

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 80/2

8944 SENATE LABOR & COMMERCE

## PART 1: BACKGROUND AND INTRODUCTION

The state operating budget for the 1995-97 Biennium provided funds for the legislature to review and identify state programs or services that may be competitively contracted to produce cost savings or improvements in the quality or level of services without harm to the public good. The Legislative Budget Committee (LBC) was asked to do the part of this review relating to adult correctional institutions, and to have a preliminary report completed by January 1, 1996.

### *Study Objectives*

The LBC's study objectives were set out as follows.

- Work with the Attorney General (AG) to identify any potential legal constraints to implementing privatization, and, if applicable, any statutory changes needed to remove such constraints.
- Verify whether other states and jurisdictions have achieved cost savings through privatization without harm to the public good.
- If savings occur, identify the ways in which they are achieved (e.g., design/operational efficiencies, different levels of service, personnel compensation).
- Evaluate the feasibility and cost savings potential of privatizing Department of Corrections (DOC) institutions and facilities (e.g., specifically the new 1, 936 bed institution being planned).
- With the assistance of DOC and the Attorney General, evaluate best practices, and develop prototypes for Requests for Proposals (RFPs), contracts, and competitive procedures for privatization.

### *Study Results*

By addressing the study objectives, this report provides information to assist the legislature in its deliberations on privatization. Although the report makes no recommendation on the policy issue of whether to privatize adult correctional facilities, there are numerous issues and obstacles related to privatization that are addressed in the technical appendices. These technical appendices (particularly those concerning legal issues, RFPs and contracts, and estimating annual ownership costs) are designed to be used as guidelines to be followed in the event that privatization is pursued. Similarly, the report

also contains five general guidelines that could be followed for minimizing the risk to the state, while promoting cost savings without sacrificing quality.

### *Acknowledgments*

We appreciate the support given to this study by the Department of Corrections, the Office of the Attorney General, the Senate Ways and Means Committee, and the House Office of Program Research.

We are also indebted to the states and private companies that provided us information. In particular, the case studies and examples included in this study would not have been possible without extensive cooperation from the states of Louisiana, Tennessee and Florida, and from the Corrections Corporation of America and the Wackenhut Corporation.

This study was conducted by Bob Thomas, Kathy Gookin, Beth Keating and Valerie Whitener of the LBC staff, with technical assistance from the project consultants, Robert M. Williams and Richard Crane. Cheryle Broom was the project supervisor.

The legal analysis by the Office of the Attorney General was conducted by Richard Heath, Talis Abolins, Deborah Cade, Lee Johnson, Zachary Mosner, Mitch Sachs and Mike Lynch.

A panel that reviewed our consultant's work on RFPs and contracts consisted of: Linda Brownell (Senate Ways and Means); Karl Herzog (House Capital Budget Committee); Kristen Reiber (House Appropriations); Richard Heath and Talis Abolins (Office of the Attorney General); and Jim Blodgett, Bernie Warner, and Margaret Vonheeder (Department of Corrections).

## PART 2: LEGAL THRESHOLDS

The LBC was asked to work with the Office of the Attorney General (AG) to identify any potential legal constraints to implementing privatization, and if applicable, any statutory changes needed to remove such constraints.

In addition to answering the basic questions posed, the AG provided further commentary on a number of legal issues to be considered in the event that the state would pursue privatization. The full text of the AG's analysis is included in Appendix 1. The three basic threshold questions are presented and answered below.

- Is there a constitutional prohibition against contracting prison operations?

No. There is, however, a doctrine that would prevent the state from delegating away its ultimate responsibility to foster and support our prisons. There are no court decisions specifying what is necessary to avoid an unconstitutional delegation of corrections responsibility.

In Washington, a court would likely use a two-part test to determine whether the state's delegation of power is constitutional. Under this test,

1. the legislature must provide standards or guidelines which define in general terms what is to be done and the instrumentality or administrative body which is to accomplish it; and
2. procedural safeguards must exist to control arbitrary administrative action and any administrative abuse of discretion.

The first requirement would likely be met by adequate statutory standards for private prison operations, and by the detailed requirements of the state's request for proposal and contract.

The second requirement would likely be met by the state's retention of ultimate decision-making responsibility in the areas of classification, discipline, sentence-calculation, and release decisions. Other states have strived to accomplish this in a number of ways. The more control that is retained, the less risk of unconstitutional delegation. Conversely, too much

- Need to retain certain responsibilities

state involvement in facility decision-making may interfere with efficiencies that the private contractor proposes to achieve.

- Are there existing statutory or case law constraints to contracting out prison work?

Yes. Contracting for services that have been traditionally and historically performed by classified DOC prison employees would likely be found to violate existing civil service law as interpreted by the courts. A possible exception in RCW 41.06.380 for certain contracts originally entered into before April 23, 1979, would not apply, as our review discloses no such DOC contracts relating to prisons.

- Legislative authority needed

Legislative authority would have to be provided in order to contract for the operation of a prison without using state civil service employees. In order to remove any such question as to the authority given, the authorization should be in the form of an explicit direction in the statute to contract out the work involved. Repeal of RCW 41.06.380 is not necessary, since it is not that statute that prohibits contracting out in general.

Whatever language might be chosen for authorizing DOC to contract out, the language should be carefully drafted to ensure that the intent to contract out is clear.

- Are there provisions in the relevant collective bargaining agreement against contracting out?

Yes. Under the current collective bargaining agreement DOC has agreed not to contract services when such action would have the effect of terminating classified employees or when the services to be contracted would be the same as those historically provided by classified employees.

- Current agreement expires in June

The effect of existing collective bargaining agreement provisions on the ability of the legislature to direct contracting out is unsettled. State unions have taken the position in court that the legislature may not retroactively change an agency's agreement not to contract out. They have based their position on a state Constitutional prohibition against impairment of contracts. However, even if a challenge to a contracting out statute were to be successful on this ground, it would only bar application of the statute

during the existing term of the contract agreement. Therefore, the constitutional issue could be avoided by stating in the statute that contracting out would not occur until expiration of the current term of the agreement. The current agreement expires on June 25, 1996.

- Issue of removing  
DOC's discretion  
in bargaining

The statute and rules as currently written require an agency to bargain personnel matters over which management can lawfully exercise discretion. Therefore, elimination of the contracting out language from the new collective bargaining agreement would not be certain if discretion to contract out is given to management by the authorizing statute. Instead, the statute should direct DOC to contract out. The union could not then argue that contracting out is negotiable.

## PART 3: REVIEW OF COST STUDIES – PUBLIC VS. PRIVATE

One of the feasibility study questions was: *Have other states and jurisdictions achieved cost savings through privatization without harm to the public good?*

We approached answering this question by reviewing published sources and the experiences of other states that have experimented with the privatization of prisons.

### REVIEW OF PUBLISHED SOURCES

- There are surprisingly few studies, and they are of limited value.

We conducted a review of existing literature on privatization of prisons. Although there are numerous published sources that debate the pros and cons of privatization, there are only a few studies that have attempted to compare costs, and they have reached conflicting conclusions. We reviewed the methodologies and conclusions of these studies, recreating the analyses when possible. With the exception of some state-sponsored studies (more on these later) the studies we reviewed had significant limitations or methodological weaknesses. We did not find that we could use these studies to draw any general conclusions about the potential for cost savings through privatization.

See Appendix 2 for more comments on the cost studies we reviewed.

We also reviewed two studies available concerning the quality of operations of public-versus-private facilities. Indicators of quality included such factors as safety issues, availability of programming, satisfaction with food, and job satisfaction of staff. In each case, the studies found no significant differences in quality between the particular publicly and privately operated prisons being compared.<sup>1</sup>

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<sup>1</sup> Charles H. Logan, *Well Kept: Comparing Quality of Confinement in a Public and a Private Prison*, National Institute of Justice, March 1, 1991; and Tennessee Select Oversight Committee on Corrections, *Comparative Evaluation of Privately-managed CCA Prison and State-managed Prototypical Prisons*, January 1995.

## REVIEW OF PRIVATIZATION EXPERIENCES IN OTHER STATES - CHOICE OF CASE STUDIES

- Criteria for  
selecting states  
for case studies

Since one of our study questions involves the feasibility of privatizing a multi-custody prison in Washington, we sought case studies of privatization in other states that met the following criteria:

- The experience with privatization should involve a large, multi-custody facility.
- The state-run facilities to be compared to the privately run facilities should be of similar capacity, design and security levels.
- Preferably the comparable facilities would have been in operation for several years.
- The states having such facilities would be willing to provide all the information we would need in a timely manner so as to meet the deadline for this report.
- The private companies operating the prisons would be willing to provide information needed for this study.

- Choice of  
Louisiana and  
Tennessee

We were fortunate in obtaining the cooperation of two states -- Louisiana and Tennessee -- that have facilities that are particularly well-suited for apples-to-apples comparisons of costs.

- Both states allow  
for apples-to  
apples  
comparisons

Louisiana has three large, prototypical, multi-custody facilities that are exactly the same design and capacity. One is operated by the state, and the two others are operated under contract by the Wackenhut Corporation (Wackenhut) and the Corrections Corporation of America (CCA), the two largest private operators of prisons. Louisiana's three facilities were all in full operation by the beginning of 1991. At present, the capacity at each of the facilities is 1,474 inmates.

Tennessee also has three large comparable facilities, two of which are state-run, and one of which is operated by CCA. The three facilities were in full operation by mid 1992. The current capacity at each of Tennessee's prototypical facilities is 1336 inmates.

We also reviewed cost studies from other states. The most important of these have been recent attempts to set cost benchmarks for targeted savings from privatization. The way this works is that states either estimate what the public costs would be of operating a particular new facility, or they identify their current costs of operating similar prisons within their system. Through a Request for Proposals (RFP), private companies are asked to respond with proposals that would result in a minimum cost-savings percentage (e.g., seven to ten percent), compared to the benchmark.

If the benchmarks are accurately and appropriately estimated, and the state receives responsive bids, then the compensation provided for in the contracts, compared to the benchmark, should indicate an amount of savings to be expected from privatization.

Two years ago the LBC gained experience in estimating the costs of prison operations. In its report on *Department of Corrections Capacity Planning and Implementation* (January 27, 1994), the LBC identified facility operating costs, by security level, in order to determine if some of the most inefficient prison facilities should be replaced. The findings from the report led to legislative approval of several capital projects intended to achieve operational savings.

Based on our experience, and knowing the care that must go into establishing benchmarks, we would be reluctant to accept projected savings based on benchmarks at face value. The time frame for the present study did not allow for the extent of review that would enable us to say whether recent benchmarking efforts in other states are likely to result in savings.

- Benchmark studies in other states

- Why this study does not report on the recent experiences of states using benchmarks

## PART 4: RESULTS OF LOUISIANA AND TENNESSEE CASE STUDIES

This part of the feasibility study uses the case studies to answer two of the questions posed in the project scope and objectives:

1. Have other states and jurisdictions achieved cost savings through privatization without harm to the public good?
2. If savings have occurred, how have the private companies accomplished this?

In answer to the first question, we reviewed cost information and studies provided by the states and the private companies. For Tennessee, we reviewed and made adjustments to a cost comparison conducted by the state's Fiscal Review Committee for fiscal year 1993-1994. For Louisiana, we used state and company data for fiscal year 1995-1996. The results of our analysis were submitted to the states and the private companies for technical review and comment in November 1995. Details concerning the comparative costs and our methodology are included in Appendix 3. Summary comments about the results are included in this section.

The first question also contains a qualitative element related to the "public good." We endeavored to address this element by identifying any public safety differences between the public and private facilities (e.g., record of escapes and disturbances) and through examination of any other information that might suggest that there were substantive differences in prison operations and programs.

The second question concerns how private companies operate, and focuses on the issue of what the state might actually be purchasing in the event that it pursues privatization.

### CASE STUDY COST COMPARISONS

- Has Louisiana achieved cost savings through privatization?

Until recently, yes. Based on information for 1995-96, the state can expect to break even on its two contracts when all facilities are operating at full capacity. The CCA prison is costing about 1 percent more than the state facility, and the Wackenhut prison is costing about 1 percent less. Historical data suggest, however, that both private facilities previously cost the state less than the state-run

prison on a per diem basis. For example, in fiscal year 1993-94, the two privately run facilities were costing the state approximately 4 percent less, even though they were housing fewer inmates.

- Why costs have converged

One explanation for the convergence of costs over time may be the effect of competition. This is an argument made by the private companies that was also mentioned by some state correctional officials. Lean budget years may also have made a difference. For some years the inflationary increases built into the private contracts has been greater than the increases in the corrections budget. So while the per diem costs for the private has inflated, it has not inflated for the public facility.

- Has Tennessee achieved cost savings through privatization?

The best answer is probably yes. During the study period (fiscal year 1993-94), the effective per diem for the private facility was less than the weighted average per diem for the two state-run facilities (\$33.63 versus \$34.29), but actually higher than one state facility and lower than another.

This information is somewhat misleading, however, because during the study period, in which additional capacity was being added at all three facilities, both state-run facilities had higher average daily populations (ADPs) than the private facility. Since the marginal cost to the state of placing inmates in its own facilities was less than the per diem for the private facility, this resulted in a lower effective per diem at the state facilities.

- Estimate of longer-term outlook

In order to understand how costs might compare over the long-term, when ADPs would more closely match, the state's Fiscal Review Committee estimated what the costs would be if the ADPs were equalized. Taking the same approach, but with the adjustments explained in Appendix 3, we estimate an average per diem for the state-run facilities of \$35.55 (fiscal year 1993-94) when ADPs are equalized. With the private per diem at \$33.63, this represents a potential savings of approximately 5.5 percent. This may be viewed as the expected savings that will be achieved when all the facilities are operating at full capacity.

- The effects of competition

Tennessee officials were of the opinion that competition from the private facility had the effect of keeping costs down at the public facilities. As evidence of this, we observed during our site visits that the private facility's estimate of additional staff needed for a proposed capacity expansion of 170 beds was less than half of the estimate made by one of the state-run facilities. We were told that this difference was causing closer scrutiny of the state prison's request than might otherwise have occurred.

### CASE STUDY QUALITATIVE COMPARISONS

- Are the private prisons as safe and secure as the public prisons?

Yes, based on data at hand. We reviewed a year's worth of data from our study prisons regarding rates of escape, major disturbances, and inmate infractions. We also conducted site visits to observe prison environment and operations. A summary of our observations follows. (See Appendix 4 for more detailed information on both interstate and intrastate comparisons of inmate demographics and behavior).

- Escapes

There were no escapes at any of the Louisiana prisons. In Tennessee there was a total of three escapes from secure supervision in the two public prisons, and no escapes from the private prison. There was also a total of nine escapes from the two state run minimum security units, and only one escape from the privately run minimum security unit.

- Major disturbances

In Louisiana, each of the private prisons reported one major disturbance, while the public prison reported four. In Tennessee, one of the public prisons reported sixteen major disturbances, while the remaining public and private prisons each reported seven. Some of the difference in numbers may be due to reporting differences, as evidenced in the comparative evaluation completed in Tennessee in January, 1995. Although these numbers portray a large amount of major disturbances, none of the prisons experienced disturbances that required the use of outside assistance.

- Infractions

Inmate infractions are an important measure of safety and security, however, rates are dependent upon individual staff reports. In Louisiana, the Wackenhut prison issued .47 infractions per inmate, the CCA prison issued 1.3 per inmate, and the state prison issued 1.8 per inmate. In Tennessee, the infraction rates were more similar, with the private prison having issued slightly more infractions than the public prisons. During the study period of the Tennessee comparative evaluation, there were dramatically more injuries to staff and inmates reported at the privately run facility. However, the report indicated reporting differences, and weighted each of the Tennessee prisons the same in the areas of safety and security.

All of the prisons we visited were clean and appeared to be orderly.

- Do the private prisons offer the same quantity and quality of Inmate programs as the public prisons?

Generally, yes. The private prisons in our study had similar inmate work requirements to the public prisons. Louisiana private and public prisons have a 100 percent inmate work program. In Tennessee, the private prison has an average of 84 percent of inmates either working or attending full time education programs.

- Rehabilitation

In Louisiana, 26 percent of the inmates at the state prison were enrolled in education programs, while only 20 and 16 percent were enrolled at each of the private prisons. Although the exact numbers were not provided, it was reported that programs are filled to capacity at each of the three prisons. Capacity and enrollment information was not available for other aspects of rehabilitation in Louisiana, but the emphasis in this state is clearly on work skill development and education in addition to a full-time work program.

In Tennessee, 23 percent of the inmates in the private prison participated in education programming, while 20 and 35 percent participated in education in the public prisons. A qualitative study conducted by Tennessee indicates similar programming availability and quality at each of the prisons.

- Limitation of comparison

In order to make a complete comparison, further data would need to be gathered including the ratio of program completions to enrollments, length of programs and outcome indicators.

• Do the inmates from the private prisons have a higher or lower rate of recidivism than those from the public prisons?

This question cannot be answered within the context of this study. There have been no studies to address this question directly, or that measure recidivism from prison to prison. Although overall state recidivism rates appear in various publications, it is well known that most states define recidivism differently. For instance, the definition of recidivism may include re-arrest, technical violations or new convictions, or may only include actual returns to prison. States also measure recidivism over varying lengths of time, ranging from one year to five years.

- Problems with defining and measuring recidivism

The major links to recidivism appear to be in the areas of age and criminal history. Young offenders with an extensive arrest record for property crimes are more likely to re-offend than older, first-time offenders. A further problem with trying to assign a rate of recidivism to a particular prison is the fact that an inmate rarely spends his/her entire incarceration at only one prison. Given these problems, using available data about recidivism would not be valid.

#### EXAMPLES OF HOW THE COMPANIES HAVE REDUCED COSTS

In Louisiana and Tennessee, both states designed, built and own their prototypical facilities, and pay all debt service. Therefore, these states do not provide an opportunity to evaluate the savings potential of privatization on capital projects (see discussion of capital costs in Part 5, below).

• What areas of the operational budget are likely candidates for cost savings?

Personnel and supplies comprise approximately 85 to 90 percent of operating costs in the state-run facilities we evaluated. These are the two areas where opportunities for savings are substantial. Personnel (including contracted professional services)

accounts for about 70 percent of operating costs, while supplies account for 15 to 20 percent. The remaining areas of the budget, including such things as utilities and insurance, are not likely to vary significantly due to whether the state or a private company is operating a facility.

- Do the private companies save on supplies?

From all accounts, the private companies do save on supplies, but we do not have information that would permit us to estimate a percentage.

State and company officials in both states agreed that the private companies save money by not having to follow the state procurement rules. They can buy supplies when needed, at the most competitive price, and keep a smaller inventory.

This cost advantage to the private companies is offset by the fact that in both states the private facilities pay sales taxes that the state facilities are exempt from paying. Although this adds to the cost of the contracts, the states may still realize the benefit of the lower procurement costs because the sales taxes are returned to the states as revenues.

- Do the private companies save on personnel costs?

Yes. For the three private facilities included in our case studies, we estimate that the number of staff ranged from 88 to 97 percent of state facilities staffing, and that the average salaries for those personnel range from 69 to 93 percent of state salaries.<sup>2</sup>

- Example of magnitude of possible savings

The magnitude of the potential for savings in the area of personnel can be shown in the following example. If a private facility can operate with 90 percent of state staffing, and at 85 percent of average state salaries, this translates into a personnel savings of 24 percent. Since personnel costs comprise about 70 percent of all operating costs, this results in

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<sup>2</sup> The lower end of the salary range was based on comparing the mid-points of the salary ranges for corrections officers at the Avoyelles (state-run) and Allen (Wackenhut) facilities in Louisiana. Corrections officers comprise more than two-thirds of all staff at both facilities. The use of the mid-point for the private facility is a conservative approach (i.e., does not overestimate) insofar as the private facility has a higher turnover rate than the state-run facility.

a savings to the total budget of approximately 16 percent.

- Are the savings passed on to the states?

Some of the savings are passed on to the state to the extent that the contracted per diems for the private facilities are less than the states' per diems. The example above shows, however, that personnel can be a major source of profit for the private companies.

- How do the private facilities manage operations with fewer staff?

From our site visits and reviews of staffing patterns, two general explanations emerged.

1. There is a greater tendency for staff to have responsibilities in more than one area, and for management staff to have responsibilities in several areas.
2. More flexibility in the use of staff, including corrections officers, results in fewer staff (and/or less overtime) needed to cover mandatory posts.

- Do the private companies also save on employee benefits?

Not necessarily. In Louisiana the state spends less on benefits for current employees than either of the private companies, primarily because state government does not participate in the federal social security system. The state does have a retirement system, but its employer contribution to the retirement system is less, as a percentage, than what the private companies pay for social security contributions.<sup>3</sup> Of the two private companies, CCA additionally makes a company stock contribution and has a stock purchase matching plan that can equal an employer contribution of up to 6 percent of salary per year.<sup>4</sup> In Louisiana, Wackenbut makes no employer contribution to retirement, other than social security.

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<sup>3</sup> The amount that the state contributes that is needed to cover defined benefits for current employees is 5.357 percent, which compares to the social security employer contribution of 6.2 percent.

<sup>4</sup> During the first year of employment, CCA contributes 2 percent of salary, and 1 percent thereafter. It will match employee contributions up to 4 percent of salary.

We did not receive full benefit information for the privately run facility in Tennessee. In the area of retirement, the state contributes more than the maximum of 6 percent paid by CCA. It would be difficult to say, however, which retirement plan ultimately provides the most financial benefits to its members.

## PART 5: COST SAVINGS POTENTIAL OF PRIVATIZING CORRECTIONS INSTITUTIONS AND FACILITIES

Although the two case studies indicate that savings from privatization are possible, they do not provide good estimates of the range of potential savings in Washington for two reasons:

- The costs to the states to operate prisons in Louisiana and Tennessee are less than in Washington, even after adjusting for cost of living differences. This is true regardless of whether the prison is state-run or privately run.

When private companies indicate they could save Washington State large percentages in prison operating costs, it is likely they are referring, at least in part, to savings that would come from adopting an approach to operations more like one of these other states. Privatization would be one means of changing operations to realize savings, and might still have the potential for savings that are more directly related to privately run operations per se (e.g., through efficiencies in the procurement of supplies).

- Both states designed and built their prototype facilities, which means that the private companies were not in a position to achieve potential savings through lower development costs had they built the facilities, or through differences in design that result in lower operating costs.

In order to provide decision-makers with more information about potential cost savings, we conducted operational cost comparisons between similar facilities in Washington, Louisiana, and Tennessee, and a capital cost comparison of facilities in Washington and Florida.

Florida offers a good example of a large, new, multi-custody facility that is designed, is being built, and will be operated, by a private company (Wackenhut).

### INTERSTATE OPERATIONAL COST COMPARISON

- Difficulties in making comparisons

From state to state, budgeting practices are different enough to make interstate comparisons of prison costs difficult. For example, in Washington, prisoners' medical costs are included in DOC's budget, but are not allocated proportionately to all the facilities that utilize the medical services. In Louisiana, chronic and major medical service costs are borne by charity hospitals. From our discussions

with Louisiana officials, it apparently would not be possible to allocate these costs to the state prisons.

- Study approach focuses on areas that can be compared

The approach we took in making the interstate comparisons was to focus on those areas of facility operations for which we were able to collect cost data and make direct comparisons. For Washington and the two other states, the per diem amounts shown in Exhibit 1 (below) represent approximately 85 percent of direct facility per diem costs excluding debt service. Indirect costs, such as headquarters overhead and general government overhead, are not included in direct facility costs and therefore are not reflected in these numbers.

- Choice of Airway Heights as Washington's facility

For the Washington facility, we chose the Airway Heights Corrections Center in Spokane. Among the two newest multi-custody prisons in Washington (McNeil Island is the other one), Airway Heights has the most efficient housing unit design, and it is the prototype for the new 1,936 bed facility planned for Grays Harbor.

We used Airway's costs at a capacity of 1,424 beds, and made adjustments to the budgets of the Louisiana and Tennessee facilities to show their costs at 1,424 capacities. Adjustments to Airway's budget resulted from assuming that all 256 bed housing units were medium security, and that the minimum security facility was located within the institution's secure perimeter.

- Conservative approach in comparing per diems

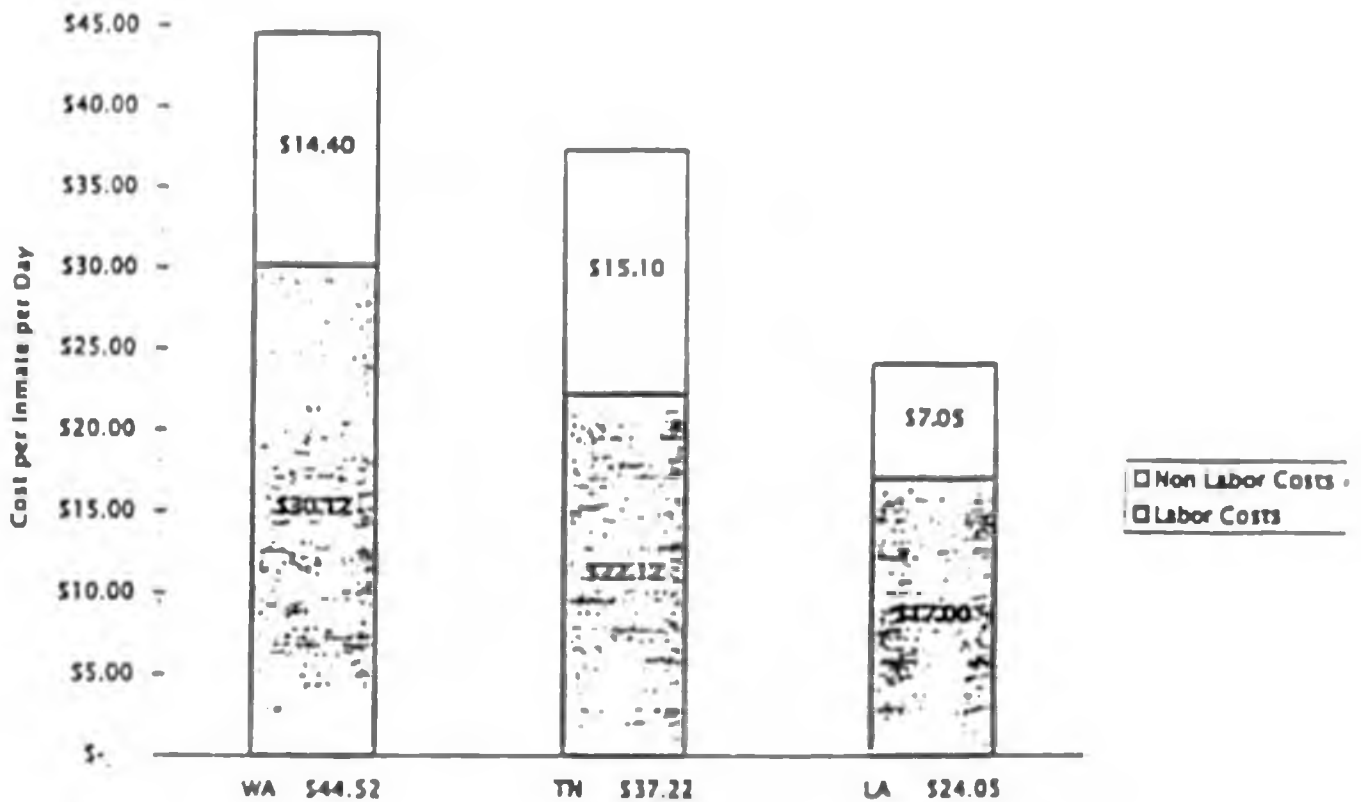
In several instances when we had to make judgment calls about assumptions to use in making adjustments, we chose the assumptions that favored Washington. We did this in order to keep the estimates of cost differences conservative. Thus the spread between Washington's per diem costs and those of the other states may be somewhat understated.<sup>3</sup>

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<sup>3</sup> The major assumptions benefiting Washington were: (1) the inclusion of Seattle in our cost-of-living index increased differences in cost of living, because the cost of living in Seattle is significantly higher than the average for the rest of the state; (2) in adjusting capacities upward and downward to create budgets for 1424 bed facilities in Louisiana and Tennessee.

## Exhibit 1

### Comparable Per Diem Costs for a 1424 Bed Prison, FY1996 Dollars Adjusted for Cost of Living Differences



Source: LBC data, 1995

Excludes medical costs, overhead and debt service.

we used worst-case scenarios for cost impacts; and (3) we assumed that staffing at Airway Heights, that is beyond what is required for 1424 beds, would be absorbed with the 512 bed expansion (bringing the facility to 1936 beds), and therefore we did not assume that the current additional staffing would be permanent.

- What are the elements of Washington's higher labor costs?

In comparison to Louisiana's facility, the difference in Washington's cost is due to more FTEs, higher salaries, higher benefits, and employees with more longevity.

In comparison to Tennessee, the difference in Washington's cost is due mainly to higher salaries, higher benefits, and employees with more longevity.

- What are the differences in FTE totals?

The Washington facility has 389 FTEs compared to 343 for Louisiana and 387 for Tennessee. However, these are not perfect comparisons because some contracted personnel might not be counted as FTEs. One example where contracting skews the comparison is in the case of educational programs. Washington shows fewer staff for education (5 FTEs) than Tennessee (22 FTEs) because of the use of contractors.

- What areas of operations show major staffing differences?

Both Louisiana and Tennessee have more staff assigned to security than Washington. This is generally due to a more efficient housing unit design and security staffing plan at Airway Heights, and in the case of Louisiana, to the fact that Louisiana has more guard towers. Both Louisiana and Tennessee have more work assignments for inmates, which requires additional security posts.

Major areas where Washington has more staff are administration and maintenance (higher than both Louisiana and Tennessee), and Classification and Food Service (higher than Louisiana).

More details on cost differences, including the differences in non labor costs, are included in Appendix 5.

- Are the inmates in the three-state examples similar enough to allow for a fair comparison?

Yes. We looked at demographics, classification and behavior and did not find any documented differences that would effect costs of operations. In other words, if the types of inmates from either of the two comparison state facilities were housed at the Washington facility, no change in operations would be required. Likewise, the current operations at the

other states' facilities could accommodate Washington's inmates. See Appendix 4 for more information on both interstate and intrastate comparisons of inmate demographics and behavior.

## INTERSTATE CAPITAL COST COMPARISON

- Difficulties in making comparisons

Capital cost comparisons from facility to facility and state to state are difficult to develop. Contributing to the difficulty are: unique site conditions; differences in climate and in labor and materials prices; lack of similarity of space programming and inmate mix; lack of uniformity in cost reporting; and differences in timing of capital expenditures. Nevertheless, it is possible to make general comparisons and identify elements contributing to major cost differences.

- Study approach focuses on areas that can be compared

The approach we took in making the interstate comparison was to focus on the major elements contributing to capital cost: Amounts and types of space, unit construction costs, and ancillary construction costs such as design and administration. In developing the comparisons, we eliminated those items unique to the specific project including land, site development, taxes, and unique local costs (e.g., Washington State allocations for art).

- Choice of Grays Harbor as Washington's facility

For the Washington facility, we chose the Grays Harbor Correctional Center in Aberdeen. Site infrastructure and development work for this 1,936 bed facility is underway, and facility design is in the preliminary schematic phase. Site development work can be viewed as a separate project which can be completed independent of the method for procuring the construction of prison facilities.

- Choice of South Bay, Florida facility to be constructed by Wackenhut Corporation.

For the privatized facility, we chose the 1,318 bed South Bay Correctional Facility in Florida. Currently under development, this project provides sufficient similarities in size and inmate mix to allow for broad-level comparisons (i.e., size, cost per bed, unit construction costs). It also offers a financing and ownership model familiar to the State of Washington (i.e., Certificates of Participation with ultimate ownership by the State).

Costs for each facility were adjusted for comparative purposes. As examples, land and site-related costs, taxes, and unique fees were excluded. For the Florida facility, costs were increased by 20 percent to reflect estimated regional labor and material costs differences, by 10 percent to reflect higher costs associated with later construction of the Grays Harbor Facility, and by another 5 percent to provide an allowance for state oversight of the privatized construction. Additionally, reductions were made to the projected cost and size of the Grays Harbor facility to make it comparable to the Florida facility (budget reductions of \$29 million or 20 percent, and space reductions of 154,000 gross square feet or 18 percent, to account for differences in inmate security levels and the fact that Florida space does not include Correctional Industries). More detailed descriptions of all the adjustments made in the comparison are included in Appendix 6.

- How do the adjusted costs of the facilities compare . . .

...and what explains the difference?

Grays Harbor's projected cost per bed, at \$60,400 after adjustments, was approximately double the adjusted cost of \$29,000 for the private facility. The two major explanatory factors for this difference are that the cost per square foot for Grays Harbor is approximately 37 percent higher, and the square footage per inmate (or per bed) is 53 percent higher.

- Different operating concepts explain significant differences in space

Differences in space are largely explained by different operating and programming concepts. As examples:

- Grays Harbor assumes single cells for close security and segregation, whereas the private facility double-bunks these cells.
- Grays Harbor minimum security beds have relatively high per bed space allocations reflecting the incorporation of service and program space in the housing space, whereas in the private facility program and service space are centralized.
- Other examples of differences are in administration, physical plant (including warehousing), and

dining areas (Florida feeds inmates in housing areas; Grays Harbor provides inmate dining spaces).

- Differences in unit costs

Unit construction costs, as adjusted, include actual construction costs as well as project management, design, permits and fees, and equipment. We did not evaluate the separate components of these costs. We did note that these unit cost differences were similar to total construction cost differences between state and privately developed office building projects reviewed in the LBC study of leasing versus ownership costs<sup>6</sup>

- Did the approach taken by the state of Florida contribute to the relatively low cost of the private facility?

Most likely, yes. Florida identified key expectations for the facility but did not mandate specifically how the bidders should meet them. For instance, the state identified the mix of inmates to be housed, specifying the ratio of cells to dormitory beds. The state also required that proposers meet all applicable facility and programming standards (e.g., ACA accreditation, building codes, energy analysis), provide minimum program availability (e.g., education) and services (e.g., medical and dental). The State required specification of facility layout, a staffing and operating plan, building finishes and materials, and detailed equipment lists.

Wackenhut's operating and capital cost bid constituted 25 percent of overall scoring. Florida officials noted that Wackenhut had the highest cost proposal among bidders, but met the criterion for a combined capital and operating cost that was at least 7 percent below the calculated benchmark.

- Is the difference in cost between the Washington and Florida facilities explained by privatization?

Not entirely. The private firm's operating philosophy and plan, as reflected in the facility design, contributed to the lower costs. However, there is nothing prohibiting a state government from adopting a similar plan. Privatization is a means by which to implement a different concept that can result in lower costs, but it is not the only means.

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<sup>6</sup> LBC Performance Audit: Capital Planning and Budgeting: Study of Leasing Versus Ownership Costs, December 14, 1995.

The substantial difference in unit construction costs could be attributable to a private model that strongly focuses on controlling the total costs of ownership, operating and capital.

- How important are capital costs in the total cost of owning and operating a prison?

Our review of the Grays Harbor project indicates that capital costs, after the effects of financing, constitute approximately 18.5 percent of life-cycle costs. This does not include the costs of major repairs and replacements. A conservative estimate of these costs would raise the capital cost percentage to at least 20 percent.

An analysis conducted for the Department of Corrections calculated that the initial cost of the proposed Grays Harbor facility constituted approximately 12.7 percent of total costs. The 12.7 percent calculation underestimated the capital costs percentage because operating costs were overstated and miscalculated in the total cost model.

- Should capital and operating costs be combined in considering the cost savings potential of privatization?

For new facilities, yes. In the Florida example, bidders had to meet a 7 percent cost reduction target that was based on a calculation of what the state's total ownership costs would be. Theoretically, a private company might propose to build a facility that would have capital costs higher than the state's capital costs in order to achieve operational efficiencies through design innovations. These operational savings could outweigh the capital costs and result in overall savings.

For the Florida approach to work well, the full costs of state ownership on an annualized basis need to be accurately estimated and compared to bids that are estimated the same way. Appendix 7 contains an explanation and an example of an approach developed by the capital consultant for this study. It is the approach that we would suggest for Washington State in the event that the state would issue RFPs for design, construction and operation of a new prison.

## GENERAL CONCLUSION

- Would privatization of a prison or prisons result in cost savings to Washington?

Not necessarily. Much would depend on the care that was taken in estimating the state's costs, and in designing an RFP, choosing a contractor, and executing and monitoring the contract.

Based on the foregoing analysis, it appears that the greatest potential for savings for Washington State would not come from privatization per se, but from changes in operations (and related facility planning) that can be accomplished through privatization or through changes in state policy and practices.

Savings that would be directly related to privatization could come from two sources:

- the ability of a private company to operate outside of state rules and procedures, collective bargaining agreements and the employee compensation system; and
- from competition between private and public facilities within the same prison system.

The ability of a private company to operate a prison differently from a public facility would depend on the degree of flexibility allowed to the private firm under the contract. Ultimately, even if a private facility can operate for less, the state would not necessarily capture any of these savings for itself unless it received responsive bids with per diem costs lower than its own.

## PART 6: BEST PRACTICES FOR REQUESTS FOR PROPOSALS AND CONTRACTS

With assistance from the Department of Corrections and the Attorney General, the LBC was asked to evaluate best practices and to develop prototypes for Requests for Proposals (RFPs) and contracts for the privatization of prisons.

The LBC retained the services of a consultant who has extensive legal expertise in these areas. Since it is unknown what, if any, scenario the state might pursue in the area of prison privatization, we asked the consultant to provide comprehensive lists of elements to be addressed in RFPs and contracts. From these lists, the consultant identified the discretionary and essential elements, and offered commentary and analysis of the elements based on best practices, as appropriate.

It was our intent that the consultant's work would provide guidelines and a framework for developing specific RFPs and contracts. Based on the work that has already been completed, and given the legal and contractual expertise that currently exists within state government, we feel that most, if not all, of any additional work needed for actual RFPs and contracts could be accomplished by in-house resources.

We were assisted in this part of our study by a panel that reviewed and commented upon the consultant's draft report. The review panel consisted of staff from the LBC, the Department of Corrections, the AG, the Senate Ways and Means Committee and the House Office of Program Research. The consultant's final report is included in Appendix 8 (RFPs) and Appendix 9 (contracts).

## PART 7: GENERAL GUIDELINES

Our case studies of Louisiana and Tennessee suggest that these states have had positive experiences both in terms of quality of service and cost. However, there are other examples that could be cited of how privatization of correctional facilities has been a failure. Recently, an inmate riot and takeover of a privately run detention center in New Jersey has caused some to conclude that privatization does not work.<sup>7</sup> Our view is that other jurisdictions' experiences with privatization, either positive or negative, are not predictive of what Washington's experience would be. The outcome in this state would depend in large part on the care taken in designing an RFP, choosing a contractor, and in executing and monitoring the contract.

Although this report makes no recommendation on the policy issue of whether to privatize adult correctional facilities, there are numerous issues and obstacles related to privatization that are addressed in the technical appendices. These technical appendices (particularly those concerning legal issues, RFPs and contracts, and estimating annual ownership costs) are designed to be used as guidelines to be followed in the event that privatization is pursued. Similarly, there are five general guidelines that could be followed for minimizing the risk to the state, while promoting cost savings without sacrificing quality. They are:

1. Requests for proposals should set a minimum cost-saving target that must be met for proposals to be considered responsive. The amount of the target and the methodology for establishing it should be approved by the legislature.
2. Requests for proposals should set standards for programs, operations, and/or facility design and construction defined as *what* should be provided; and should allow respondents to be flexible and creative in *how* to meet those standards. The standards should be subject to approval by the legislature.
3. The state should develop a contingency plan for the smooth transition of operations from one private vendor to another, or to the state, in the event of contract expiration or termination.
4. The state should have an on-site monitor at the privately run facility to ensure that the state's responsibilities for inmates are being fulfilled, and that the contractor is in compliance with the contract.

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<sup>7</sup> This was the conclusion of the Washington Public Employees Association in letter dated July 12, 1995 entitled "Prison Privatization Doesn't Work -- The Riot at Estmor Correctional Services INS Center, Elizabeth, NJ, June 18, 1995."

5. The state should design and set criteria for an evaluation of the costs and quality of programs and operations at the privately run facility in comparison to a similar state facility or to established benchmarks. This evaluation should take place after the private facility has had at least one year of operating at full capacity, and should be conducted by an independent party designated by the legislature.

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Lease Purchase Correctional Facility BRU: Revenue Operations  
 Component: Treasury Management  
 Sponsor: House Finance Committee  
 Requestor: (H) JUD COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Forest Browne, Debt Manager Phone: 465-3750  
 Division: Treasury Date: 1/25/96  
 Approved by Commissioner: [Signature] Date: 1/25/96  
 Agency: Department of Revenue

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For further distribution: [Redacted]

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 2  
Bill Version: CSHR 4287 (H)  
(H) Publish Date: 2/5/96

Revision Date: \_\_\_\_\_  
Title: Lease purchase agreement for construction and operation of a correctional facility  
Sponsor: Mulder  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: General Services  
Component: Purchasing  
COMPONENT SERIAL NO. 60

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		50.0	100.0	50.0	90.0	90.0
TRAVEL						
CONTRACTUAL		75.0	150.0			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>125.0</b>	<b>250.0</b>	<b>50.0</b>	<b>90.0</b>	<b>90.0</b>

CAPITAL EXPENDITURES	375.0					
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	375.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER *		125.0	250.0	50.0	90.0	90.0
<b>TOTAL</b>	<b>375.0</b>	<b>125.0</b>	<b>250.0</b>	<b>50.0</b>	<b>90.0</b>	<b>90.0</b>

Estimate of any current year (FY 96) cost: \$ 0.0

**POSITIONS:**

FULL-TIME					1	1
PART-TIME		1	2	1		
TEMPORARY						

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

- \* FY 98 - 99 Costs are funded from CIP receipts from capital appropnabon in FY 97
- \* FY 00- 02 costs are funded from proceeds of lease purchase financing

**See Continuation Page**

Prepared by Dugan Perry, Director  
Division General Services

Phone 465-2250  
Date: \_\_\_\_\_

Approved by Commissioner Mark Boyer  
Agency Department of Administration

Date: 1/31/96

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# CORRECTION

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Rev 678

Central Microfilm Services  
Department of Education  
State of Alaska

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Lease Purchase Correctional Facility BRU: Revenue Operations  
 Component: Treasury Management  
 Sponsor: House Finance Committee  
 Requestor: (H) JUD COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Forrest Browne, Debt Manager Phone: 465-3750  
 Division: Treasury Date: 1/25/96  
 Approved by Commissioner: [Signature] Date: 1/25/96  
 Agency: Department of Revenue

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For further distribution: \_\_\_\_\_

House Bill No. 428 approves a lease-purchase agreement for the financing, construction, and operation of a correctional facility.

#### **Operating Budget**

The legislation would have no impact on the Treasury Division's operating budget.

#### **Debt Financing Issues**

Our comments are based on several assumptions. First, the lease will be long-term. Second, the lease-purchase agreement terms will be in part based on the contractor borrowing up to \$100,000,000 for designing, constructing, and equipping the facility. And finally, the financing, construction, and operation of the facility will be bundled into a single contract.

If the assumptions are correct, several issues come to mind that may need to be considered.

- 1) This lease-purchase will be considered debt from a bond rating perspective and will be recorded as such in the State's financial statements.
- 2) The contractor may want to securitize the State's lease and offer this debt in the domestic or international financial markets in order to obtain the funds necessary for construction. This process raises several more questions.
- 3) Securitizing the lease over a period of time beyond the expected Prudhoe Bay Curve may have an affect on the State's current bond rating. We are working with our financial advisor to convince the market that the State is working on a plan to fill the fiscal gap and reduce our dependence on oil revenues.
- 4) Consideration should be given to an overall strategy dealing with infrastructure and capital needs of the State. Agreements as outlined in HB No. 428 are only a portion of the total picture. This agreement will reduce the State's debt capacity as we offer our credit to a private contractor and at the same time give up the right to have any control over the debt issuing process.

Can a private contractor issue securitized state leases cheaper than the State? The answer is probably not. We can access tax exempt markets using our existing contracts with our own financial advisor and bond counsel and borrow money at very competitive rates.

Advantages of securing our own financing include the ability to refinance at any time favorable market conditions provide savings. Also, we eliminate the need to unbundle the lease-purchase from the construction and operating contracts should problems arise due to non-performance or default on the part of the contractor.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 1  
Bill Version: CSHB 428 (1996)  
(H) Publish Date: 2/5/96

Revision Date: \_\_\_\_\_  
Title: Lease purchase agreement for construction and operation of a correctional facility  
Sponsor: Mulder  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: General Services  
Component: Purchasing  
COMPONENT SERIAL NO. 60

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		50.0	100.0	50.0	90.0	90.0
TRAVEL						
CONTRACTUAL		75.0	150.0			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>125.0</b>	<b>250.0</b>	<b>50.0</b>	<b>90.0</b>	<b>90.0</b>

CAPITAL EXPENDITURES	375.0					
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	375.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER *		125.0	250.0	50.0	90.0	90.0
<b>TOTAL</b>	<b>375.0</b>	<b>125.0</b>	<b>250.0</b>	<b>50.0</b>	<b>90.0</b>	<b>90.0</b>

Estimate of any current year (FY 96) cost: \$ 0.0

**POSITIONS:**

FULL-TIME					1	1
PART-TIME		1	2	1		
TEMPORARY						

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

- \* FY 98 - 99 Costs are funded from CIP receipts from capital appropriation in FY 97
- \* FY 00- 02 costs are funded from proceeds of lease purchase financing

**See Continuation Page**

Prepared by Dugan Perry, Director  
Division General Services

Phone 455-2250  
Date \_\_\_\_\_

Approved by Commissioner Mark Boyer  
Agency Department of Administration

Date 1/31/96

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STATE OF ALASKA BILL # HB 428  
 1996 LEGISLATIVE SESSION  
 ANALYSIS (continued)

## 1. ASSUMPTIONS:

- 1.1 Dept of Corrections will furnish requirements for the number of beds and location criteria
- 1.2 Dept of Corrections will establish operational criteria for the facility
- 1.3 DOT&PF will identify potential sites for the facility, and will develop a building space program, conceptual design and performance specifications suitable for use in the design/construction RFP
- 1.4 A site will be made available by a political subdivision, at no cost to the state. In the event that a suitable site is not made available, additional funding will need to be appropriated to acquire a sufficient interest in a site
- 1.5 An agency of the state is granted authority in law to conduct the issuance of financial instruments as tax exempt financing
- 1.6 DOT&PF will provide construction administration and inspection services from award to occupancy
- 1.7 Lease payments will begin in the first year of operation (estimated to be 2003). Based on a 20 year term, \$100 million principal, and 6% interest (based on discussion with the Dept. of Revenue), the approximate annual payment is estimated to be \$8.7 million.
- 1.8 Time schedule for performance is per Dept. of Correction draft schedule

## 2. DEPARTMENT OF ADMINISTRATION RESPONSIBILITIES AND COSTS:

## 2.1 Site Acquisition

2.1.1. Prepare acquisition agreement, site survey \$25,000

## 2.2. Prepare RFP for construction of the facility

2.2.1. Prior to award - \$225,000 (FY 98 - 99)

Legal: \$50,000

Financial: \$25,000

Develop RFP: \$50,000

1/2 Project Manager, R 21 for 24 mo. \$100,000

## 2.3. Prepare RFP for the operation of the facility. Assumes 9 months to reach an award

2.3.1. Prior to award - \$125,000 (FY 99 - 00)

Legal: \$25,000

RFP development & preparation: \$50,000

1/2 Project Manager, R 21 for 24 months \$100,000

2.3.2. After award - 2 years startup effort (FY 01 & 02)

1 Contracting Officer for contract administration \$180,000

## 2.4 Annual cost to administer the lease-purchase agreement, and the operation agreement after occupancy. Begin in FY 03

1/8 Contracting Officer for life of lease \$11,250

See attached spreadsheet for allocation of costs by fiscal year and fund source

Allocate Fiscal Note HB 428

	GF Capital Funds			Bond Proceed Funds			Total Capital Funds	Annual Operating Funds FY 03	
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02			
2.1 Site Acquisition		25 0					25 0		
2.2 Prepare RFP for construction of the facility									
			Legal				50 0		
			Financial				25 0		
			Develop RFP	25 0	25 0		50 0		
			1/2 Project Manager R21 for 24 months	50 0	50 0		100 0		
2.3 Prepare RFP for the operation of the facility.									
2.31 <u>Prior to award</u>									
			Legal			25 0	25 0		
			RFP development & preparation			50 0	50 0		
			1/2 Project Manager, R 21 for 24 months			50 0	50 0		
2.32 <u>After award</u>									
			1 Contracting Officer for 2 years startup effort			90 0	90 0		
2.4 Annual cost to administer the lease-purchase agreement, and the operation agreement. Begin in FY 03								11 3	
			1/4 Contracting Officer for life of lease						
			<b>Sub-total</b>	<b>125 0</b>	<b>250 0</b>	<b>50 0</b>	<b>90 0</b>	<b>90 0</b>	<b>11 3</b>
Personal Services				50 0	100 0	50 0	90 0	90 0	11 3
Contractual				75 0	150 0				

Page 1 of 1

Construction Expense Program  
 Issues 8/1/95

	1996	1997	1998	1999	2000	2001	2002	2003
0	Hours							
1	Legislative Authorization							
2	Programs & Budget Under Phase RTP							
3	Programs Master Plan Update							
4	Cost Operational Studies							
5	Feasibility Operational Studies							
6	Bidder A/E Professional Services Agreement							
7	Bidder Bidder Approval							
8	Land Acquisition							
9	Feasibility Study Program							
10	Conceptual Design							
11	Cost Lease Purchase Study							
12	Feasibility Lease Purchase RTP							
13	Advertisement Lease Purchase RTP							
14	Program Operational RTP							
15	Subcontract Operational RTP							
16	Construction							
17	Construction Operations							
18	Final Construction Program							
19	Other Funding							

Project: CENM  
 Date: 1/22/98  
 Milestone: Runoff: Progress: Measure: Summary: Round Up:

1 2 3 4

# FISCAL NOTE

No. 3

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

Bill Version: CSHB 428(J)D

(H) Publish Date: 2/5/96

Revision Date:	Dept. Affected: <u>Corrections</u>
Title: <u>An Act giving notice of and approving a lease-purchase agreement for construction and operations.....</u>	BRU: <u>ALL</u>
Sponsor: <u>House Finance</u>	Component: _____
Requester: <u>Judiciary</u>	COMPONENT SERIAL NO. <u>#0694</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	171.7	174.3	176.9	179.5	182.2	185.0
TRAVEL						
CONTRACTUAL	300.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	20.0	20.0	20.0	20.0	20.0	20.0
<b>TOTAL OPERATING</b>	<b>491.7</b>	<b>194.3</b>	<b>196.9</b>	<b>199.5</b>	<b>202.2</b>	<b>205.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES</b>						
---------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	491.7	194.3	196.9	199.5	202.2	205.0
1005 GF Program Receipts						
1006 GF MHTIA						
Other						
<b>TOTAL</b>	<b>491.7</b>	<b>194.3</b>	<b>196.9</b>	<b>199.5</b>	<b>202.2</b>	<b>205.0</b>

Estimate of any current year (FY98) cost: \$ 0.0

**POSITIONS**

FULL-TIME	3					
PART-TIME						
TEMPORARY						

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

The DOC would be required to provide DOA sufficient information and consultation necessary to:

- 1/ finalize site selection;
- 2/ prepare an RFP for the construction of a facility of up to 1000 jail/prison beds;
- 3/ and prepare an RFP seeking private providers to operate the facility.

The DOC would secure consultant services to develop:

- 1/ a feasibility study determining the potential costs and benefits which would result from contracting out facility operations;
- 2/ a feasibility study determining the facility size, siting and system wide impact of a large centralized facility in the Third Judicial District;
- 3/ and a staffing and operation plan which will include operational standards.

Prepared by: Jerry Shriner  
 Division: Office of the Commissioner  
 Approved by Commissioner: Margaret Pugh  
 Agency: Department of Corrections

Phone: 465-4652  
 Date: 1/27/96  
 Date: 1/29/96

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\$300.0 has been requested in the contractual line for this purpose.

Based on consultation with other departments it is clear that DOC will need to maintain constant project planning and oversight capability throughout the life of the project which is expected take five or more years.

The duties of a **Criminal Justice Planner** (\$71.9) would change as the project progressed. At the outset this position would assist in preparing the RFP for consulting services and would assist throughout with governmental liaison, community relations related to site selection, construction and operation. Prisoner movement, programming, staffing and operational contractor start-up would be the responsibility of this position.

The **Facilities Manager I** (\$67.4) will serve as DOC's first line of oversight and project management site selection, facility design, and construction. The need for this position will extend through final acceptance of the facility.

The **Administrative Clerk I** (\$32.5) will be required throughout the project to prepare research, maintain files and records and generally provide necessary support to the **Criminal Justice Planner** and **Facilities Manager I**.

\$20.0 annually is included in miscellaneous line to pay for office space, equipment, supplies, travel, etc.

# FISCAL NOTE

No. 4

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Bill Version: CSHB 4281.01(D)

(H) Publish Date: 2/5/96

Revision Date: 1-25-96 Dept. Affected: DOT&PF  
 Title: An Act giving notice of and approving a lease- BRU: Central Region  
purchase agreement for construction and of a c Component: Design and Construction  
 Sponsor: House Finance  
 Requester: House Judiciary COMPONENT SERIAL NO. 4561

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	300	850	800	200		
TRAVEL						
CONTRACTUAL	550.0	275.0				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		100				
<b>TOTAL OPERATING</b>	<b>590.0</b>	<b>370.0</b>	<b>80.0</b>	<b>20.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	590.0	370.0	80.0	20.0		
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>590.0</b>	<b>370.0</b>	<b>80.0</b>	<b>20.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

See attached documentation for additional details.

Prepared by: Roger Head Loren Rasmussen, P.E. Acting Director Phone: 465-2960  
 Division: Engineering and Operations Date: 1/25/96  
 Approved by: Joseph L. Penus Date: 1/25/96  
 Agency: Department of Transportation and Public Facilities

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Attachment to  
 Department of Transportation & Public Facilities  
 Fiscal Note For House Bill 428

House Bill 428 is an act to provide for construction and operation of a new correctional facility. The Department of Administration would act on behalf of the Department of Corrections to enter into a lease-purchase agreement for construction and operation of a facility in the Third Judicial District.

The Department of Corrections is the lead agency responding to the bill and has determined that prior to requesting Department of Administration to solicit proposals, it will be necessary to complete a population study to determine the effect of the proposal on the remaining facilities in the State system. This will determine the type and program expected of the new facility.

DOT&PF is limited to assisting DOC in determining a site and preparing a conceptual plan based on the information developed from the population study. This work will take place prior to Department of Administration's solicitation for the lease-purchase contractor.

Cost Estimate:

Due to the size and complexity of this project, one project manager would be dedicated to the work for a period of 18 months. Advertising and proposal selection for consultant services would also be required. The consultant, in conjunction with the population study prepared for the Department of Corrections, would prepare a function/space program, a location study and site selection, and prepare a concept design. Consultant costs are based on a percentage of a typical design fee for a \$70,000,000 construction project. Design fee at 7% of the construction value would be \$4,900,000. Costs are estimated as follows:

Project Manager 18 months	\$ 105,000
Support Staff	20,000
Advertising and Award Costs	10,000
 Consultant Costs:	
Function & Space Program (.03 x Design Fee)	125,000
Location Study/Site Selection	150,000
Conceptual Design (12 x Design Fee)	550,000
 Design and Construction Allowance	 <u>100,000</u>
 Total Department of Transportation & Public Facilities cost	 <u>\$1,060,000</u>

See additional spread sheet for other costs projected by Department of Corrections

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Past experience has shown that an extensive amount of time and effort will be expended throughout the final design and construction phase of the project. An allowance has been included in the fiscal note even though the costs on the additional spread sheet do not include the final design and construction phases.

**FAXMEMO**

**State of Alaska**  
**DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES**  
**PUBLIC FACILITIES BRANCH**

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This is an important communication of the Department of Transportation & Public Facilities. If you received this facsimile in error, please contact our business office at (907) 762-4275 so we can correct it and avoid a recurrence in the future.

**TO:** Loren Rasmussen

**DATE:** January 23, 1996

**TELEPHONE NO:** 762-4275

**FAX:** 762-4008

**FROM:** Roger D Head  
Public Facilities Chief

**SUBJECT:** HB428 Fiscal Note

Attached is our preparation for a response to HB428. The estimates were prepared concurrently with Department of Corrections yesterday. It was their understanding that OMB is looking for department responses today. Our direct contact person was Facility Planner, Ted Kinney. Please let us know if additional information is needed. By copy of this FAX, I am providing Mark Mayo with the same information.

## Department of Transportation & Public Facilities Fiscal Note For House Bill 428

House Bill 428 is an act to provide for construction and operation of a new correctional facility. The Department of Administration would act on behalf of the Department of Corrections to enter into a lease-purchase agreement for construction and operation of a facility in the Third Judicial District.

The Department of Corrections is the lead agency responding to the bill and has determined that prior to requesting Department of Administration to solicit proposals, it will be necessary to complete a population study to determine the effect of the proposal on the remaining facilities in the State system. This will determine the type and program expected of the new facility.

DOT&PF's is limited to assisting DCC in determining a site and preparing a conceptual plan based on the information developed from the population study. This work will take place prior to Department of Administration's solicitation for the lease-purchase contractor.

### Cost Estimate

Due to the size and complexity of this project, one project manager would be dedicated to the work for a period of 18 months. Advertising and proposal selection for consultant services would also be required. The consultant, in conjunction with the population study prepared for the Department of Corrections, would prepare a function space program, a location study and site selection, and prepare a concept design. Consultant costs are based on a percentage of a typical design fee for a \$70,000,000 construction project. Design fee at 7% of the construction value would be \$4,900,000. Costs are estimated as follows:

Project Manager 18 months	\$105,000
Support Staff	\$ 20,000
Advertising and Award Costs	\$ 111,000

### Consultant Costs

Function & Space Program (11% x Design Fee)	\$125,000
Location Study Site Selection	\$140,000
Conceptual Design (12% x Design Fee)	\$588,000
<b>Design and Construction Allowance</b>	<b>\$100,000</b>
Total Department of Transportation & Public Facilities cost	<del>\$6,000,000</del>
	<b>\$1,060,000</b>

see additional spread sheet <sup>11</sup> for other costs projected by Department of Corrections

5

*"Past experience has shown that an extensive amount of time and effort will be expended through the final design and construction phase of the project. An allowance has been included in the fiscal note even though the costs on the additional spread sheet do not include the final design and construction phases."*

Sheet1

	Contracts	Staff	Support	Sum
<b>DCC</b>				
Staff Support				
1 - Criminal Justice Planner (21/A)		71.81	20.01 (PER YEAR)	
1 - Facilities Manager I (20/A)		87.41	*	
1 - Admin Clerk I (7/A-3)		32.51	*	
Contract(s)				
1 - Prepare Population Mgt Plan	250.01			
1 - Prepare Operational Standards	50.01			
<b>DCC Subtotal</b>	<b>300.01</b>	<b>171.71</b>	<b>20.01</b>	<b>491.71</b>
<b>DCA</b>				
Staff Support				
1 - General Support		40.01	10.01	
Contract(s)				
1 - Legal Services	150.01			
<b>DCA Subtotal</b>	<b>150.01</b>	<b>40.01</b>	<b>10.01</b>	<b>200.01</b>
<b>DOT&amp;PF</b>				
Staff Support				
1 - Project Manager		125.01	10.01	
Architect-Engineer Consultant				
1 - Prepare Function / Space Program	125.01			
1 - Prepare Location Study / Select Site	150.01			
1 - Prepare Conceptual Design	550.01			
<b>DOT&amp;PF Subtotal</b>	<b>825.01</b>	<b>125.01</b>	<b>10.01</b>	<b>960.01</b>
<b>Revenue</b>				
<b>Revenue Subtotal</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>
<b>Attorney General</b>				
<b>AG Subtotal</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>
<b>Grand Total</b>	<b>1,275.01</b>	<b>336.71</b>	<b>40.01</b>	<b>1,651.71</b>

# FISCAL NOTE

No. 5

Bill Version: CSHB 428(FIN)

(H) Publish Date: 2/29/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Dept. Affected Corrections

BRU: All

Title: An Act giving notice of and approving a  
lease-purchase agreement for construction & operations...

Sponsor: House Finance

Requestor: \_\_\_\_\_

Components: \_\_\_\_\_

Serial # #0694

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	300.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>300.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

**FUNDING: (THOUSANDS OF DOLLARS)**

General Fund	300.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>300.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS :**

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)**

\$100 0 thousand dollars for RSA to the Dept. of Transportation & Public Facilities initial design specification work for Request for Proposal.  
 \$100 0 thousand dollars RSA to DOA to work on site selection & issue RFP; and  
 \$100 0 thousand dollars for DOC to contract for identifying population to be served in contract prison, and prepare requirements for contract prison.  
 Balance of needs identified will be included in financing package as capitalized costs.

Prepared by:

House Finance Committee

Date: 2/28/96

Rep. Mark Hanley, Co-Chair 

Phone: 465-4939

Rep. Richard Foster, Co-Chair 

Phone: 465-3789

**HB**

**432**

# House Labor & Commerce Committee

State Capitol  
Juneau, Alaska 99801-1182  
907-465-4954

## SPONSOR STATEMENT HB 432

HB 432, which is sponsored by the House Labor and Commerce Committee, has the principal effect of conforming Alaska's veterinarian licensure statutes to current nationwide licensure standards. Under existing statutes, references are made to examinations administered under the auspices of the National Board of Veterinary Medical Examiners and the American Veterinary Association's Education Commission For Foreign Veterinary Graduates. These exams are no longer given by these organizations. Instead, they are administered by the National Board Examination Committee and the National Board Examination Committee's Education Commission for Foreign Veterinary Graduates. HB 432 makes the necessary changes.

HB 432 also acts to promote public welfare by clearly defining the unauthorized practice of veterinary medicine and imposing penalties for violations.

I urge your support.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH 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

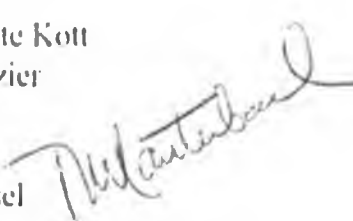
## MEMORANDUM

February 6, 1996

**SUBJECT:** Sectional Summary of HB 432. (An Act relating to the practice of veterinary medicine)

**TO:** Representative Pete Kott  
Attn: George Dozier

**FROM:** Terri Lauterbach  
Legislative Counsel



You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional 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.

Section 1. Requires veterinary technicians to be licensed.

Section 2. Prohibits certain conduct and prescribes a penalty for violating the prohibitions.

Section 3. Changes the description of the examination that may be used for veterinarian licensure.

Section 4. Changes the name of various examinations.

Section 5. Requires the board to adopt regulations for licensure of veterinary technicians.

Section 6. Changes the name of another examination.

Section 7. Changes the definition of "practice of veterinary medicine" with respect to prohibited use of descriptions, titles, abbreviations, etc.

TML:klb  
96-069,klb

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

**BILL NO. HB 432**

Revision Date: \_\_\_\_\_  
Title: An Act relating to the practice of veterinary medicine

Department: Commerce and Economic Development  
BRU: Occupational Licensing  
Component: Operations

Sponsor: House Labor & Commerce  
Requestor: House Labor & Commerce

COMPONENT SERIAL NO. 1844

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	00	00	00	00	00	00

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
<b>TOTAL</b>	00	00	00	00	00	00

Estimate of any current year (FY 96) cost: \$ 00

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

HB 432 amends the veterinary licensing statutes (AS 08.98) to clarify existing provisions and add new conditions prohibiting the practice of a veterinary medicine unless the person is licensed. New funds are not required to implement the bill.

Prepared by: Jennifer Strickland, Administrative Officer  
Division: Occupational Licensing  
Approved by Commissioner: William L. Hensley  
Agency: Commerce and Economic Development

Phone: 465-2144  
Date: February 15, 1998  
Date: \_\_\_\_\_

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For \_\_\_\_\_ Office

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 432

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: \*An Act relating to the practice of veterinary BRU: Civil Division  
medicine \* Component: General Legal Services  
 Sponsor: House Labor and Commerce Committee  
 Requester: House Labor and Commerce Committee COMPONENT SERIAL NO. 2087

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill amends AS 08.98.120 to require the licensing of veterinary technicians under Alaska's occupational licensing laws. The bill also provides for criminal penalties for persons practicing or attempting to practice veterinary medicine, surgery or dentistry without being properly licensed. Although inclusion of a new regulated profession tends to increase the Department of Law's workload over time, the cost of regulatory enforcement is reimbursed to the Department of Law by the Division of Occupational Licensing. It does not appear that the bill will cause any significant workload increase in the foreseeable future.

Prepared by: Richard I. Pegues, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 455-3672  
 Date: 1/25/96  
 Date: 1/25/96

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# FISCAL NOTE

**STATE OF ALASKA**

**BILL  
NO:**

**HB432**

**1998 LEGISLATIVE SESSION**

Revision Date _____	Dept. Affected <u>Public Safety</u>	
Title <u>Veterinary Licensing</u>	Component <u>DPS Statewide Support</u>	
Sponsor <u>H Labor &amp; Commerce</u>	Component <u>Commissioner's Office</u>	
Requestor <u>H Labor &amp; Commerce</u>	COMPONENT SERIAL NO. <u>0523</u>	

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
Code      Revenue						

**FUNDING: (Thousands of Dollars)**

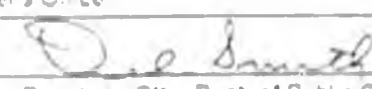
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF, Program Receipts						
1005 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

Estimate of current year (FY 95) impact \$ \_\_\_\_\_

**POSITIONS**

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

ANALYSIS (Attach a separate page if necessary)  
No fiscal impact is anticipated to the Department of Public Safety.

Prepared By	Sandy Perry-Provost, Special Assistant to the Commissioner	Phone	465-4322
Division	Commissioner's Office	Date	1/24/96
Approved by Commissioner		Date	1/24/96
Agency	Ronald L. Otte, Dept. of Public Safety		

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 432

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An Act relating to the practice of veterinary  
medicine." BRU: State Wide Programs  
 Sponsor: House Labor and Commerce Committee Component: \_\_\_\_\_  
 Requester: House State Affairs COMPONENT SERIAL NO. #1381

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

According to the Division of Occupational Licensing, they expect few if any cases would be prosecuted under this bill. If convicted for this misdemeanor offense a fine rather than incarceration is a more likely sentence. The Department of Correction expects no fiscal impact.

Prepared by: Jerry Striner  
 Division: Office of the Commissioner  
 Approved by Commissioner: Margaret Pugh  
 Agency: Department of Corrections

Phone: 465-4652  
 Date: 1/30/96  
 Date: 1/30/96

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.....  
HB 432 VETERINARY LICENSING  
An Act relating to the practice of veterinary medicine

SPONSOR(S): LABOR & COMMERCE

HB 432 - HOUSE STA Committee Minutes  
February 16, 1998

HB 432 - VETERINARY LICENSING

The first order of business to come before the House State Affairs Committee was HB 432.

CHAIR JAMES called on George Dozier, Legislative Assistant to Representative Pete Kott to present the sponsor statement for HB 432.

Number 0085

GEORGE DOZIER, Legislative Assistant to Representative Pete Kott, said HB 432 was suggested by a local veterinarian in Eagle River who felt the definition of the unauthorized practice of veterinarian medicine was too vague. It was also discovered the licensing statute's referenced examinations administered by the National Board of Veterinary Medical Examiners and the American Veterinary Association's Education Commission for Foreign Veterinary Graduates that no longer administered them. Consequently, the House Labor and Commerce Committee filed HB 432. Mr. Dozier said it was a relatively simple bill. The bill substituted the names of the examinations to bring the current statutes into conformity with actual examination practices. He cited the examinations were now administered by the National Board Examination Committee and the National Board Examination Committee's Education Commission for Foreign Veterinary Graduates. He further said HB 432 defined the nature of unlicensed veterinary practice for the state of Alaska and made it a criminal penalty - a unclassified misdemeanor with a potential penalty of up to one year in jail and a \$10,000 fine. The bill also required veterinary technicians be licensed by the state. He said there were veterinarians standing by in Anchorage to articulate their concerns.

Number 0302

CHAIR JAMES wondered about veterinary medicine in general, and questioned if the bill prohibited dog mushers, for example, from giving shots to their own dogs.

Number 0350

MR. DOZIER replied the bill was intended to not affect individuals who cared for their own animals, but rather for individuals who held themselves as a competent animal caregiver.

Number 0368

CHAIR JAMES replied, therefore, a dog musher such as Susan Butcher could take care of her own dogs, but she could not take care of anybody else's dog.

Number 0406

MR. DOZIER said, "I don't believe that that's the intent of the bill."

CHAIR JAMES mentioned farmers who took care of their own animals. She also mentioned artificial insemination, and wondered if a farmer could perform such a service.

MR. DOZIER replied, "I don't believe that it would have to be a veterinarian, Madame Chair."

Number 0414

CHAIR JAMES further wondered about pet shops that sold animals without a check-up, and questioned if there was a law that prohibited that.

Number 0470

MR. DOZIER said he did not know definitively if there a law that prohibited a pet shop from selling diseased animals. The intent of HB 432, however, was to prohibit the unauthorized practice of veterinarian medicine, he asserted.

Number 0505

REPRESENTATIVE CAREN ROBINSON mentioned the problems regarding the humane societies and the ability to give the appropriate shots. She suggested Mr. Dozier look into that matter further.

Number 0549

CHAIR JAMES said she was concerned about the cost getting too high for the benefits to a society, such as the humane society.

Number 0577

REPRESENTATIVE BRIAN PORTER questioned if the restrictions should be placed on a person that performed the service for money rather than a person that performed it for free. He said he did not want his neighbor who helped his dog with its broken leg to commit a misdemeanor.

Number 0612

CHAIR JAMES responded she remembered when it was illegal to cut somebody else's hair in the state of Oregon. The act did not delineate between a service charge or not. It was protectionism for the barbers and hairdressers.

Number 0660

MR. DOZIER referred the committee members to Section 7 which indicated the practice of veterinary medicine did mean for

compensation.

Number 0674

REPRESENTATIVE JOE GREEN said the questions had gone askew. The focus of HB 432 dealt with the practice of veterinarian medicine and not what friends did for each other. He suggested keeping the focus on the practice of veterinarian medicine.

Number 0728

REPRESENTATIVE ROBINSON suggested hearing from Catherine Reardon, Department of Commerce and Economic Development, to explain the lack of a zero fiscal note from the department.

Number 0817

CATHERINE REARDON, Director, Central Office, Division of Occupational Licensing, Department of Commerce and Economic Development, said a fiscal note was not submitted because it was not requested. She said it would be a zero fiscal note from the department and she would be happy to prepare one for the committee.

CHAIR JAMES replied, "It would be appreciated."

Number 0840

REPRESENTATIVE ROBINSON questioned the zero fiscal note because the bill stated the department would be setting up regulations, and wondered if staff existed already.

Number 0856

MS. REARDON replied the department had a regulation specialist and the projects would compete with each other. She stated there would be advertising, and if the committee wanted, she could include the public interest cost, but the department would generally absorb it like any other regulation project.

Number 0889

REPRESENTATIVE ROBINSON wondered if this was a conformation to a new law because it sounded like a lot of it was already in place.

MS. REARDON replied HB 432 was a clean-up of the existing statute.

Number 0909

CHAIR JAMES stated the bill added veterinary technicians.

MS. REARDON replied the bill allowed the board to adopt regulations. The board currently licensed veterinary technicians, but did not have the regulatory authority. She stated the bill improved the system.

REPRESENTATIVE ROBINSON moved that HB 432 move from the committee with individual recommendations and zero fiscal notes including the commitment from Catherine Reardon to provide a zero fiscal note from the Department of Commerce and

Economic Development. Hearing no objection, HB 432 was moved from the House State Affairs Committee.

**HB 432 - HOUSE L&C Committee Minutes  
February 26, 1998**

HB 432 - VETERINARY LICENSING

Number 1001

CHAIRMAN KOTT announced the committee would hear HB 432 "An Act relating to the practice of veterinary medicine." was the next order of business.

GEORGE DOZIER, Legislative Staff, House Labor and Commerce Committee, explained HB 432 accomplishes three objectives. The first objective is that it modernizes the Alaska licensure statutes relating to the practice of veterinarian medicine. As the law currently stands, the licensure statutes refer to examinations that are no longer given. HB 432 substitutes the correct examinations.

MR. DOZIER explained the second thing the bill does is it tightens up the meaning behind unauthorized practice of veterinarian medicine.

MR. DOZIER informed the committee the bill makes it an unclassified misdemeanor subject to a \$10,000 fine and up to a year in jail for the unauthorized practice of veterinary medicine. He noted the bill has a zero fiscal note.

Number 1098

REPRESENTATIVE ELTON said the bill also sets up a veterinary technician. MR. DOZIER answered in the affirmative. He noted he believes there are currently regulations that addresses technicians. What the bill does is requires that the technicians be licensed.

Number 1129

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Commerce and Economic Development, said the division supports HB 432. She said it is a compilation of things that the Board of Veterinary Examiners (indisc...coughing) have changed.

Number 1144

REPRESENTATIVE ROKEBERG asked what the current sanctions are. He said there is a new subsection that adds a \$10,000 fine on page 2.

CHAIRMAN KOTT said he doesn't believe there are criminal sanctions.

MS. REARDON said as she recalls, this has been one of the difficulties. There hasn't been a penalty for unlicensed activity. Ms. Reardon said strength is being added to the enforcement ability. She said she would try to provide a board member to speak to the issue as she doesn't have adequate information.

REPRESENTATIVE PORTER noted he doesn't read Section 2 as being a prohibition about performing veterinary services without a license. It is for ways to try to pretend you had a license or used someone else's license.

Number 1282

CHAIRMAN KOTT said it is not his intent to move the bill until the committee hears from someone that is knowledgeable of the bill.

**HB 432 - HOUSE L&C Committee Minutes**  
**March 25, 1998**

HB 432 - VETERINARY LICENSING

Number 0625

CHAIRMAN KOTT announced that the next order of business to come before the House Labor and Commerce Committee was HOUSE BILL NO. 432. "An Act relating to the practice of veterinary medicine."

GEORGE DOZIER, staff to Chairman Kott, explained HB 432 accomplishes three or four different goals. He said it contains a provision which prescribes the fraudulent use or procurement of a veterinarian license. It also prescribes the act of fraudulently claiming to have such a license. It makes it a unclassified misdemeanor with up to a \$10,000 fine for violation of those provisions. Mr. Dozier explained the second section of the bill recognizes that at one time an organization used to give standardized tests. That organization is no longer in existence. It is now called something else and the test is also called something else. It changes certain references to the licensure provisions from the National Board of Veterinarian Examiners to the National Board of Examination Committee. The same thing is done further on changing the old organization known as the American Veterinarian Association's Educational Commission for Foreign Veterinarian Graduates to the National Board of Examination Committees Education Commission for foreign Veterinarian Graduates. Mr. Dozier explained the bill also requires veterinary technicians to be licensed and requires the board to promulgate regulations concerning that licensure.

Number 0723

CHAIRMAN KOTT announced that the first witness would be Dr. Dee Thornell, testifying via teleconference from Anchorage.

DEANNA J. THORNELL, of the Board of Veterinary Examiners, stated that while current law makes it illegal to practice veterinary medicine in the state without a license, no penalties are mandated. HB 432 would mandate a \$10,000 fine and imprisonment of up to one year for a person found in violation of the licensing requirements.

Number 0850

CHAIRMAN KOTT asked if all recommendations contained in HB 432 have been approved by the Board of Veterinary Licensing.

DR. THORNELL responded that they have. She added that the change related to licensing veterinary technicians is consistent with

every other state in the union.

REPRESENTATIVE ELTON stated he was somewhat surprised that the provisions for licensing veterinary technicians are to be supervised by the veterinary board. This seems like having doctors oversee licensing requirements for nurses. He asked if this was a common procedure.

DR. THORNELL replied that it is consistent with the other states. Also, it would not be financially feasible to create a separate board for licensing veterinary technicians, because there are so few in the state. Some states do provide extra seats on the veterinary board for licensed technicians.

REPRESENTATIVE ELTON then asked if the cost of the licensing procedures for veterinary technicians would be borne by the veterinarians.

DR. THORNELL responded that the technicians are already bearing the cost of their own examinations. In essence, the legislation only changes the title from "registered veterinary technician" to "licensed veterinary technician." All of the statutes are already in place for registering veterinary technicians.

Number 1016

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Commerce and Economic Development, stated that she was available to answer questions from the committee.

CHAIRMAN KOTT announced that, there being no questions or additional witnesses wishing to testify, public testimony on HB 432 was closed.

REPRESENTATIVE ROKFBERG made a motion that HB 432, with individual recommendations and attached zero fiscal note, be passed out of the House Labor and Commerce Committee.

CHAIRMAN KOTT announced that, there being no objections, HB 432 with individual recommendations and accompanying zero fiscal note was passed out of the House Labor and Commerce Committee.

\*\*\*\*\*

**HB**

**436**

REPRESENTATIVE  
**TERRY MARTIN**  
CHAIRMAN  
BUDGET & AUDIT COMMITTEE  
MEMBER  
HOUSE FINANCE COMMITTEE

# Alaska State Legislature



MAY 15 - JAN 15 258-8114  
116 W 4TH ST STE 650  
ANCHORAGE, AK 99504  
JAN 15 - MAY 15 465-3783  
STATE CAPITOL  
JUNEAU, AK 99801-1103  
HOME 333-4990  
355 DONNA DRIVE, #11  
ANCHORAGE, AK 99504

## SECTIONAL ANALYSIS CSHB436 (TRA)

**Licensed purchases and sales of mobile homes by dealers;  
Mandatory DMV titling of mobile homes**

### Section 1.

Adds mobile home dealers to the list of licensed and regulated entities under Occupational Licensing at the beginning of Title 8 (Business/Professional Licensing).

### Section 2.

Adds a new chapter (67) under Title 8 relating to mobile home dealers. Requires registration and an application to be submitted with accompanying fees to the Division of Occupational Licensing and defines what specific information must be recorded by the dealer. Requires department approval of the application, a two year renewal policy and instructs applicant to maintain a \$50,000 bond in favor of the State and executed by an authorized corporate surety. Describes how action on the bond is taken; the penalties imposed if fraud occurs; and defines "dealer", "department" and "mobile home" in reference to the statute.

### Section 2.

Requires the Division of Motor Vehicles to issue a certificate of title to the owner of a mobile home upon application. Requires the display of the title as evidence of ownership satisfactory to the department.

### Section 3.

Establishes an effective date of July 1, 1997.



MEMORANDUM

March 19, 1996

TO: Representative Terry Martin  
Alaska House of Representatives

FROM: John Bitney, Legislative Liaison  
Alaska Housing Finance Corporation

SUBJECT: HB 436, an Act relating to mobile homes

Per your request, the following is information from the Alaska Housing Finance Corporation (AHFC) regarding HB 436, an Act relating to purchase of mobile homes by mobile home dealers or agents; to include home titles; and providing for an effective date:

Regarding the registration and bonding requirements for mobile home agents, AHFC acknowledges the consumer protection aspects of Section 1. Under HB 436, "a person who is engaged in the business of buying, selling, or dealing in new or used mobile homes and maintains an inventory of mobile homes for sale" must register with the Department of Commerce and Economic Development. The registration and bonding requirements will provide a better guarantee for mobile home purchasers of the integrity of the unit and the sale.

The state title requirement in Section 2 will provide for the availability of a deed of ownership on mobile homes. With AHFC's mobile home financing program (see below), a deed of ownership will offer better security for the corporation. Under current practice, a bill of sale is usually the only proof of ownership for a mobile home.

Under AHFC's current mobile home program, eligible properties are mobile home units located on rented or leased land or older mobile home units situated on fee simple properties. Certain mobile homes permanently affixed to real estate are financiable under any of the standard loan programs offered through AHFC, such as taxable, tax-exempt, or veterans.

2-46423

CAREY HOMES, INC.  
SERVES ALASKA

3317 Mt. View Drive — Anchorage, Alaska 99501  
272-5414

3-19-96

Representative Terry Martin

Dear Representative Martin, I'm writing to you today in favor of the Alaska Manufactured Housing Associations proposed changes to House Bill No. 436. We would like to be among the first to take proper steps to increase the protection for our customers and others which believe in the inherent benefits that our industry provides.

In reading HB 436 two positive issues come to mind. First, is a stronger bond which better reflects today's factory built housing. When my father first started in the early 50's, a home would sell off our lot for approximately \$3,500. As our industry has evolved since the 50's so has the prices. Today, our Factory Built Homes compete more and more with the more traditional stick built house. What makes us competitive is our Quality Controlled Construction and of course our price. With this in mind, our office would support the bond increase to \$50,000.. The increase would provide better protection for those who purchase either a new home or a used home from any party who conducts business in our industry.

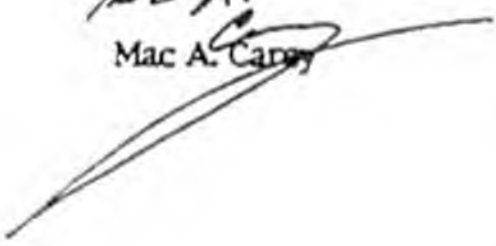
The second issue of importance is that of titling. Public record of liens and ownership via Department of Motor Vehicles is our only true way to convey clear title to a new owner.

Again I would like to reaffirm our support of the Alaska Manufactured Housing Association revised editions to the House Bill No. 436.

Sincerely,



Mac A. Carey





GLENCAREN  
Fine Mobile Home Living  
Location: 2221 Muldoon Road  
ANCHORAGE, ALASKA 99504

20 March 1996

FAX: 1-907-337-2515

Phone: 1-907-337-3463

TO: REPRESENTATIVE TERRY MARTIN

RE: HOUSE BILL NO. 436

We fully support and urge passage of above referenced bill in its entirety. This is in the best interests of the Alaska public and the manufactured housing industry.

*Robert E. Slater*  
Robert E. Slater

# SOUTHWOOD MANOR

8488 GRAYTON DR #68  
ANCHORAGE, ALASKA 99507  
(907) 344-0111

March 20, 1980

The Honorable Terry Martin  
Alaska State Representative  
Juneau, Alaska

Dear Representative Martin:

As a dealer in new and used manufactured homes (Mobile Homes), I am in concurrence with House Bill #436 as relates to having dealers and or agents bonded and that the titling of homes should be mandatory.

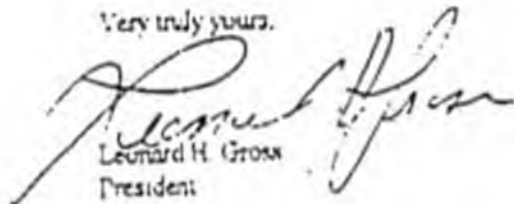
The bonding should apply to the dealers or persons who act in an agency sphere with either the buyer or seller or for his or her own account, but not to the employees (Sales Persons), who are employed by the individual or entity.

My personal feelings are that the bond should be somewhere between the \$100,000.00 require by the D.M.V. as was prior to July 1974 or \$25,000.00 based on present values.

Without titling the homes, there is no central registration on which a buyer can feel 100% safe as to ownership. The present system opens the door to fraud upon the uninformed public.

Thank you for your time and energy in trying to improve and correct the present situation.

Very truly yours,

  
Leonard H. Gross  
President

ALASKA MANUFACTURED HOUSING ASSOCIATION

November 1, 1995

Rep. Terry Martin  
355 Donna Drive  
Anchorage, AK 99504

Dear Rep. Martin:

I have been asked by the Board of Directors of Alaska Manufactured Housing Association to write to you about the need for a consumer protection bill regulating the sale of mobile homes.

Even though mobile homes may be valued up to \$100,000.00, they are personal property and do not fall under the protection of real estate laws unless located on a private lot. Mobile home dealers are unlicensed, unbonded and unregulated. Real estate agents, of course, are strictly regulated and the public is protected by a surety fund, licensing requirements, the Real Estate Commission, etc.

In addition, the state does not require DMV to issue title certificates for mobile homes. DMV is authorized, but not required, to title mobile homes. Banks and other lending institutions normally insist on a certificate of title, but seller-financed sales and cash sales offer no protection for buyers or sellers. Long after a sale is completed a buyer's unit and seller's collateral can be claimed by an unknown title holder or lien holder.

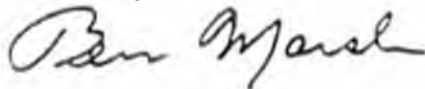
There is a need for some degree of professionalism in agents who broker sales of units, so that unknowledgable buyers and sellers may be protected from risk.

We recommend that you sponsor and introduce a bill that would

1. Make it mandatory for DMV to issue certificates of title for mobile homes. There is already a \$100 fee for title certification.
2. That *dealers* in new or used mobile homes be required to be licensed by the Division of Occupational Licensing as a separate category.
3. That *agents* handling transfers of ownership also be licensed by the Division.
4. That licensees be required to furnish a bond in the amount of \$50,000 in order to do business in mobile home sales.

We hope you can arrange to have such a bill drafted, if you think it should be, also introduced in the Senate. We will cooperate with you fully in this effort.

Sincerely,



Bernard L. Marsh  
Executive Secretary

BLM:ckf

cc: Dave Carey, President  
Leonard Gross, V.P.  
Ira Walker, B.O.D.

THUNDER MOUNTAIN MOBIL PARK AND SALES  
8479 THUNDER MOUNTAIN ROAD  
JUNEAU, AK 99801  
(907)789-7555

3/26/96

Representative Gary Davis  
Transportation Commissioner (Chairman)  
State Capitol Building  
Juneau, Ak 99801

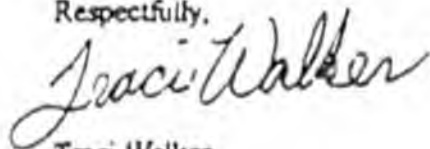
Re: House Bill No 436

Dear Chairman

As an active Licensed Mobile Home Dealership in Alaska, I would like to express my support for House Bill No. 436. I urge you to pass this bill. Not only does this bill clarify licensing and bonding requirements for Home Dealers, it will protect the consumers of Manufactured and Mobile Homes. There are currently homes being shipped to Alaska that do not meet H.U.D.'s "Alaska Package" requirements and homes that are not being warranted because of this.

It is with regrets, I will not be in town to attend the committee meeting in person, but would be happy to speak with you and/or the committee upon my return, the first of April. Again, I request that you pass House Bill No. 436, it is in the public's best interest. Thank you for your time.

Respectfully,



Traci Walker

TW/m

cc: Representative Terry Martin

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 2  
Bill Version: CSHB 436(TRA)  
(H) Publish Date: 4/2/96

Revision Date: \_\_\_\_\_  
Title: An Act relating to purchase and sale of mobile homes  
by mobile home dealers....  
Sponsor: Representative Martin  
Requestor: House Transportation

Department: Commerce and Economic Development  
BRU: Occupational Licensing  
Component: Operations  
COMPONENT SERIAL NO. 1844

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	20.2	20.2	20.2	20.2	20.2	20.2
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES</b>	<b>48.4</b>	<b>0.0</b>	<b>48.4</b>	<b>0.0</b>	<b>48.4</b>	<b>0.0</b>
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	24.2	24.2	24.2	24.2	24.2	24.2
<b>TOTAL</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>	<b>24.2</b>

Estimate of any current year (FY 96) cost: \$ 0.0

**POSITIONS**

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

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

CSHB 436(TRA) creates registration for mobile home dealers. Information obtained from the business license database indicates there may be as many as 124 individuals who may seek registration under this bill. The costs identified above assume that a part-time position would be needed to administer this registration program resulting primarily from the work involved with tracking and maintaining the bonding requirements. The costs are explained further on the attached page.

Prepared by: Jennifer Stueckler, Administrative Officer  
Division: Occupational Licensing  
Approved by Commissioner: William L. Hensley  
Agency: Commerce and Economic Development

Phone: 485-2144  
Date: March 28, 1996  
Date: 3-28-96

PREPARER TO P—

Fiscal Notes

LEGISLATIVE OFFICE  
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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO.: CSHB 436(TRA)

ANALYSIS: (Continued)

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

### PERSONAL SERVICES \$20.2

This funding will provide a part-time Occupational Licensing Examiner I position, Range 12.

The position will be responsible to support the registration program by responding to inquiries, processing applications, track and maintain bonding information, evaluate surety bonds and investigate the actual financial responsibility of individual sureties. Tracking canceled bonds and activity placed against the bond prior to its cancellation.

### CONTRACTUAL SERVICES \$3.0

This funding will cover communication costs, printing of applications and statute/regulation booklets, public notice costs, and costs involved with regulation projects.

### SUPPLIES \$1.0

This funding will provide for daily operating desk top supplies.

**TOTAL:** **\$24.2**

### REVENUE

All programs within centralized licensing are required to pay its regulatory costs through fees generated. Like other regulated programs, the registration of mobile home dealers and agents will be responsible to pay Direct program costs in the first year of operation, and pay Direct program costs and Administrative Indirect costs starting in the second year forward.

Continuation of CSHB 436(TRA) Fiscal Note

The expenses identified in this fiscal note represent the Direct program costs. However, to estimate the amount of the registration fee, we have assumed there are 124 individuals who would seek registration under this bill. To calculate the Administrative Indirect costs, 124 mobile home dealers are added to the division's 32,355 total licensees for a total of 32,479 licensees. The 124 is then divided by the 32,479 licensees to determine the percentage of administrative indirect costs mobile home dealers can be held responsible for. ( $124 \text{ divided by } 32,479 = 0.01$ ). Based on FY 95's Administrative Indirect costs of \$1,291,316.69, the mobile home dealers can expect to be pay \$12,913.17.

Again, this fiscal note assumes that mobile home dealers will cover only the direct regulatory costs for the start-up year, FY 97, and both direct and indirect costs for FY 98 and beyond. Administrative indirect costs charged to other programs will be reduced to offset the mobile home dealers and agents contribution.

Total Program Costs are estimated at:

\$ 48.4 Direct Costs for FY 97 & FY 98  
\$ 12.9 Administrative Indirect Costs for FY 98  
\$ 61.3 Total Program Costs to be covered by 124 registrants

Therefore, the mobile home dealers fee in FY 97 is projected to be:

\$494.36 biennial registration fee (\$61,300 Biennial Program Costs divided by 124 licensees)

1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Mobile Home Dealers and Titles Component: DPS Statewide Support  
 Sponsor: Representative Martin Commissioner's Office: \_\_\_\_\_  
 Requestor: H.T.R.A. COMPONENT SERIAL NO. 0523

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( )	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 96) impact \$ \_\_\_\_\_

POSITIONS

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

ANALYSIS (Attach a separate page if necessary)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 3/28/96  
 Approved by Commissioner: [Signature] Date: 3/28/96  
 Agency: Ronald L. Cite, Dept. of Public Safety

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**HB**

**450**

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAULT

Mailing Address:  
1111 Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
FAX (907) 488-4271



While in Session  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
Fax (907) 465-3884

## House Of Representatives

House District 33

CSHB 450(FIN) "An act relating to trademarks; and providing for an effective date."

Sponsor: Representative Gene Therriault

Date: March 25, 1996

---

### Sponsor Statement:

This legislation is intended to update the State Trademark Act. Alaska's current law is modeled upon the 1964 Lanham Act. The proposed revision is to bring Alaska's trademark law current with the changes to the Lanham Act over the past 30 years, and is modeled closely to the Model State Trademark Bill written by the International Trademark Association. This revision will allow the registration of marks that currently cannot be registered under state law, such as service marks, certification marks and collective marks. The legislation was introduced at the request of the Division of Banking, Securities and Corporations. Passage of the legislation is needed to strengthen the intellectual property rights for Alaska's business community.

The House Labor & Commerce Committee made one minor amendment by adding Section 30 on page 16, line 9. The new section allows the Department of Commerce and Economic Development to begin the process of implementing regulations so the regulations are in effect by the effective date of the bill.

The House Finance Committee Substitute made three changes. The first affects the fees charged for applying for, renewing, assigning and changing the owners' name for trademarks. The fees are currently set in statute. House Bill 450 originally proposed taking the fees out of statute and allowing them to be set by the department. Because of concerns raised in lower committees, the Finance Committee reinstated the current practice of setting fees in statute.

## Sectional Analysis

House Bill 450, "An act relating to trademarks; and providing for an effective date."

The revisions to this bill are based on the Model State Trademark Bill, promulgated by the International Trademark Association.

- Section 1** INTENT. The legislation is intended to make Alaska's system of state trademark registration consistent with the federal system.
- Section 2** Replaces the term "trademark" with the term "marks" as they relate to the income the state derives from rentals or royalties for using the marks. A trademark refers only to a word, name or symbol placed on a product to identify who made it. "Mark" includes a "certification mark," "collective mark," "service mark," and "trademark." A certification mark is used by someone other than the registrant to certify characteristics of the product or that the product was made by a union; a collective mark is used by members of a cooperative or association to indicate membership in a union; a service mark is used to identify the services of a person. This change is made throughout the bill.
- Section 3** AS 45.50.010 (1) - (5) Contains clarification and grammatical changes, including addition of the words "when used on or in connection with" to describe how a mark must be used. This change is made throughout the bill.  
AS 45.50.010 (6) States that a mark cannot resemble another mark registered with the United States Patent and Trademark Office. The current law states the mark cannot resemble another mark registered in the state.
- Section 4** Adds definitions for "descriptive" and "misdescriptive" by stating that when words describing goods or services become accepted as identifying the goods or services, the words are no longer merely descriptive. Defines "misdescriptive" as words that falsely describe goods or services.
- Section 5** Changes the entity with whom a mark must be registered from the department to the commissioner, and makes technical changes.  
(1) (B) Adds the following to the information that must be included when registering a trademark:

The bill proposes the following fees:

Application	\$50 for five years
Renewal	\$50 every five years
Assignment	\$25
Name change	\$25

The second change affects the procedure for appealing the denial of a trademark application. Previous versions required the court to hear the matter de novo, which required amending the Alaska Rules of Appellate Procedure. The de novo provision is now removed.

Finally, the third change on page 13, lines 23-25 clarified that punitive damages may be awarded in an amount not to exceed three times the profits and damages, instead of three times the profits, damages and attorneys fees.

- Section 24** Makes technical amendments.
- Section 25** Provides remedies for cases involving infringement, in the form of a judgment for punitive damages not to exceed three times the profits and damages.
- Section 26** Adds new sections regarding dilution of a mark. Dilution is the lessening of the capacity of a mark to identify and distinguish goods or services. Often the distinctiveness of a famous mark is diluted when it is used without the owner's consent on dissimilar products over a period of time, gradually chipping away the famous mark's foundation. 45.50.180 (d) gives a registrant the right to file an injunction against another's dilution of a famous mark, and to collect damages if the dilution was intentional. It lists factors to be considered when determining if a mark is famous.
- Section 27** Provides definitions.  
45.50.200 (10) Adds a new definition for "use" or "used." The word "use" has been revised according to the standards of the Trademark Law Revision Act and to cover only "use in the state." The requirement of intrastate use eliminates possible ambiguities created by alternate references to "use" or "used."  
45.50.200 (11) Adds a new definition for "verified."
- Section 28** Makes technical amendments
- Section 29** Makes technical amendments
- Section 30** Makes technical amendments
- Section 31** Provides a transition period, stating that the amendments do not apply to an application or proceeding pending on the effective date of the act, and that a registration or renewal of a registration that is in effect on the effective date of the Act remains in effect despite the Act.

- Section 14** Reduces the renewal time from 10 successive years to five successive years.
- Section 15** Changes the time the commissioner must notify registrants of the need to renew from one year to six months before the mark expires.
- Section 16** Changes the assignment fee from \$2 to \$25.
- Section 17** Adds a new section regarding name changes and other filings. Under previous versions of the Model Bill, assignments of trademark registrations and applications are recordable. This section was revised to allow the recording of name changes as well. It sets a fee of \$25 for the service.  
45.50.125(b) Allows the recording of other instruments that relate to state trademark registrations such as licenses, security interests or mortgages.
- Section 18** Technical amendments to reflect other changes.
- Section 19** Provides that the commissioner can cancel registrations that expire and are not renewed under AS 45.50.070 - 45.50.090. Currently, the commissioner can cancel a mark that was registered under previous law, is more than five years old and has not been renewed.  
45.50.140 (f) Provides that a registration may be canceled if the mark has become generic.
- Section 20** Adds a new section stating that a mark is abandoned when use of the mark has been discontinued and the registrant has no intent to resume its use, or when the mark loses its significance as a mark due to action or failure to act. No use of a mark for two years is sufficient to prove that registration has been abandoned.
- Section 21** This section affects classification of goods and services. Some states have adopted the old U.S. classification system while others have converted to the International classification system. The bill removes direct delineation and states that to the extent practical, the classification of goods and services should conform to the classification adopted by the United States Patent and Trademark Office.
- Section 22** Makes technical amendments.
- Section 23** Makes technical amendments.

-- the partnership, the state in which the partnership is organized and the names of the general partners.

-- a statement that to the best of the applicant's knowledge, no other person has previously registered a confusingly similar mark.

-- a statement as to whether an application to register a mark has been filed with the United States Patent and Trademark Office by the applicant or a predecessor and, if registration was refused, why. The change is in response to comments from state trademark administrators who want to benefit from any prior federal examinations.

- Section 6** Adds a new section regarding the application procedure. This section clarifies the commissioner's authority to accept or reject an application, based on the registrability of the proposed mark. Current law gives the commissioner no direction on the procedure for examining applications.
- Section 7** Adds partnership to the list of groups that can apply to register a mark and requires three examples showing use of the mark on or in connection with the goods.
- Section 8** Changes the application filing fee from \$10 to \$50.
- Section 9** Adds the following to the information to be shown on the certificate:
- if a corporation, the state of incorporation
  - if a partnership, the state in which the partnership is organized and the names of the general partners.
- Makes various other technical revisions, such as adding "services" to the definition of products that can be registered. This change is made throughout the bill.
- Section 10** Changes "department" to "commissioner" as the party that issues certificates. Similar changes are made throughout the bill.
- Section 11** Changes the duration of regular registration from 10 years to five years to reduce the number of "deadwood" registrations. "Deadwood" refers to marks that have not been used in commerce for an extended period of time.
- Section 12** Adds a subsection stating that renewal applications must include a verified statement that the mark has been and still is in use.
- Section 13** Changes the renewal fee from \$10 to \$50.

**FAX**

To: Representative Therman  
Alaska State Legislature  
Room 421, State Capitol  
Juneau, Alaska 99801-1182

From: Don and Rose Hanna

Cothran, Inc.  
dba: Red Dog Salmon  
Juneau, Alaska  
FAX: 541-347-4061  
page 1 of 2

Re: Revision of the Alaska Trademark Act

Dear Representative Therman:

With much enthusiasm, we want you to "help direct" to update Alaska's State Trademark Act. Over the past several years, our well known Alaska landmark, the Red Dog Salmon, has been mired upon, diluted and identified with a number in State / out-of-State business concerns attempt to do business in Alaska. Each time our corporation has "added to the cause" to defend our negotiated trademark. And, each time this procedure has cost many dollars and expended much time and energy away from

We learned that the existing system of state trademark registration and protection is vague at best and almost impossible to defend. One of the major obstacles is Alaska's inconsistency with the federal system of trademark registration.

You have our support for your efforts to sponsor legislation to update Alaska's State Trademark Act. We can swap "horror stories", show you examples of large companies attempting to use our trademark, or simply talk with you as you make progress. If we can be of assistance, contact us.

Don and Rose Harris  
Cookhouse, Inc.  
200 Admiral Way  
Gunnear, Alaska  
FAX: 541 347 4061

LANE  
POWELL  
SPEARS  
LUBERSKY

February 16, 1996

Maria Rindner

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Partnership  
Including  
Professional  
Corporations

The Honorable Gene Therriault  
Representative  
Alaska House of Representatives  
Room 421 State Capitol  
Juneau, AK 99801-1182

Re: House Bill No. 450, and Act Relating to Trademarks

Dear Representative Therriault:

I am writing to express my support for House Bill 450, entitled "An Act Relating to Trademarks; Amending Alaska Rule of Appellate Procedure 609; and Providing for An Effective Date." This legislation is based on the revised Model State Trademark Bill, a document drafted in 1992 by the International Trademark Association (INTA), the world's leading organization of trademark owners and practitioners. My firm, Lane Powell Spears Lubersky, is a member of INTA. As an attorney, I encourage the Alaska Legislature to adopt this measure.

House Bill 450 reflects, in part, recent amendments made to the Lanham Act, the federal trademark statute that has effectively protected the interests of consumers and the business community over a period of fifty years. It also promotes consistency with new changes to the trademark laws of other states.

The enactment of this legislation will improve the functioning of the state trademark system. It will allow me and my firm to better defend our clients' marks against infringement and improve the quality of trademark searches undertaken by the Department of Commerce and Economic Development. The promotion of trademarks and the recognition of the important role they play in commerce will also be greatly enhanced.

Please feel free to contact me should you have any questions concerning my support of House Bill 450.

Juneau, AK  
Los Angeles, CA  
Mount Vernon, WA  
Olympia, WA  
Portland, OR  
Seattle, WA  
London, England  
Tokyo, Japan

The Honorable Gene Therriault  
February 16, 1996  
Page 2

Thank you for your assistance.

Very truly yours,

LANE POWELL SPEARS LUBERSKY



Mark Rindner

cc: Anne W. Glazer, Esq.

MRTherriault

Economic Development / DIVISION / MAIL

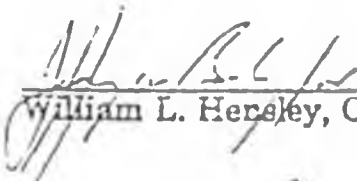
HB 450

The department supports the passage of HB 450. Passage of this bill will make the Alaska Trademark Act substantially consistent with the federal system of trademark registration, and will strengthen "intellectual property" (various types of trademark forms) rights for Alaskan businesses.

The major improvements to the Alaska Trademark Act, proposed by HB 450, include broadening trademark protection to service providers, adding additional remedies to trademark owners for infringement, and providing anti-dilution provisions for "intellectual property" owners whose trademark has become famous in this state.

The department endorses the intent of this bill to update the Alaska Trademark Act, and strengthen "intellectual property" rights for Alaskan businesses.

The department expects no additional cost will be incurred by this legislation.

  
\_\_\_\_\_  
William L. Hershey, Commissioner

Date: 1-31-96

# FISCAL NOTE

No. \_\_\_\_\_  
 Bill Version: SB 2507501  
 (H) Public Date: 2/21/96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An Act Relating to Trademarks.  
 Sponsor: Representative Theraut  
 Requester: \_\_\_\_\_

Department: Commerce and Economic Development  
 SFU: Banking, Securities and Corporations  
 Component: Banking, Securities and Corporations  
 COMPONENT SERIAL NO. \_\_\_\_\_ '223

Expenditures/Revenues	(Thousands of Dollars)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES</b>	<b>0.0</b>	<b>11.3</b>	<b>12.4</b>	<b>13.6</b>	<b>14.3</b>	<b>16.4</b>

FUND SOURCE	(Thousands of Dollars)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
002 Federal Receipts						
003 GF Match						
004 General Fund	0.0	11.3	12.4	13.5	14.3	16.4
005 GF Program Receipts						
006 GRMHTA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>11.3</b>	<b>12.4</b>	<b>13.5</b>	<b>14.3</b>	<b>16.4</b>

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS					
FULL-TIME					
PART-TIME					
TEMPORARY					

**ANALYSIS:** (Attach a separate page if necessary)  
 SB 250 will remove fees from the statute and give the Commissioner authority to promulgate fees by regulation. The current fee for new registration and renewals is \$10.00 per application. The current fee for assignment is \$2.00. The current fees have not increased in 30 years. The increase in revenue is based on an anticipated fee for new registrations and renewals of \$50.00 and an assignment fee of \$50.00.

Prepared by: Wills F. Kirkpatrick, Director *W.F. Kirkpatrick* Phone: 465-2521  
 Division: Banking, Securities and Corporations Date: 1-20-96  
 Approved by Commissioner: William L. Henley *W.L. Henley* Date: 1-28-96  
 Agency: Commerce and Economic Development

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