimize the cost to the State of leasing public buildings and to preserve the creditworthiness of the State and the Authority; and

WHEREAS, the Authority desires to be protected from any liability resulting from financing or refinancing public buildings; and

WHEREAS, the interests of the Authority and the State of Alaska are best served by a cooperative effort to reduce the State's lease rental and building financing costs, preserve the creditworthiness of the State of Alaska and the Authority, and protect the Authority from liability;

NOW, THEREFORE, the parties hereto have set forth below their understanding of certain procedures to be followed in the development of transactions for the lease by the State and the financing by the Authority of certain public buildings within the State.

1. Obligations for the purchase, construction, or refinancing of public buildings for which lease payments may be met from annual State general fund appropriations may be issued by the Alaska State Building Authority. The Authority, or its designee, shall be the lessor of such public buildings. Financings shall be structured such that bond owners or certificate owners shall have no recourse against the general credit of the Authority in the event of nonoccupancy due to cost overruns, noncompletion, or any event of lessee nonperformance or nonappropriation of rent. The Authority's obligations shall be secured solely by lessee rental payments and, if required, by a security interest in the project financed and shall not be payable from any revenues or assets of the Authority other than those expressly pledged.

2. The DOA shall be the lessee for the public buildings used by the agencies of the executive branch of the State.

3. The Authority shall issue obligations for the purchase, construction, or refinancing of State public buildings only as authorized by law. The parties to this MOU shall coordinate with each other any presentations to the Legislature regarding a public building project. SBC shall review any authorization by law for a public building project and may advise the DOA, University, or Court System whether to request the Authority to proceed to finance a building for lease.

4. The financial advisor to the SBC shall assist the DOA, University, or Court System in negotiating any lease with the Authority and in connection therewith shall undertake the following:

   a. make recommendations to the DOA, University, or Court System and SBC with respect to the type, amount, maturities, call features, security features, credit enhancement features, time and manner of sale, bidding terms and conditions, and use of proceeds of the financing obligation to the extent such matters affect the terms of the lease to be executed;

   b. for negotiated sales or private placements, give its recommendation to the DOA, University, or Court System and SBC with respect to the party or parties selected by the Authority to be underwriter or purchaser of the financial obligations of the Authority;

c. if compensation of trustees or paying agents retained by the Authority are to be paid directly or indirectly from lease rental payments, make recommendations to the DOA, University, or Court System and SBC with respect to the retention, selection, or compensation of such trustees or paying agents selected by the Authority;

d. to the extent that costs are to be paid directly or indirectly from lease rentals, make recommendations to the DOA, University, or Court System and SBC as to the reasonableness of compensation to be paid from bond proceeds for all professional services and other costs of issuance; and

e. in connection with any sale of Authority obligations, review bids or pricing of the financing obligation, including discounts, underwriting spreads, insurance or letter of credit fees, and interest rates; and recommend to the DOA, University, or Court System and SBC whether the Authority should accept or reject any bid.

5. The financial advisor to the SBC shall assist in the preparation for the sale of financial obligations of the Authority and in conjunction therewith shall undertake the following:

   a. draft the text of information about the State to be presented in the official statement or private placement memorandum of the Authority;

   b. participate with the Authority's financial advisor in the organization and management of rating agency presentations with respect to the credit of the State as related to the State's obligation under the lease and with respect to the financial obligations of the Authority.

6. The financial advisor to the Authority shall undertake any duties in connection with the financing required by law or otherwise deemed necessary or advisable by the Authority.

7. Bond counsel for the Authority shall prepare all necessary documents for the authorization, sale, and delivery of financing obligations of the Authority and shall perform with respect thereto (i) all services

customarily provided by Bond Counsel with respect to such authorization, sale, and delivery and (ii) all other services requested by the Authority in connection with its purposes and powers for financing of its projects. These services shall include but not be limited to the following:

a. draft and submit the authorizing resolutions of the Authority and any trust indenture or trust agreement to be adopted;

b. review the sections of the official statement or other offering statement describing the trust indenture or trust agreement obligations, and other documents drafted by the bond counsel;

c. draft security documents;

d. draft documents necessary to sell the financing obligations whether at public or private sale;

e. draft all documents necessary to establish the tax-exempt status of the financing obligations, including the tax-exemption "non-arbitrage" certificate,

f. draft all closing documents, documents necessary for delivery of the financing obligations, and other documents relating to the validity of the obligations, including the final approving opinion;

g. attend the closing of the sale of the financing obligations; and

h. inform the Authority, DOA, University, or Court System and SBC as to the contents of, and requirements to adopt, all legal documents necessary in connection with the authorization, sale, and delivery of the financing obligations; and prepare drafts of said documents in a timely fashion as necessary to meet the time schedule for the authorization, sale, and delivery of the financing obligations.

8. Counsel for the DOA, University, Court System, or SBC shall prepare any lease or other agreement between the State and the Authority and may review the documents, recommendations, and actions of any party to this Memorandum or its agents and make recommendations to the parties thereon.