

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

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370

1 purposes of this chapter, the department may exempt a person or transaction from AS 10.13.630 -
2 10.13.660 for the purposes of a particular transaction.

3 (b) The exemption may be unconditional or upon specified terms and conditions and for
4 specified periods.

5 ARTICLE 7. ENFORCEMENT.

6 Sec. 10.13.700. INJUNCTION AND ENFORCED COMPLIANCE. If, in the opinion
7 of the department, a person has violated this chapter, or if there is reasonable cause to believe
8 that a person is about to violate this chapter, the department may bring an action in superior court
9 to enjoin the violation or to enforce compliance with this chapter. Upon a proper showing, a
10 restraining order, preliminary or permanent injunction, or writ of mandamus shall be granted, and
11 a receiver or a conservator may be appointed for the defendant or the defendant's assets.

12 Sec. 10.13.710. CEASE AND DESIST ORDERS FOR UNLICENSED PERSONS. If
13 the department finds that a person has violated or that there is reasonable cause to believe that
14 the person is about to violate AS 10.13.120(b) or 10.13.610(a), the department may order the
15 person to cease and desist from the violation unless and until the person is issued a license under
16 this chapter.

17 Sec. 10.13.720. CEASE AND DESIST ORDERS FOR VIOLATIONS BY LICENSEES.
18 After notice and a hearing, if the department determines that a licensee or a subject person of a
19 licensee has violated or is violating, or that there is reasonable cause to believe that the licensee
20 or subject person is about to violate this chapter, the department may order the licensee or subject
21 person to cease and desist from the action. The order may require the licensee or subject person
22 to take affirmative action to correct a condition resulting from the action.

23 Sec. 10.13.730. CEASE AND DESIST ORDERS FOR UNSAFE AND UNSOUND
24 ACTS. After notice and a hearing, if the department determines that a licensee or subject person
25 of a licensee has engaged in or that there is a reasonable cause to believe that the licensee or
26 subject person is about to engage in an unsafe or unsound act with respect to the business of the
27 licensee, the department may order the licensee or subject person to cease and desist from the
28 action. The order may require the licensee or subject person to take affirmative action to correct
29 a condition resulting from the action.

30 Sec. 10.13.740. OTHER CEASE AND DESIST ORDERS. If the department determines
31 that a factor set out in AS 10.13.720 - 10.13.730 is true with respect to a licensee or subject

Chapter 133

1 person of a licensee and that the action or violation is likely to cause the insolvency or
2 substantial dissipation of the assets or earnings of the licensee, is likely to seriously weaken the
3 condition of the licensee, or is likely to otherwise seriously prejudice the interests of the licensee
4 before the completion of proceedings conducted under AS 10.13.720 - 10.13.730, the department
5 may order the licensee or subject person to cease and desist from the action or violation. The
6 order may require the licensee or subject person to take affirmative action to correct a condition
7 resulting from the action or violation.

8 Sec. 10.13.750. REMOVAL AND SUSPENSION ORDERS IN CASES OF VIOLATION
9 OR BREACH OF DUTY. (a) The department may issue an order removing a subject person
10 of a licensee from office with the licensee and prohibiting the subject person from further
11 participating in any manner in the conduct of the business of the licensee if the department
12 determines after notice and a hearing that

13 (1) the person has violated this chapter or another applicable law, has engaged
14 in an unsafe or unsound act with respect to the business of the licensee, or has engaged in an act
15 that constitutes a breach of the person's fiduciary duty;

16 (2) the act, violation, or breach of fiduciary duty has caused or is likely to cause
17 substantial financial loss or other damage to the licensee, has seriously prejudiced or is likely to
18 seriously prejudice the interest of the licensee, or the person has received financial gain by reason
19 of the act, violation, or breach of fiduciary duty; and

20 (3) the act, violation, or breach of fiduciary duty involves dishonesty on the part
21 of the person, demonstrates the person's gross negligence with respect to the business of the
22 licensee, or demonstrates the person's wilful disregard for the safety and soundness of the
23 licensee.

24 (b) The department may issue an order removing a subject person of the licensee from
25 office with the licensee and prohibiting the subject person from further participating in any
26 manner in the conduct of the business of the licensee, except with the prior consent of the
27 department if, after notice and a hearing, the department determines that, by engaging or
28 participating in an act with respect to a financial or other business institution that resulted in
29 substantial financial loss or other damage, the subject person of a licensee demonstrated

30 (1) dishonesty or a wilful or continuing disregard for the safety and soundness
31 of the financial or other business institution; and

1 (2) unfitness to continue as a subject person of the licensee or to participate in
2 conducting the business of the licensee.

3 (c) The department may immediately issue an order suspending a subject person of a
4 licensee from the person's office, if any, with the licensee and prohibiting the subject person
5 from further participating in any manner in the conduct of the business of the licensee except
6 with the consent of the department, if the department determines that

7 (1) the factors in (a) or (b) of this section are true with respect to the person; and

8 (2) an immediate order is necessary to protect the interests of the licensee or the
9 public.

10 (d) In this section, "office" means, when used with respect to a licensee, the position of
11 director, officer, or employee of the licensee or of a subsidiary of the licensee.

12 Sec. 10.13.760. REMOVAL AND SUSPENSION ORDERS IN CASES OF
13 INDICTMENT OR CONVICTION. (a) If the department determines that a subject person of
14 a licensee has been indicted by a grand jury or has been bound over for trial by a court for a
15 crime involving dishonesty or breach of trust, and that the continuation of the person as a subject
16 person of the licensee may threaten the interests of the licensee or may threaten to impair public
17 confidence in the licensee, the department may issue an order suspending the person from the
18 person's office, if any, with the licensee and prohibiting the person from further participating in
19 any manner in the conduct of the business of the licensee until the person's charge has been
20 disposed of.

21 (b) If the department determines that a subject person or former subject person of a
22 licensee to whom an order was issued under (a) of this section, or another subject person of a
23 licensee, has been convicted of a crime involving dishonesty or breach of trust, and that the
24 continuation or resumption of the person as a subject person of the licensee may threaten the
25 interests of the licensee, the department may issue an order suspending or removing the person
26 from the person's office, if any, with the licensee and prohibiting the person from further
27 participating in any manner in the conduct of the business of the licensee, except with the prior
28 consent of the department.

29 (c) The failure to convict a subject person who is charged with a crime involving
30 dishonesty or breach of trust does not prevent the department from issuing an order to the person
31 under another provision of this chapter.

Chapter 133

1 (d) In this section, "office" has the meaning given in AS 10.13.750.

2 Sec. 10.13.770. HEARINGS ON ORDERS. (a) Within 30 days after an order is issued
3 under AS 10.13.710, 10.13.740, 10.13.750(c), or 10.13.760, the licensee or subject person of a
4 licensee to whom the order is directed may file with the department an application for a hearing
5 on the order.

6 (b) If the department fails to begin a hearing within 15 business days after the application
7 is filed or within a longer period to which the licensee or subject person consents, the order shall
8 be considered rescinded.

9 (c) After the hearing, the department shall affirm, modify, or rescind the order.

10 (d) A person to whom an order is issued under this section may apply to the department
11 to modify or rescind the order. The department may not modify or rescind the order unless the
12 department determines that it is in the public interest to do so and that it is reasonable to believe
13 that the person will comply with this chapter.

14 (e) The right of a licensee or subject person to whom an order is issued under
15 AS 10.13.710, 10.13.740, 10.13.750(c), or 10.13.760 to an interlocutory review of the order is
16 not affected by the failure of the licensee or subject person to apply to the department for a
17 hearing on the order issued under this section.

18 Sec. 10.13.780. DISCLOSURE TO SHAREHOLDERS. If the department determines
19 that the results of a department communication or order addressed to the licensee or to a subject
20 person of the licensee should be disclosed to the licensee's shareholders, the department may
21 require the licensee to make the disclosure in the form and manner determined by the department.

22 Sec. 10.13.790. MEETINGS OF DIRECTORS AND SHAREHOLDERS CALLED BY
23 DEPARTMENT. (a) If the department considers it expedient, the department may call a
24 meeting of the board of directors or of the shareholders of a licensee.

25 (b) The department shall send notification of the time, place, and purpose of the meeting
26 not less than five days before the meeting to each director, if a directors' meeting, or to each
27 shareholder, if a shareholders' meeting, either by personal service or by registered or certified
28 mail sent to the person's last known address as shown in the records of the department.

29 (c) The licensee shall pay the notice and meeting expenses for a meeting of shareholders
30 called under (a) of this section.

31 Sec. 10.13.800. ORDERS RESTRICTING ADDITIONAL FINANCING ASSISTANCE.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Chapter 133

(d) In this section, "office" has the meaning given in AS 10.13.750.

Sec. 10.13.770. HEARINGS ON ORDERS. (a) Within 30 days after an order is issued under AS 10.13.710, 10.13.740, 10.13.750(e), or 10.13.760, the licensee or subject person of a licensee to whom the order is directed may file with the department an application for a hearing on the order.

(b) If the department fails to begin a hearing within 15 business days after the application is filed or within a longer period to which the licensee or subject person consents, the order shall be considered rescinded.

(c) After the hearing, the department shall affirm, modify, or rescind the order.

(d) A person to whom an order is issued under this section may apply to the department to modify or rescind the order. The department may not modify or rescind the order unless the department determines that it is in the public interest to do so and that it is reasonable to believe that the person will comply with this chapter.

(e) The right of a licensee or subject person to whom an order is issued under AS 10.13.710, 10.13.740, 10.13.750(e), or 10.13.760 to an interlocutory review of the order is not affected by the failure of the licensee or subject person to apply to the department for a hearing on the order issued under this section.

Sec. 10.13.780. DISCLOSURE TO SHAREHOLDERS. If the department determines that the results of a department communication or order addressed to the licensee or to a subject person of the licensee should be disclosed to the licensee's shareholders, the department may require the licensee to make the disclosure in the form and manner determined by the department.

Sec. 10.13.790. MEETINGS OF DIRECTORS AND SHAREHOLDERS CALLED BY DEPARTMENT. (a) If the department considers it expedient, the department may call a meeting of the board of directors or of the shareholders of a licensee.

(b) The department shall send notification of the time, place, and purpose of the meeting not less than five days before the meeting to each director, if a directors' meeting, or to each shareholder, if a shareholders' meeting, either by personal service or by registered or certified mail sent to the person's last known address as shown in the records of the department.

(c) The licensee shall pay the notice and meeting expenses for a meeting of shareholders called under (a) of this section.

Sec. 10.13.800. ORDERS RESTRICTING ADDITIONAL FINANCING ASSISTANCE.

1 (a) The department may issue an order directing a licensee to refrain from providing additional
2 financing assistance to businesses if, in the opinion of the department, the order is necessary to
3 protect the interests of the licensee or the public, and if, after notice and a hearing, the
4 department determines that

5 (1) the licensee or a controlling person, subsidiary, or affiliate of the licensee has
6 violated this chapter or another applicable law;

7 (2) the licensee is conducting the licensee's business in an unsafe and unsound
8 manner;

9 (3) the licensee is in a condition that makes it unsafe or unsound for the licensee
10 to transact business;

11 (4) the licensee has ceased to transact business as a BIDCO;

12 (5) the licensee is insolvent;

13 (6) the licensee has suspended payment of the licensee's obligations, has made
14 an assignment for the benefit of the licensee's creditors, or has admitted in writing the licensee's
15 inability to pay the licensee's debts as the debts become due;

16 (7) the licensee has applied for an adjudication of bankruptcy, reorganization,
17 arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law,
18 an involuntary petition in bankruptcy against the person has not been dismissed in 90 days, or
19 a person has applied for the relief under the law against a licensee and the relief has been granted
20 or the licensee has by an affirmative act approved of or consented to the action; or

21 (8) a fact or condition exists that would have been grounds for denying the
22 licensee a license if the fact or condition had existed when the licensee applied for the license.

23 (b) If the department determines that a factor in (a) of this section is true with respect
24 to a licensee and that it is necessary for the protection of the interests of the licensee or the
25 public that the department immediately prevent the licensee from providing additional financing
26 assistance to businesses, the department may issue the order without a hearing.

27 (c) If the department consents, a licensee that has been the subject of an order under (a)
28 or (b) of this section may resume providing financing assistance to businesses under the
29 conditions that the department prescribes.

30 (d) A person to whom an order is issued under (a) or (b) of this section may apply to
31 the department to modify or rescind the order. The department may not grant the application

Chapter 133

1 unless the department determines that it is in the interest of the public to do so and that it is
2 reasonable to believe that the person will comply with this chapter.

3 Sec. 10.13.810. TAKING POSSESSION OF LICENSEE. (a) If the department finds
4 that a factor in AS 10.13.800 is true with respect to a licensee and that it is necessary for the
5 protection of the interests of the licensee or of the public, the department may take immediate
6 possession of the property and business of the licensee and appoint a conservator for the licensee.

7 (b) The department may appoint as conservator one of the employees of the division of
8 banking, securities, and corporations of the department or another competent and disinterested
9 person. The division shall be reimbursed out of the assets of the conservatorship for all money
10 expended by the division in connection with the conservatorship. Upon the approval of the
11 department, the expenses of the conservatorship paid for by the division shall be paid out of the
12 assets of the licensee. Payment of the division expenses shall take priority over other payments
13 from the assets and shall be fully paid before a final distribution is made.

14 (c) Under the direction of the department, the conservator shall take possession of the
15 books, records, and assets of the licensee and shall take other action that is necessary to conserve
16 the assets of the licensee or to ensure payment of obligations of the licensee pending further
17 disposition of the licensee's business.

18 (d) At an appropriate time, the department may terminate the conservatorship and permit
19 the licensee to resume the transaction of the licensee's business subject to the terms, conditions,
20 restrictions, and limitations the department prescribes.

21 Sec. 10.13.820. RECEIVERSHIP. (a) The department may apply to the superior court
22 for the appointment of a receiver for a licensee, if the department determines that the licensee
23 should be liquidated because

24 (1) the licensee is insolvent;

25 (2) the licensee has suspended payment of the licensee's obligations, has made
26 an assignment for the benefit of the licensee's creditors, or has admitted in writing the licensee's
27 inability to pay the licensee's debts as the debts become due;

28 (3) the licensee has applied for an adjudication of bankruptcy, reorganization,
29 arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law;

30 (4) a person has applied for the relief described under (3) of this subsection
31 against a licensee and the licensee has by an affirmative act approved of or consented to the

1 action or the relief has been granted; or

2 (5) the licensee is in a condition that makes it unsafe or unsound for the licensee
3 to transact business.

4 (b) If a receiver is appointed under (a) of this section, the receiver shall liquidate the
5 property and business of the licensee.

6 Sec. 10.13.830. CIVIL PENALTY. (a) If after notice and a hearing the department finds
7 that a person has violated this chapter, the department may order the person to pay to the
8 department a civil penalty in the amount the department specifies. The civil penalty may not
9 exceed \$1,000 for each violation, or in the case of a continuing violation, \$1,000 for each day
10 the violation continues.

11 (b) This section does not apply to an act committed or omitted in good faith in
12 conformity with an order, regulation, declaratory ruling, or written interpretative opinion of the
13 department, even if the order, regulation, declaratory ruling, or written interpretative opinion is
14 later amended, rescinded, or repealed, or determined by judicial or other authority to be invalid.

15 (c) The provisions of (a) of this section are in addition to, and not alternative to, the
16 other provisions of this chapter that authorize the department to issue orders or to take other
17 action on account of a violation of this chapter.

18 ARTICLE 8. GENERAL PROVISIONS.

19 Sec. 10.13.850. CONSTRUCTION OF CHAPTER. This chapter shall be liberally
20 construed to accomplish its purposes.

21 Sec. 10.13.860. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT TO
22 PROCEEDINGS. A proceeding under AS 10.13.830 is subject to AS 44.62 (Administrative
23 Procedure Act). Except as otherwise provided in this chapter, other proceedings and actions
24 under this chapter are exempt from AS 44.62.

25 Sec. 10.13.870. APPEALS. A final order of an administrative proceeding under
26 AS 10.13.710 - 10.13.760, 10.13.800, 10.13.810, or 10.13.830 may be appealed to the superior
27 court.

28 Sec. 10.13.880. PROVISIONS OF LICENSEE'S INCORPORATION. Except as
29 otherwise provided in this section, the provisions of the law under which a licensee is
30 incorporated apply to the licensee. If a provision of the licensee's incorporating law conflicts
31 with a provision of this chapter, this chapter controls.

Chapter 133

1 Sec. 10.13.890. ASSOCIATES. (a) In AS 10.13.300 - 10.13.320 and 10.13.630 -
2 10.13.660, a person who is an associate within six months before or after a licensee provides
3 financing assistance shall be considered to be an associate as of the date the licensee provides
4 the assistance.

5 (b) If a licensee, in order to protect the licensee's interests, designates a person to serve
6 as a director of, officer of, or in a management capacity of a business to which the licensee
7 provides financial assistance, the person may not, on that account, be considered to be an
8 associate under AS 10.13.300 - 10.13.310 or 10.13.630 - 10.13.660. This subsection does not
9 apply if the person has, directly or indirectly, another financial interest in the business or if the
10 person, at any time before the licensee provides the financing assistance, served as a director of,
11 officer of, or in another capacity in the management of the business for a period of 30 days or
12 more.

13 Sec. 10.13.900. OTHER LICENSES. A corporation that is licensed under this chapter
14 may apply for and be issued a license under another law of the state, federal government, or of
15 another state in the United States unless the transaction of business by the corporation as a
16 licensee under the other license would violate this chapter or would be contrary to the purposes
17 of this chapter.

18 Sec. 10.13.910. EXEMPTION. A licensee is not subject to the provisions of AS 06.

19 Sec. 10.13.920. AUTHORITY OF DEPARTMENT. The provisions of this chapter
20 relating to conflicts of interest do not limit the authority of the department to determine that an
21 act involves a conflict of interest and is therefore an unsafe or unsound act.

22 Sec. 10.13.930. CONFIDENTIALITY. (a) The commissioner, deputies, and other
23 employees of the department may not disclose information acquired by them in the discharge of
24 their duties under this chapter except to the extent disclosure of the information is required by
25 law, other than the public records provisions of AS 09.25.110 - 09.25.220, or is required by court
26 order.

27 (b) Notwithstanding (a) of this section, the department may disclose information that is
28 confidential under (a) of this section if the department determines that disclosure of the
29 information is necessary to promote the public interest. This subsection does not authorize the
30 disclosure of information acquired by the department in the course of an examination of a
31 licensee.

1 (c) Notwithstanding (a) of this section, the department may furnish information that is
2 confidential under (a) of this section to the Alaska Science and Technology Foundation
3 established under AS 37.17.010 if the information is related to a BIDCO that has received
4 assistance under AS 37.17.200 - 37.17.390 or to a person who is seeking assistance under
5 AS 37.17.200 - 37.17.390.

6 (d) A BIDCO may provide to a current or prospective creditor or shareholder of the
7 BIDCO a copy of an examination report on the BIDCO made by the department under this
8 chapter.

9 Sec. 10.13.990. DEFINITIONS. In this chapter,

10 (1) "affiliate" means, if used with respect to a nonnatural person, a person who
11 controls the nonnatural person, who is controlled by the nonnatural person, or who is controlled
12 by a person who also controls the nonnatural person;

13 (2) "associate" means, if used with respect to a licensee,

14 (A) a controlling person, director, or officer of the licensee;

15 (B) a director, officer, or partner of a person referred to in (A) of this
16 paragraph;

17 (C) a person who controls, is controlled by, or is under common control
18 with a person referred to in (A) of this paragraph, directly or indirectly through an
19 intermediary;

20 (D) a close relative of a person referred to in (A) of this paragraph; in this
21 subparagraph, "close relative" means a parent, child, sibling, or spouse, or a relative of
22 the same degree through marriage;

23 (E) a person of which a person referred to in (A) - (D) of this paragraph
24 is a director or officer;

25 (F) a person in which a person referred to in (A) - (D) of this paragraph,
26 or a combination of the persons acting in concert, owns or controls, directly or indirectly,
27 a 20 percent or greater equity interest;

28 (3) "BIDCO" means a corporation that is licensed under this chapter to provide
29 financial and management assistance to businesses;

30 (4) "business" means a person who transacts or proposes to transact business on
31 a regular and continual basis;

Chapter 133

1 (5) "control" means, if used with respect to a specific person, the power to direct
2 or cause the direction of, directly or indirectly through an intermediary, the management and
3 policies of the person, through the ownership of voting interests, by contract other than a
4 commercial contract for goods or nonmanagement services, or by other means; a natural person
5 is not considered to control another person solely because the natural person is a director, officer,
6 or employee of the other person; a person is rebuttably presumed to control a corporation if the
7 person directly or indirectly owns of record, holds beneficially with power to vote, or holds
8 proxies with discretionary authority to vote, 20 percent or more of the then outstanding voting
9 securities issued by a corporation;

10 (6) "controlling person" means, if used with respect to a specific person, a person
11 who controls the specific person, directly or indirectly through an intermediary;

12 (7) "corporate name" means the name of a corporation in its articles of
13 incorporation;

14 (8) "department" means the Department of Commerce and Economic
15 Development;

16 (9) "insolvent" means not paying debts in the ordinary course of business, not
17 paying debts as they become due, or liabilities exceeding assets;

18 (10) "interests of the licensee" includes the interests of the shareholders of the
19 licensee;

20 (11) "license" means a license issued under this chapter;

21 (12) "licensee" means a corporation that is licensed under this chapter;

22 (13) "officer" means

23 (A) with respect to a corporation, a person appointed or designated as an
24 officer of the corporation by or under applicable law or the corporation's articles of
25 incorporation or bylaws, or a person who performs with respect to the corporation the
26 functions usually performed by an officer of a corporation;

27 (B) with respect to a specific person other than a natural person or a
28 corporation, a person who performs for the specific person the functions usually
29 performed by an officer of a corporation for a corporation;

30 (14) "order" means an approval, consent, authorization, exemption, denial,
31 prohibition, or requirement applicable to a specific case and issued by the department, including

1 a license condition and an agreement made by a person with the department under this chapter;

2 (15) "person" includes a government and an agency of a government; when used
3 with respect to acquiring control of or controlling a specific person, "person" includes a
4 combination of two or more persons acting in concert;

5 (16) "principal shareholder" means a person who owns, directly or indirectly, of
6 record or beneficially, securities representing 10 percent or more of the outstanding voting
7 securities of a corporation;

8 (17) "subject person" means

9 (A) a controlling person, subsidiary, or affiliate of a licensee;

10 (B) a director, officer, or employee of a licensee or of a controlling
11 person, subsidiary, or affiliate of a licensee;

12 (C) another person who participates in the conduct of the business of a
13 licensee; or

14 (D) if used with respect to a licensee, a company or business of which the
15 licensee holds control under AS 10.13.260 - 10.13.280.

16 Sec. 10.13.995. SHORT TITLE. This chapter may be cited as the Alaska BIDCO Act.

17 * Sec. 2. AS 37.17 is amended by adding new sections to read:

18 ARTICLE 2. BIDCO ASSISTANCE PROGRAM.

19 Sec. 37.17.200. PURPOSES OF BIDCO ASSISTANCE PROGRAM. The purposes of
20 AS 37.17.200 - 37.17.390 include

21 (1) assisting in the formation and capitalization of one or more BIDCOs that have
22 a highly qualified management team and a good business plan, and that are designed to operate
23 in a profit-oriented, market-disciplined manner, with excellent prospects for long-term financial
24 success and viability;

25 (2) promoting economic development by providing a new source of risk capital
26 and management assistance for businesses, especially small and medium sized businesses, in
27 geographic areas throughout the state, including businesses in rural areas and distressed areas,
28 and including minority owned businesses;

29 (3) using state resources to attract other capital resources; and

30 (4) promoting the successful operation of BIDCOs.

31 Sec. 37.17.210. BIDCO FUND. The BIDCO fund is established in the Alaska Science

Chapter 133

1 and Technology Foundation. The fund consists of appropriations made to the fund by the
2 legislature and repayments of loans made under AS 37.17.200 - 37.17.390.

3 Sec. 37.17.220. USE OF MONEY IN BIDCO FUND. (a) From the money in the
4 BIDCO fund, the foundation may make loans or other financial assistance, as authorized under
5 AS 37.17.220 - 37.17.390, to assist in the formation, capitalization, and operation of corporations
6 that are licensed under AS 10.13.

7 (b) The foundation may not authorize new financial assistance under AS 37.17.200 -
8 37.17.390 after June 30, 1996, without the approval of the legislature.

9 Sec. 37.17.230. BIDCO CAPITALIZATION LOANS. A BIDCO capitalization loan for
10 the initial capitalization of a BIDCO shall be made under the terms and conditions that the
11 foundation determines to be appropriate and that are consistent with AS 37.17.200 - 37.17.390.

12 Sec. 37.17.240. LOAN COMMITMENT CONDITIONS. (a) When issuing a
13 commitment to make a BIDCO capitalization loan, the foundation shall make the loan closing
14 contingent on

15 (1) the BIDCO receiving a license under AS 10.13, which may occur
16 simultaneously with the loan closing;

17 (2) the BIDCO satisfying the capitalization requirements of AS 37.17.250; and

18 (3) other conditions that the foundation may impose.

19 (b) The foundation may not issue a loan commitment under this section unless the
20 foundation determines that the prospective BIDCO satisfies high quality evaluation standards as
21 determined by the foundation. The evaluation standards must include the following findings:

22 (1) the loan is likely to substantially promote the purposes of AS 37.17.200 -
23 37.17.390;

24 (2) the BIDCO's prospective management team is highly qualified to manage the
25 BIDCO;

26 (3) the BIDCO's business plan is a good business plan that, together with the
27 management team, promotes confidence in the prospects for the long-term financial success and
28 viability of the BIDCO; and

29 (4) if the foundation issues a loan commitment to the BIDCO, it is probable that
30 the BIDCO will be able to satisfy the capitalization requirements of AS 37.17.250.

31 Sec. 37.17.250. INITIAL CAPITALIZATION OF BIDCO. (a) The initial capitalization

1 of a BIDCO to which the foundation make: BIDCO capitalization loan must include

2 (1) at least \$500,000 in equity investment in the BIDCO, in addition to any
3 organization costs paid for or owed by the BIDCO;

4 (2) the BIDCO capitalization loan; and

5 (3) additional capital in an amount required by the foundation and on terms and
6 conditions acceptable to the foundation; the additional capital may be in the form of debt, grants,
7 equity investment in addition to the minimum equity investment requirement of \$500,000 under
8 (1) of this subsection, or a combination of debt, grants, and the equity investment.

9 (b) The minimum equity investment under (a)(1) of this section must be fully received
10 by the BIDCO before or at closing of the BIDCO capitalization loan. The BIDCO capitalization
11 loan shall be fully disbursed to the BIDCO at closing. The additional capital shall also be fully
12 disbursed at closing; however, if the foundation is satisfied that there is a firm commitment for
13 the additional capital on terms acceptable to the foundation, that the source for the additional
14 capital will deliver on the firm commitment, and that the documents evidencing the additional
15 capital have been executed and include terms acceptable to the foundation, the additional capital
16 may be disbursed to the BIDCO on a phased-in basis on terms acceptable to the foundation.

17 Sec. 37.17.260. SUBORDINATION OF BIDCO CAPITALIZATION LOAN. A BIDCO
18 capitalization loan may be subordinated to the additional capital required under
19 AS 37.17.250(a)(3).

20 Sec. 37.17.270. BIDCO CAPITALIZATION LOAN PAYMENT AND INTEREST. (a)
21 A BIDCO capitalization loan must be structured so that the full amount of the principal is due
22 in a lump sum at the end of the loan term.

23 (b) Interest on a BIDCO capitalization loan accrues during the loan term and is due at
24 the end of the loan term.

25 Sec. 37.17.280. BIDCO CAPITALIZATION LOAN CREDITS. (a) A BIDCO
26 capitalization loan must include a formula that allows the BIDCO to earn credits to reduce the
27 interest and principal owed on the loan. The formula shall be based on increasing jobs and sales
28 in some or all of the businesses financed by the BIDCO and on sustaining the increases. To the
29 extent the foundation determines appropriate, the foundation may also provide credits in situations
30 where the BIDCO clearly demonstrates to the foundation that jobs would have been lost if the
31 BIDCO had not provided financing assistance.

Chapter 133

1 (b) The foundation shall establish procedures and guidelines for the certification by the
2 foundation of credits earned by a BIDCO under this section, including the circumstances under
3 which the foundation may deny the credits. Within the guidelines, the specific decisions
4 regarding the granting or denial of the credits are left to the discretion of the foundation.

5 Sec. 37.17.290. IMPLEMENTATION OF BIDCO CAPITALIZATION LOAN
6 PROGRAM. (a) The foundation shall implement the program for making BIDCO capitalization
7 loans under AS 37.17.200 - 37.17.390 in a manner designed to encourage financing assistance
8 by BIDCOs to businesses throughout the state. Through the use of one or more formulas
9 designed under AS 37.17.280, the foundation shall provide special incentives to encourage the
10 financing of businesses located in distressed areas, including distressed rural areas, and the
11 financing of minority owned businesses. In this subsection, "minority owned business" means
12 a business that is owned, controlled, and operated by an individual who is a member of a
13 minority and in which more than 50 percent of the net profit or loss attributable to the business
14 accrues to a member of a minority; in this paragraph, "member of a minority" includes a person
15 who is black, Hispanic, or Alaska Native.

16 (b) When determining under (a) of this section whether an area is distressed or how
17 distressed an area is, the foundation may use, individually or in combination, factors that may
18 include unemployment, poverty, lack of access to the state highway system, lack of access to a
19 marine transportation system, or other factors the foundation determines to be appropriate.

20 Sec. 37.17.300. TERMS OF BIDCO CAPITALIZATION LOANS. When determining
21 the amount or range of amount for a BIDCO capitalization loan, the term to maturity of the loan,
22 the interest rate for the loan, the additional capital requirements for the loan, and the formula for
23 earning credits under the loan, the foundation shall consider the following objectives:

24 (1) that the BIDCO will have adequate capitalization to support a highly qualified
25 management team, to implement a business plan that, when combined with the management team,
26 will promote confidence in the prospects of the BIDCO for long-term financial success and
27 viability, and to otherwise promote the purposes of AS 37.17.200 - 37.17.390;

28 (2) that the additional capital requirement is in an amount that encourages the
29 BIDCO to raise as much capital as feasible from sources other than the BIDCO capitalization
30 loan, without unduly hindering the ability of the BIDCO to become operational;

31 (3) that the formula for earning credits under AS 37.17.280, combined with the

1 other terms and conditions of the loan, will be designed so that with a reasonable performance
2 by the BIDCO, the BIDCO will be able to earn sufficient credits to reduce the amount of
3 principal and interest owed on the loan to zero by or before the end of the loan term; and

4 (4) that the formula for earning credits under AS 37.17.280, combined with the
5 other terms and conditions of the loan, is sufficiently challenging that the special incentives
6 provided by the credits allowed under AS 37.17.280 remain in effect for the longest feasible time
7 during the loan term as is consistent with meeting the other objectives identified in this section.

8 Sec. 37.17.310. ACCESS TO MEETINGS AND INFORMATION. While a BIDCO loan
9 is outstanding and the obligations of the BIDCO to the foundation remain undischarged, the
10 BIDCO shall allow the foundation to have a representative present at all meetings of the
11 BIDCO's board of directors and of the BIDCO's shareholders, to receive all notices and
12 information sent to the board of directors or the shareholders, to have the same access to
13 information about the BIDCO as the directors have and as the shareholders have, and to receive
14 additional reports or information from the BIDCO that the foundation reasonably requests.

15 Sec. 37.17.320. BIDCO OPERATION LIMITATION. While a BIDCO loan is
16 outstanding and the obligations of the BIDCO to the foundation remain undischarged, the BIDCO
17 may not provide financing assistance to businesses located outside the state. If a business
18 assisted by the BIDCO has multi-state or multi-national operations, the location of the business
19 is where the largest economic benefit of the financing assistance transaction made by the BIDCO
20 to the business is likely to occur.

21 Sec. 37.17.330. SURRENDER OF BIDCO LICENSE. While a BIDCO loan is
22 outstanding and the obligations of the BIDCO to the foundation are not discharged, the BIDCO
23 may not surrender its license under AS 10.13 without the written consent of the foundation.

24 Sec. 37.17.340. CLOSING ASSISTANCE. If determined by the foundation to be
25 advisable, the foundation may use money in the BIDCO fund to provide assistance to a person
26 to complete the tasks necessary for the person to achieve a closing on a BIDCO capitalization
27 loan. The foundation may provide the assistance on the terms and conditions that the foundation
28 determines appropriate.

29 Sec. 37.17.350. CONFIDENTIALITY. In order to promote the purposes of
30 AS 37.17.200 - 37.17.390, the foundation may establish policies under which it will keep
31 confidential proprietary information submitted to the foundation by an applicant for a loan or

Chapter 133

1 other financial assistance under AS 37.17.200 - 37.17.390 and by a BIDCO that has received a
2 loan or other financial assistance under AS 37.17.200 - 37.17.390. The information that is
3 determined to be confidential under this section is not a public record under AS 09.25.110 -
4 09.25.220.

5 Sec. 37.17.360. SUBSEQUENT LOANS. If the foundation determines that a BIDCO,
6 after receiving a BIDCO capitalization loan, has performed well financially and in promoting the
7 purposes of AS 37.17.200 - 37.17.390, and if more than four years have elapsed since the loan
8 was made, the foundation may make an additional loan to the BIDCO, on the terms and
9 conditions that the foundation considers appropriate.

10 Sec. 37.17.390. DEFINITIONS. In AS 37.17.200 - 37.17.390,

11 (1) "additional capital" means the additional capital required under
12 AS 37.17.250(a)(3);

13 (2) "BIDCO" means a corporation licensed under AS 10.13;

14 (3) "BIDCO capitalization loan" means a loan made under AS 37.17.230 for the
15 initial capitalization of a BIDCO;

16 (4) "BIDCO loan" means a BIDCO capitalization loan or a subsequent loan made
17 under AS 37.17.360;

18 (5) "foundation" means the Alaska Science and Technology Foundation
19 established under AS 37.17.010.

20 * Sec. 3. AS 06.05.270(a) is amended to read:

21 (a) In addition to loans and acquisitions expressly authorized by this chapter, a state bank
22 may deal in, underwrite, and invest in for its own account

23 (1) direct or guaranteed obligations of the United States, either directly or in the
24 form of securities of, or other interests in, an open-end management type investment company
25 or investment trust registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of
26 1940), if

27 (A) the portfolio of the investment company or investment trust is limited
28 to obligations of the United States government and repurchase agreements fully
29 collateralized by the obligation; and

30 (B) the investment company or investment trust takes delivery of the
31 collateral directly or through an authorized custodian;

- 1 (2) general obligations of the State of Alaska and its political subdivisions;
- 2 (3) general obligations of a state of the United States or its political subdivisions;
- 3 (4) revenue obligations of the State of Alaska or its political subdivisions subject
- 4 to the limitation of (b) of this section;
- 5 (5) revenue obligations of a state of the United States or its political subdivisions
- 6 subject to the limitation of (b) of this section;
- 7 (6) obligations of instrumentalities of the United States government including, but
- 8 not limited to Federal Intermediate Credit Banks, Federal Land Banks, the Federal National
- 9 Mortgage Association, and Banks for Cooperatives;
- 10 (7) commercial paper of prime or equivalent quality as rated by a recognized
- 11 national rating service subject to the limitation of (b) of this section;
- 12 (8) secured corporate obligations rated within the three highest grades of a
- 13 national rating service subject to the limitation of (b) of this section;
- 14 (9) obligations of the International Bank for Reconstruction and Development, the
- 15 Inter-American Development Bank, or the African Development Bank, subject to the limitation
- 16 of (b) of this section;
- 17 (10) stock in the Federal National Mortgage Association, a Federal Reserve Bank,
- 18 or a Federal Home Loan Bank;
- 19 **(11) the stocks, bonds, and other securities of**
- 20 **(A) a corporation licensed under AS 10.13; or**
- 21 **(B) a corporation attempting to become licensed under AS 10.13 if the**
- 22 **corporation intends to use the proceeds to fulfill the tasks necessary to become**
- 23 **licensed under AS 10.13.**

24 * Sec. 4. AS 06.05.270(b) is amended to read:

25 (b) A state bank may not underwrite or invest for its own account an amount exceeding

26 15 percent of its combined capital, surplus and undivided profits in any one issue of securities

27 authorized in (a)(4) and (5) of this section or with any one obligor of the securities authorized

28 in (a)(7), (8), [AND] (9), and (11) of this section.

29 * Sec. 5. AS 06.15.240 is amended to read:

30 Sec. 06.15.240. INVESTMENTS AUTHORIZED. Subject to the provisions of this

31 chapter and regulations under this chapter, a mutual bank may invest in

Chapter 133

1 (1) obligations of the United States and those for which the faith of the United
2 States is pledged to provide for the payment of the interest and principal, obligations for which
3 annual contributions to be paid under [PURSUANT TO] contract by the United States
4 government or any of its instrumentalities in accordance with an Act of Congress entitled the
5 "Housing Act of 1949," are pledged as security for the payment of the interest and principal, and
6 obligations of any agency of the United States;

7 (2) obligations of any state of the United States and those for which the faith of
8 any state of the United States is pledged to provide for the payment of the interest and principal;

9 (3) obligations of a city, village, town, county, department, agency, district,
10 authority, commission or other public body of any state of the United States, subject to the
11 exercise of the same degree of care and prudence that persons prompted by self-interest generally
12 exercise in their own affairs;

13 (4) any property improvement note issued under the provisions of Title I of the
14 National Housing Act and any other real property improvement note in a principal amount not
15 in excess of \$15,000, not including interest;

16 (5) obligations of the Dominion of Canada or provinces of the Dominion of
17 Canada payable in United States funds;

18 (6) the stocks, bonds, and other securities of

19 (A) a corporation licensed under AS 10.13; or

20 (B) a corporation attempting to become licensed under AS 10.13 if the
21 corporation intends to use the proceeds to fulfill the tasks necessary to become
22 licensed under AS 10.13.

23 * Sec. 6. AS 06.25.170 is amended to read:

24 Sec. 06.25.170. PURCHASE AND SALE OF SECURITIES. A trust company may
25 purchase, invest in and sell stocks, bills of exchange, bonds and mortgages and other securities.
26 When money or security for money is borrowed or received on deposit, or for investment, the
27 bond's or obligations of the trust company may be given, but it may not issue bills to circulate
28 as money. In this section, "stocks, bills of exchange, bonds, mortgages, and other securities"
29 include the stocks, bills of exchange, bonds, mortgages, and other securities of

30 (1) a corporation licensed under AS 10.13; or

31 (2) a corporation attempting to become licensed under AS 10.13 if the

1 corporation intends to use the proceeds to fulfill the tasks necessary to become licensed
 2 under AS 10.13.

3 * Sec. 7. AS 06.30.610 is amended to read:

4 Sec. 06.30.610. INVESTMENTS IN SECURITIES. / n association may invest in the
 5 following securities:

6 (1) obligations of, or guaranteed as to principal and interest by, the United State,
 7 or this state without limitation;

8 (2) stock of a Federal Home Loan Bank of which it is eligible to be a member
 9 and in obligations or consolidated obligations of any Federal Home Loan Bank;

10 (3) stock or obligations of the Federal Savings and Loan Insurance Corporation;

11 (4) stock or obligations of a national mortgage association or its successor;

12 (5) demand, time, or savings deposits with a bank or trust company whose
 13 deposits are insured by the Federal Deposit Insurance Corporation;

14 (6) stock or obligations of any corporation or agency of the United States or this
 15 state, or in deposits of the corporation or agency [THEREWITH] to the extent that the
 16 corporation or agency assists in furthering or facilitating the association's purposes or powers;

17 (7) savings accounts of an association operating under this chapter and of a
 18 federal savings and loan association;

19 (8) evidence of indebtedness that is a general obligation of a city, town, village,
 20 school district, or other municipal or political subdivision of this state;

21 (9) other stocks, securities, or obligations that the commissioner approves and
 22 places on a published list; an association investing in securities listed by the commissioner is not
 23 required to dispose of the securities if at a later time the commissioner removes the securities
 24 from the list;

25 (10) the stocks, bonds, and other securities of

26 (A) a corporation licensed under AS 10.13; or

27 (B) a corporation attempting to become licensed under AS 10.13 if the
 28 corporation intends to use the proceeds to fulfill the tasks necessary to become
 29 licensed under AS 10.13

30 * Sec. 8. AS 06.45.060(7) is amended to read:

31 (7) invest its funds

Chapter 133

- 1 (A) in loans exclusively to members;
- 2 (B) in obligations of the United States or securities fully guaranteed as to
3 principal and interest by the United States;
- 4 (C) in loans to other credit unions in the total amount not exceeding 25
5 percent of its paid-in and unimpaired capital and surplus in accordance with regulations
6 adopted by the commissioner;
- 7 (D) in shares or accounts of savings and loan associations or mutual
8 savings banks that are insured by the Federal Savings and Loan Insurance Corporation
9 or the Federal Deposit Insurance Corporation;
- 10 (E) in obligations issued by banks for cooperatives, federal land banks,
11 federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank
12 Board, or a corporation designated in 31 U.S.C. 9101 as a wholly owned federal
13 government corporation; in obligations, participations, or other instruments of or issued
14 by or fully guaranteed as to principal and interest by the Federal National Mortgage
15 Association or the Government National Mortgage Association; in mortgages, obligations,
16 or other securities that [WHICH] are or have been sold by the Federal Home Loan
17 Mortgage Corporation under 12 U.S.C. 1454 or 12 U.S.C. 1455 (Federal Home Loan
18 Mortgage Corporation Act) [SECS. 305 OR 306 OF THE FEDERAL HOME LOAN
19 MORTGAGE CORPORATION ACT]; or in obligations or other instruments or securities
20 of the Student Loan Marketing Association;
- 21 (F) in participation certificates evidencing beneficial interests in
22 obligations, or in the right to receive interest and principal collections from obligations,
23 that [WHICH] have been subjected by one or more federal agencies to a trust or trusts
24 for which an executive department, agency, or instrumentality of the United States or its
25 head has been named to act as trustee;
- 26 (G) in shares or deposits of a central credit union in which such
27 investments are authorized by the board of directors of the credit union making the
28 investment.
- 29 (H) in shares, share certificates, or share deposits of federally insured
30 credit unions.
- 31 (I) in the shares, stocks, or obligations of another organization providing

1 services that are associated with the routine operations of credit unions, up to one percent
 2 of the total paid-in and unimpaired capital and surplus of the credit union with the
 3 approval of the commissioner; [AND]

4 (J) in the capital stock of the National Credit Union Central Liquidity
 5 Facility; and

6 (K) in the stocks, bonds, and other securities of

7 (i) a corporation licensed under AS 10.13; or

8 (ii) a corporation attempting to become licensed under
 9 AS 10.13 if the corporation intends to use the proceeds to fulfill the tasks
 10 necessary to become licensed under AS 10.13;

11 * Sec. 9. AS 37.10.085(a) is amended to read:

12 (a) Except as provided in (c) or (d) of this section, neither the state nor a political
 13 subdivision of the state may

14 (1) make a subscription to the capital stock of a corporation;

15 (2) lend its credit for the use of a corporation; or

16 (3) borrow money for the use of a corporation.

17 * Sec. 10. AS 37.10.085 is amended by adding a new subsection to read:

18 (d) This section does not apply to

19 (1) the financial assistance program established under AS 37.17.200 - 37.17.390;

20 or

21 (2) investments of the assets of the public employees' retirement system
 22 established under AS 39.35 or the teachers' retirement system established under AS 14.25, to the
 23 extent the investments are made in the stocks, bonds, and other securities of

24 (A) a corporation licensed under AS 10.13; or

25 (B) a corporation attempting to become licensed under AS 10.13 if the
 26 corporation intends to use the proceeds to fulfill the tasks necessary to become licensed
 27 under AS 10.13.

28 * Sec. 11. AS 37.17.010(b) is amended to read:

29 (b) The purposes [PURPOSE] of the foundation are [IS] to

30 (1) promote and enhance through basic and applied research; economic
 31 development and technological innovation in Alaska; public health; telecommunications; and

Chapter 133

- 1 sustained growth and development of Alaskan scientific and engineering capabilities;
- 2 (2) implement the BIDCO assistance program under AS 37.17.200 - 37.17.390.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB14

Revision Date: April 1, 1993

Dept. Affected: Revenue

Title: Appropriation for Capitalization
of the BIDCO Fund

BRU: AK Sci & Tech Fndtn

Component: AK Sci & Tech Fndtn

Sponsor: Bettye Davis

Requestor: Bettye Davis

COMPONENT SERIAL NO. 1009

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	3,000.00	3,000.00	4,000.00			
TOTAL OPERATING	3,000.00	3,000.00	4,000.00			

CAPITAL						
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REVENUE FUND SOURCE:	3,000.00	3,000.00	4,000.00			
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other <u>Sci/Tech Endowment</u>	3,000.00	3,000.00	4,000.00			
TOTAL	3,000.00	3,000.00	4,000.00			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ N/A

ANALYSIS: (Attach a separate page if necessary)

See Attached Analysis

Prepared by: *Paula Rasmussen*
 Division: AK Science & Technology Foundation
 Approved by Commissioner: *[Signature]*
 Agency: Department of Revenue

Phone: (907) 272-4333
 Date: 4/1/93
 Date: 4/1/93

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Analysis

Assumptions:

That the appropriation of \$3 million from fund 1025/51375 will not severely impact the operations and granting capacity of ASTF. This is true only if additional legislative appropriations of ASTF funds do not occur. It is impossible to predict the outcome of other pending legislation. If additional legislation does not pass, under the expenditures outlined in this fiscal note, ASTF could fund the BIDCO capitalization over a three-year period and maintain ASTF grants and operations from ASTF endowment income.

This presumes that no other appropriations are made from the endowment earnings other than those requested for ASTF operating and grants and that the ASTF endowment, upon which interest income is dependent, is not reduced from its current level of \$101,037,000. There are currently other bills pending which would appropriate funds from the ASTF endowment earnings.

Program Summary

1. This fiscal note does not fund any additional positions.
2. This fiscal note does not justify major expenditure items.
3. The basis for the estimate of available ASTF interest income is based on current earning activities of the fund based on an endowment of \$101,037,000. Using the high projections supplied by the Alaska Permanent Fund Corporation, ASTF will have \$5 million in interest income available on July 1, 1993. The high projection for earnings on the ASTF endowment for FY94 is \$8 million. This results in a total interest income of \$13 million through FY94. The ASTF FY94 budget request for operating and grants expenses is \$9,609,000; this would leave an approximate balance of \$3,400,000 in interest income generated through FY94.

There are currently other bills pending which would appropriate funds from ASTF endowment earnings, further depleting endowment earnings and the interest earning capabilities of ASTF.

4. **Section Cost Analysis**—The total cost of HB14 is \$3,000,000 in FY94, \$3,000,000 in FY95, and \$4,000,000 in FY96. Total cost during FY94 is limited to \$3,000,000.

Economic Impact—This revised fiscal note is offered as a way to capitalize the BIDCO fund without seriously impacting ASTF's ability to award grants and conduct business in FY94, FY95, and FY96. If other legislative appropriations pass which utilize ASTF endowment income, the potential impact would be that ASTF could not award grants in FY94, the basic mission of the foundation, and the current operating expense of the foundation would be seriously jeopardized.

HB

17

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

MEMORANDUM

DATE: January 20, 1993
TO: Representative Al Vezey, State Affairs Chair
FROM: Representative Terry Martin *THM*
RE: HB 17 - Scheduling

At your earliest convenience, please schedule HB 17, relating to the limitation of terms in the Alaska State Legislature. If you have any questions, please contact my aide Tom Anderson at 6618.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
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DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
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Alaska House of Representatives

SPONSOR SUMMARY

HB 17

Relating to the limitation of terms
in the Alaska State Legislature

HB 17 provides the mechanism through which a limitation is placed on legislators serving in the House of Representatives and the State Senate. A person in the House cannot serve more than four full or partial terms, and a person in the Senate may not serve more than two full or partial terms.

Need for Legislation

In retrospect of the past election in 1992, and in view of the current national trend against continuous incumbency, it would seem appropriate that a law be implemented through which career politicians are prevented from running for the same office.

At the original Alaskan Constitutional Convention, drafters and delegates concurred that lifelong politicians were not desired. Whereas knowledge and seniority accrued through long service in the House and Senate, the intent for creating a legislature was to maintain a continuous stream of fresh thoughts and ideas.

In our recent national election on November 3rd, 14 states had the limitation of terms initiative for federal and state legislative seats on their ballots, all of which passed. In addition, 29 state legislatures introduced the term limit bill/resolution in their prospective states. In 1992, figures show that out of the 7,461 state legislators, 1,374 (18%) were new members. Indeed, the sentiment of today's voter is to limit the term of the legislator.

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SECTIONAL ANALYSIS

HB 17

Relating to the limitation of terms
in the Alaska State Legislature

Section 1.

States that a representative cannot serve consecutively more than four full or partial terms, a senator cannot serve consecutively more than two full or partial terms, and no legislator may serve more than 11 full or partial calendar years.

Section 2.

Qualifies that the entire length of time spent in office by an incumbent will be considered under this act, with the exception of a legislator already in office, elected or appointed, who will be allowed to finish the term. (In essence, no one will be removed from office under this act, but they may not run again if they fall under its restrictions).

Term Limit Initiatives

Though the great anti-incumbency movement that seemed to be sweeping the nation in summer did not materialize in the general election, the notion of term limitations won resounding voter approval in all 14 states it appeared on the ballot. Term limitations were approved by an average 66% margin, with Florida and Wyoming with the highest margins at 77% and Washington's 52% the lowest.

With the overwhelming popularity of term limitations combined with an incumbency re-election rate of 94% in state legislatures and 93% in Congress, the electorate seemed to be begging, "please, stop me before I vote again!" Fortunately for incumbents, none of the measures are retroactive, offering a few years for elected officials to plan their next run for office or their next career.



States Enacting Term Limits in '92
States Already with Congressional Term Limits

ARIZONA - passed with 74%

U.S. Rep. 3 terms
U.S. Senate 2 terms

ARKANSAS - passed with 60%

U.S. Rep. 3 terms
U.S. Senate 2 terms
St. Rep. 3 terms
St. Senate 2 terms

CALIFORNIA - passed with 63%

U.S. Rep. 6 consecutive years/11 years total
U.S. Senate 12 consecutive years/17 years total

FLORIDA - passed with 77%

U.S. Rep. 4 consecutive terms
U.S. Senate 2 consecutive terms
St. Rep. 4 consecutive terms
St. Senate 2 consecutive terms

MICHIGAN - passed with 59%

U.S. Rep. 6 consecutive years/12 years total
U.S. Senate 12 consecutive years/24 years total
St. Rep. 3 terms
St. Senate 2 terms

MISSOURI - passed with 74%

U.S. Rep. 4 terms
U.S. Senate 2 terms
St. Rep. 8 years
St. Senate 8 years

MONTANA - passed with 67%

U.S. Rep. 6 consecutive years/12 years total
U.S. Senate 12 consecutive years/24 years total
St. Rep. 8 consecutive years/16 years total
St. Senate 8 consecutive years/16 years total

NEBRASKA - passed with 68%

U.S. Rep. 4 consecutive terms
U.S. Senate 2 consecutive terms
St. Rep. 2 consecutive terms
St. Senate 2 consecutive terms

NORTH DAKOTA - passed with 55%

U.S. Rep. 12 years total between House and Senate
U.S. Senate

OHIO - passed with 66%

U.S. Rep. 4 consecutive terms
U.S. Senate 2 consecutive terms
St. Rep. 4 consecutive terms
St. Senate 2 consecutive terms

OREGON - passed with 69%

U.S. Rep. 3 consecutive terms
U.S. Senate 2 consecutive terms
St. Rep. 3 consecutive terms
St. Senate 2 consecutive terms

SOUTH DAKOTA - passed with 63%

U.S. Rep. 12 years
U.S. Senate 12 years
St. Rep. 4 consecutive terms
St. Senate 4 consecutive terms

WASHINGTON - passed with 52%

U.S. Rep. 6 consecutive years/12 total years
U.S. Senate 6 consecutive years/12 years total

WYOMING - passed with 77%

U.S. Rep. 6 consecutive years/12 years total
U.S. Senate 12 consecutive years/24 years total
St. Rep. 6 consecutive years/12 years total
St. Senate 12 consecutive years/24 years total

Key Ballot Propositions in the 1992 Elections

Tax and spending limitation propositions received generally strong support, winning approval in Arizona, Colorado, Connecticut and Florida, and losing in Idaho and Michigan. Colorado's school choice initiative went down to defeat by a 2-1 margin, as did an Illinois initiative that would have enshrined education as a "right" in the state constitution. In a key health care battle, Californians rejected a proposal that would have required employers to provide basic health care for all employees and dependents.

Arizona



Initiative 108

This initiative requires that the Arizona legislature pass all tax increases by a vote of 2/3 of both houses rather than current law which requires only a majority.

This initiative was approved 72% to 28%

Proposition 301

Proposition 301 recommended an increase in the salary of state legislators from \$15,000 to \$19,748 for the 1993-1994 term of office. It would also allow for a cost of living salary increase beginning in 1995 and ending in 1998. After 1998, a salary increase would require voter approval.

Proposition 301 was defeated 66% to 34%.

California



Initiative 165

This proposition was designed to give the Governor power to declare a "fiscal emergency" in the midst of a budget crisis. "Fiscal emergency" status would require the legislature to submit a budget to the Governor by June 15th and the Governor's signature by July 1: if a new budget were not in place, the previous year's spending levels would remain in effect, further giving the Governor the power to unilaterally reduce expenditures in most areas of the budget including limits on the cost of living adjustment in welfare programs. Also included were Governor Wilson's much heralded welfare reform proposals, which included reducing welfare benefits for children born to mothers who are

receiving public assistance (which was modeled on a program adopted in New Jersey earlier this year.)

Proposition 165 was defeated 55.5% to 44.6%.

Initiative 166

This initiative would require employers to provide basic health care for employees and their dependents. Employers would not be able to exclude coverage based on prior disease, disorder or condition. Coverage would specify type of benefits, including prescription services, eliminate duplicate services, and employer contributions would not exceed 2% of the employees' wages. A Health Care Coverage Commission would be established and would make appropriations for committee support.

This initiative was defeated 68% to 32%.

Colorado



Initiative 1

This initiative recommends taxpayer approval for higher tax rates, new debt, and state and local spending increases above inflation. It also allows for additional initiative and referendum elections.

This initiative was approved 54% to 46%.

Initiative 6

This initiative would mandate a one percent increase in sales tax. The revenue from this new tax would be appropriated towards public education.

This initiative was defeated 46% to 54%.

Initiative 7

The measure was designed to provide a \$2,400 voucher to parents for use at a school of their choosing. This would allow public and private schools, including religious schools, to be eligible recipients of the voucher.

This initiative was defeated 67% to 33%.

Connecticut



Referred Amendments: Question 2

Question 2 in Connecticut recommended a Constitutional amendment imposing a limit on state expenditures. The measure would prevent expenditures from

exceeding the estimated amount of revenue for such a fiscal year. It would also prevent expenditures from exceeding the percentage increase in inflation or state personal income, unless the Governor declares an emergency in which 3/5 of each house must approve.

Question 2 was approved 79% to 21%.

Florida



Initiative 10

This initiative recommends that the value of homestead property not rise more than 3% annually for ad valorem tax purposes. When property is transferred the value of the homestead property will be reassessed.

This initiative was approved 54% to 46%

Idaho



Initiative

Property tax rates would be limited to one percent of market value, with some exceptions. A two-thirds vote of cities, counties or taxing districts would have been required to raise additional taxes.

This initiative was defeated 65% to 35%.

Illinois



Referendum 1

This referendum would have made public education a "right" instead of a goal. The state would have "preponderant financial responsibility" for financing public education.

This referendum did not pass, receiving only 57% with 60% needed for passage.

Massachusetts



Initiative No. 1

This initiative recommends an additional excise tax of 25 cents per pack on cigarettes and twenty-five percent on smokeless tobacco. The new revenue obtain by this tax would be used to subsidize the Health Protection Fund, a fund designed to support health programs involving tobacco use.

This initiative was approved 55% to 45%.

Michigan



Question C

This amendment would have placed a cap of 3% on the rate of inflation on the assessment of each parcel of property. It would have also reduced school operating taxes on all property by 30%.

This Question was defeated 59% to 41%.

Oregon:



Initiative No. 4

This was an initiative to amend Oregon law, banning the granting of permits for triple truck-trailer combinations on Oregon highways.

This initiative was defeated 62% to 38%.

Rhode Island



Referred Amendments 2

This proposition recommended amending the state Constitution to limit general fund appropriations to 98 percent of state revenues and to establish a budget reserve account with the remaining 2%.

This proposition was approved 60% to 40%.

South Dakota:



Initiative 1

This initiative recommended reducing property taxes and repealing sales taxes on essential items such as groceries, clothing and utilities. This initiative would also impose a 2-3% personal and corporate income tax.

This initiative was defeated 76% to 26%

Wyoming



Initiative

This initiative recommended, beginning on July 1, 1993, a ban on special permits or test permits for any vehicle combination composed of more than three (3) single vehicles on Wyoming highways.

This initiative was approved 84% to 16%.

FROM: REP. MARTIN
RE: HB17

SUBMITTED: 1/21/93

Saturday, November 9, 1991, The Anchorage Times B3

Coghill rejects term limitation initiative

ASSOCIATED PRESS

JUNEAU — Lt. Gov. Jack Coghill has rejected an application for an initiative petition to limit terms in the Alaska Legislature.

Coghill said that while he supports term limits, he could not certify the petition for circulation because of an attorney general's opinion that says legislative terms can only be changed through a constitutional amendment.

The state constitution cannot be amended through initiative petition.

The petition proposed terms of no more than eight consecutive years. After two years out of the Legislature, a former law-

maker could run for election again, however.

In a letter, Coghill on Thursday urged the petition's backers to focus their efforts on a term-limit measure pending in the Legislature. The proposed constitutional amendment proposed by Gov. Walter J. Hickel is stuck in committee and is not expected to get much attention from lawmakers next year.

Frank Bell of Alaskans for Legislative Reform said the group plans to keep working for an initiative and may consider legal action to get the measure on the ballot.

Voters in Washington state defeated a term-limit measure Tuesday.

FROM: REP. MARTIN
RE: HBI 7

DEC., 1992

SUBMITTED: 1/21/93

The voters' choice

by Elaine S. Knapp

Democrats won eight of 12 governorships on Nov. 3 ballots, giving the party a 30 to 18 margin nationally, with two independent governors. Republicans made small gains in state legislative chambers.

Voters re-elected Democratic gubernatorial incumbents in Indiana, Rhode Island, Vermont and West Virginia. In open races, Democrats lost North Dakota, but retained Washington state and won seats vacated by GOP governors in Delaware, Missouri and North Carolina. Republicans kept open seats in Montana, New Hampshire and Utah.

Jim Hunt, governor from 1976-1984, was elected again, becoming the first North Carolina governor to serve three terms. He defeated Republican Lt. Gov. Jim Gardner to succeed GOP Gov. James G. Martin.

In New Hampshire, former Attorney General Steve Merrill will replace fellow Republican Gov. Judd Gregg, who was elected to the U.S. Senate. Democratic state Rep. Deborah Arnesen's support for a state income tax dogged her gubernatorial quest.

Montana GOP Attorney General Marc Racicot defeated Democratic state Rep. Dorothy Bradley for Gov. Stan Stephens' chair.

Republican Elizabeth Ann Leonard could not unseat Rhode Island Gov. Bruce Sundlun. Other winning Democratic incumbents were Indiana Gov. Evan Bayh, Vermont Gov. Howard Dean and West Virginia Gov. Gaston Caperton. Also in Vermont, Barbara Snelling, widow of the late governor, won the lieutenant governorship.

Delaware elected its first Democratic governor in 20 years. U.S. Rep. Thomas R. Carper beat the GOP's B. Gary Scott. Outgoing Republican Gov. Michael N. Castle won Carper's House seat.

Missouri Democratic Lt. Gov. Mel Carnahan defeated GOP Attorney General William Webster to replace Gov. John Ashcroft, a Republican.

In Washington, former U.S. Rep. Mike Lowry succeeds fellow Democrat Booth Gardner by defeating GOP Attorney General Ken Eikenberry. Washington state Sen. Patty Murray, a Democrat, became one of six women nationwide in the U.S. Senate.

Utah Republican Mike Leavitt, an insurance executive, replaces exiting Gov. Norman Bangerter by defeating Democrat Stewart Hanson. North Dakota Democratic Gov. George Sinner will turn over his office to Edward T. Schafer, the Republican businessman who defeated Democratic Attorney General Nicholas Spaeth.

In Puerto Rico, Dr. Pedro Rosello, a pediatrician, of the New Progressive Party that supports statehood won the governorship. He defeated Sen. Victoria Munoz Mendoza, daughter of the founder of the Popular Democratic Party that favors continued commonwealth status.

An Arkansas court Nov. 5 ruled Democrat Lt. Gov. Jim Guy Tucker would succeed Gov. Bill Clinton, who swept 32 states in winning 370 electoral votes for president.

Most of the 6,350 state legislative seats elected Nov. 3 in 45 states stayed in Democratic hands. Before the election, Democrats held both houses in 29 states, Republicans six states and control was split in 14 states. Nebraska has a nonpartisan Legislature.

Among formerly split states, Republicans won legislative control in Arizona, Kansas, Idaho and Michigan. Republicans also captured chambers held by Democrats in Illinois, Iowa, Montana, Nevada and Vermont. Florida's formerly Democratic Senate split 20-20. The New Progressive Party picked up the Puerto Rico Legislature.

Democrats won the South Dakota Senate to split control there. Massachusetts Democrats picked up seven more seats, taking away GOP Gov. William Weld's veto-proof Senate.

Democrats were in a tight race to keep control of Michigan's House, which was split 55-55 at press time.

One quarter of the nation's 7,500 state legislators will be new because many incumbents retired or lost primaries following redistricting. Nearly 90 percent of incumbents on the Nov. 3 ballot, however, were re-elected.

Alabama, Louisiana, Maryland, New Jersey and Virginia did not hold legislative elections.

Among more than 230 ballot questions nationwide, congressional or legislative term limits of 12 years or less were adopted in 14 states: Arizona, Arkansas, California, Florida, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Washington and Wyoming. In the opposite vein, Kentucky voted to allow governors and statewide officers to run for a second term, and Rhode Island increased the governor's term to four years. New Jersey gave the Legislature veto power over executive regulations.

Arizona became the last state to honor Martin Luther King Jr. with a holiday.

continued on page 15

DEC. 1992

The voters' choice

from page 7

Other issues included:

- **Gay rights.** Oregon opposed condemning homosexuality. Colorado denied homosexuals antidiscrimination protections.
- **Right to die.** California rejected allowing doctors to help terminally ill adults with a painless death.
- **Abortion.** Maryland guaranteed abortion rights. Arizona defeated an abortion ban.
- **Schools.** Colorado rejected public and private school vouchers. Illinois refused to make education a fundamental right and to increase state funding.
- **Lotteries.** Georgia, Mississippi and Nebraska cleared the way for state lotteries. Missouri approved riverboat gambling. Idaho banned casino gambling.

- **ERA.** Iowa defeated an Equal Rights Amendment.
- **Crime.** Victims' rights were bolstered in Colorado, Illinois, Missouri, Kansas and New Mexico. New Jersey extended capital punishment to crimes resulting in unintended death. The District of Columbia refused to adopt the death penalty.
- **Finance.** California voters defeated Gov. Pete Wilson's bid for greater budget power and welfare cuts, but approved repealing the tax on snack foods. Colorado and Connecticut adopted state spending limits. Massachusetts increased the tax on cigarettes and smokeless tobacco for health education. Property tax relief measures lost in Idaho, Michigan and Wisconsin, but passed in Florida, Kansas and Oklahoma. Maine required the state to fund local government mandates. South Dakota defeated an income tax. Virginia approved a "rainy day" fund and \$613 million in bond projects. □

HB

35

HOUSE COMMITTEE REPORT

2/11
Judiciary
Finance

(7)
 Date Referred: January 11, 1993

FURTHER REFERRALS:

Date of Committee Action: 2-11-93

The STATE AFFAIRS Committee considered:

HB 35

HOUSE BILL NO. 35

DEPOSITS TO THE BUDGET RESERVE FUND

"An Act relating to deposits to the budget reserve fund."

RECOMMENDATIONS: the same title
 be replaced with CS HB 35 (STA) a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Admin

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Vezev	X				
Ulmer	X				
B. Davis	X				
Olberg	✓				
G. Davis	✓				
Sanders	✓				
Kott	✓				

CHAIRMAN'S SIGNATURE

ELECTIVE DISTRICT 14
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Alaska House of Representatives

MEMORANDUM

TO: Representative Al Vezey, Chairman
House State Affairs Committee

FROM: Representative Terry Martin *TAM*

DATE: January 20, 1993

SUBJECT: HB 35; relating to deposits to the budget reserve fund

I respectfully request that you schedule HB 35 in the State Affairs Committee at your earliest convenience.

My aide, Mary Vollendorf, will follow up with the supporting documentation and summary. If you have any questions, please contact her at 3783.

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SPONSOR STATEMENT

HB 35

"An Act relating to deposits to the budget reserve fund."

Under the Alaska Constitution (Article IX, Section 17), the Budget Reserve Fund was created with funds received from mineral revenue lawsuits and administrative actions that are deposited into the reserve fund and invested at competitive rates. The Budget Reserve Fund would be used when money available for appropriations in a fiscal year is less than the previous fiscal year, but only to make up the shortfall. This would be a majority vote in each house of the legislature. The legislature could only appropriate from the fund for other public purposes with an affirmative vote from three-fourths of the members of each house of the legislature. At the end of each year, the fund would have to be paid back from money left in the treasury's general fund.

The Alaska Constitution does not stipulate which department will be responsible in determining how much money is owed or by what date the money should be repaid to the Budget Reserve Fund.

HB 35 would entrust the Department of Administration with the responsibility for ensuring the Budget Reserve Fund is repaid by November 1st of each year.

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SECTIONAL ANALYSIS

HB 35

"An Act relating to deposits to the budget reserve fund."

A new section would be added to AS 37, Chapter 25: Miscellaneous Provisions, relating to deposits to the budget reserve fund.

The new section (AS 37.25.050) would instruct the Department of Administration to determine the amount appropriated from the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) that remains unpaid. Based on these determinations, the department will, by November 1 of each year, deposit into the budget reserve fund that amount of available general fund money required to be repaid under art. IX, sec. 17(d), Constitution of the State of Alaska.

Submitted by: Rep. Terry Martin
HB35

Reserve raid

Don't loosen reserve fund rules

Alaska doesn't need to make it any easier for lawmakers to spend oil-tax settlements. These one-time windfalls are best saved for the future, when the money will be needed even more. That's why Alaska has a constitutional amendment dedicating the revenues to a budget reserve fund.

But Gov. Hickel's lawyers are offering advice that would make it easier to spend some of the money right away. They've drafted a legal opinion that would let lawmakers peel off some types of settlement cash before it's stashed in the reserve fund.

At issue is the definition of cash that comes from settling an "administrative proceeding." Gov. Hickel's lawyers say that doesn't include cases settled at the first step in the process, an informal, optional conference with an appeals officer.

The money at issue may not be large, but the principle is. Padding today's pot of spending money will only cause more pain when Alaska's oil production really dries up. This generous interpretation of reserve-fund rules may be legally arguable, but it's financially indefensible.

one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates in the treasury. [Amendment approved November 2, 1982 - Effective December 24, 1982]

Section 17 - Budget Reserve Fund.

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

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Article X

Local Government

Section 1 - Purpose and Construction.

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

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All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

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The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Section 4 - Assembly.

The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter. [Amendment approved August 22, 1972 - Effective October 14, 1972]

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 35

Revision Date: _____
Title: "An Act relating to deposits to the budget reserve fund."
Sponsor: Representatives Martin, Therriault
Requestor: House State Affairs

Department Affected: Administration
BRU: Finance
Component: Finance
COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
SEMI	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Don Wanie, Director *DW 1/21/93*
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Nancy Bear Usara *[Signature]*
Agency: Administration

Date: 1/25/93

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GENERAL ELECTION

Rep MARTIN
1-26-93
HB 35 NOVEMBER 6, 1990

1. Vote
2. To vote for a write-in team or candidate, add the name(s) in the blank space for that race. ALSO vote the box to the right or your vote will not count.
3. If you spoil your ballot, return it to the election official for a new one. A vote which has been erased or changed will not be counted.
4. See the poster inside the polling booth for instructions on how to mark your choices on the ballot.

02B01

411

STATE OF ALASKA General Election November 6, 1990	
STATE REPRESENTATIVE DISTRICT 2 Vote For No More Than One (1)	
FRISBY, PERCY E.	Republican
MACKIE, JERRY	Democrat

VOTE BOTH SIDES

M

STATE OF ALASKA General Election November 6, 1990	
BALLOT MEASURE NO. 1 BUDGET RESERVE CONSTITUTIONAL AMENDMENT (HCS C555JR 5 (Fin) am II)	
<p>This proposal would create the "Budget Reserve Fund" in the state treasury. Money the state receives from mineral revenue lawsuits or administrative actions would be deposited in the Fund, and invested at competitive rates. The Fund could be used when money available for appropriation in the year is less than the year before, but only to make up the shortfall. The legislature could only appropriate from the Fund for other purposes with a 3/4 vote. At the end of each year, the Fund would have to be paid back from money left in the treasury's general fund.</p>	
SHOULD THIS CONSTITUTIONAL AMENDMENT BE ADOPTED?	YES <input type="checkbox"/> NO <input type="checkbox"/>
BALLOT MEASURE NO. 2 INITIATIVE NO. 88MARI MARIJUANA LAW AMENDMENTS	
<p>Under Alaska law it is currently legal for adults over 18 years old to possess under four ounces of marijuana in a home or other private place. The penalty for adults over 18 years old for possessing less than one ounce in public is a fine of up to \$100. This initiative would change Alaska's laws by making all such possession of marijuana criminal, with possible penalties of up to 90 days in jail and/or up to a \$1000 fine.</p>	
SHOULD THIS INITIATIVE BECOME LAW?	YES <input type="checkbox"/> NO <input type="checkbox"/>

VOTE BOTH SIDES

J1

701

STATE OF ALASKA General Election November 6, 1990	
<p>This ballot submits to the voters whether the judges named below should be retained. They are seeking to succeed themselves as required by law, and none is in competition with any other judge on this ballot.</p>	
OFFICIAL JUDICIAL BALLOT FIRST JUDICIAL DISTRICT VOTE "YES" OR "NO"	
SUPREME COURT	
Shall WARREN W. MATTHEWS be retained as justice of the supreme court for ten years?	YES <input type="checkbox"/> NO <input type="checkbox"/>
SUPERIOR COURT	
Shall WALTER L. (BUD) CARPENETI be retained as judge of the superior court for six years?	YES <input type="checkbox"/> NO <input type="checkbox"/>
SUPERIOR COURT	
Shall THOMAS E. SCHULZ be retained as judge of the superior court for six years?	YES <input type="checkbox"/> NO <input type="checkbox"/>
DISTRICT COURT	
Shall PETER B. FROELICH be retained as judge of the district court for four years?	YES <input type="checkbox"/> NO <input type="checkbox"/>
TURN CARD OVER	

VOTE BOTH SIDES



98

HB

Rep Mackie
1-28-93

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. HB 36

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to retirement incentive programs for public employees BRU: Trial Courts
 Sponsor: Mackie Components: _____
 Requestor: State Affairs COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVE						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

It is not possible to calculate the potential savings from this legislation at this time. The Division of Retirement & Benefits has not provided a listing of eligible employees and related costs. A costed fiscal note will be prepared once the information is available.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/22/93

Approved by: Arthur H. Snowden, II, Administrative Director Date: 01/22/93
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. HB 36

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to retirement incentive programs for public employees BRU: Trial Courts
 Sponsor: Mackie Components: _____
 Requestor: State Affairs COMPONENT SERIAL NO.

000 000	000 768
-----------	-----------

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

It is not possible to calculate the potential savings from this legislation at this time. The Division of Retirement & Benefits has not provided a listing of eligible employees and related costs. A costed fiscal note will be prepared once the information is available.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
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Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Hoonah Public Schools

P.O. Box 157

(907) 945-3611

Hoonah, Alaska 99829

January 27, 1993

The Honorable Jerry Mackie
Alaska House of Representatives
Capital, Room 110
P. O. Box V
Juneau, AK 99811

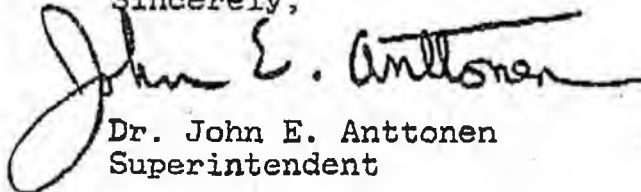
Dear Representative Mackie:

The purpose of this letter is to support the retirement incentive provisions contained in HB 36. The current version of this bill would provide Hoonah School District with a total possible certified employee savings of \$340,832 over a three year period. (See attached cost estimate.)

Our estimate is based on eight teachers who are presently eligible for early retirement and hiring new teachers at the lower end of our current salary schedule. We have computed into this cost estimate the amount that the district would need to pay the retirement system for RIP participation.

Our district views HB 36 as a significant management tool capable of providing us with flexibility in controlling certificated employee costs. Declining State revenue in education demands that management have all opportunities to control employee costs. We see HB 36 as such an opportunity and wholeheartedly endorse its passage.

Sincerely,



Dr. John E. Anttonen
Superintendent

JEA/db

Hoonah City SchoolsEstimated Cost Savings from HB 98

I. Salary Costs for Current Employee Eligible for RIP in School Year 1992-93:

Teacher A	52,796
" B	53,386
" C	52,796
" D	52,796
" E	52,796
" F	56,631
" G	52,796
" H	<u>56,631</u>

TOTAL Employee Salary Costs 430,628

II. Total costs for eight new teachers at the beginning salary step of \$29,203: \$233,624.

III. Estimated RIP costs for teachers listed above \$ 232,539 paid out over a three-year period: \$77,513 per year.

IV. Cost Savings Per Year:

First Year Savings	\$ 119,487
*Second Year Savings	113,510
*Third Year Savings	<u>107,835</u>

TOTAL three Years Savings.....\$ 340,832

*NOTE: Estimated 5% increase in salaries for new employees in the second and third year.

1986-87 R.I.P. Savings - Sources February 1989 Legislative Audit, and Retirement and Benefits Statistics

	# Participants	Savings
State	1,095	\$ 14,448,520
School Districts	603	31,182,600
Political Subdivisions	412	4,756,800
University of Alaska	<u>217</u>	<u>22,305,400</u>
Totals	2,327	\$ 72,693,320

1989-90 R.I.P. Savings - Source - 1991 Legislative Audit

	# Participants	Savings
State	739	\$ 6,033,100
School Districts	748	10,016,000
Political Subdivisions	132	2,617,900
University of Alaska	<u>145</u>	<u>4,317,800</u>
Totals	1,764	\$ 22,984,800

86-87

RETIREMENT INCENTIVE PROGRAM
STATUS REPORT
February 27, 1989

Employer	Eligible By Age/Svc	Designated By Empl.	Retired
Governor's Office	30	5	5
Administration	229	174	101
Law	41	18	11
Revenue	55	29	23
Education - PERS	72	71	28
Education - TRS	38	36	19
Health & Social Svc.	335	304	150
Labor	147	138	54
Commerce	88	55	28
Military Affairs	29	6	4
Natural Resources	160	139	65
Fish & Game	160	143	78
Public Safety	193	182	101
Environmental Consv.	36	34	12
Corrections	154	139	38
Comm. & Regional Aff.	21	18	7
Transportation	854	809	355
Ombudsman	1	0	0
Legislative Affairs	53	20	13
Legislative Finance	2	0	0
Legislative Audit	5	3	3
Court System	98	0	0
Total State PERS	2762	2287	1076
Total State TRS	38	36	19
University of Ak - PERS	325	319	107
University of Ak - TRS	372	349	95
Geophysical Inst - PERS	27	27	7
Geophysical Inst - TRS	38	35	8
Total University - PERS	352	346	114
Total University - TRS	410	384	103
Total Poly - Subs PERS	2661	1272	412
Total Schl Dists TRS	1773	1668	603
Grand Total PERS	5775	3905	1602
Grand Total TRS	2221	2088	725
Overall Total	7996	5993	2327

DIVISION OF RETIREMENT AND BENEFITS
 RETIREMENT INCENTIVE PROGRAM (RIP)
 SUMMARY RESULTS OF POLITICAL SUBDIVISION SURVEY
 March 14, 1989

EMPLOYER	NUMBER RETIREED	POS. REFILLED	COST OF POSITIONS FOR 5 YRS (\$1000's)	COST TO RE- FILL POS. (over 5 yrs) (\$1000's)	RIP COST (\$1000's)	SAVINGS OR (COST) FOR 5 YRS (\$1000's)
S.E. Resource center	3	0	800.0	0.0	83.0	717.0
Unalaska City School District	1	1	322.5	165.8	34.1	122.6
Copper River School District	11	10	2,854.7	1,904.9	279.3	670.5
Galena City School District	1	1	264.6	198.0	60.0	6.6
Petersburg Public Schools	2	2	437.5	338.6	55.1	43.8
Yukon Koyukuk School District	5	4	2,006.5	1,414.4	177.0	414.6
Alaska Gateway School District	4	4	1,055.5	745.0	180.8	129.7
Bristol Bay School District	1	1	273.8	186.7	50.3	36.8
Kodiak Island School District	17	16	4,487.7	3,380.0	579.9	527.8
Delta/Greely School District	2	2	700.9	644.0	96.4	(- 39.6)
Yukon Flats School District	5	4	Not Provided	Not Provided	128.5	Not Provided
L. Kuskokwim School District	31	26	7,535.6	4,637.6	677.2	2,220.8
North Slope School District	28	23	7,643.0	5,600.5	727.0	1,315.5
Dillingham City Schools	6	2	1,231.7	180.0	277.8	773.9
Craig City School District	1	1	277.2	210.1	21.8	45.2

RETIREMENT INCENTIVE PROGRAM (RIP)
SUMMARY RESULTS OF POLITICAL SUBDIVISION SURVEY
PAGE 2

EMPLOYER	NUMBER RETIREED	POS. REFILLED	COST OF POSITIONS FOR 5 YRS (\$1000's)	COST TO RE- FILL POS. (over 5 yrs (\$1000's)	RIP COST (\$1000's)	SAVINGS or (COST) FOR 5 YRS (\$1000's)
Wrangell Public School	2	2	455.5	330.6	43.7	81.2
Valdez City Schools	10	3	2,519.1	604.4	284.4	1,630.3
Adak Region School District	3	3	817.1	611.6	111.4	94.1
Fairbanks School District	71	71	17,998.0	13,592.1	1,826.8	2,579.1
Haines School District	5	1	1,529.6	384.8	131.3	1,013.5
Cordova Public Schools	1	1	185.3	112.4	19.3	53.6
Juneau School District	42	40	3,750.0	1,449.0	1,010.6	1,290.4
Lake and Penin. School District	2	2	675.0	600.0	53.6	21.4
Kenai Pen. School District	67	67	16,285.6	11,767.7	1,586.3	2,931.6
Southwest Regional School	4	4	666.5	527.7	91.0	47.8
Anchorage School District	373	368	81,249.1	59,225.1	8,580.7	13,473.2
Kenai City School District	7	7	1,611.1	1,209.2	173.7	228.2
Northwest Arct Sch Dist	31	30	5,562.6	4,046.3	763.2	753.0
					TOTAL SAVINGS	31,182.5

Schools

RETIREMENT INCENTIVE PROGRAM (RIP)
 SUMMARY RESULTS OF POLITICAL SUBDIVISION SURVEY
 PAGE 3

EMPLOYER	NUMBER RETIREED	POS. REFILLED	COST OF POSITIONS FOR 5 YRS (\$1000's)	COST TO RE- FILL POS. (over 5 yrs) (\$1000's)	RIP COST (\$1000's)	SAVINGS or (COST) FOR 5 YRS (\$1000's)
City of Skagway	1	1	18.8	Not Provided	Not Provided	0.0
City of Wrangell	1	0	220.0	0.0	33.5	186.5
City of Palmer	4	3	1,024.1	715.3	101.0	207.8
City of Soldotna	2	1	482.8	212.7	47.8	222.3
City of Ketchikan	11	8	4,093.0	2,358.6	519.5	..1,214.9
Kenai Peninsula Borough	14	7	3,234.0	2,270.4	324.2	639.4
City/Borough Juneau	13	9	3,574.1	2,134.8	298.9	1,140.4
City of Valdez	7	4	2,676.3	1,241.1	289.6	1,145.5
TOTAL SAVINGS						4,756.8
University PERS	113	76	26,052.1	15,308.0	2,455.3	8,288.8
University TRS	103	70	39,972.6	22,792.7	3,163.3	14,016.6
TOTAL SAVINGS						22,305.4



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •

326 Fourth St., Suite 404 Juneau, AK 99801-1101 (907) 586-9702 FAX (907) 586-5879

Position Paper

House Bill # 36

"An Act relating to retirement incentive programs"

The Alaska Council of School Administrators is in support of House Bill No. 36, "Relating to retirement incentive programs for the Public Employees'.

We are concerned that any adjustment to the retirement system does not weaken the financial structure of the fund. We value the long term commitment the fund must carry for those retiring under the TRS system. As this legislation is proposed, this concern is addressed.

Because of the amount of the local contribution required by the school district, we believe this retirement incentive program must be offered as a local option. As this legislation is proposed, this concern is addressed.

Because of the continued concerns for budget reductions, the state's long term revenue outlook, and the success of previous incentive programs, we feel the implementation of a retirement incentive program would again proved the necessary stimulus for those eligible to retire under this program to do so, and in the long term, produce a significant saving to the state and local school district.

Alaska State Legislature

ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-4925

REPRESENTATIVE
JERRY MACKIE

PO. BOX 795
CRAIG, ALASKA 99921
(907) 926-3008 OFFICE
(907) 826-2930 HOME

House of Representatives

January 25, 1993

MEMORANDUM

To: Rep. Vezey, Chair
House State Affairs Committee

From: Rep. Mackie *JM*

Re: Backup for HB 36, Retirement Incentive Program.

Attached for the committee's consideration of HB 36 is the following:

1. Sponsor statement.
2. HB 36.
3. Bill sectional.
4. Fiscal notes.
5. 1991 Legislative Audit of RIP programs.

Alaska State Legislature

ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-4925

REPRESENTATIVE
JERRY MACKIE

PO BOX 795
CRAIG, ALASKA 99921
(907) 926-3008 OFFICE
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House of Representatives

SPONSOR STATEMENT

on

HB 36, Establishing a Retirement Incentive Program

I introduced HB 36 in response to the desire of many school boards and municipalities in my district to affect operational cost savings through a retirement incentive program. My interest in the legislation is to provide the opportunity for cost savings in all segments of the public sector. I note in this regard that early retirement incentives are a commonly used method of large corporations to downsize and trim their operations in the face of declining revenues and profitability.

HB 36 is patterned after SB 337 which passed the last legislature and was vetoed by the governer. The proposed program is similar to earlier programs established beginning in 1986 and ending in 1990. A November 1991 Legislative Audit estimated that the 1989-90 Retirement Incentive Program saved approximately \$23 million on the retirement of 1,764 employees taking advantage of the program. 2,327 employees participated in the 1986-87 program achieving a savings of over \$73 million.

The program established in HB 36 offers a 3 year credited service to eligible public employees of the state, municipalities, school systems, the university, and the court system to retire. The offer is an inducement to employees near or at retirement eligibility to terminate their services. The resulting vacancies allow employers to achieve savings by filling positions with persons of lower step and pay range, down classing positions, or keeping positions vacant. A key provision requires agencies to show on a case by case basis that a 3 year credited service award would result in a net personnel services cost savings. OMB is further required to certify the cost savings calculation prior to any award.

The 3 year credit can be applied in the following order:

1. to meet the age or service required for eligibility for normal retirement;

2. to meet the age required for early retirement;
3. to reduce the actuarial adjustment required for early retirement; and
4. as years of credited service for calculating retirement benefits.

An employee awarded the benefit is required to contribute the amount they would have paid into the retirement system had they continued working the additional three years. The employer's cost is the difference between the employee's contribution and the full actuarial cost of the three year incentive. Thus the TRS or PERS retirement system is fully compensated for the effects of individual's early termination of service, such as not to put the system at future risk.

The employer's additional contribution to the retirement system as well as other program administration costs are primary factors in calculating whether an early retirement will result in net personnel services savings such that an award can be made. The calculation is based over a 5 year time period.

HB 36 has a sunset clause that terminates the incentive program July 1, 1995.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 15, 1993

SUBJECT: Sectional analysis of HB 36 (Retirement Incentive Program)

TO: Representative Jerry Mackie
Attention: Dave Gray

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Because this bill sets up a time-limited program which is repealed July 1, 1995, it is not placed into the codified statutes. If the bill is enacted, it will be published in the Session Laws and also in the Temporary and Special Acts volume of the Alaska Statutes.

Section 1 states the legislative purpose in adopting a retirement incentive program for public employers and employees.

Section 2 establishes the general requirements for a retirement incentive program. Subsection (a) permits employers to designate organizational units of employees eligible to participate. Subsection (b) sets out criteria for the organization units. Subsection (c) limits which employees are eligible to participate to those who will be qualified to retire after receipt of the retirement incentive.

Subsection (d) sets out requirements for the employer's plan and requires the employer to agree to reimburse the retirement system for the extra costs incurred by the system as a result of participation by the employer's employees.

Subsection (e) sets out the formula for computing how much each member of the Teachers' Retirement System (TRS) who participates in the plan owes in order to

Representative Jerry Mackie

January 15, 1993

Page 2

receive the three-year credit. It is based on the annual contribution rate of 8.65% for members of TRS set out in AS 14.25.050. Subsection (f) sets out the formula for computing how much each member of the Public Employees' Retirement System (PERS) who participates in the plan owes in order to receive the three-year credit. It is based on the annual contribution rates of 7.5% for peace officers who are members of PERS and 6.75% for other members of PERS set out in AS 39.35.160.

Subsection (g) provides that the retirement incentive is a credit of three years, to be used either to meet retirement eligibility requirements or, if those are met, to increase the amount of credited service a participant is entitled to when computing benefits. Subsection (h) limits the kinds of credited service that employees retiring under the retirement incentive plan may use when determining whether they are eligible to retire. Note that the subsection does not limit the kinds of credited service that may be considered when computing the employee's benefits.

Subsection (i) permits employees to assume part of the employer's liability in order to become eligible to participate in a retirement incentive plan.

Section 3 authorizes the state to adopt a retirement incentive plan for its employees, to begin July 31, 1993, and ending October 31, 1993. Subsections (b) and (c) limit which employees may participate. Subsection (d) requires that participants be appointed to retirement on or before July 1, 1994.

Section 4 authorizes political subdivisions and public organizations which participate in PERS to adopt a retirement incentive plan for their employees, to begin December 31, 1993, and ending June 30, 1994. Subsection (b) requires that participants be appointed to retirement on or before February 1, 1995.

Section 5 authorizes the University of Alaska to adopt a retirement incentive plan for its employees, to begin June 30, 1993, and ending December 31, 1993. Subsection (b) requires that participants be appointed to retirement on or before August 1, 1994. Subsection (c) addresses participants in the Optional University Retirement Program.

Section 6 authorizes employers in TRS other than the state or the University of Alaska, which are covered in sections 3 and 5 above, to adopt a retirement incentive plan for their employees, to begin June 30, 1993, and ending December 31, 1993. Subsection (b) requires that participants be appointed to retirement on or before August 1, 1994.

Section 7 permits state employee participants to receive credit, for purposes of determining whether the participant satisfies the years of service requirements for retirement under TRS or PERS, for certain employment with political subdivisions or public organizations who did not participate in PERS or TRS at the time of the

employment. The employment may not be counted when the amount of the participant's benefits are calculated.

Section 8 permits the administrative director of the Alaska Court System who is a member of the Judicial Retirement System (JRS) to participate in a retirement incentive program. The section sets out provisions comparable to those that apply to members of the other retirement systems.

Section 9 permits the Department of Administration to take certain actions if employers who are participating in the retirement incentive program become delinquent in the payments they owe the system for the increased benefits paid to their retirees under the program.

Section 10 establishes an indebtedness owed by participants in the retirement incentive program who, after retirement, are reemployed in a position that is covered by PERS, TRS, or JRS.

Subsection (b) prohibits participants from working for a state department or agency for three years after the participant retired. There is an exception for work for the University of Alaska and for employment with the legislature during the session if the employment is on an hourly basis and if the employee is not entitled to retirement, health, or leave benefits. Subsection (c) permits the Board of Regents, in the case of the University of Alaska, and the commissioner of administration, in the case of other employers, to permit employers to enter into personal services contracts with participants during the three-year waiting period if the employer establishes that there is a compelling reason for hiring the participant because of the participant's specialized or extensive experience. Note that while subsections (b) and (c) permit state agencies to hire certain participants, neither subsection excuses the participant from paying the penalty established under subsection (a).

Section 11 directs state agencies to file with the Office of Management and Budget reports showing the expected effect of the program on the agency's personal services cost and operation. Subsection (b) directs OMB to document the net reduction in personal services costs for each agency in the governor's annual budget request. Subsection (c) directs OMB to report to the legislature on the retirement incentive program.

Section 12 states that employees do not have a vested or contractual right to benefits under a retirement incentive program until an agreement is executed with the administrator of the retirement system. The legislature reserves the right to make changes to the program.

Section 13 makes the definitions in TRS and PERS, as appropriate, applicable to the bill.

Representative Jerry Mackie
January 15, 1993
Page 4

Section 14 repeals sections 2 - 8 of the Act, which establish and authorize the retirement incentive programs, on July 1, 1995.

Section 15 is an immediate effective date clause.

If I may be of further assistance, please advise.

TC:gc
93-024.glc

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 36

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to retirement incentive programs for Public Employees' and Teachers Retirement Systems and certain persons under IRS BRU: Retirement and Benefits
 Component: Retirement and Benefits

Sponsor: Mackie
 Requestor: House State Affairs COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	701.7	630.3	273.9	273.9	273.9	273.9
TRAVEL	6.0	6.0	2.0	2.0	2.0	2.0
CONTRACTUAL	25.3	24.9	10.9	10.9	10.9	10.9
SUPPLIES	4.8	4.0	1.5	1.5	1.5	1.5
EQUIPMENT	109.0	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	846.8	665.2	288.3	288.3	288.3	288.3

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	846.8	665.2	288.3	288.3	288.3	288.3
TOTAL	846.8	665.2	288.3	288.3	288.3	288.3

POSITIONS

FULL-TIME	6	6	6	6	6	6
PART-TIME	0	0	0	0	0	0
TEMPORARY	12	11	0	0	0	0

Estimate of current year (FY93) impact: \$ _____ We anticipate the need for a Legislative Revised Program to increase our FY93 authorization, thus allowing the division to hire the FY94 staff prior to July 1, 1993. The FY93 hiring would be needed so that we can properly train the RIP staff prior to the opening of the window periods. These costs would be paid for by participating employers.

ANALYSIS: (attach a separate page if necessary.) The actuarial costs to participating employers due to this program are to be paid up front and no additional costs to the systems are anticipated. See attached detailed analysis.

Prepared By: Robert F. Stalnaker *Robert F. Stalnaker* Phone: 465-4470
 Division: Retirement and Benefits Date: January 15, 1993

Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura* Date: 1/25/93
 Agency: Department of Administration

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House Bill 36
Analysis of Fiscal Implications to the Retirement Fund
Prepared by Division of Retirement and Benefits
Department of Administration
January 15, 1993

Analysis: This bill would place a temporary retirement incentive provision in statute for the Public Employees' (PERS) and Teachers' (TRS) Retirement Systems. Active PERS and TRS members could retire on an accelerated basis with an increased benefit under the following conditions: as early as age 47, if vested; with 17 years of service as a qualified peace officer, fire fighter or teacher; or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member must pay a lump sum indebtedness payment or take an actuarial reduction from their life time benefit for the indebtedness amount.

We estimate that five permanent full-time positions will be needed in Juneau and one in Anchorage to administer the increased demand for information and services resulting from adding potentially over 4000 new retirees to the PERS and TRS, resulting from prior RIPs and projected for this one. In addition, we estimate that twelve long-term non-permanent employees will also be needed for varying lengths of time over the next two fiscal years. Personnel will handle increased counseling, address and beneficiary changes, account maintenance and other services.

We estimate that we will need to increase our normal number of counseling trips by 5 trips over the next two fiscal years to assure that members understand the options and requirements of the program.

House Bill 36
 Analysis of Fiscal Implications to the Retirement Fund
 Prepared by Division of Retirement and Benefits
 Department of Administration
 January 15, 1993

The total estimated administrative cost to the division by fiscal year is as follows:

	<u>FY 94</u>	<u>FY 95</u>	<u>FY 96</u>
PERSONAL SERVICES			
FY 94			
2 Retirement Specialist I/II (12 months)	102.6		
8 Retirement Technician I/II (12 months)	336.0		
1 Accountant I (12 months)	45.3		
3 Accounting Clerk III (12 months)	113.4		
2 Clerk II (12 months)	58.2		
1 Retirement Technician I (6 months)	21.0		
1 Accounting Clerk III (8 months)	<u>25.2</u>		
Total FY 94 Personal Services Cost.....	\$701.7		
FY 95			
2 Retirement Specialist I/II (12 months)	102.6		
5 Retirement Technician I/II (12 months)	210.0		
4 Retirement Technician I/II (9 months)	126.0		
1 Accountant I (12 months)	45.3		
2 Accounting Clerk III (12 months)	75.6		
1 Accounting Clerk III (4 months)	12.6		
2 Clerk II (12 months)	<u>58.2</u>		
Total FY 95 Personal Services Cost.....		\$630.30	
FY 96			
2 Retirement Specialist I/II (12 months)	102.6		
3 Retirement Technician I/II (12 months)	126.0		
1 Accountant I (12 months)	<u>45.3</u>		
Personal Services Cost (FY 96 and beyond).....			\$273.9
TRAVEL			
Traveling to various locations throughout the state to counsel prospective retirees and give seminars		6.0	6.0
			2.0
CONTRACTUAL			
Computer services for additional PCs, CRT use	16.1	15.7	7.2
Telephone service for: 6 permanent phones	1.2	1.2	1.2
Telephone service for: 11 leased phones	5.5	5.5	0.0
Long distance call expense base on previous RIP	2.5	2.5	2.5
Total Contractual Costs.....	25.3	24.9	10.9

House Bill 36
 Analysis of Fiscal Implications to the Retirement Fund
 Prepared by Division of Retirement and Benefits
 Department of Administration
 January 15, 1993

	<u>FY 94</u>	<u>FY 95</u>	<u>FY 96</u>
SUPPLIES			
Office supplies	4.8	4.0	1.5
EQUIPMENT			
6 Work stations	18.0		
6 Chairs	2.4		
10 Personal computers	55.0		
Other office equipment (calculators, etc.)	5.0		
6 Phones (1100/instrument)	6.6		
5 Microfiche viewers	4.0		
1 Computer Output Printer	<u>18.0</u>		
Total Equipment Cost	<u>109.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL Operations Cost	<u>\$846.8</u>	<u>\$665.2</u>	<u>\$288.3</u>

The retirement technicians, retirement specialists, accountant and accounting clerks need constant access to the PERS and TRS computer files. We do not have excess terminals, microfiche viewers or calculators. Our equipment request will satisfy our equipment needs for the duration of the program. We propose the purchase of personal computers to be used as terminals because they will be compatible with the division's Local Area Network.

We are also proposing the purchase of an additional computer output printer. The previous RIPs put great demand on our existing two printers, and we were always in a state of backlog. Our current day-to-day printer needs maximize the capacity of our existing printers. After comparing the cost of leasing a printer for two years, coupled with our existing needs, purchasing a new printer would be more cost effective.

All administrative costs of the program will be paid in advance by participating employers as required by the bill.

The Other Funds are comprised of PERS at \$453.2, TRS at \$370.8 and SBS at \$22.8 for FY 94.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 36

Revision Date: _____
Title: 'An act relating to retirement incentive programs
for the public employees retirement . . . effective date.'
Sponsor: Representative Mackie, Ulmer
Requestor: House State Affairs

Department Affected: Administration
BRU: Finance
Component: Finance
COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	70.9	7.8	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	70.9	7.8	0	0	0	0

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

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

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	70.9	7.8	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	70.9	7.8	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	4	4	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)
See Attached

Prepared by: Don Wanie, Director *Rev 1/21/93*
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 1/25/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 36

ANALYSIS: (continued)

The Division of Finance is responsible for verification of employment history and processing of termination pay for all State employees. This includes verifying the length of employment, accounting for all leave without pay during the entire employment with the State, and determining salaries for the three highest years. In addition, final and terminal leave pay must be processed in accordance with contractual agreements.

With implementation of a Retirement Incentive Program (RIP) the workload for these functions would be significantly increased and additional support will be required by the Division of Finance to meet processing deadlines. Approximately 500 employees took advantage of the previous RIP. It is anticipated that a comparable number of employees would participate if a RIP was implemented in the next year. Based on past experience, this would require four additional positions, including one Accountant I and three Accounting Technicians I, for a period of six months. Estimated cost for these positions would be:

		<u>FY 94</u>	<u>FY 95</u>
Accountant I (1)	Range 14A	17.9	3.6
Accounting Technician I (3)	Range 12A	<u>53.0</u>	<u>4.2</u>
		70.9	7.8

FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. HB 36

Revision Date: Department Affected: University of Alaska
 Title: "An Act relating to retirement incentive programs for public employees" BRU:
 Sponsor: Representative Mackie Component:
 Requestor: COMPONENT SERIAL NO. ALL

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

REVENUE FD SOURCE						
-------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL FUNDING	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)
 Under the terms of this legislation, no additional costs can be incurred by the University of Alaska - savings in personal services must equal or exceed the costs of participation in the Retirement Incentive Program. The university believes this legislation will reduce personal services
 <<continue>>

Prepared by: Marsha Hubbard, Director Phone: 474-7593
 Division: Statewide Budget Office Date: 1/25/93
 Approved by: Brian Rogers, Vice President for Finance
 Agency: University of Alaska Date: 1/25/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Audit Report

A REPORT ON THE 1989 RETIREMENT
INCENTIVE PROGRAM ESTIMATED
SAVINGS REALIZED AND COSTS
INCURRED BY PARTICIPATING
EMPLOYERS

November 22, 1991



Audit Control Number:

02-4404-91

Division of Legislative Audit
P.O. Box W, Juneau, Alaska 99811-3300

FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. HB 36

Revision Date: _____ Department Affected: University of Alaska
 Title: "An Act relating to retirement incentive programs for public employees" BRU:
 Sponsor: Representative Macleod Component:
 Requestor: _____ COMPONENT SERIAL NO. ALL

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

REVENUE FD SOURCE						
-------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL FUNDING	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Under the terms of this legislation, no additional costs can be incurred by the University of Alaska - savings in personal services must equal or exceed the costs of participation in the Retirement Incentive Program. The university believes this legislation will reduce personal services

<< attach >>

Prepared by: Marsha Hubbard, Director
 Division: Statewide Budget Office
 Approved by: Brian Rogers, Vice President for Finance
 Agency: University of Alaska

Phone: 474-7593
 Date: 1/25/93
 Date: 1/25/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 36

Revision Date:

Department Affected: University of Alaska

Title:

"An Act relating to retirement incentive programs
for public employees"

BRU:

Component:

Sponsor:

Representative Mackie

Requester:

COMPONENT SERIAL NO.

ALL

Analysis: continued

costs, but cannot quantify the amount of savings until the number of employees, their salaries, and the costs of participation are identified. The university expects that savings will be smaller than those accrued during the two previous retirement incentive programs because a significant number of RIP-eligible employees took advantage of those programs; the percentage of the university workforce eligible for this new program is now smaller.

The university supports this legislation because it provides additional flexibility in staffing and reallocation decisions at no additional cost to the university.

Audit Report

A REPORT ON THE 1989 RETIREMENT
INCENTIVE PROGRAM ESTIMATED
SAVINGS REALIZED AND COSTS
INCURRED BY PARTICIPATING
EMPLOYERS

November 22, 1991



Audit Control Number:

02-4404-91

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The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$4 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box W
Juneau, AK 99811-3300
(907) 465-3830
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November 27, 1991

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A Report on the 1989
Retirement Incentive Program
Estimated Savings Realized and Costs Incurred
By Participating Employers

November 22, 1991

Audit Control Number

02-4404-91

The audit reports on the estimated savings realized and in some instances the costs incurred, by the public employers who participated in the 1989 Retirement Incentive Program (RIP). Estimated savings and costs are included for the State of Alaska, the University of Alaska, 35 school districts, 21 political subdivisions, and 7 other participating employers.

The audit was conducted in accordance with generally accepted government auditing standards. The schedule on page 8 summarizes the savings and costs for the 65 employers participating in the program. As shown on that schedule, we estimate the net statewide savings to be \$22.9 million. In our view, as discussed in the Report Conclusions and Auditor Comments section of the report, the program achieved both aspects of its established intent. A further statement of our audit approach is included in the Objectives, Scope, and Methodology section of this report.

A handwritten signature in cursive script, reading "Randy S. Welker".

Randy S. Welker, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function	3
Background Information	5
Report Conclusions	9
Auditor Comments	13
Employer Comments and Discussion	19
Notes to Schedule 1 - Savings or Costs by Employer	25

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with a Legislative Budget and Audit Committee special request and the provisions of Title 24 of the Alaska Statutes, we conducted a review of the 1989 Retirement Incentive Program (RIP).

Objectives

Chapter 89, SLA 1989, as amended by Chapter 18, SLA 1990 implemented a retirement incentive program for all public employers whose employees are covered by either the Public Employees' Retirement System (PERS) or the Teachers' Retirement System (TRS). The primary objective of our review was to develop reasonable estimates of the savings realized or the costs incurred by the 65 employers which elected to participate in the program. A second objective of the review was to determine if RIP achieved the intent of the program as established by the legislature.

Scope

All employers who participated in either or both the 1989 PERS and TRS retirement incentive programs were contacted on-site or by mail. Our review included all RIP participants who had actually retired as of September 15, 1991 from either the State of Alaska, University of Alaska, or one of the other participating school districts, political subdivisions, or other public employer organizations. The Division of Retirement and Benefits (DRB) estimated that approximately an additional 100 individuals retired under the program between our fieldwork cut-off date of September 15, and October 31, 1991, the last possible date that RIP participants could actually retire. With the exception of three participants that we included in the course of our on-site reviews in local communities, the savings/costs associated with these individuals are not included in this report.

Methodology

Savings and costs contained in this report were developed from our review and analysis of the following information and documentation:

1. Records of RIP participants maintained by the Department of Administration, DRB.
2. Files pertaining to State of Alaska participants maintained by the Office of Management and Budget (OMB), and the personnel or administrative services sections for various state executive branch departments and agencies.

3. Instructions issued by OMB to executive branch departments and agencies regarding the assumptions, procedure, and method to be used to determine participant eligibility and calculate individual savings.
4. OMB's report of RIP savings for state agencies summarized by agency position control number.
5. Summaries prepared by participating public employers (26 school districts, 20 political subdivisions, and 7 other participating organizations) responding to our survey.
6. Summarized and detailed information prepared by the Alaska Court System and the University of Alaska regarding their RIP participants.

Based on our analysis of the information and documentation we adjusted estimates of the savings and costs for participating RIP employers. The adjustments were made, to the extent that it was practicable to calculate and quantify the costs involved, to more accurately estimate the savings realized or costs incurred by each participating employer.

ORGANIZATION AND FUNCTION

The Department of Administration, Division of Retirement and Benefits (DRB) is responsible for administering the retirement and benefit programs for public employees. The two largest retirement systems administered by DRB are the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS).

In June 1989, Chapter 89, SLA 1989 (amended by Chapter 18, SLA 1990) reestablished an earlier retirement incentive program for employees participating in either PERS or TRS. The program, known as the Retirement Incentive Program (RIP), was established to reduce personal services costs to the State and other public employers who elected to participate in the program.

To be eligible for RIP, employees had to meet both the basic criteria established in the enabling statute in addition to any special criteria that their employer wanted to attach. The basic criteria required that the employee be vested in their retirement system. Further, after including the retirement incentive of three extra years of credited service they would have to have been eligible to meet the age or service eligibility requirements for normal retirement or early retirement.

Individuals covered by PERS must be at least 55 years old and have 5 years of service for normal retirement compared to TRS requirements of 55 and 8 years respectively. For early retirement, both PERS and TRS requires that individuals be 50 with either 5 (PERS) or 8 (TRS) years of service. For state employees additional eligibility criteria were developed by the Office of Management and Budget. These additional criteria are discussed further in the Background Information section of this report.

As of September 15, 1991, almost 1800 individuals had participated in the 1989 RIP. Additional funds were provided to administer RIP. DRB and the Division of Finance were authorized to hire temporary and part-time employees to process the increased number of retirement applications. Operational funding was provided through the assessment of administrative fees charged all participating employers. This funding allowed DRB to hire nine temporary positions in FY 89 and thirteen temporary positions in FY 90 and FY 91 to administer the program. The Division of Finance also received funding for two part-time positions in FY 90 and FY 91 to perform verifications of salary and years of service.

Factors typically involved in the calculation of RIP savings are illustrated by the following example:

An individual otherwise eligible for participating in RIP has an annual salary of \$40,000. The individual has fixed benefit costs of \$2,000 and other benefit costs that represent 10% of his salary. It is assumed that the employee would receive salary increases of 5% a year over the next two years, if he continued working. The employer contribution costs required to provide the three additional years of service under RIP is \$20,000. The projected costs of the RIP participant would be calculated as follows:

	Salary	Fixed Benefits	Other Benefits	Total Projected Costs
Year 1	\$40,000	\$2,000	\$4,000	\$46,000
Year 2 (Year 1 salary + 5%)	42,000	2,000	4,200	48,200
Year 3 (Year 2 salary + 5%)	44,100	2,000	4,410	50,510
Projected Salary and Benefit Costs of RIP Participant				\$144,710

If the replacement for the RIP participant is paid \$32,000 with the same assumptions, then the projected salary and benefit costs would be calculated as below:

	Salary	Fixed Benefits	Other Benefits	Total Projected Costs
Year 1	\$32,000	\$2,000	\$3,200	\$37,200
Year 2 (Year 1 salary + 5%)	33,600	2,000	3,360	38,960
Year 3 (Year 2 salary + 5%)	35,280	2,000	3,528	40,808
Projected Salary and Benefit Costs of the replacement employee				\$116,968

The difference of \$27,742 in the projected costs (\$144,710 - \$116,968) represents gross savings attributable to RIP. This total is reduced further by the \$20,000 employer's contribution costs and the \$140 administrative fee charged by the Division of Retirement Benefits.

In this situation, the net RIP savings are estimated as \$7,602. This savings is generated from the incremental difference between the projected salary and benefits of the RIP participant and the replacement (\$27,742), reduced by cost to the employer of providing the retirement incentive of the incentive (\$20,000 the employer must pay), and the administrative fee paid to the Division of Retirement and Benefits (\$140). If the RIP participant's position had been eliminated, the estimated savings to the employer would have jumped to \$124,568 (\$144,710 - \$20,000 - \$140).

Example of how RIP Savings are estimated

BACKGROUND INFORMATION

The aim of the Retirement Incentive Program (RIP) was to allow participating public employers, most notably the State of Alaska, to reduce personal service costs while reducing the number of employees who would have to be laid off involuntarily. The program was made available to public employees covered by either the Public Employees' Retirement System (PERS) or the Teachers' Retirement System (TRS).

OMB issued strict rules on savings which limited participation and maximized savings

After the passage of Chapter 89, SLA 1989 the Office of the Governor, Office of Management and Budget (OMB) issued detailed guidelines for state agencies to follow in implementing RIP. Under these OMB guidelines, employees wishing to participate in RIP had to meet two basic requirements in order to qualify:

1. Personal Eligibility - Basic requirements of age, length of service, and vested status in PERS or TRS had to be met.
2. Savings had to be demonstrated for each individual - Unlike the previous 1986 RIP program, OMB designated each individual as an "organizational unit." This meant that the savings in salary and benefits projected over a three year period between the RIP retiree and their replacement had to exceed the State's employer costs (see inset on opposite page) in order for the employee to participate.

OMB chose to define each employee as an organizational unit in order to maximize the cost savings, as required by the legislation. OMB felt that netting the savings generated by one employee's participation against the costs of another who did not generate a savings did not fully meet the legislative intent regarding savings. Other program implementation guidelines issued by OMB addressed what savings could be included in determining eligibility for state employees. For example:

1. Savings through the elimination of a position could be included - It was permissible to include savings realized for a RIP participant from the elimination of their position.
2. Savings from reclassification of position* could not be considered - OMB precluded agencies from including savings projected from reclassifying RIP participant positions to a lower pay scale. OMB felt that since savings determined program eligibility that such a rule was necessary. The rule avoided situations such as having to decide between two potential RIP participants in the same job class where only one position could be justified for reclassification.