

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6637 SENATE STATE AFFAIRS

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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:

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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.

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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 directly 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)

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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

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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.

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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 bypasses 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.

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Security - used to refer to the enhancement of comfort for bond holders relative to investment safety.

Trust indenture or Escrow agreement - the third party in agreement to hold documents in trust until certain conditions are met.

Underwriter - purchaser of the entire bond issue who intends to resell the bonds. Usually it is a commercial bank or investment firm.

Vendor leases - an agreement between parties allowing the use and/or sale of property with agreed upon terms for the exchange of money. The giving party or vendor is in the business of lending and/or selling.

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:

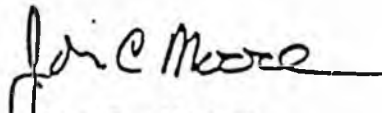
Mr. Robert J. Link
June 16, 1987
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Cost Reduction - Master Lease Purchase financing consolidates the redundancy of lease purchase for each separate item of equipment. This reduction may save as much as 10% when compared to interest rates charged by vendors 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.

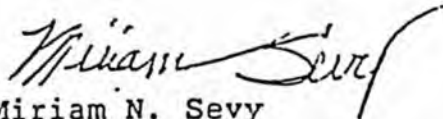
Standardization and Centralization of Operations - By standardizing and centralizing lease purchase documentation, more accurate accounting and financial controls on the equipment acquired by the State can be implemented. Typically, the rating agencies view this as a very positive development in financial 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
Senior Vice President
Shearson Lehman Brothers



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

JCM:jm48m

I. Summary Analysis of Savings to be Derived from Refinancing Existing Equipment Leases

Existing Lease Obligations Outstanding as of July 1, 1987

Total Principal Outstanding	\$6,617,494
Total Interest Outstanding	1,392,390
<u>Total</u>	<u>\$8,009,884</u>
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

Public Offering Option

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

Private Placement Option

Principal	\$6,960,000
Interest (average rate of 7.515%)(4)	1,356,458
<u>Total</u>	<u>\$8,316,458</u>
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 Credit 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.

<u>Event</u>	<u>Process</u>	<u>Responsibility</u>
Review Existing Leases Develop Demand Survey	<ul style="list-style-type: none"> - 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. - Agreement to proceed. 	Dept. of Admin., SLB & SNWSC (completed June 15, 1987)
Evaluate Demand Survey	<ul style="list-style-type: none"> - Refine refinancing analysis. - Review new equipment requests to be included in the program for "essential use" test and useful life (optional). - Aggregate equipment demand by category and prepare debt amortization schedules matching useful lives to maturity schedules. 	SLB, SNWSC Dept. of Admin., SLB & SNWSC SLB & SNWSC
Prepare for Issuance of Certificates of Participation ("COPs")	<ul style="list-style-type: none"> - Determine issuer of COPs and select a Lessor. - 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. - Size the COP issue based upon demand survey results and amount of leases to be refinanced. - Decide upon cost effectiveness of credit enhancement and type of offering (public vs. private placement). - If applicable, submit application to credit enhancers and rating agencies. 	Working Group Special Tax Counsel & Underwriter's Counsel SLB & SNWSC Dept. of Admin., SLB & SNWSC SLB & SNWSC
Issue COPs and Execute Master Lease	<ul style="list-style-type: none"> - 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

<u>Event</u>	<u>Process</u>	<u>Responsibility</u>
	- 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 delivers to Dept. of Admin. new schedule of lease payments. - On first lease payment date (about 6 months from closing), Dept. of Admin. sends lease payment to Trustee. - Trustee aggregates lease payments together with earnings on unexpended COP proceeds to pay COP investors.	Lessor & Trustee Lessor Dept. of Admin. 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.

<u>Provision</u>	<u>Negotiated Public Offering</u>	<u>Private Placement</u>
Interest Rates	Lowest	Highest
Nature of Covenants	Least Restrictive	Most Restrictive
Lead Time to Complete	Longest	Shortest
Initial Issuance Costs	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.

	<u>"A" Rated Public Offering</u>	<u>Non-Rated Private Placement</u>
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	<u>\$45,000</u>	<u>\$20,500</u>

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:

	<u>"A" Rated Public Offering</u>
Management Fee35%
Underwriting20
Takedown (sales commissions)50
Expenses(1)	<u>.20</u>
Total	<u><u>1.25%</u></u>

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.

Essential Use Facility/Bondholder's Security. 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.

Non-Substitution Clause. 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.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

OFFICE OF THE COMMISSIONER

January 27, 1989

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

Dear Mr. 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).

The 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 percent. Interest costs on a master lease-financing would currently be expected to be in the range of 6 percent to 7 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 percent 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 percent of the amount of the refinancing. The State Bond Committee has used a 3 percent savings as its guideline for endorsing refinancings.

The Honorable Tim Kelly

Page 2

The financing of new equipment purchases during fiscal year 1990 could require issuance of financing obligations up to the amount of approximately \$30 million, resulting in annual rental payments of approximately \$8.75 million assuming a 6.5 percent interest cost and four year final maturity. The amount of potential financing includes \$23.8 million for equipment purchases contained in the Governor's proposed fiscal year 1990 capital budget, as well as allowance for possible reserve funds and issuance costs.

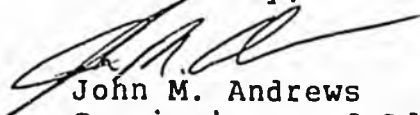
The dollar amount of \$30 million is undoubtedly a high estimate. The capital budget figure is the total for all line items which include equipment. Many line items include purposes other than equipment. Enclosed is a listing of the items in the capital budget with those which include equipment underscored.

The 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 create additional State costs for interest 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 1990 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 raises concerns about increased debt loads and increased future budgetary obligations, the Administration will carefully consider implementation of any master lease 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/ph

Governor's FY 90 Budget - Equipment.

1 * SEC. 25. THE FOLLOWING APPROPRIATION ITEMS ARE FOR 1
 2 CAPITAL PROJECTS AND GRANTS FROM THE GENERAL FUND OR 2
 3 OTHER FUNDS AS SET OUT IN THE FISCAL YEAR 1990 BUDGET 3
 4 SUMMARY BY FUNDING SOURCE TO THE AGENCIES NAMED AND FOR 4
 5 THE PURPOSES EXPRESSED. 5

		ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION GENERAL FUND	APPROPRIATION FUND SOURCES OTHER FUNDS	
6						6
7						7
8	*****		*****			8
9	***** DEPARTMENT OF ADMINISTRATION		*****			9
10	*****		*****			10
11	SOCIAL SERVICES					11
12	PIONEER'S HOME REPAIRS AND RENOVATION		500,000	500,000		12
13	GENERAL GOVERNMENT					13
14	STATEWIDE PAYROLL SYSTEM		1,400,000	1,400,000		14
15	PRODUCTION MAINFRAME COMPUTER UPGRADE REVIEW AND					15
16	ACQUISITION		5,500,000	5,500,000		16
17	*****		*****			17
18	***** DEPARTMENT OF REVENUE		*****			18
19	*****		*****			19
20	GENERAL GOVERNMENT					20
21	COMPUTER INTEGRATION SYSTEM		50,000	50,000		21
22	*****		*****			22
23	***** DEPARTMENT OF EDUCATION		*****			23
24	*****		*****			24
25	EDUCATION					25
26	NOME-BELTZ SCHOOL SAFETY CODE UPGRADE		250,000	250,000		26
27	BERING STRAIT REAA - DISTRICTWIDE CODE					27
28	UPGRADES/LIFE SAFETY/MAJOR MAINTENANCE		350,000	350,000		28

1	DEPARTMENT OF EDUCATION (CONT.)				1
2			APPROPRIATION	APPROPRIATION	FUND SOURCES
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
4	LOHER YUKON REAA - EMMONAK ELEMENTARY SCHOOL				
5	REPLACEMENT/PLANNING AND DESIGN		500,000	500,000	
6	IDITAROD REAA - MCGRATH SCHOOL REROOF		447,500	447,500	
7	SOUTHEAST ISLAND REAA - THORNE BAY SCHOOL				
8	REDESIGN OF FINAL PHASE		500,000	500,000	
9	LOHER KUSKOKWIM REAA - NUNAPITCHUK ELEMENTARY				
10	SCHOOL/PLANNING AND DESIGN		500,000	500,000	
11	LOHER KUSKOKWIM REAA - CHEFORNAK ELEMENTARY				
12	SCHOOL ADDITION PLANNING AND DESIGN		300,000	300,000	
13	ANCHORAGE - DISTRICTWIDE LIFE SAFETY UPGRADES		1,000,000	1,000,000	
14	ANCHORAGE ON-BASE SCHOOLS LIFE HEALTH/SAFETY CODE				
15	UPGRADES		1,000,000	1,000,000	
16	FAIRBANKS NORTH STAR BOROUGH SCHOOL ON-BASE FIRE,				
17	LIFE/SAFETY CODE VIOLATIONS		750,000	750,000	
18	NORTHWEST ARCTIC SCHOOLS DISTRICTWIDE LIFE SAFETY				
19	UPGRADES		500,000	500,000	
20	PETERSBURG CITY SCHOOLS SPRINKLER/THERMAL				
21	INSULATION BARRIER		379,100	379,100	
22	HOONAH CITY SCHOOLS PLUMBING AND HEATING RETROFIT		1,415,000	1,415,000	
23	AVTEC MAJOR MAINTENANCE/REPAIR AND TRAINING				
24	EQUIPMENT		250,000	250,000	
25	MOUNT EDGE CUMBE SCHOOL DORMITORY PLANNING AND				
26	DESIGN		400,000	400,000	
27	LIBRARY MATERIALS, EQUIPMENT AND FURNITURE		250,000	250,000	
28	STATEWIDE PUBLIC LIBRARY CONSTRUCTION GRANTS		300,000		300,000

1	DEPARTMENT OF EDUCATION (CONT.)				1
2			APPROPRIATION	APPROPRIATION	FUND SOURCES
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
4	MUSEUMS ARTIFACT ACQUISITIONS		50,000	50,000	
5		X X X X X	X X X X X		
6		X X X X X	DEPARTMENT OF HEALTH & SOCIAL SERVICES	X X X X X	
7		X X X X X	X X X X X		
8	SOCIAL SERVICES				
9	MCLAUGHLIN YOUTH CENTER COTTAGE REPAIR/RENOVATION		2,000,000	2,000,000	
10	HEALTH				
11	EMS COMMUNICATIONS SYSTEM		300,000	300,000	
12	RENOVATION AND EXPANSION OF PUBLIC INEBRIATE				
13	FACILITIES		526,000	526,000	
14	GROUP HOME AND SPECIALIZED CONSTRUCTION PROJECT				
15	FOR PERSONS WITH DEVELOPMENTAL DISABILITIES		1,000,000	1,000,000	
16	DEPARTMENT OF HEALTH & SOCIAL SERVICES				
17	TELECOMMUNICATIONS AND COMPUTERS		300,000	300,000	
18	FACILITIES RENOVATION, REPAIR AND EQUIPMENT				
19	REPLACEMENT		500,000	500,000	
20		X X X X X	X X X X X		
21		X X X X X	DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT	X X X X X	
22		X X X X X	X X X X X		
23	DEVELOPMENT				
24	ALASKA POWER AUTHORITY				
25	APA - OPERATION, TECHNICAL AND EMERGENCY				
26	ASSISTANCE		500,000	500,000	
27	APA - CIRCUIT RIDER MAINTENANCE		250,000	250,000	
28	APA - PCE UTILITIES EFFICIENCY IMPROVEMENTS		750,000	750,000	

1		ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION GENERAL FUND	FUND SOURCES OTHER FUNDS	1
2						2
3		x x x x x x	x x x x x x			3
4		x x x x x DEPARTMENT OF FISH & GAME	x x x x x			4
5		x x x x x x	x x x x x x			5
6	NATURAL RESOURCE MANAGEMENT					6
7	COMMERCIAL FISHERIES					7
8	VESSELS MAJOR MAINTENANCE		134,800	134,800		8
9	SPORT FISHERIES					9
10	PUBLIC ACCESS ACQUISITION		2,400,000	600,000	1,800,000	10
11	F.R.E.D.					11
12	STATEWIDE FACILITIES MAINTENANCE AND RENOVATION		500,000	500,000		12
13		x x x x x x	x x x x x x			13
14		x x x x x DEPARTMENT OF PUBLIC SAFETY	x x x x x			14
15		x x x x x x	x x x x x x			15
16	NATURAL RESOURCE MANAGEMENT					16
17	MAJOR AIRCRAFT EQUIPMENT/OVERHAUL/REPAIR		136,500	136,500		17
18	AIRCRAFT PURCHASE		932,000	932,000		18
19	MAJOR VESSEL REPAIR		275,000	275,000		19
20	PUBLIC PROTECTION					20
21	VEHICLE LICENSE PLATES/DRIVER MANUALS		75,000	75,000		21
22	ADMINISTRATION OF JUSTICE					22
23	SHOOTING DECISION TRAINING SYSTEM		41,500	41,500		23
24	PUBLIC SAFETY EQUIPMENT		100,000	100,000		24

1		APPROPRIATION	APPROPRIATION	FUND SOURCES	1	
2		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	2
3	X X X X X			X X X X X X		3
4	X X X X X DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES			X X X X X		4
5	X X X X X X			X X X X X X		5
6	TRANSPORTATION					6
7	STATEWIDE PROGRAMS					7
8	GENERAL FUND MATCH FOR FEDERAL-AID HIGHWAYS	18,000,000		18,000,000		8
9	GENERAL FUND MATCH FOR FEDERAL-AID AVIATION	3,330,000		3,330,000		9
10	ANNUAL PLANNING WORK PROGRAM	980,000		500,000	480,000	10
11	STATEWIDE RESEARCH PROGRAM	1,050,000		500,000	550,000	11
12	STATE EQUIPMENT FLEET REPLACEMENT PROGRAM	11,000,000			11,000,000	12
13	STATEWIDE ADVANCE PROJECT DEFINITION	300,000		300,000		13
14	LOCAL SERVICE ROADS AND TRAILS	2,000,000		2,000,000		14
15	HIGHWAY AND AVIATION NON-ROUTINE MAINTENANCE	1,000,000		1,000,000		15
16	UNDERGROUND FUEL STORAGE REPLACEMENT	400,000		400,000		16
17	STATEWIDE BARRIER FREE ACCESS PROGRAM	250,000		250,000		17
18	UMTA TRANSIT GRANTS	500,000			500,000	18
19	ANNUAL BRIDGE INSPECTION AND INVENTORY	500,000			500,000	19
20	GEOREFERENCING MONUMENTATION	400,000			400,000	20
21	FACILITIES MAJOR REPAIR	1,000,000		1,000,000		21
22	URBAN AREA PLANNING (STATEWIDE)	325,000			325,000	22
23	STATEWIDE AIRPORT RESCUE EQUIPMENT	238,000		238,000		23
24	STATEWIDE PORTS AND HARBORS MAJOR REPAIRS	250,000		250,000		24
25	MAINTENANCE DELIVERY SYSTEM	200,000		200,000		25
26	INDUSTRIAL USE HIGHWAYS MAINTENANCE	82,500		82,500		26
27	STANDARDS MANUALS PUBLISHING	35,000		35,000		27
28	NATIONAL HIGHWAY INSTITUTE	25,000			25,000	28

1 DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES (CONT.)		APPROPRIATION		APPROPRIATION	FUND SOURCES
2		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
3					
4	CENTRAL REGION FEDERAL HIGHWAY PROGRAM		56,173,300		56,173,300
5	STERLING HIGHWAY RECONSTRUCTION = MP 79 TO 94	24,289,100			
6	GLENN HIGHWAY WIDENING AND RECONSTRUCTION -				
7	EKLUTNA TO PARKS	12,234,400			
8	EAGLE RIVER BRIDGE/HILAND DRIVE PHASE I NORTH				
9	ACCESS	9,111,500			
10	CENTRAL REGION PRELIMINARY ENGINEERING	3,876,500			
11	ANCHORAGE TRANSIT	1,827,000			
12	CENTRAL REGION BRIDGE REPLACEMENT	1,600,000			
13	CENTRAL REGION SAFETY IMPROVEMENTS	1,350,000			
14	MAT-SU HIGHWAY CHANNELIZATION, ILLUMINATION AND				
15	TRAFFIC CONTROL PHASE II	568,400			
16	SEWARD HIGHWAY - NASH ROAD INTERSECTION				
17	IMPROVEMENTS	356,400			
18	CENTRAL REGION RAILROAD CROSSING IMPROVEMENTS	450,000			
19	CENTRAL REGION AUTOMATIC VEHICLE CLASSIFICATION				
20	AND WEIGHT-IN-MOTION EQUIPMENT	350,000			
21	ANCHORAGE RIDESHARING	160,000			
22	CENTRAL REGION STATE HIGHWAY PROGRAM		620,000	620,000	
23	HOMER, EAST END ROAD RECONSTRUCTION - ROCHELLE				
24	STREET INTERSECTION RECONSTRUCTION	150,000			
25	HATCHER PASS BRIDGE REPLACEMENT AND ROAD				
26	MAINTENANCE	200,000			
27	KODIAK REZANOF DRIVE - AT AIRPORT ROAD				
28	INTERSECTION	200,000			

1 DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES (CONT.)					1
2		APPROPRIATION		APPROPRIATION FUND SOURCES	2
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
4	GLACIER HIGHWAY PAVING AND INTERSECTION				
5	IMPROVEMENTS	1,278,900			
6	GLACIER HIGHWAY - INDIAN POINT TO POINT LOUISA	913,500			
7	HAINES HIGHWAY - MP 24 TO BORDER	913,500			
8	EGAN EXPRESSWAY IMPROVEMENTS (SAFETY AND CAPACITY)	300,000			
9	THANE ROAD RECONSTRUCTION	274,500			
10	GLACIER HIGHWAY - FRED MEYER TO MCNUGGET				
11	INTERSECTION	200,000			
12	SITKA SAWHILL CREEK ROAD/JARVIS STREET				
13	INTERSECTION IMPROVEMENTS	150,000			
14	KLONDIKE HIGHWAY SNOW CONTROL	100,000			
15	SOUTHEAST REGION STATE HIGHWAY PROGRAM				
16	KAKE CITY STREETS PAVING		350,000	350,000	
17	SOUTHEAST REGION FEDERAL AVIATION PROGRAM		6,000,000		6,000,000
18	HAINES AIRPORT RECONSTRUCTION	2,400,000			
19	WRANGELL AIRPORT IMPROVEMENTS	1,000,000			
20	SKAGWAY AIRPORT IMPROVEMENTS	1,000,000			
21	<u>KETCHIKAN AIRPORT AIRCRAFT RESCUE AND FIRE</u>				
22	<u>FIGHTING VEHICLE</u>	550,000			
23	<u>KETCHIKAN AIRPORT EQUIPMENT</u>	250,000			
24	SOUTHEAST REGION STATE AVIATION PROGRAM				
25	SKAGWAY AIRPORT INTERIM IMPROVEMENTS		100,000	100,000	
26	SOUTHEAST REGION WATERS AND HARBORS		435,000	435,000	
27	TENAKEE SPRINGS BREAKWATER REPAIRS	210,000			
28	KETCHIKAN CITY FLOAT REPAIRS	150,000			

1 DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES (CONT.)					1	
2			APPROPRIATION	APPROPRIATION	FUND SOURCES	2
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	3
4	METLAKATLA OLD HARBOR REPAIRS	75,000				4
5	ALASKA INTERNATIONAL AIRPORT SYSTEM		12,197,000		12,197,000	5
6	ALASKA INTERNATIONAL AIRPORT SYSTEM DEVELOPMENT	10,000,000				6
7	AIAS MAINTENANCE EQUIPMENT	1,997,000				7
8	AIAS PRELIMINARY ENGINEERING	200,000				8
9	ANCHORAGE INTERNATIONAL AIRPORT		9,300,000		9,300,000	9
10	AIA INTERNAL ROADWAYS/TUG ROADS RECONSTRUCTION	2,500,000				10
11	AIA DOMESTIC TERMINAL EXPANSION PHASE III					11
12	SUPPLEMENTAL	2,700,000				12
13	AIA RAMP AREA RECONSTRUCTION	1,000,000				13
14	AIA BLAST PROTECTION - RUNWAY 6R/24L	1,800,000				14
15	AIA ANNUAL IMPROVEMENTS	650,000				15
16	AIA AIRPORT MONITORING SYSTEM	400,000				16
17	AIA AIRPORT DRAINAGE PLAN	250,000				17
18	FAIRBANKS INTERNATIONAL AIRPORT		3,150,000		3,150,000	18
19	FIA ANNUAL IMPROVEMENTS	300,000				19
20	FIA NORTHWEST APRON AND TAXIWAY EXTENSION	1,400,000				20
21	FIA COMPUTERIZED ACCESS CONTROL SYSTEM	500,000				21
22	FIA TERMINAL BUILDING REPAIRS	400,000				22
23	FIA EPA APPROVED FIRE TRAINING AREA	550,000				23
24	MARINE HIGHWAY SYSTEM FEDERAL PROGRAM		15,202,200		15,202,200	24
25	M/V TUSTUMENA REFURBISHMENT PHASE II	9,539,000				25
26	M/V MALASPINA HOTEL REFURBISHMENT	3,126,200				26
27	M/V COLUMBIA HOTEL REFURBISHMENT	502,400				27
28	M/V TAKU REPOWER	274,100				28

1	DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES (CONT.)				1
2			APPROPRIATION	APPROPRIATION	FUND SOURCES
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
4	M/V BARTLETT AUXILLARY REFURBISHMENT	173,600			
5	M/V LECONTE HOTEL REFURBISHMENT	155,300			
6	M/V COLUMBIA MARINE SANITATION DEVICE	1,187,600			
7	SEWARD TERMINAL IMPROVEMENTS	152,600			
8	SITKA UPLANDS IMPROVEMENTS	91,400			
9	MARINE HIGHWAY SYSTEM STATE PROGRAM		1,400,000	1,400,000	
10	MARINE HIGHWAY SYSTEM ADVANCED PROJECT DEFINITION	50,000			
11	ALASKA MARINE HIGHWAY SYSTEM IMPROVEMENTS	1,000,000			
12	ANGOON FERRY TERMINAL BASIN DREDGING	150,000			
13	VESSEL EMERGENCY EVACUATION UPGRADE	200,000			
14		x x x x x		x x x x x	
15		x x x x x	DEPARTMENT OF ENVIRONMENTAL CONSERVATION	x x x x x	
16		x x x x x		x x x x x	
17	NATURAL RESOURCE MANAGEMENT				
18	FIFTY PERCENT CONSTRUCTION GRANT PROGRAM		7,570,000	7,570,000	
19	ANCHORAGE - WASTEWATER AND SOLID WASTE PROJECTS	1,000,000			
20	CRAIG - WATER TREATMENT PLANT ENGINEERING STUDY	50,000			
21	FAIRBANKS - E.M. JONES WATER AND SEWER EXTENSION	1,000,000			
22	JUNEAU - WATER SYSTEM	1,000,000			
23	KETCHIKAN GATEWAY BOROUGH WATER AND SEWER PROJECTS	520,000			
24	KODIAK - WATER FILTRATION FACILITY - ENGINEERING				
25	DESIGN	250,000			
26	NOME - ICY VIEW WATER AND SEWER, NOME STP	750,000			
27	PETERSBURG - WASTEWATER TREATMENT/SOLID WASTE				
28	PROJECTS	500,000			

1	DEPARTMENT OF CORRECTIONS (CONT.)				1
2			APPROPRIATION	APPROPRIATION	FUND SOURCES
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
4	HILDHOOD CORRECTIONAL CENTER ROOF REPAIR - PHASE				
5	III		200,000	200,000	
6		XXXXXX	XXXXXX		
7		XXXXXX UNIVERSITY OF ALASKA	XXXXXX		
8		XXXXXX	XXXXXX		
9	UNIVERSITY OF ALASKA				
10	UA/STATEWIDE - MAJOR MAINTENANCE,				
11	REPAIR/RENOVATION AND EQUIPMENT		1,500,000	1,500,000	
12	UA/FAIRBANKS ELVEY BUILDING CODE CORRECTIONS		1,000,000	1,000,000	
13	UA/FAIRBANKS - FISHERY INDUSTRIAL TECHNOLOGY				
14	CENTER		5,000,000	5,000,000	
15	UA/FAIRBANKS PCB REMOVAL FAIRBANKS CAMPUS		250,000	250,000	
16	UA/ANCHORAGE PCB REMOVAL PROVIDENCE AVENUE CAMPUS		199,500	199,500	
17	MINING AND PETROLEUM TRAINING SERVICE/FIRE				
18	TRAINING CENTER SOILS CLEANUP		500,000	500,000	
19	UA/SOUTHEAST FURNISH AND EQUIP NEW LIBRARY		1,000,000	1,000,000	
20	GRANTS TO NAMED RECIPIENTS (AS 37.05.316)				
21	NATURE CONSERVANCY		216,000	216,000	
22		XXXXXX	XXXXXX		
23		XXXXXX ALASKA COURT SYSTEM	XXXXXX		
24		XXXXXX	XXXXXX		
25	ADMINISTRATION OF JUSTICE				
26	ELECTRONIC RECORDING IMPROVEMENTS		200,000	200,000	

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling




P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman 
RE: March 15 Committee Hearing
DATE: March 14, 1989

On Wednesday, March 15 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SJR 3, Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature

SJR 3 would place before the voters at the next general election a Constitutional amendment allowing legislative repeal of regulations by concurrent resolution. Adoption of the concurrent resolution would require three readings on three different days and approval by a majority vote of the membership of each house, as do bills. However, concurrent resolutions are not subject to the governor's veto.

In 1980 the supreme court found unconstitutional a statutory provision that allowed legislative annulment of regulations by resolution. The court ruled that annulling a regulation has the effect of changing law and that laws can be changed only by enactment of a bill that is subject to the governor's veto, as prescribed in Article II, Sections 14-16 of the Constitution.

A proposal similar to SJR 3 was defeated by the voters in 1980, 1984, and 1986.

SB 108, An Act relating to public finance, including lease financing

SB 108 would require that all lease-financings for public buildings be handled by the Alaska State Building Authority. This would remove the ability of municipalities and private developers to undertake the lease-purchase of state projects. Projects authorized by law before July 1, 1984 would be specifically exempt from this requirement, providing a type of "grandfather clause" for the Anchorage court facility.

Committee Memo
March 15, 1989

SB 108 would also require legislative approval of lease-purchase agreements entered into by the legislature and the court system if the costs exceed \$1 million annually (this provision currently applies to the executive branch and the university).

The Department of Revenue has proposed an amendment (attached) that would authorize ASBA to dispose of land, equipment, or public buildings to other government entities for less than fair market value. This would allow ASHA-funded projects for which the bonds have been paid off to be transferred into state ownership.

SB 154, An Act relating to equipment lease-financing and authorizing a master equipment lease-financing project.

SB 154 would authorize the Alaska State Building Authority to finance and acquire equipment for lease to the state. The bill would serve as the legislative approval required under AS 18.55.100 for ASBA to finance and acquire up to \$40 million worth of equipment, and the legislative approval required under AS 36.30.080 for the Department of Administration to enter into a lease-financing agreement with ASBA for the equipment. (AS 18.55.100 requires legislative approval before ASBA can proceed with any project; AS 36.30.080 requires legislative approval of leases whose rent exceeds \$1 million annually).

Individual lease-purchases from all state agencies would be consolidated into one or more "master leases". The advantage would be a reduction in interest cost. According to DOA, the average interest rate on state equipment leases as of July 1, 1987 was 13.86%. Interest on a master lease is expected to be 6-7%.

The refinancing of outstanding state equipment leases is estimated to require issuance of \$10 million in financing obligations with annual rent of \$2.85 million. The financing of new equipment purchases in FY 90 would require issuance of up to \$30 million in financing obligations with annual rent of \$8.75 million.

agencies would be required to participate in master lease

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Authorizing master lease-financing
for state equipment
Sponsor: _____
Requestor: _____

Agency Affected: State Bond Committee
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	(2143.5)	136.4	98.5	479.3	1381.8
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	(2143.5)	136.4	98.5	479.3	1381.8
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	(2143.5)	136.4	98.5	479.3	1381.8
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: 12-22-88

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 12/22/88

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

The changes made in the
State Affairs CS have no fiscal
effect. This fiscal note is
appropriate.
SSchubert
5-3-89

Fiscal Note Analysis

The projected annual savings on refinancing State equipment leases are estimated in the table below. This estimate is from a detailed analysis of State equipment leases prepared in June 1987 by Shearson Lehman Brothers.

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 shown in the table from a master lease refinancing of State equipment leases is \$424,000 or 6.3 percent of the amount of the refinancing. Please see the attached letter of January 27, 1989 from John Andrews for more information on the master lease program.

Lease-Financing Costs (Savings)

<u>Fiscal Year</u>	<u>Equipment Lease Refinancing</u>
1989	\$(2,143,460)
1990	136,406
1991	98,534
1992	479,273
<u>1993</u>	<u>1,381,766</u>
^{1994?} Total	\$ (47,480)

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Administration
 Title: Equipment Lease Financing BRU: General Services
 Sponsor: Rules Components: Purchasing
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	42.2	43.1	44.0	44.9	45.8
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	5.0	2.0	2.0	2.0	2.0
SUPPLIES	0	1.5	1.6	1.7	1.8	1.9
EQUIPMENT	0	7.0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS (PHONE)	0	.6	.6	.7	.7	.8
TOTAL OPERATING	0	56.3	47.3	48.4	49.4	50.5

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Potential financial savings should be reflected in the Department of Revenue fiscal note. We project an increase in administrative expense due to the requirement to coordinate several hundred accounts in order to make one payment to Alaska State Building Authority. See attached for analysis.

Prepared By: Robert J. Link, Director *Robert J. Link* Phone: 465-2250
 Division: General Services & Supply Date: December 22, 1988

Approved by Commissioner: John M. Andrews *John M. Andrews* Date: December 27, 1988
 Agency: Department of Administration

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

The changes made in the State Affairs CS have no fiscal effect. This fiscal note is appropriate.
S Schubert
 Page 1 of 2
 5-3-89

Fiscal Note Analysis

Operating costs are based on the following assumptions:

Personal Services cost: One permanent, fulltime Accounting Technician II, Range 14, Step B through F based on current contract.

Contractual: Estimated cost of \$5,000.00 for Professional Services contract for computer programming in FY 90, \$2,000.00 for support each year thereafter.

Supplies: Estimated cost of paper, desk supplies etc., minimal increases each fiscal year in anticipation of inflated costs.

Equipment: Reflects purchase of Compac 386, 20 mgz computer, EGA color monitor, boards to increase memory and to hook into mainframe (ASKAS), printer and basic software. Costs are based on current state contract.

Miscellaneous: Estimated cost of long distance telephone service. Escalated in third and fifth fiscal years to cover anticipated inflation.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CS SB 1547(c) aff
PUBLISH DATE: 2/3/89

to. 46

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
Title: Master lease financing of equipment BRU: Ak. State Bldg. Auth.
Sponsor: Rules Committee Components: _____
Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING						

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)

Prepared by: Commissioner's Office Phone: 465-2500
Division: Dept. of Commerce & Economic Development Date: 12/27/1988
Approved by Commissioner: Larry Mercurieff, Commissioner Date: 12/27/1988
Agency: Dept. of Commerce & Economic Development

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

0080p

The changes made in the State Affairs CS has no fiscal effect. This fiscal note is appropriate.

SSchubert
5-3-89

page 1 of 1

CS St-afb

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Master Lease Financing
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Alaska State Building Auth.
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Wegener *John A Meyer* Phone: 562-2813
Division: Finance Department Date: 12/27/88

Approved by Commissioner: _____ Date: 12/27/88
Agency: Alaska State Building Authority

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

The changes made in the State Affairs CS have no fiscal effect. This fiscal note is appropriate, page 1 of 1
J Schubert
5-3-89

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

154

February 3, 1989

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

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to lease-financing for state equipment.

The main purposes of the bill are to:

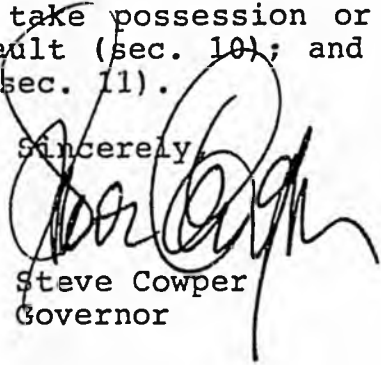
1. provide general statutory authority for the Alaska State Building Authority (ASBA) to finance and acquire equipment for lease to the state (sec. 3 of the bill);
2. specifically authorize ASBA to acquire and finance new equipment, or acquire and refinance equipment already on lease to the state, under a master lease program (secs. 12 and 13); and
3. specifically authorize, in accordance with the State Procurement Code, the Department of Administration to enter into lease-financing agreements with ASBA for the master lease program (secs. 14 and 15).

The approach to financing state equipment embodied in this bill offers potentially significant savings in interest costs on state equipment financing compared to interest rates charged by equipment vendors. The master lease program would be administered by the Department of Administration and available to all state agencies.

The second amendment of AS 18.55.100(d) in sec. 4, regarding legislative approval of equipment projects, raises a constitutional issue under the separation-of-powers doctrine, as does the current wording of that subsection. However, knowing of the legislature's concern about the overall debt management of the state, I believe that it might be helpful to set out this procedure in the statute, as a courtesy to the legislature.

Aside from the immediate-effective-date provision (sec. 16), the remaining sections of the bill consist of amendments that add references to state equipment lease-financing in various ASBA statutes relating to housing or public building projects of ASBA. These include corporate purpose (sec. 1 of the bill); prohibition of ASBA members or employees from acquiring an interest in projects (sec. 2); securing bonds with lease payments (sec. 5); validity of bonds and notes (sec. 6); bond covenants to limit disposition of projects (sec. 7); establish rates and fees for projects (sec. 8); vest in a trustee the right to take possession in the event of default on a project (sec. 9); grant bondholders rights to take possession or appoint a receiver for projects in default (sec. 10); and acceptance of federal aid for projects (sec. 11).

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Authorizing master lease-financing
for state equipment
Sponsor: _____
Requestor: _____

Agency Affected: State Bond Committee
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	(2143.5)	136.4	98.5	479.3	1381.8
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	(2143.5)	136.4	98.5	479.3	1381.8
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	(2143.5)	136.4	98.5	479.3	1381.8
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: 12-22-88

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 12/22/88

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

Fiscal Note Analysis

The projected annual savings on refinancing State equipment leases are estimated in the table below. This estimate is from a detailed analysis of State equipment leases prepared in June 1987 by Shearson Lehman Brothers.

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 shown in the table from a master lease refinancing of State equipment leases is \$424,000 or 6.3 percent of the amount of the refinancing. Please see the attached letter of January 27, 1989 from John Andrews for more information on the master lease program.

→ present value (cause get most money up front)

Lease-Financing Costs (Savings)

<u>Fiscal Year</u>	<u>Equipment Lease Refinancing</u>
1989	\$(2,143,460)
1990	136,406
1991	98,534
1992	479,273
1993	<u>1,381,766</u>
^{1994?} Total	\$ (47,480) actual dollars

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Administration
 Title: Equipment Lease Financing BRU: General Services
 Sponsor: Rules Components: Purchasing
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	42.2	43.1	44.0	44.9	45.8
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	5.0	2.0	2.0	2.0	2.0
SUPPLIES	0	1.5	1.6	1.7	1.8	1.9
EQUIPMENT	0	7.0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS (PHONE)	0	.6	.6	.7	.7	.8
TOTAL OPERATING	0	56.3	47.3	48.4	49.4	50.5
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Potential financial savings should be reflected in the Department of Revenue fiscal note. We project an increase in administrative expense due to the requirement to coordinate several hundred accounts in order to make one payment to Alaska State Building Authority. See attached for analysis.

Prepared By: Robert J. Link, Director *Robert J. Link* Phone: 465-2250
 Division: General Services & Supply Date: December 22, 1988
 Approved by Commissioner: John M. Andrews *John M. Andrews* Date: December 27, 1988
 Agency: Department of Administration

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

Fiscal Note Analysis

Operating costs are based on the following assumptions:

Personal Services cost: One permanent, fulltime Accounting Technician II, Range 14, Step B through F based on current contract.

Contractual: Estimated cost of \$5,000.00 for Professional Services contract for computer programming in FY 90, \$2,000.00 for support each year thereafter.

Supplies: Estimated cost of paper, desk supplies etc., minimal increases each fiscal year in anticipation of inflated costs.

Equipment: Reflects purchase of Compac 386, 20 mgz computer, EGA color monitor, boards to increase memory and to hook into mainframe (ASKAS), printer and basic software. Costs are based on current state contract.

Miscellaneous: Estimated cost of long distance telephone service. Escalated in third and fifth fiscal years to cover anticipated inflation.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: Master lease financing of equipment BRU: Ak. State Bldg. Auth.
 Sponsor: Rules Committee Components: _____
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING						
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)

Prepared by: Commissioner's Office Phone: 465-2500
 Division: Dept. of Commerce & Economic Development Date: 12/27/1988
 Approved by Commissioner: Larry Merculieff, Commissioner Date: 12/27/1988
 Agency: Dept. of Commerce & Economic Development

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Master Lease Financing
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Alaska State Building Auth.
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Wegener *Lynn A. Wegener* Phone: 562-2813
Division: Finance Department Date: 12/27/88

Approved by Commissioner: *[Signature]* Date: 12/27/88
Agency: Alaska State Building Authority

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

S B

157

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 157

SPONSOR Governor

BILL TITLE Civil fine for violation of ABC statutes,
regulatory or ordinance

DATE REFERRED 2-8-89

HEARING SCHEDULED 4-26-89, 5-3-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

Teleconference
1:30 - 2:30



✓ Pat Sharrock 277-8638
~~586-6201~~
no ✓ Matt Felix, SOADA 586-6201
will call
Cliff Guth, DOR 2300
maybe ✓ CHARR Kim Hutchinson 586-1776

OTHER

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 4-20-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 5-4-89

2/8/89

Mr. President:

STATE AFFAIRS Committee considered SB 157

imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

and recommended:

replace with CS SB 157 (st aff) same title
 attached amendment(s) and new title

letter of intent adopted

letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill
updated

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Jan. Smith
Tom Kelly

Pat Lambert do pass
Chairman signature and recommendation

Committee backup attached

adopted

SB 157, CIVIL FINES FOR VIOLATIONS OF ALCOHOL BEVERAGE LAWS

AMENDMENT #1

Page 1, line 17. Insert a new subsection to read:

(b) The board shall by regulation adopt a schedule of fines that a licensee may be required to pay under this section. A fine may not exceed the greater of:

(1) \$100,000; or

(2) an amount which is three times the pecuniary gain realized by the licensee as a result of the violation.

AMENDMENT #2

Page 1, line 13. Amend to read:

"... licensee or permittee that the board determines, at a proceeding [HEARING] under ..."

RATIONALE: This would allow for resolution of a violation prior to a formal hearing, but would not preclude a formal hearing if the licensee or the Board desired one.

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 157

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to imposition of a civil fine for
7 violation of a statute, regulation, or ordinance
8 related to alcoholic beverages."

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

10 * Section 1. AS 04.11 is amended by adding a new section to read:

11 Sec. 04.11.575. CIVIL FINE. In addition to any other penalties
12 imposed under this title, the board may impose a civil fine upon a
13 licensee or permittee that the board determines, at a hearing under
14 AS 04.11.510(c), has violated a provision of this title, a regulation
15 adopted under this title, or an ordinance adopted in accordance with
16 AS 04.21.010.

17 * Sec. 2. AS 04.11.590(a) is amended to read:

18 (a) Money collected from licenses and civil fines under this
19 title shall be transferred by the board to the Department of Revenue
20 and deposited in the general fund.

21 * Sec. 3. AS 04.11.590 is amended by adding a new subsection to read:

22 (c) The commissioner of administration shall separately account
23 for all application fees, license fees, and civil fines collected
24 under this title that the Department of Revenue deposits in the gener-
25 al fund. The annual estimated balance in the account may be used by
26 the legislature to make appropriations to the department to carry out
27 the purposes of AS 04.06.

ABC Board

SB 157 CIVIL FINES FOR VIOLATIONS OF ALCOHOL LAWS

TO TESTIFY

PAT SHARROCK, A.B.C. BOARD (TELECONFERENCE FROM ANCHORAGE) ---

HE'LL SPEAK TO THE AMENDMENTS

F.Y.I.

BILL WAS HEARD 4/26/89.

CONCERN THAT BOARD WOULD HAVE TOO MUCH DISCRETION IN SETTING FINES. AMENDMENT #1 ADDRESSES THIS --

1. FINE SCHEDULE IN REGULATIONS (THIS IS HOW OREGON AND WASHINGTON DO IT. DIFFERENT LEVEL OF FINE FOR DIFFERENT TYPES OF OFFENSE, TYPE OF LICENSE (BASED PRIMARILY ON SIZE OF ESTABLISHMENT -- INTENDED TO RECOGNIZE MONETARY LOSS THAT WOULD OCCUR IF BAR WERE CLOSED DOWN AS A RESULT OF VIOLATION), AND IF REPEAT OFFENSE.
2. ESTABLISHES MAXIMUM FINE

AMENDMENT #2 - REQUESTED BY SHARROCK --

REFERENCE "PROCEEDING" INSTEAD OF "HEARING" -- GIVES BOARD AND LICENSEE FLEXIBILITY IN RESOLVING VIOLATION. COULD "SETTLE" PRIOR TO GOING TO TO A FORMAL HEARING.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Civil fine for violation of laws related to alcoholic beverages.
Sponsor: Sen. Rules by Governor request
Requestor: Sen. State Affairs Committee

Agency Affected: Department of Revenue
BRU: Alcoholic Beverage Control Board
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	Note	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS:

Note: Revenue generated from civil fines imposed by the board cannot be projected.

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Board Date: March 6, 1989

Approved by Commissioner: Hugh Malone *Ray* Date: March 6, 1989
Agency: Department of Revenue *For*

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

The changes made in the state affairs CS have no fiscal effect. This fiscal note is appropriate.
S. Schubert
5/3/89

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senator Pat Pourchot, Chairman
RE: May 3 Committee Hearing
DATE: May 2, 1989

On Wednesday, May 3 at 1:30 p.m. in the Beltz Room the following bills will be back before the Senate State Affairs Committee:

SB 154, An Act relating to equipment lease-financing and authorizing a master equipment lease-financing project

SB 154 would authorize the Alaska State Building Authority to finance and acquire equipment for lease to the state. Individual lease-purchases from all state agencies would be consolidated into one or more "master leases". The advantage would be a reduction in interest cost.

At our earlier hearing on SB 154, there was concern that savings realized by state agencies through a master lease not be spent on other agency budget items, but used to reduce agency budgets. Attached is an amendment that would require the Department of Administration to annually report lease savings to the legislature on an agency-by-agency basis, thus allowing the legislature the opportunity to reduce agency budgets accordingly.

SB 157, An Act relating to imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

SB 157 would authorize the Alcohol Beverage Control Board to assess civil fines against liquor licensees who violate liquor laws. As introduced, the bill did not specify the amount of the fines, leaving fine setting to the sole discretion of the board.

Attached is an amendment which would require the ABC Board to establish a schedule of fines in regulation, and would limit any fine to the greater of \$100,000 or an amount which is three times the pecuniary gain realized by the licensee as a result of the violation. This is patterned after the existing provision in Alaska's criminal code regarding fines.

Committee Memo
May 3, 1989
Page 2

In addition, the following bills will be heard:

HJR 19am, Ratifying an amendment to the Constitution of the United States concerning the compensation of members of the United States Congress

HJR 19 would ratify an amendment to the U.S. Constitution that would disallow any increases in pay for members of Congress from going into effect until after an intervening election had taken place. The amendment was proposed in 1789 and to date has been ratified by 26 states. To become effective, it must be approved by 38 states.

CSHB 83(Fin), An Act relating to legal holidays; and establishing Martin Luther King, Jr., Day as a legal holiday

HB 83 would establish the third Monday of January, known as Martin Luther King, Jr.'s Birthday, as a legal holiday. Lincoln's and Washington's birthdays would be combined on the third Monday in February as President's Day. This would result in an observance for Dr. King without the addition of another paid day of leave.

The bill also provides that King's birthday would be a legal holiday for state employees only if provided for in their collective bargaining agreements.

Martin Luther King Day was statutorially established as a day of commemoration in 1982. Governor Cowper issued a proclamation in January 1989 designating it a legal holiday for this year.

CSHB 87(Fin)am, An Act relating to the state budget and to long-term financial plans for the state

HB 87 would require that the Governor annually submit to the legislature a long-term financial plan. The plan must include projections of expenditures for the next six fiscal years and projections of revenues for the next ten fiscal years. The legislature would be required to adopt or revise the plan.

In addition, HB 87 would require that the Governor's annual capital improvements proposal include the estimated annual maintenance and operation costs for the useful life of each project.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Civil fine for violation of laws related to alcoholic beverages.
Sponsor: Sen. Rules by Governor request
Requestor: Sen. State Affairs Committee

Agency Affected: Department of Revenue
BRU: Alcoholic Beverage Control Board

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	Note	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS:

Note: Revenue generated from civil fines imposed by the board cannot be projected.

Prepared By: Patrick L. Sharrock, Director
Division: Alcoholic Beverage Control Board

Phone: 277-8638

Date: March 6, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 6, 1989

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Sec. 12.55.035. Fines. (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden its payment will impose. No defendant may be imprisoned solely because of inability to pay a fine.

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) \$75,000 for murder in the first or second degree, attempted murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$300 for a violation.

(c) Upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) \$100,000; or

Criminal Code

285

(2) an amount which is three times the pecuniary gain realized by the defendant as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. (§ 12 ch 166 SLA 1978; am § 17 ch 45 SLA 1982; am § 26 ch 143 SLA 1982; am § 4 ch 59 SLA 1988; am § 18 ch 85 SLA 1988)

Effect of amendments. — The first 1988 amendment inserted "attempted murder in the first degree" in subsection (b)(1).

The second 1988 amendment, effective June 2, 1988, inserted "sexual abuse of a

minor in the first degree" in subsection (b)(1).

While neither amendment gave effect to the other, both have been given effect in this section as set out above.

NOTES TO DECISIONS

Court is under duty to consider defendant's earning capacity in connection with any imposition of a fine or restitution. Failure to do so requires automatic reversal and remand. *Ashton v. State, Ct. App. Op. No. 712 (File No. A-1944), 737 P.2d 1365 (1987).*

Applied in *Wilson v. State, Ct. App. Op. No. 816 (File No. A-1948), P.2d (1988).*

Cited in *Constantine v. State, Ct. App. Op. No. 717 (File Nos. A-1247, A-1409, A-1414), P.2d (1987).*

Sec. 12.55.045. Restitution. (a) The court may order a defendant convicted of an offense to make restitution as provided in this section, including restitution to the victim, to a public, private, or private nonprofit organization that has provided counseling, medical, or shelter services to the victim, or as otherwise authorized by law. A defendant is presumed to have the ability to pay restitution unless the defendant establishes the inability to pay by a preponderance of the evidence. In determining the amount and method of payment of restitution, the court shall take into account the

(1) public policy that favors requiring criminals to compensate for damages and injury to their victims;

(2) financial burden placed on the victim and those who provide services to the victim as a result of the criminal conduct of the defendant; and

(3) financial resources of the defendant and the nature of the burden its payment will impose on dependents of the defendant.

(b) An order of restitution under this section does not limit any civil

- (B) lubricating oils;
- (C) waste oil and waste oil mixtures; and
- (D) crude oils;
- (3) low dispersibility
 - (A) bunker and residual fuel oils;
 - (B) asphalt;
 - (C) tars; and
 - (D) other petroleum, petroleum products, and byproducts not otherwise listed in (1) or (2) of this section. (Eff. 4/19/78, Register 66)

Authority: AS 46.03.758

18 AAC 75.570. SCHEDULE OF CIVIL PENALTIES. The schedule of civil penalties for which a person may be held liable under AS 46.03.758(e) is established as follows:

18 AAC 75.570 ALASKA ADMINISTRATIVE CODE 18 AAC 75.570

(1) The base civil penalty for discharges into various receiving environments is as follows:

	Freshwater	Marine	Public Land
Critical environmental resources	\$10.00	\$2.50	\$1.00
Very sensitive environmental resources	N/A	N/A	.75
Sensitive environmental resources	5.00	2.00	.50
Without significant environmental resources	1.00	1.00	.25

(2) Toxicity, degradability and dispersibility factors are as follows:

	Factor
(A) toxicity*	
(i) highly toxic	1.0
(ii) moderately toxic	0.75
(iii) less toxic	0.5
(iv) relatively nontoxic	0.25
(B) degradability**	
(i) low degradability	1.0
(ii) moderate degradability	0.5
(iii) high degradability	0.25
(C) dispersibility	
(i) high dispersibility	0.15
(ii) moderate dispersibility	0.5
(iii) low dispersibility	1.0

(3) The net civil penalty which will be assessed per gallon of oil discharged is calculated by multiplying the base penalty established in (1) of this section by the arithmetic mean of the toxicity, degradability, and dispersibility factors established in (2) of this section. If a portion of the oil enters more than one receiving environment, the civil penalty will be based upon the most sensitive receiving environment which that portion of the oil enters. (Eff. 4/19/78, Register 66)

Authority: AS 46.03.758

*To determine the toxicity factor for a particular oil, the factor from the table is multiplied by a fraction whose numerator is the percent concentration of aromatics in the oil and whose denominator is 45. In no event shall the toxicity factor exceed 1.0.

The toxicity factor in crude oil is .75 multiplied by a fraction whose numerator is the API gravity of the crude oil and whose denominator is 30.

**The degradability factor for crude oil is .5 multiplied by a fraction whose numerator is 30 and whose denominator is the API gravity of the crude oil.

DEC
regs.

(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)

Reviser's notes. — In 1987, a reference in paragraph (b)(1) of this section was changed to "(2) of this section" 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 75.210 — 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, acquisi-

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.

DEC statute

Washington
all
copied

WASHINGTON STATE LIQUOR CONTROL BOARD

Olympia

July 12, 1988

SUMMARY OF BOARD ORDERS ISSUED BY WASHINGTON STATE LIQUOR CONTROL BOARD DISPOSING OF CHARGES OF VIOLATIONS BY LICENSEES.

Asiamer Corporation
System I
440 16th Avenue NE - Bldg. B
Auburn, Washington 98002

Class H
Hearing File No. 13,783
License No. 072120

ORDER VACATING LICENSE SUSPENSION

Charge: Licensee or employee thereof allowed a person apparently under the influence of liquor consume liquor on the licensed premises.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$774.00.

Consolidated Restaurants, Inc.
Elliott's On The Pier Steamer-Fishbar
1203 Alaskan Way - Pier 56
Seattle, Washington

Class M-1
Hearing File No. 13,630
License No. 356126

ORDER VACATING LICENSE SUSPENSION

Charge: Licensee sold liquor at special occasions without having obtained from the Board approval for the date and location of the special occasion.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$227.36.

Tom Coffal
Marie Coffal
Sundown Saloon
118 East Washington
Sequim, Washington 98382

Class BCEP
Hearing File No. 13,779
License No. 352383

ORDER OF SUMMARY LICENSE SUSPENSION

Charge: Licensees permitted persons apparently under the influence of liquor to consume liquor on the licensed premises.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$33.53.

Les E. Tomajka
Marvin Ray Wolever
Sumner Builders, A Partnership
Sharkey's 'A' Pub
1005 Main Street
Sumner, Washington 98390

Class BSEP
Hearing File No. 13,773
License No. 352772

ORDER VACATING LICENSE SUSPENSION

Charge: Licensees served and allowed to be consumed upon the licensed premises liquor between the hours of 2 a.m. and 6 a.m.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$500.00.

Express Lane, Ltd. Partnership
Gull Industries, Inc., Gen. Partner
Express Lane Food Mart No. 1634
478 Grand Road
East Wenatchee, Washington 98802

Class EF
License No. 366921
Hearing File No. 13,775 & 13,776

ORDER VACATING LICENSE SUSPENSION

Charge: Licensee supplied liquor for off-premises consumption to persons under the age of twenty-one years.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$1,000.00.

Lloyd E. Fryhoyer
Ninoska M. Fryhoyer
North Avenue Market
1816 North Wenatchee Avenue
Wenatchee, Washington 98801

Class KF
Hearing File No. 13,781
License No. 367573

ORDER VACATING LICENSE SUSPENSION

Charge: Licensees supplied liquor for off-premises consumption to a person under the age of 21 years.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$500.00.

L. W. Pedersen

L. W. PEDERSEN, CHAIRMAN OF THE BOARD

SIGN OFF
LIST

A B C D E F G

Oregon

369974 1P # 9.907 5869544: # 4

5-1-89 10:39AM

SENT BY: A

845-06-200 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS				All violations subject to cancellation	
			1st	2nd	3rd	4th		
			Suspension	Fine	Suspension	Fine	Suspension	Fine
471.210 471.315(1)(c) 472.180(3)		Failed to maintain bond		\$650 plus suspension until bond provided		\$650 plus suspension until bond provided		\$1300 plus suspension until bond provided
471.305		Brewery or wholesaler delivered to unlicensed location	5 days	325	10 days	650	30 days	1950
471.315(1)(b) 471.385(1)(a) 472.180(2)		Made false representation or statement	15 days	975	Cancel *			
471.315(1)(d) 472.180(5)		Maintained noisy establishment	30 days	650	20 days	1300	Cancel *	
		Maintained lewd or disorderly establishment	15 days	975	Cancel *			
471.315(1)(f) 472.180(7)		Used alcoholic liquor or drugs to excess	15 days	975	Cancel *			
471.315(1)(g) 471.410 472.180(8) 472.310(3)	*	Knowingly sold to minor	7 days	455	15 days	975	30 days	1950
		Made liquor available to minor						
	*	OR						
		Knowingly sold to visibly intoxicated person	10 days	650	20 days	1300	Cancel *	
		Made liquor available to visibly intoxicated person						
471.315(1)(h) 471.425(3) 472.137(9) 472.317(7)		Misrepresented liquor sold	7 days	455	15 days	975	Cancel *	
471.315(1)(i) 471.395(1)(b) 472.180(10)		Convicted of felony	Cancel					

EXHIBIT 1
845-06-200(5)

* Applies only to successive offense of this particular violation

845-06-200 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS				All violations subject to cancellation	
			1st Suspension	1st Fine	2nd Suspension	2nd Fine		3rd Suspension
471.330(1) 471.365		Failed to permit examination of records or premises	10 days	\$650 and provide records	20 days	\$1300	Cancel *	
471.360(1)(b)		Allowed employee to sell without permit	5 days	325	10 days	650	20 days	\$1300
471.360(1)(c)		Failed to show permit to inspector	10 days	650	20 days	1300	Cancel *	
471.365(2)		Allowed use of permit by another	Cancel					
471.365(2)		Failed to verify identification	5 days	325	10 days	650	20 days	1300
471.375(1)		Licensee failed to send permit application and fee to Commission	5 days	325	10 days	650	20 days	1300
471.375(2)		Licensee failed to verify applicant's age	7 days	455	15 days	975	30 days	1950
471.405(1) 472.310(1)		Delivered to unlicensed premises Sold liquor other than license permits	10 days	650	20 days	1300	Cancel *	
471.465 471.415 471.470	845-06-070 845-06-075(1)	Financial assistance	5 days	325	10 days	650	20 days	1300
471.675		Interfered with enforcement	10 days	650	Cancel *			
472.310(1)		Private club sold to non-member	7 days	455	15 days	975	30 days	1950

845-06-230 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS								
			1st		2nd		3rd		4th		
			Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	All violations subject to cancellation
OREGON ADMINISTRATIVE RULES, CHAPTER 845											
	845-06-010	True name not on application			Cancel						
		Failed to notify prior to complete change of ownership			Cancel						
		Willful hidden ownership			Cancel						
		Negligent hidden ownership	7 days	\$455	Cancel *						
	845-06-030	After hours operation	7 days	455	15 days	875	30 days	1950			
	845-06-035(2)(a)	Permitted minor to consume	5 days	325	10 days	650	20 days	1300			
	845-06-035(2)(b)	Permitted minor to enter or remain	3 days	195	5 days	325	10 days	650			
		(3)(c) Permitted minor entertainer to mingle									
	845-06-035(3)(a)	Permitted minor to work in prohibited area	3 days	195	7 days	455	15 days	975			
	845-06-035(4)(b)	Permitted minor to unlawfully sell or serve	7 days	455	15 days	975	30 days	1950			
	845-06-045(1)	Drinking on duty	7 days	455	15 days	975	30 days	1950			
	845-06-045(2)	Permitted disorderly or boisterous conduct	7 days	455	15 days	975	30 days	1950			
	845-06-045(4)	Permitted criminal conduct on premises	10 days	650	15 days	975	30 days	1950			
	845-06-050	Allowed unauthorized liquor on premises	5 days	325	10 days	650	20 days	1300			

* Applies only to successive offense of this particular violation

845-06-230 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	NOMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS				All violations subject to cancellation	
			1st Suspension	Fine	2nd Suspension	Fine		3rd Suspension
	845-06-105(3)	Failed to reopen premises	Cancel					
	845-08-010 845-08-015(1)	Failed to keep records of food and liquor sales	5 days	\$325	10 days	\$650	20 days	\$1300
	845-09-015	Food service violation	7 days	455	15 days	975	Cancel *	
	845-10-170 845-06-070(13)	Manufacturer, wholesaler or importer failed to maintain required records	5 days	325	10 days	650	20 days	1300

* Applies only to successive offense of this particular violation

36997-1 # 9.907 5869544; # 6

5-1-89 10:41AM

SENT BY: A

845-06-200 (6) MIROR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS								
			1st Suspension	1st Fine	2nd Suspension	2nd Fine	3rd Suspension	3rd Fine	4th Suspension	4th Fine	
471.250(1) 471.265(1) 472.110(2) or (3) 472.205		(Unlawfully permitted liquor to leave premises	3 days	\$195	5 days	\$325	10 days	\$650	15 days	\$975	All violations subject to cancellation
471.315(1)(a) 471.385(1)(b) 472.180(10)		Convicted of misdemeanor	3 days	195	5 days	325	10 days	650	15 days	975	
471.375(1)		Licensor failed to keep service permit application on premises	3 days	195	5 days	325	10 days	650	15 days	975	
471.478	845-06-085	Failed to comply with bag sale law	3 days	195	5 days	325	10 days	650	15 days	975	
471.480	845-06-035(4)(a)	Allowed juvenile to sell (PS license only)	3 days	195	5 days	325	10 days	650	15 days	975	
471.485		Payment upon delivery	3 days	195	5 days	325	10 days	650	15 days	975	
471.495		Wholesaler failed to inform Commission of receipt of NSF check	3 days	195	5 days	325	10 days	650	15 days	975	

EXHIBIT 2
845-06-200(6)

845-06-200 (6) MINOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS									
			1st		2nd		3rd		4th		5th	
			Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine
OREGON ADMINISTRATIVE RULES, CHAPTER 845												
845-06-020		Corporate licenses failed to advise of change	3 days	\$195	5 days	\$325	10 days	\$650	15 days	\$975	All violations subject to cancellation	
845-06-040		Improper minor posting	3 days	195	5 days	325	10 days	650	15 days	975		
845-06-055		Gave liquor as prize	3 days	195	5 days	325	10 days	650	15 days	975		
845-06-060		License certificate not in public view	3 days	195	5 days	325	10 days	650	15 days	975		
845-06-065		NSF check	Letter of Reprimand		Cash basis (money order, cashier's check, certified check) for 6 months or 3 days	\$195	for 12 months or 5 days	\$325	10 days	none		
845-06-100		Altered without approval	3 days	195	5 days	325	10 days	650	15 days	975		
					and restore premises if alteration unsatisfactory							
845-06-105		Failed to notify Commission of closure	3 days	195	5 days	325	10 days	650	15 days	975		
845-07-005 -- 845-07-035		Advertising	3 days	195	5 days	325	10 days	650	15 days	975		
845-08-005		Retailer failed to maintain required records	3 days	195	5 days	325	10 days	650	15 days	975		
845-08-025		Closed premises for private party without notice	3 days	195	5 days	325	10 days	650	15 days	975		
845-08-035		Failed to post public notice of pre-mixed drinks	3 days	195	5 days	325	10 days	650	15 days	975		

845-06-200 (6) MINOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS									
			1st		2nd		3rd		4th		5th	
			Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	All violations subject to cancellation	
	845-10-160	Driver-salesman without employer permit	3 days	\$195	5 days	\$325	10 days	\$650	15 days	\$975		
	845-10-210	Price posting violation	3 days	195	5 days	325	10 days	650	15 days	975		
459.820 459.830 459.840 459.850		Beverage Container Act violation	3 days	195	5 days	325	10 days	550	15 days	975		

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Falks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: April 26 Committee Memo
DATE: April 25, 1989

On Wednesday, April 26 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SJR 46, Supporting the establishment of a Joint Commission on the Status of Alaska Natives by Congress

SJR 46 would support the establishment of a Joint Commission on the Status of Alaska Natives and commit the state to actively participate on the commission. The commission would be charged with conducting a comprehensive review of federal and state policies affecting Alaska Natives and the current health, social, and economic status of Alaska Natives.

The resolution that would establish the Commission is pending introduction in the U.S. Senate. The effort stems from the recently published AFN Report on the Status of Alaska Natives.

SSSB 72, An Act relating to registration and licensing of contractors; prohibiting the use of state money for certain residential work unless the work is performed by a licensed residential contractor

SB 72 would require that contractors who construct or alter privately-owned residential structures of one to four units have a residential endorsement on their license. To receive the endorsement, the contractor would need to pass a written or practical exam which tests competence in arctic construction techniques, and complete the Alaska Craftsman Home program or a postsecondary course in arctic engineering or its equivalent.

The Labor and Commerce C.S. clarified that the residential requirement would be an endorsement to the general contractor's license rather than a separate license, allowed participation in programs equivalent to the Alaska Craftsman Home program, and allowed the exemptions in current statute for small projects and owner-built projects.

SB 157. An Act relating to imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

SB 157 would authorize the Alcoholic Beverage Control Board to assess civil fines against liquor licensees who violate liquor laws. The fine would be in addition to license suspension or revocation, and would follow the suspension/revocation hearing required under current statute. The amount of the fine would be determined by the Board.

The bill would also provide the Board with program receipt authority. Fees and fines would be separately accounted for and could be appropriated by the legislature to fund the Board's operation.

SB 192. An Act relating to legislators' eligibility for long-term per diem

SB 192, which would limit eligibility for long term per diem during the interim to days spent attending meetings of a legislative committee or subcommittee, was heard by the State Affairs Committee on April 10. No action was taken pending action by the Legislative Council on a revised per diem policy.

The Council policy, adopted April 24, is attached. It provides that to qualify for interim per diem a legislator must attend a meeting for a legislative or public purpose, or spend at least four hours of that day on legislative and constituent business.

Also attached is a fiscal note for SB 192, indicating savings of \$161,700. Fiscal impact of the new Council policy has not yet been determined.

CSHB 93(Jud). An Act relating to a duty of the director of the division of elections and to voter registration by the Department of Public Safety

HB 93 would require that the Division of Elections provide voter registration forms to the Division of Motor Vehicles, and that DMV advise persons registering their vehicles or applying for drivers' licenses that they may also register to vote.

According to the Division of Elections, most motor vehicle registration outlets currently provide voter registration services. Elections provides training to DMV personnel; DMV forwards completed voter registration forms to Elections.

In addition, SJR 38. Proposing an amendment to the Constitution of the State of Alaska relating to terms of legislators, will be before the committee. Due to time constraints, the bill was not heard on April 24 as scheduled.

157POOP.TXT
4/26/89

SB 157 CIVIL FINE FOR VIOLATION OF A.B.C. LAWS

TO TESTIFY:

PAT SHARROCK, A.B.C. BOARD (TELECONFERENCE FROM ANCHORAGE)

I NOTIFIED: KIM HUTCHINSON, C.H.A.R.R.
MATT FELIX, S.O.A.D.A.

F.Y.I.

THE FINE WOULD BE IN ADDITION TO LICENSE SUSPENSION OR
REVOCATION. AMOUNT OF FINE WOULD BE DETERMINED BY BOARD --
SHOULD WE PUT SOME LIMITS ON IT?

SEC. 3 IS THE STANDARD PROGRAM RECEIPT LANGUAGE.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

157

February 3, 1989

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

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that gives the Alcoholic Beverage Control (ABC) Board the authority to assess a civil fine against a liquor licensee or permittee if the board finds that the licensee violated a statute, a regulation, or a local ordinance relating to alcoholic beverages.

Under AS 04.11.370, the board currently must suspend or revoke a liquor license or permit for certain reasons, including violation of provisions of AS 04, regulations adopted under AS 04, and local ordinances pertaining to liquor. The ABC Board does not, however, have the authority to assess a fine against a liquor licensee or permittee who is found to have violated a provision of the law, either personally or through an agent or employee. Many instances have arisen where the ABC Board has felt that a fine would be an appropriate, additional sanction.

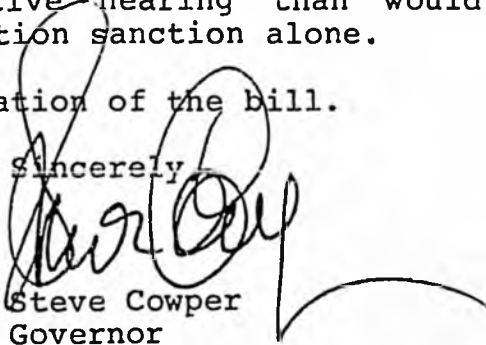
Under the bill, the board may impose a fine following the suspension/revocation hearing under AS 04.11.510(c). The due process rights of licensees and permittees are thus protected.

This bill should have an overall beneficial effect on state finances in that it does not require an additional appropriation and could potentially result in the generation of additional revenue through the assessment of fines. The added regulatory flexibility through the assessment of

fines could also reduce administrative expense in that that
 sanction would be less likely to result in a lengthy, and
 often expensive, administrative hearing than would the
 existing suspension or revocation sanction alone.

I ask your favorable consideration of the bill.

Sincerely,


 Steve Cowper
 Governor

S B

163

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 163

SPONSOR Duncan

BILL TITLE Retirement credit for part-time service
in FRS = TRS

DATE REFERRED 3-23-89

HEARING SCHEDULED

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

Sally Smith, DOA 4470 (Ret. + Ben)

OTHER

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: Part-Time Service in Both the
Public Employees' Retirement System
and Teachers' Retirement System
 BRU: Retirement and Benefits
 Sponsor: Duncan Components: Retirement and Benefits
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary) This will not result in additional operations cost for the Division of Retirement and Benefits.

THIS BILL WILL NOT RESULT IN INCREASED FY 90 PERSONAL SERVICES COSTS TO STATE AGENCIES, SCHOOL DISTRICTS OR OTHER PARTICIPATING POLITICAL SUBDIVISIONS.

Prepared By: Sally Smith, Director *Sally Smith* Phone: 465-4470
 Division: Retirement and Benefits Date: Feb 9 1989

Approved by Commissioner: John M. Andrews *JM Andrews* Date: 2/10/89
 Agency: Department of Administration

Distribution (by preparer):
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