

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11260 SENATE LABOR & COMMERCE

Benefits of CQEs:

- CQEs improve the economic viability of these communities through local control of fishing privileges.
- The majority of the 42 eligible communities in the proposed rule have experienced an out-migration of quota resulting in a significant decline in the number of quota shares held by local residents. The amendment should provide these communities with a mechanism to reverse the trend and this legislation will provide essential funding for the program.
- CQEs will provide additional employment opportunities for residents, help diversify fishing operations from salmon to halibut and sablefish, and increase efficiency by using existing salmon infrastructure such as vessels, processing plant and cold storage facilities.

Impact of the CQE legislation on Financial Services

- This legislation will not adversely impact private sector lenders. Section one of the bill requires that loans may be made only if the applicant is not eligible or qualified for financing from other recognized commercial lending institutions. This same requirement is already contained in the Commercial Fishing Revolving Loan Fund (CFRLF) statute for loans made to individuals to purchase quota shares.
- The CFRLF has adequate cash flow to handle anticipated loan demand. The Department of Community and Economic Development (Department) expects the program to phase in over a period of several years as communities form CQE's, establish a capital base necessary to meet down payment requirements and locate quota shares to purchase.
- The Department will amend the CFRLF regulations (3 AAC 80.055 (a)) to ensure that if total loan demand for the program ever exceeds the amount of capital available for loans that applications submitted by individuals to purchase limited entry permits, vessels, gear, or quota shares will be processed first.
- There will be no additional administrative costs associated with this proposal. The Department will use existing staff, expertise and infrastructure to handle CQE loans requests.

April 15, 2004



Amending the Halibut and Sablefish IFQ Program

A New Opportunity for Gulf of Alaska Coastal Communities

Restricted Access Management (RAM) • Alaska Region, NOAA Fisheries (NMFS)

Phil Smith, RAM
April 14, 2004

Introduction: Within the next week or so, the U.S. Secretary of Commerce will publish an amendment to the Alaska halibut and sablefish Individual Fishing Quota (IFQ) program. The purpose of the amendment is to provide new opportunities for coastal community residents to benefit from the IFQ program. The amendment will allow those communities to form non-profit corporations under Alaska law; the non-profits will gain eligibility to receive quota by transfer. Quota obtained by the non-profit on behalf of an eligible community will then be fished by a community resident.

Background: Under the halibut/sablefish IFQ program entry to the fisheries is limited to those who hold quota shares. Quota, which is transferable, was initially issued to persons who had a history of fishing during the late 1980s. Under existing rules, quota may only be transferred to those who received shares initially or to "IFQ Crewmembers" (i.e., individuals who can demonstrate that they have commercially fished for a minimum of 150 days).

Since the beginning of the program in 1995, a large amount of the quota initially issued to people living in smaller Gulf of Alaska communities has been voluntarily transferred to people living in larger communities. Although each quota holder made up his or her own mind to transfer the quota, the effect has been a decrease in quota in the community and this fact has raised concerns about the overall economic viability of these smaller communities.

To address this issue, the North Pacific Fishery Management Council (Council) devised a program to provide the opportunity for eligible communities to create non-profit corporations to collectively hold the quota on behalf of the community.

Program Description: Under the program, "eligible communities" are those that have fewer than 1,500 residents (2000 Census), that have a history in the fisheries, that are not on the road system, and that have been designated by the Council. There are currently 42 designated communities, including 21 in South-central and 21 in Southeast.

Each of these communities (or several communities working together) may form a non-profit corporation. Once formed, the non-profit will apply to NMFS for

authority to act on behalf of the community(ies). Upon approval of the application, the non-profit will be designated as a "Community Quota Entity" (CQE). Before approving the application, NMFS will provide it to the State (Department of Community and Economic Development) for review and comment.

Once designated, a CQE will be eligible to receive quota on behalf of the community(ies) it represents. It is anticipated that the CQE will buy the quota from the existing quota market (prices vary, but currently quota sells for around \$12/pound).

When the annual IFQ is issued, the CQE will lease it to fishers who are residents of the communities on whose behalf the CQE holds the quota.

Allocation of the fishing profits will be determined by contract between the CQE and the fisher; it is expected that some will be returned to the CQE to repay loans used to buy the quota and to expand the community's quota holdings.

Other Program Elements: To insure that CQEs don't force individual quota purchasers out of the market, there are strict caps on the amount of quota that may be held by a CQE on behalf of any eligible community, and there is also a cap on the aggregate quota that may be held by CQEs on behalf of all communities. Additionally, there is a limit on the number of halibut and sablefish "blocks" that can be held by CQEs. Finally, CQEs will be required to submit an Annual Report that details their experiences under the program (the Reports will be submitted to NMFS and the Council and will be public information).

Conclusion: It is important to note that this program does not allocate fish and it does not allocate money; instead, it allocates opportunity. To that end, we hope that the creativity and hard work of coastal residents will make the program a success.

More Information: We welcome questions about this important program. Please contact us as follows:

Restricted Access Management Program
Alaska Region, NOAA Fisheries (NMFS)
1-800-304-4846; or (in Juneau): 907-586-7344
e-mail: RAM.Alaska@noaa.gov
www.fakr.noaa.gov/ram

ALASKA DIVISION OF INVESTMENTS
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
Commercial Fishing Revolving Loan Fund
Historical Summary
(Dollars in Thousands)

AS 16.10.300 - .370; enacted in 1972

3 AAC 80.010 -.900

Mission: It is the policy of the state, under AS 16.10.300 - 16.10.370, to promote the rehabilitation of the state's fisheries, the development of a predominantly resident fishery, and the continued maintenance of commercial fishing gear and vessels throughout the state by means of long-term low interest loans.

PURPOSE

ELIGIBILITY

SECTION A: \$300,000 Maximum

Purchase limited entry permits; upgrade existing vessels to improve the quality of Alaska seafood.

SECTION B: \$100,000 Maximum

Purchase limited entry permits, vessels or gear; repair, restore or upgrade existing vessels or gear.

SECTION C: \$300,000 Maximum

Purchase quota shares for the halibut or sablefish fisheries.

SECTION D: \$300,000 Maximum

Satisfy past due Federal tax obligations.

SECTION 10: Refinance

Refinance existing CFRLF loans to allow borrowers to take advantage of lower interest rates when they occur.

SECTION 11: Refinance up to \$300,000

Refinance debts incurred by a borrower to purchase a commercial fishing vessel or gear.

● Alaska resident for the past two years and:

● Active in fishery for 3 of the past 5 years, including the year prior to the date of application.

● No other occupational opportunities available in area of residence, or economically dependent on commercial fishing for a living.

● Intended for individuals that do not qualify for other sources of financing.

● Possesses a permit or crew license.

● Active participant in fishery for 2 of the last 5 years.

● Qualifies as a transferee for quota shares.

● Not eligible for financing from other commercial lenders.

● Files past and current tax returns.

● Meets section A or section B eligibility criteria.

● Loan must be in good standing.

● Qualifies for a loan under section A, B, or C.

Interest rate: Fixed rate at Prime +2%, not to exceed 10.5% (Product quality improvement is Prime -.2%).

Maximum loan term: 15 years

Statistics as of June 30, 2003

Total appropriations to RLF:	60,201.0	Last appropriation RLF: FY85	3,710.0
Total appropriations from RLF:	80,392.0		
Net of appropriations:	<u>(20,191.0)</u>		
Total number of loans committed:	5,905	Number of accounts outstanding:	2,744
Total dollars committed:	366,726.6	Principal amount outstanding:	92,053.5



Tina Dickinson
Communications Specialist
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www.dced.state.ak.us

FOR IMMEDIATE RELEASE: April 14, 2004

No. 04-010

Proposed Legislation Could Assist Fishing Communities In the Gulf and SE Alaska

(Juneau) –Governor Frank H. Murkowski has introduced legislation that would allow non-profit groups to purchase halibut and sablefish (black cod) shares, to be fished by eligible residents along Southeast coastal communities and the Gulf of Alaska.

HB 554 and SB 387 propose a state funding mechanism through the Division of Investments, and opens up opportunity for 42 eligible communities to purchase halibut and sablefish quota shares under a National Marine Fisheries Service program known as Community Entities Quota.

The Department of Community and Economic Development proposes to support legislation to amend the Commercial Fishing Revolving Loan Fund. This will allow the department to make loans to a new group of purchasers and in turn create a new local revenue stream.

"The purpose for this legislation is to bring fishing quotas home to Alaska and provide and economic base for villages traditionally dependent on fishing," said Governor Murkowski. "Some of our communities have been hard hit by the decline in salmon prices, and this program has the potential of bringing long term stability to those regions."

The CQE program will implement a community protection plan for the Gulf of Alaska approved by the North Pacific Fishery Management Council known as Amendment 66. Amendment 66 was the outcome of a series of public meetings with the council process and represents a consensus on how to reverse the outward migration of IFQs from rural Alaska communities to Lower 48 states.

"This is an important step that creates opportunity for local residents to fish quota in their own waters," said DCED Commissioner, Edgar Blatchford. "The development of Alaska's rural economy is of great importance to the Murkowski Administration."

-more-

New Legislation for Gulf and SE Alaska Communities
Page 2

NMFS is expected to publish the final rule implementing Amendment 66 to the Fishery Management Plan for groundfish in the Gulf of Alaska in May 2004. This will allow eligible communities to form non-profit corporations for purchasing and holding Individual Fishing Quotas for halibut and sablefish.

The non-profit corporations will be recognized under the federal regulations as CQEs, and would be authorized to purchase shares on the open market and lease them back to harvesters who are residents of the communities. Only permanent residents would be eligible for leases. Restrictions would apply to quota shares transferred by each CQE outside the program to ensure program goals are met. Communities participating in the program must adhere to performance standards established by NMFS.

"This is a major step towards revitalizing fishing communities that have suffered because of the out migration of IFQs and limited entry permits," said Murkowski. I am encouraged that this will provide smaller communities an opportunity for future revenue and new jobs."

There are 42 communities with 13,030 residents that were determined eligible for the program. The communities are:

Area 2C includes: Angoon, Coffman Cove, Craig, Edna Bay, Elfin Cove, Gustavus, Hollis, Hoonah, Hydaburg, Kake, Kassan, Klawock, Metlakatla, Meyers Chuck, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee Springs, Thorne Bay

Area 3A includes: Akhiok, Chenega Bay, Halibut Cove, Karluk, Larsen Bay, Nanwalek, Old Harbor, Ouzinkie, Port Graham, Port Lions, Seldovia, Tatitlek, Tyonek, and Yakutat

Area 3B includes: Chignik, Chignik Lagoon, Chignik Lake, Ivanof Bay, King Cove, Perryville, and Sand Point

Communities represented by CQEs cumulatively would be limited to holding a maximum of 3 percent of the total halibut and sablefish quota share in each area for the first seven years of the program.

CQEs could only receive and use halibut quota share assigned to vessels 35 to 60 feet (Category C) and greater than 60 feet (Category B). The Council did not recommend catcher vessel restrictions for CQEs holding sablefish quota share.

For more information contact the Department of Community and Economic Development at 907-269-4568.

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FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 387
 (S) Publish Date: 4/13/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Commercial Fishing Loans to Eligible RDU Investments (122)
Community Quota Entities Component Investments
 Sponsor Rules
 Requester By Request of the Governor Component No. 383

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1036)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1036 Commercial Fishing Loan Fund						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would amend the Commercial Fishing Revolving Loan Fund (CFRLF) to allow the department to make loans to a new group of quota share purchasers, Community Quota Entities (CQE), eligible under federal statute or regulation. This bill would accommodate a new class of borrowers under the National Marine Fisheries Service (NMFS) proposed rule (50 CRR 679) that will allow Individual Fishing Quota Shares (IFQs) to be purchased by non-profit entities as identified by the NMFS. The total balances of loans may not exceed \$2 million per community eligible under federal statute or regulation. The department anticipates making approximately \$1 million in CQE loans in FY05 and approximately \$3 million in each fiscal year thereafter through FY10.

No additional administrative costs would be required to accommodate this amendment to the CFRLF.

Prepared by: Greg Winegar, Director Phone (907) 465-2510
 Division Investments Date/Time 2/12/04 11:50 AM
 Approved by: Edgar Blatchford, Commissioner Date 2/12/2004
 Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 387
 (S) Publish Date: 4/13/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Making commercial fishing loans RDU _____
to eligible community quota entities Component _____
 Sponsor Rules Committee
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
 Division: Legislative Liaison Date/Time 1/25/04 11:55 AM
 Approved by: Commissioner Kevin Duffy Date 1/25/2004
 Agency: Alaska Department of Fish & Game

SB

389

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 04/15/04

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 389

SB 389 CORP. CONVERSION: LIMITED LIABILITY CO.

"An Act relating to the conversion of certain corporations to limited liability companies; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- Same Title
- New Title

House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			X	
Betty Davis	X			
Joseph Hopkins	✓			
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>				✓

Senate Bill No. 389

Amendment No. _____

By Rep. _____

Page 2, line 3:

After "or more parent corporations", delete "":

Insert:

"," and the following:

"and consolidated with the parent corporation for federal tax purposes."

SB 389 (Senate L&C)
**Conversion of Subsidiary Corporations to Limited
Liability Companies**

Talking Points

- Alaska law currently allows a wide range of business entities to convert to the status of a limited liability company (LLC). This list does not include corporations. SB 389 is a simple measure that amends existing law to allow a corporation that is a subsidiary to be converted into a limited liability company (LLC).
- Limiting conversion rights to subsidiary corporations should mean little or no corporate tax consequence for the State of Alaska. This bill has received zero fiscal notes from Departments of Revenue and Community and Economic Development. The Department of Revenue describes the tax effect of this bill as “immaterial.”
- A number of Alaska Regional Native Corporations have expressed support for the bill. Letters of support can be found in your packets. The list includes:

The Aleut Corporation
Arctic Slope Regional Corporation
Sealaska Corporation

Bristol Bay Native Corporation
NANA Development Corporation
Doyon Regional Corporation
Koniag Regional Corporation
The 13th Regional Corporation

- These corporations are generally interested in converting certain subsidiaries to LLC status for non-tax reasons. The LLC form of organization is cheaper to operate, particularly for a smaller company. It also provides tighter control over operations.
- Corporations can accomplish this change today without a change in law through a cumbersome process of liquidating and re-forming the entity as a LLC. The Regional Native Corporations are particularly interested in the direct conversion option because they have subsidiaries that hold active 8(a) federal contracts. Allowing a direct conversion avoids the time-consuming and cumbersome process of getting new approval of each active federal contract by both the contracting agency and the Small Business Administration.
- The rules governing the 8(a) program changed recently to allow LLC participation. Prior to this change, all entities were required to be corporations.

Questions & Answers for matters that may come up:

Q.Does this language change the state tax liability for a subsidiary corporation that converts to a LLC if the parent corporation is located outside of Alaska?

A.No. According to the Department of Revenue, the parent remains liable for state corporate income tax on any earnings by its LLC from activities within Alaska.

Q.What impact will the bill have on S-corporations?

A.None. S-corporations are exempt from income tax in Alaska. These entities are typically small businesses. In addition, it is unlikely that a S-corp would be a subsidiary of a larger corporate entity.

Q.Does the bill apply to Alaska Native Corporations only?

A.No. The language applies to any subsidiary corporations registered in Alaska.

Q.Are there any scenarios that can cause a negative tax impact to the state?

A.This is possible, but unlikely. According to the attached letter to Senator Con Bunde from Dan Dickinson, Director of the Tax Division at the Department of Revenue "the bill does not offer any tax planning options that are not generally available to corporations under existing law." The letter goes on to state, "Because we (DOR) believe that the number of reorganizations enabled by the bill are limited and the revenue consequences of the reorganization are mixed, our judgment is that the revenue impact of the bill is immaterial."

Q.Has there been any opposition expressed?

A.No. The bill passed 19-0 on the other side. It has received 9 DP and 7 NR in the two House committees that heard the bill.

STATE OF ALASKA

DEPARTMENT OF REVENUE

Tax Division

FRANK MURKOWSKI, GOVERNOR

State Office Building
PO Box 110420
Juneau, AK 99811-0420
907.465.3692

550 W Seventh, Suite 500
Anchorage, AK 99501-3566
907.269.6620

www.tax.state.ak.us

May 7, 2004

Senator Con Bunde
State Capitol, Room 506
Juneau Alaska

Dear Senator Bunde:

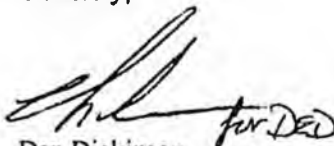
I am writing to respond to the concerns raised in the House Finance Committee over SB 389 and to clarify the Department's view of that legislation. The concern raised was that the ability of a subsidiary corporation to convert directly to a Limited Liability Company (LLC) opens a tax planning opportunity that could negatively impact state revenue.

The bill does not in our view offer any tax planning options that are not generally available to corporations under existing law. Neither does the bill allow for a difference in the tax consequences that result from a reorganization to an LLC as compared to existing law. We believe that the practical effect of the bill is to provide a relatively small group of corporations, whose business environment or organizational structure hinder their ability to reorganize, with the same ability to reorganize that is available to the majority of corporations doing business in Alaska.

We acknowledge that the ability to convert directly to LLC status can have the effect of reducing revenue under certain conditions. At the same time we also recognize that, on a case by case basis, the revenue impact to the state can be positive or neutral. Because the conversion to LLC is limited to subsidiary corporations that are subject to combination with the parent in the calculation of Alaska taxable income, the potential shift of income or loss as a result of the conversion to a pass thru entity is limited to the income or loss attributable to a minority interest. Generally, the revenue gain or loss is limited to the impact of income or loss that may be shifted to another corporate taxpayer or to individuals, nexus attributes, and the effect on apportionment factors. The possibilities are numerous and complex - we can construct scenarios reflecting positive and negative revenue consequences with equal imprecision. Because we believe that the number of reorganizations enabled by the bill are limited and the revenue consequences of the reorganizations mixed, our judgment is that the revenue impact of the bill is immaterial.

Please do not hesitate to contact me if you have any questions or if we can be of any assistance to you.

Sincerely,



Dan Dickinson
Director, Tax Division

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 389
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Corp. Conversion: Limited Liability Co. RDU Banking, Securities & Corporations (115)
 Component: Banking, Securities & Corporations
 Sponsor Senate Labor & Commerce
 Requester Senate Labor & Commerce Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation will allow certain domestic or foreign corporations to convert to limited liability companies.

The division does not anticipate any fiscal impact with the proposed legislation.

Prepared by: Mark Davis, Director Phone (907) 465-2521
 Division Banking, Securities & Corporations Date/Time 4/20/04 12:11 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/20/2004
 Agency Department of Community & Economic Development



KONIAG
INCORPORATED

April 23, 2004

The Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

VIA FAX
465-3871

Re: SB 389 -- Conversion of Subsidiaries to LLC's

Dear Chairman Bunde:

On behalf of Koniag, Inc., I want to express our appreciation for your cooperation in permitting your committee to sponsor SB 389. Koniag strongly supports the passage of SB 389. As I am certain you are aware, the Alaska Native Corporations have been actively involved in investing in businesses in Alaska. The enactment of this law will provide us with additional flexibility in making those investments, without being tied to organizational structures that aren't that beneficial. This change will help Alaska to be on equal footing with other states with respect to the opportunities offered by their laws for the structure of business.

We have appreciated your support and respectfully request your continued support of SB 389.

Yours truly,

KONIAG, INC.

Dennis Metrokin
President

cc: Martha Malavansky, President of The Aleut Corp.
Mark Hickey
William H. Timme, Koniag General Counsel
Vicki Otte, ANCSA President/CEO Assn

4500 B Street, Suite 407
Anchorage, Alaska 99503
(907) 561-2668
FAX (907) 562-5258



April 20, 2004

The Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Re: Sealaska Corporation Support for Senate Bill No. 389 – Conversion of
Certain Corporations to Limited Liability Companies

Dear Chairman Bunde:

On behalf of Sealaska Corporation, I wish to express strong support for Senate Bill No. 389 – Conversion of Certain Corporations to Limited Liability Companies (“SB389”). Sealaska is the Regional Corporation for Southeast Alaska. Over the past 20 years, Sealaska has been a stable contributor to the regional and state economy. A recent McDowell report prepared for Sealaska concluded that Sealaska is the largest private employer in S. E. Alaska.

Sealaska Corporation has numerous operating subsidiaries that benefit from the operating flexibility afforded by the Limited Liability Company Act (AS 10.50; “LLC Act”). The LLC is the structure of choice for Sealaska subsidiary entities. Under current law there has been no means, short of dissolving the corporation, to convert a for-profit entity into an LLC. SB389 will make it possible for Sealaska’s existing corporate subsidiaries to take advantage of the benefits of the LLC Act by empowering the direct conversion of for-profit subsidiary corporations into LLCs.

Sealaska appreciated the Labor & Commerce Committee for sponsoring SB389 and urges the Committee to take prompt action to assure its passage.

Sincerely,

SEALASKA CORPORATION

Chris E. McNeil, Jr.
President & CEO



Doyon, Limited

1 Doyon Place, Suite 300
Fairbanks, Alaska 99701-2941
(907) 459-2000
info@doyon.com

April 23, 2004

The Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Re: Doyon, Limited Regional Corporation Support for Senate bill No. 389 –
Conversion of Certain Corporations to Limited Liability Companies

Dear Chairman Bunde:

On behalf of Doyon, Limited, I wish to express strong support for Senate Bill No. 389 – conversion of Certain Corporations to Limited Liability Companies (“SB 389”). As you may be aware, Doyon, Limited is the Regional Corporation, formed pursuant to the Alaska Native claims Settlement Act (“ANCSA”) for primarily Athabaskan people in the interior region of Alaska. For many years, Doyon, Limited has enjoyed the position of one of the largest private corporations in the state, with gross revenues of approximately \$56,224,275.00 annually. Doyon, Limited is also the largest private landowner in the State, steadily contributing to a productive Alaska economy.

Doyon, Limited has in excess of fifteen operating subsidiary and affiliate companies working in Alaska, across the nation and internationally. The operating flexibility and tax benefits afforded by the Limited Liability Company Act (AS 10.50; “LLC Act”) make it the structure of choice for new Doyon, Limited subsidiary entities. However, under current law there has been means, short of dissolving the corporation, to convert a for-profit entity into an LLC. SB 389 will make it possible for Doyon, Limited’s existing corporate subsidiaries to take advantage of the benefits of the LLC Act by empowering the direct conversion of for-profit subsidiary corporations into LLC’s.

Page 2
The Honorable Con Bunde

Doyon, Limited thanks the Labor & Commerce Committee for sponsoring SB 389 and urges the Committee to take prompt action to assure its passage.

Very truly yours,

DOYON, LIMITED

A handwritten signature in cursive script, appearing to read "Orie Williams".

Orie Williams
President

OW/mkv

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
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April 19, 2004

The Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Re: Arctic Slope Regional Corporation Support for Senate Bill No. 389 – Conversion
of Certain Corporations to Limited Liability Companies

Dear Chairman Bunde:

On behalf of Arctic Slope Regional Corporation ("ASRC"), I wish to express strong support for Senate Bill No. 389 – Conversion of Certain Corporations to Limited Liability Companies ("SB 389"). As you may be aware, ASRC is the Regional Corporation, formed pursuant to the Alaska Native Claims Settlement Act ("ANCSA") for the Inupiat People of the Arctic Slope Region of Alaska. For many years, ASRC has enjoyed the position of the largest private corporation in the State, with gross revenues of approximately \$1 billion annually. ASRC is also the largest private employer in the State, steadily contributing to a productive Alaskan economy.

ASRC has in excess of seventy (70) operating subsidiary and affiliate companies working in Alaska, across the nation and internationally. The operating flexibility and tax benefits afforded by the Limited Liability Company Act (AS 10.50; "LLC Act") make it the structure of choice for new ASRC subsidiary entities. However, under current law there has been no means, short of dissolving the corporation, to convert a for-profit entity into an LLC. SB 389 will make it possible for ASRC's existing corporate subsidiaries to take advantage of the benefits of the LLC Act by empowering the direct conversion of for-profit subsidiary corporations into LLCs.

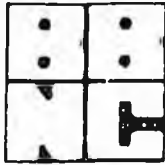
ASRC thanks the Labor & Commerce Committee for sponsoring SB 389 and urges the Committee to take prompt action to assure its passage.

Very truly yours,

ARCTIC SLOPE REGIONAL CORP.

A handwritten signature in dark ink, appearing to read "Oliver Leavitt".

Oliver Leavitt, Chairman and Vice President
Government Affairs



Bristol Bay Native Corporation

Enriching Our Native Way of Life

800 Cordova Street, Suite 200 / Anchorage, Alaska 99501-6299 / (907) 278-3602 / fax (907) 276-3924

April 16, 2004

The Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Bunde:

Bristol Bay Native Corporation (BBNC) is writing in support of SB 389, concerning limited liability companies. We appreciate the fact that you have agreed to sponsor this bill and facilitate fixing an onerous process.

BBNC is an active participant in the Small Business Administration's (SBA) 8(a) program. We have several companies participating in the program as corporations and have contemplated converting some of them to LLC's. Accomplishing that objective in Alaska is currently too big an obstacle.

We sincerely hope that this piece of legislation will move through supported by the full house and senate.

Respectfully,

Tom Hawkins
Senior Vice-President and COO



THE 13TH REGIONAL CORPORATION
An Alaska Native Corporation

1156 Industry Drive

Seattle, WA 98188

206/575-6229

FAX 206/575-6283

Email: info@the13thregion.com

April 16, 2004

The Honorable Con Bunde, Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99804-1182

Attn: Jane Alberts
VIA FACSIMILE: (907) 465-3871

RE: SB 389

Dear Chairman Bunde:

We would like to confirm our support of SB 389. We formed three (3) new LLC companies as of January 2004, because of the federal tax advantage to as a pass through to its members. However, keeping in mind that each state has its own laws regarding LLC'S.

Our one non-LLC subsidiary (M. Kennedy Co., Inc.) will be graduating from the SBA's 8(a) program soon, so we may need to determine its future related to its organizational structure. All future companies that we form will be LLC'S.

As a result, the tax advantage of converting to an LLC form of organization, is something each Regional Corporation should be able to utilize and we encourage your passing this bill.

Sincerely,

Kenneth Krajewski
CEO



NANA Development Corporation

1001 E. BENSON BOULEVARD, ANCHORAGE, ALASKA 99508 / (907) 265-4100 / FAX (907) 265-4123

April 20, 2004

The Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Via Facsimile: 907-465-3871

Re: Senate Bill 389

Dear Honorable Con Bunde:

NANA Development Corporation would like to thank you for allowing your committee to sponsor Senate Bill 389. On behalf of NANA, I offer this letter of support for Senate Bill 389. We feel the passage of Senate Bill 389 would be beneficial to NANA and to all other corporations as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Jacquelyn R. Luke". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jacquelyn R. Luke
Vice President, General Counsel





April 19, 2004

Honorable Con Bunde
Chairman
Senate Labor & Commerce Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Bunde:

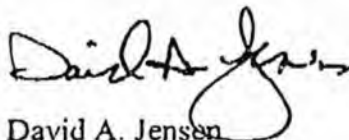
The Aleut Corporation incorporated C Corporations prior to legislation authorizing incorporation of Limited Liability Corporations. All of our new defense contracting companies have been or will be incorporated pursuant to provisions of incorporation of LLC's. The Aleut Corporation desires to standardize the corporate status of the subsidiary companies so that all subsidiary companies are LLC's strictly for tax and accounting purposes.

There is no affect on State corporate tax income whatsoever by permitting this conversion. Since our subsidiaries are 100% wholly owned there is no Federal income tax affect either. The Aleut Corporation consolidates all subsidiary company income and files a consolidated Federal and State income tax return annually.

Currently, other many states permit this conversion. It is logical that the State of Alaska clarify the statutory ambiguity by clearly authorizing conversion.

We look forward to testifying on support of SB389

Sincerely,
THE ALEUT CORPORATION



David A. Jensen
Chief Executive Officer



THE 13TH REGIONAL CORPORATION

An Alaska Native Corporation

1156 Industry Drive

Seattle, WA 98188

206/575-6229

FAX 206/575-6283

Email: info@the13thregion.com

April 16, 2004

The Honorable Con Bunde, Chairman
Senate Labor & Commerce Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99804-1182

Attn: Jane Alberts
VIA FACSIMILE: (907) 465-3871

RE: SB 389

Dear Chairman Bunde:

We would like to confirm our support of SB 389. We formed three (3) new LLC companies as of January 2004, because of the federal tax advantage to as a pass through to its members. However, keeping in mind that each state has its own laws regarding LLC'S.

Our one non-LLC subsidiary (M. Kennedy Co., Inc.) will be graduating from the SBA's 8(a) program soon, so we may need to determine its future related to its organizational structure. All future companies that we form will be LLC'S.

As a result, the tax advantage of converting to an LLC form of organization, is something each Regional Corporation should be able to utilize and we encourage your passing this bill.

Sincerely,

Kenneth Krajewski
CEO

EXPLANATION OF WHY CORPORATIONS SHOULD BE ALLOWED TO CONVERT TO LLCs

Many Alaska Native Corporations (ANCs) have subsidiary companies that are active in the field of government contracting. The ANCs and their subsidiaries are eligible to participate in the federal 8(a) contracting program because of their status as minority and/or disadvantaged businesses.

However, in order to participate in these programs, the ANCs have had to comply with the regulations surrounding the minority contracting programs that have been promulgated by the Small Business Administration. Formerly, these regulations required that the ANCs establish subsidiary corporations with a great deal of separation in management from the parent. A number of the ANCs have subsidiaries which were set up as corporations in order to comply with the rules as they existed then.

Since that time, and with the gradual acceptance of LLCs as a form of doing business, the SBA regulations have changed. The most efficient way for an ANC to participate in minority contracting is now to use an LLC. Almost all of the subsidiaries which have been formed for minority contracting in recent years have been LLCs. However, there are still some subsidiary corporations left from the old days.

Theoretically, these corporations could be changed into LLCs under current law by a roundabout process. The corporation would be liquidated and its assets would be transferred to a new LLC. This procedure is fraught with problems for the minority contracting subsidiaries, however, because it means that the subsidiary will have to get the government agency for each of its contracts to agree to the

transfer. Each transfer of a government contract must also be approved by the SBA. This can be done, but it is time consuming and inefficient.

The efficient way to turn these subsidiaries into LLCs would be to convert them. In fact, many states allow a corporation to be converted into an LLC. And Alaska allows every kind of business except a corporation to be converted into an LLC.

If Alaska doesn't change its law to be comparable to that in other states, businesses will be encouraged to form new entities elsewhere. For example, the law of Colorado and of Delaware is more favorable than Alaska's because it is possible to convert a corporation to an LLC. Moreover, as explained above, changing the law will not allow an action that can't already be done, it will just make the procedure quicker and more efficient.

The Department of Revenue does not object to the change, so long as it does not present an adverse tax impact. Since the ANC subsidiary corporations are in most cases consolidated with the parent for tax purposes, they do not pay a separate corporate income tax. For that reason, the wording of the amendment is designed to allow conversion only by those corporations which are consolidated with a parent for tax purposes. This means that there would be no tax impact resulting from the amendment.

Compliments of Mycorporation.com

Advantages of forming an LLC

In general: An LLC is a hybrid between a partnership and a Corporation in that it combines the "pass-through" treatment of a partnership with the limited liability accorded to corporate shareholders.

Two members required: Unlike a corporation which can have as few as one shareholder, most states require that an LLC consist of two or more members (owners). Recently, however, more states are allowing single-member LLCs. Please note, however, that the IRS may treat a single person LLC differently than an LLC with more than one member.

Separate Legal Entity: Like limited partnerships and corporations, an LLC is recognized as a separate legal entity from its "members."

Limited Liability: Ordinarily, only the LLC is responsible for the company's debts thus shielding the members from individual liability. However, there are some exceptions where individual members may be held liable:

Guarantor Liability: Where an LLC member has personally guaranteed the obligations of the LLC, he or she will be liable. For example, where an LLC is relatively new and has no credit history, a prospective landlord about to lease office space to the LLC will most likely require a personal guarantee from the LLC members before executing such a lease.

Alter Ego Liability: Very similar to the judicial doctrine applied to corporations where a court may hold the individual shareholders liable where the business entity is merely the "Alter Ego" of its shareholders, a member of an LLC may also be held liable for the LLC's debts if the court imposes its "alter ego liability" doctrine.

Please note, however, that although a corporation's failure to hold shareholder or director meetings may subject the corporation to alter ego liability, this is not the case for LLCs in California. An LLC's failure to hold meetings of members or managers is not usually considered grounds for imposing the alter ego doctrine where the LLC's Articles of Organization or Operating Agreement do not expressly require such meetings.

Management and control: Management and control of an LLC is vested with its members unless the articles of organization provide otherwise.

Voting Interest: Ordinarily, voting interest directly corresponds to interest in profits, unless the articles of organization or operating agreement provide otherwise

Transferability: No one can become a member of an LLC (either by transfer of an existing membership or the issuance of a new one) without the consent of members having a majority in interest (excluding the person acquiring the membership interest) unless the articles of organization provide otherwise.

Duration: Although many states now allow an LLC to have a perpetual existence, LLC's traditionally were required to specify the date on which the LLC's existence will terminate. In most cases, unless otherwise provided in the articles of organization or a written operating agreement, an LLC is dissolved at the death, withdrawal, resignation, expulsion, or bankruptcy of a member (unless within 90 days a

majority in both the profits and capital interests vote to continue the LLC).

Formalities: The existence of an LLC begins upon the filing of the Articles of Organization with the Secretary of State. The articles must be on the form prescribed by the Secretary of State. Among the required information on the form is the latest date at which the LLC is to dissolve and a statement as to whether the LLC will be managed by one manager, more than one manager, or the members.

To validly complete the formation of the LLC, members must enter into an Operating Agreement. This Operating Agreement may come into existence either before or after the filing of the Articles of Organization and may be either oral or in writing.

Although states have differing definitions for LLC's, the more important scorekeepers the IRS. Per my Jeff's sister and husband, who has worked for the IRS since 1978, the IRS will consider an LLC a corporation, if they determine so, thereby subjecting it to double taxation.

Liz Ross
RGMC
Turning Ideas into Actions
321-235-0253
www.rgmc.biz

AS 10.50.570. Conversion to Limited Liability Company.

(a) Any other entity may convert to a limited liability company by filing with the department

- (1) a certificate of conversion to a limited liability company that has been executed under
- (b) of this section by one or more persons organizing the conversion; and
- (2) articles of organization that comply with AS 10.50.075 and that have been signed by one or more persons organizing the conversion.

(b) The certificate of conversion to a limited liability company must state

- (1) the date on which and the jurisdiction where the other entity was first created, formed, or incorporated, or otherwise came into being, and, if the other entity has changed its jurisdiction, its jurisdiction immediately before its conversion to a limited liability company;
 - (2) the name of the other entity immediately before the filing of the certificate of conversion to a limited liability company;
 - (3) the name of the limited liability company as stated in its articles of organization filed under (a) of this section; and
 - (4) the future effective date or time, which must be a certain date or a certain time, of the conversion to a limited liability company if the conversion is not to be effective on the filing of the certificate of conversion to a limited liability company and the articles of organization.
- (c) On the filing with the department of the certificate of conversion to a limited liability

company and the articles of organization, or upon the future effective date or time of the certificate of conversion to a limited liability company and the articles of organization, the other entity is converted to a limited liability company and, after the conversion, is subject to all of the provisions of this chapter, except that, notwithstanding AS 10.50.080 , the existence of the limited liability company is considered to have commenced on the date the other entity commenced its existence in the jurisdiction in which the other entity was first created, formed, or incorporated, or otherwise came into being.

(d) The conversion of any other entity to a limited liability company does not affect any obligation or liability of the other entity incurred before the conversion, or the personal liability of any person that is incurred before the conversion.

(e) When a conversion of any other entity to a limited liability company becomes effective under this section, for all purposes of the laws of this state,

(1) all rights, privileges, and powers of the other entity, all real, personal, and mixed property, all debts due to the other entity, and all other things and causes of action belonging to the other entity, are vested in the limited liability company and are after the conversion, the property of the limited liability company as they were of the other entity;

(2) the title to any real property vested by deed, or otherwise vested, in the other entity does not revert and is not in any way impaired by reason of this chapter;

(3) all rights of creditors and all liens on property of the other entity attach to the limited liability company; and

(4) all debts, liabilities, and duties of the other entity attach to the limited liability company, and may be enforced against it to the same extent as if the debts, liabilities, and duties had been incurred or contracted by the limited liability company.

(f) Unless otherwise agreed, or as required under the applicable law of another state, any other entity that converts to a limited liability company under this section is not required to wind up its affairs or to pay its liabilities and distribute its assets, and the conversion does not constitute a dissolution of the other entity.

(g) Before filing a certificate of conversion to a limited liability company with the department, a limited liability company agreement must be approved in the manner provided for by the document, instrument, agreement, or other writing governing the internal affairs of the other entity and the conduct of its business, or by applicable law, as appropriate.

(h) The provisions of this section may not be construed to limit the accomplishment of a change in the law governing, or of the domicile of, any other entity to this state by any other means provided for in a limited liability company agreement or other agreement, or, as otherwise permitted by law, including by the amendment of a limited liability company agreement or other agreement.

(i) In this section, "other entity" means a business trust, an association, a real estate investment trust, a common law trust, or any other unincorporated business, including a general partnership, a registered limited liability partnership, a limited partnership, a limited liability limited partnership, and a foreign limited liability company.

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FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 389
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Corp. Conversion: Limited RDU Revenue Programs & Services
Liability Co. Component Tax Division
Sponsor (S) Labor & Commerce
Requester (S) Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Pursuant to federal income tax law, a limited liability company ("LLC") is an entity that is not automatically classified as a corporation. The default classification of a multimember business entity organized as an LLC is a partnership and the default classification of a single member business entity organized as an LLC is a disregarded entity where the owner is the taxpayer. The LLC may instead, however, elect to be taxed as a corporation in lieu of a default classification.

An LLC taxable as a corporation for federal income tax purposes is subject to the Alaska Corporation Net Income Tax in the same manner as any other corporation. An LLC with corporate member owners

Prepared by: Chuck Harlambert Phone 465-2320
Division Tax Division Date/Time 4/19/04 8:25 AM
Approved by: Steve Porter, Deputy Commissioner Date 4/19/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 389

ANALYSIS CONTINUATION

that is treated as a partnership for federal income tax purposes is not itself subject to the Alaska income tax but each corporate owner would report the owner's share of the income and apportionment factors of the LLC on the owner's Alaska corporate tax return. In essence, there should be no income tax effect as long as the LLC either elects to be taxed as a corporation or the LLC is 100% owned by corporate entities, and remains so following the conversion. Since the bill provides that only subsidiary corporations may convert to an LLC the act of conversion would not have a fiscal impact on state tax revenues regardless of the federal tax characterization as either a corporation or partnership.

Current tax law provides a large incentive for business to be conducted in the state outside the regular corporate form, as partnerships, individuals, and S-Corporations are not subject to the income tax. The bill provides for a more direct method of converting a corporate subsidiary to an LLC, but does not influence the federal or state tax consequences. Since this incentive already exists, the practical effect of the bill is to enable conversions that would not occur under existing law due to non-tax reasons. Therefore, there should be no measurable revenue impact due to the legislation. It should be noted that a measurable revenue impact is possible if the conversion option were made available to non-subsi-dary corporations.

Alaska State Legislature

DURING SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

WEB SITE
www.akrepublicans.org/Bunde



SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

E-MAIL
Senator.Con.Bunde@legis.state.ak.us

Sponsor Statement for SB 389

“An Act relating to the conversion of certain corporations to limited liability companies; and providing for an effective date.”

Many states allow a corporation to be converted to a limited liability company (LLC). Alaska allows every kind of business except a corporation to be converted into a LLC. **SB 389 amends existing law to allow subsidiary corporations owned directly or indirectly by one or more parent corporations to convert to limited liability companies (LLCs).** Restricting this authority to subsidiaries ensures there is not a negative tax consequence.

Many Alaska Native Corporations (ANCs) have subsidiary companies that are active in the field of government contracting. For example, the ANCs and their subsidiaries are eligible to participate in the federal 8(a) contracting program. However, in order to participate in these programs, the ANCs have had to comply with the regulations promulgated by the Small Business Administration (SBA). Formerly, these regulations required that the ANCs establish subsidiary corporations with a great deal of separation in management from the parent.

LLCs are now much more widely accepted as a form of doing business. As a result, the SBA regulations have changed. The most efficient way for an ANC to participate in minority contracting is to use a LLC. Almost all of the subsidiaries that have been formed for minority contracting in recent years have been LLCs. However, there are still some subsidiary corporations left from the old days. These corporations could be changed into LLCs under current law by a roundabout process of liquidating the corporation and transferring its assets to a new LLC. This procedure is fraught with problems for the minority contracting subsidiaries. It means that the subsidiary must get the government agency for each of its contracts to agree to the transfer. The SBA must also approve each transfer of a government contract. This can probably be accomplished, but it is time consuming and inefficient.

The efficient way to turn these subsidiaries into LLCs is to convert them. If Alaska elects to not change its law to be comparable to that in other states, businesses will be encouraged to form new entities elsewhere. For example, the law of Colorado and of Delaware is more favorable than Alaska's because it is possible to convert a corporation to an LLC. **Changing the law will not allow an action that cannot already be done; it will just make the procedure quicker and more efficient.**

It is our understanding that the Department of Revenue does not object to the change, so long as it does not present an adverse tax impact. Since the subsidiary corporations are consolidated with the parent for tax purposes, they do not pay a separate corporate income tax. For that reason, the wording of the amendment is designed to allow conversion only by subsidiary corporations. This means that there should be no tax impact resulting from the change.

SB

392

THE
FOLLOWING
DOCUMENT(S)
ARE
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COPIES

SENATE COMMITTEE REPORT
First Committee of Referral

TE: 04/20/04

FURTHER: Finance

te of 5-Day Notice: _____
 accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

For and Commerce Committee considered SENATE BILL NO. 392

SB 392 REGULATORY COMMISSION OF ALASKA

1 Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Ralph Seekin</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB392-Law-RAPA-4-22-C
Bill Version: SB 392
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory..." RDU CIVIL
Component Regulatory Affairs Public Advocacy
Sponsor Senate Labor & Commerce
Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	300.0	300.0	300.0	300.0	300.0	300.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	300.0	300.0	300.0	300.0	300.0	300.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)
1141 RCA Receipts	1,312.8	1,312.8	1,312.8	1,312.8	1,312.8	1,312.8
TOTAL	300.0	300.0	300.0	300.0	300.0	300.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill amends AS 42.05.254 by clarifying that the general costs of public advocacy will continue to be paid from the established regulatory cost charge mechanism. The bill also exempts state agencies from reimbursing the Regulatory Commission of Alaska (commission) for commission costs in a proceeding to which the state agency is a party. The bill adjusts the previously established statutory cap on the regulatory cost charge upwards by .07% and allocates the total amount between the RCA and the Department of Law's public advocacy function. The increase is to allow for the \$300,000 increase in budget authority shown in this fiscal note. Additionally, the bill provides the Department of Law qualified access to utility and pipeline carrier books and records similar to that afforded the RCA's former public advocacy staff.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division: Administrative Services Date/Time 4/22/04 3:54 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 4/22/2004
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 392

ANALYSIS CONTINUATION

Continuing in the spirit of Executive Order 111, the Governor's FY 2005 amended budget completes the transfer of responsibility and oversight for the regulatory public advocacy function by transferring the associated staff positions and adding additional interagency receipt authority to the newly created Regulatory Affairs Public Advocacy section in the Department of Law. Through the statutory changes proposed in this legislation, the new section shall be budgeted directly from the regulatory receipts rather than through an interagency transfer of funds. This fiscal note converts the receipts portion only but may require further amending to include the transfer of expenditure authorization and positions if the portion of the Governor's amended budget that would make that change is not adopted.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB392-Law-RAPA-2-16-C
Bill Version: SB 392
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to the expenses of investigation, RDU CIVIL
hearing, or public advocacy before the Regulatory..." Component Regulatory Affairs Public Advocacy
Sponsor Senate Labor & Commerce
Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Com. ins						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)
1141 RCA Receipts	1,012.8	1,012.8	1,012.8	1,012.8	1,012.8	1,012.8
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 42.05.254 by clarifying that the general costs of public advocacy will continue to be paid from the established regulatory cost charge mechanism.

The bill also exempts state agencies from reimbursing the Regulatory Commission of Alaska (commission) for commission costs in proceeding to which the state agency is a party. The bill would require utilities, pipeline carriers, and pipelines to pay the costs of contract expert witnesses retained by the attorney general when the attorney general appears as a public advocate for regulatory affairs before the commission. Additionally, the bill provides the Department of Law the same access to utility and pipeline carrier books and records to the same extent as had been previously allowed commission investigatory staff.

Prepared by: Kathryn A. Daughhete, Director
Division: Administrative Services

Phone 465-3673
Date/Time 4/20/04 11:46 AM

Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General
Agency: Department of Law

Date 4/20/2004

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. SB 392

ANALYSIS CONTINUATION

Continuing in the spirit of Executive Order 111, the Governor's FY 2005 amended budget completes the transfer of responsibility and oversight for the regulatory public advocacy function by transferring the associated staff positions and adding additional interagency receipt authority to the newly created Regulatory Affairs Public Advocacy section in the Department of Law. Through the statutory changes proposed in this legislation, the new section shall be budgeted directly from the regulatory receipts rather than through an interagency transfer of funds. This fiscal note converts the receipts portion only but may require further amending to include the transfer of expenditure authorization and positions if the portion of the Governor's amended budget that would make that change is not adopted.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 392
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Regulatory Commission of Alaska RDU Regulatory Commission of Alaska (399)
 Component Regulatory Commission of Alaska
 Sponsor Senate Labor & Commerce
 Requester Senate Labor & Commerce Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

CHANGE IN REVENUES (1141)	*	*	*	*	*	*
------------------------------------	---	---	---	---	---	---

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 - RCA Receipts						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation codifies the establishment of and funding for the Regulatory Commission of Alaska's (RCA's) Public Advocacy Section in the Department of Law.

Sections 12 and 13 would have the effect of redistributing an estimated \$18,287.60 of hearings costs, previously allocated to the Department of Law, to all other utilities that pay regulatory cost charges (RCC's). The RCA does not budget for these types of transactional costs on an on-going basis, and therefore future fiscal impacts are indeterminate.

The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: Mark K. Johnson, Commissioner, Chair Phone (907) 276-6222
 Division Regulatory Commission of Alaska Date/Time 4/20/04 1:17 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/20/2004
 Agency Department of Community & Economic Development

Alaska State Legislature

DURING SESSION
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SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

SB 392 Sponsor Statement RCA Public Advocacy/Dept of Law

Last year's Executive Order 111 transferred the responsibility for advocacy on behalf of the public in utility matters before the Regulatory Commission of Alaska (RCA) from the RCA to the attorney general, and established the public advocacy function within the Department of Law (DOL). AS 42.23.020(e). As a result, RCA personnel historically responsible for public advocacy now act under the authority and direction of the DOL. This bill completes the prior transfer of authority by expressly providing for various aspects of its execution.

SB 392 clarifies that regulatory cost charge receipts (not general fund) will continue to pay for the general costs of public advocacy now administered by the DOL, just as those receipts historically paid for public advocacy costs when the function was performed by RCA personnel.

The bill also adjusts the regulatory cost charge ceiling and creates two, distinct percentages of total regulatory cost charge receipts to separately fund the RCA and the DOL public advocacy function in order to provide each entity with budgetary independence from the other.

SB 392 also provides the DOL with qualified access to utility or pipeline carrier records similar to that afforded the RCA's former public advocacy staff in order to maintain efficient and economical access to information where the RCA has determined that comprehensive review and hearing is appropriate.

Finally, the bill clarifies that state agencies are exempt from paying the allocated costs of RCA proceedings to which the state agency is a party because there is no net fiscal benefit to the state in doing so.

Sponsor Statement

SB ___: “An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law’s costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date.”

SB 392 (RCA Public Advocacy)

➤ **Generally:**

- the need for the bill arises from the transfer of authority for public advocacy on matters before the Regulatory Commission of Alaska (RCA) under last year’s **Executive Order 111**.
- E.O. 111 transferred the responsibility for **advocacy on behalf of the public** interest on utility matters from the RCA to the attorney general and established the public advocacy function within the Department of Law (DOL). AS 44.23.020(e). RCA personnel historically responsible for public advocacy now act under the authority and direction of the DOL.

➤ **Accordingly:**

- the bill **completes the prior transfer of authority** by expressly providing for various aspects of its execution, as regards public advocacy funding and access to records.

➤ **Specifically, the bill would:**

- clarify that *regulatory cost charge receipts (not general fund) will continue to pay for* the general costs of public advocacy now administered by the DOL, just as those receipts historically paid for public advocacy costs when the function was performed under the RCA. *See* Sections 2,3,4,9,10, and 11.
- adjust the regulatory cost charge ceiling and budget the RCA and the DOL public advocacy function, respectively, with *separate, fixed percentages of total* regulatory cost charge receipts under the adjusted ceiling. *See* Sections 1 and 8.
- provide the DOL with *qualified access to records* formerly obtained by the RCA’s public advocacy staff. *See* Sections 5, 7, 11, 12, and 16
- *explicitly exempt* state agencies from paying the allocated costs of RCA proceedings to which the state agency is a party. *See* Sections 6, 13, 14 and 15

CSHB 520 Section by Section Analysis

Sections 2, 3, 4, 9, 10 & 11: These sections clarify that the general costs of public advocacy for utility and pipeline matters before the Regulatory Commission of Alaska (RCA) will continue to be paid from the existing regulatory cost charge mechanism under AS 42.05.254 and AS 42.06.286.

Historically, advocacy on behalf of the public interest was performed by personnel within the RCA. Therefore, the cost of that advocacy was a part of the RCA's budget funded by receipts from the regulatory cost charge, not from the general fund. Effective July 1, 2003, Executive Order 111 (issued during last year's legislative session) transferred the responsibility for public advocacy from the RCA to the attorney general and established the public advocacy function within the Department of Law (DOL).

These sections of CSHB520 amend existing statutes to complete the transfer of authority by expressly providing that regulatory cost charge receipts will continue to pay the costs associated with the public advocacy function that is now administered by the DOL. (Public advocacy funding is currently administered through a separate RDU within the RCA. It will be transferred from the DCED to DOL.) They do not change the regulatory cost charge mechanism.

Sections 1 & 8: First, these sections of CSHB520 increase the regulatory cost charge ceiling by .0007 (from the current .80% to .87%) of the total adjusted gross revenues of all regulated public utilities and pipeline carriers derived from operations in the state. The regulatory cost charges that the RCA annually expects to collect may not exceed the ceiling. The existent cap has not changed since the statute was enacted in 1992. This adjustment in the regulatory cost charge ceiling constitutes an increment of approximately \$300,000. The purpose of the increase in the cap is to provide adequate funding to retain experts when necessary to support the DOL's public advocacy function before the RCA. The RCA budget did not historically contain a specific line item for expert retention by its public advocacy staff.

Second, under the adjusted overall regulatory cost charge ceiling, these sections specify separate, fixed caps on the respective budgets of the RCA and the DOL public advocacy

function. This will complete the transfer of authority for public advocacy by providing each entity with budgetary independence from the other. Accordingly, the RCA budget amount may not exceed .70 % of the total adjusted gross revenues of all regulated public utilities and pipeline carriers; and the DOL public advocacy budget may not exceed .17% of those same total adjusted gross revenues (.70%+.17%=.87%, the adjusted overall cap).

The legislature maintains the authority to appropriate the budget of the RCA and the budget of the DOL public advocacy function.

Sections 5 & 11: These sections of CSHB 520 provide the attorney general with qualified access to utility or pipeline carrier books and records when he participates in RCA dockets in a public interest advocacy role under AS 42.04.070(c) or AS 44.23.020(e).

Prior to the transfer of authority to the attorney general under Executive Order 111, public interest advocacy was performed by Commission staff, who had a statutory right to unfettered access to utility or pipeline carrier records in order to perform their function. AS 42.05.501 and AS 42.06.440. Such access allows efficient and economical use of state resources to investigate public utility and pipeline carrier public interest issues in cases where the commission has determined that comprehensive review and hearing is appropriate. This need for efficient and economical access has not changed by the shift of responsibility for public interest advocacy to the Attorney General. The amendments to AS 42.05.501 and AS 42.06.440 acknowledge these goals but also provide the utility or pipeline carrier with an opportunity for objection to the commission.

Sections 7 & 12: These sections of HB 520 work in tandem with Sections 5 and 11 of CSHB 520. The amendments recognize that public utilities and pipeline carriers may need to request that documents obtained by the attorney general under the amendments contemplated by Sections 5 and 11 be held confidential from public disclosure under the Public Records Act. AS 40.25 *et. seq.* Sections 7 and 12 provide a vehicle for public utilities and pipeline carriers to do so, which request would then be reviewed by the commission for a good cause determination.

Sections 6 & 13: These sections explicitly exempt other state agencies from reimbursing the RCA for costs under AS 42.05.651 and AS 42.06.610 in proceedings to which the state agency is a party. Existent law does not expressly include or exclude state agencies from paying RCA costs. Allowing one state agency to order another state agency to pay its costs provides no net fiscal benefit to the State of Alaska. In fact, the agency subject to the RCA order expends resources to prepare and request an appropriation from the legislature to pay the RCA and the legislature expends resources examining and acting on the request. These sections would not affect the RCA's ability to require reimbursement from parties that are not state agencies.

Sections 14 & 15: These sections of CSHB520 amend the uncodified law to provide that specific provisions enacted by Sections 6 and 13 of this Act apply to RCA orders issued in related proceedings begun before the effective date of the Act and that those specific provisions are retroactive to May 30, 2003.

Section 16: This section amends the uncodified law to instruct the revisor of statutes to change the heading of AS 42.05.501.

Section 17: This section provides for an effective date of July 1, 2004.

2 April 2004

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for Regulatory Affairs
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State of Alaska Department of Law
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daniel_patrick_o'tierney@law.state.ak.us

SB 392 (RCA Public Advocacy) Sectional Analysis

Sections 2, 3, 4, 9, 10 & 11: These sections clarify that the general costs of public advocacy for utility and pipeline matters before the Regulatory Commission of Alaska (RCA) will continue to be paid from the existing regulatory cost charge mechanism under AS 42.05.254 and AS 42.06.286.

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function. This will complete the transfer of authority for public advocacy by providing each entity with budgetary independence from the other. Accordingly, the RCA budget amount may not exceed .70 % of the total adjusted gross revenues of all regulated public utilities and pipeline carriers; and the DOL public advocacy budget may not exceed .17% of those same total adjusted gross revenues (.70%+.17%=.87%, the adjusted overall cap).

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Sections 7 & 12: These sections of SB 392 work in tandem with Sections 5 and 11 of SB 392. The amendments recognize that public utilities and pipeline carriers may need to request that documents obtained by the attorney general under the amendments contemplated by Sections 5 and 11 be held confidential from public disclosure under the Public Records Act. AS 40.25 *et. seq.* Sections 7 and 12 provide a vehicle for public utilities and pipeline carriers to do so, which request would then be reviewed by the commission for a good cause determination.

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Section 17: This section provides for an effective date of July 1, 2004.

20 April 2004

Contact: Daniel Patrick O'Tierney
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SB

1001

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 6/22/04

FURTHER:

DATE TURNED
 IN TO OFFICE: 6/22/04

Labor and Commerce Committee considered SENATE BILL NO. 1001

SB 1001 TOBACCO TAX; LICENSING; PENALTIES

"An Act relating to taxes on cigarettes and tobacco products, to tax stamps on cigarettes, to forfeiture of cigarettes and of property used in the manufacture, transportation, possession, or sale of unstamped cigarettes, to accounting for and use of part of the proceeds of the additional cigarette tax, and to licenses and licensees under the Cigarette Tax Act; relating to unfair cigarette sales; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

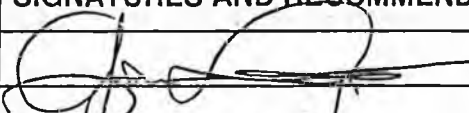
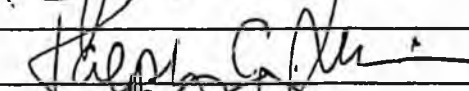

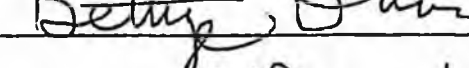
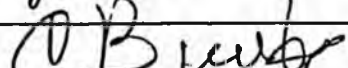
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	4/21	✓			3

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	4/15	✓			1
DPS	4/14	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
 G. Stevens	✓			
 R. Seekins	✓			
 H. French	✓			
 B. Davis	✓			
CHAIR:  C. Bunde	✓			

Under Uniform Rule 23 (a) I move that the publication
notice requirements for public hearing be waived for Senate
Bill 1001

The L & C Committee will meet at 2:30 to hear Senate
Bill 1001 in the Beltz Room

Special Session Tobacco Tax Bill

Sectional Analysis Departments of Revenue and Law

- Sections 1, 16:** Section 1 outlines the intent by the legislature to provide funding for tobacco control programs at the minimum level recommended by the U.S. Department of Health and Human Services from tobacco tax revenues collected by the state. Section 16 implements this intent by taking 8.9% of annual cigarette tax revenues levied under AS 43.50.190(a) to be deposited into the tobacco use education and cessation fund.
- Sections 2-4:** These sections raise the various cigarette license fees to \$50—to make them the same as the current license fee for distributors.
- Sections 5, 10-13:** These sections make technical corrections to the wholesaler-distributor cigarette license type. They also ensure that in-state individuals and retailers are not double-taxed on product that is sold to them by an entity holding a wholesaler-distributor license.
- Section 6:** This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month.
- Sections 7 and 15:** These sections exempt the first 400 cigarettes (2 cartons) that an individual personally transports into the state each month from the cigarette tax.
- Section 8:** This section changes the definition of a class A misdemeanor for violations of the cigarette shipping restrictions from one but fewer than 1,000 cigarettes to one but fewer than 5,000 cigarettes. This section also changes the definition of a class C felony for violations of the shipping restrictions from 1,000 or more cigarettes to 5,000 or more cigarettes. The intention in raising the threshold for a class C felony is to make it consistent with the current threshold for a class C felony theft, which requires the value of the property or services to be at least \$500. The tax that would be due on 5,000 cigarettes under this bill would be \$500.
- Section 9:** This section makes a person who shipped cigarettes to Alaska in violation of our cigarette shipping restrictions jointly and severally

liable for cigarette taxes to the fullest extent permitted by the U.S. Constitution.

- Section 14:** This section increases the tax on cigarettes by 50 mills or \$1.00 per pack of 20 cigarettes. The increase in this tax will go into the general fund.
- Section 17:** This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost and also levies the tax on other tobacco products sold or imported into the state for personal consumption.
- Section 18:** This section requires that individuals that import other tobacco products into the state must have a license as a "buyer".
- Section 19:** This section requires that a fee of \$25 must be paid for a tobacco products "buyer" license
- Section 20:** This section requires distributors to provide information about the type of tobacco business they are conducting to the Department of Revenue.
- Section 21:** This section allows distributors and buyers to renew their tobacco products license each year for a fee of \$50 and \$25, respectively.
- Section 22:** This section requires individuals who import tobacco products for personal consumption to file a return each month indicating the amount and purchase price of the tobacco products and the tax due on those tobacco products.
- Section 23:** This section changes the definition of a "distributor" to include entities that sell cigarettes to individuals for personal consumption.
- Section 24:** This section changes the definition of "licensee" in the tobacco products statute to include the new buyer license type.
- Section 25:** This section provides a definition for "buyer" in the tobacco products statutes.
- Section 26:** This section allows a licensee to request that the department replace cigarette tax stamps that were lost or damaged in transit.

- Section 27:** This section allows licensees with a physical location in the state and who have been in full compliance with cigarette tax statutes for the preceding 5 years to reduce their bond requirement from 200% to 100% of their monthly purchases of tax stamps when payment is made on a deferred payment basis.
- Section 28:** This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales.
- Section 29:** This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska.
- Section 30:** This is the forfeiture section which allows seizure of assets used by a person when the person commits, supported by a showing of probable cause, the crime of misconduct involving unstamped cigarettes in the first degree under AS 43.50.640. This section further outlines the types of assets that may be seized, procedures to be used to seize such assets, and procedures to be used in disposing of seized assets.
- Section 31:** This section changes the definition of misconduct involving unstamped cigarettes in the first degree from sales of or possession with intent to sell 1,000 or more unstamped cigarettes to sales of or possession with intent to sell 5,000 or more unstamped cigarettes.
- Section 32:** This section changes the definition of misconduct involving unstamped cigarettes in the second degree from sales of one but fewer than 1,000 unstamped cigarettes to sales of one but fewer than 5,000 unstamped cigarettes and from possession of one but fewer than 10,000 unstamped cigarettes to possession of 401 but fewer than 10,000 unstamped cigarettes. This section also includes importation or possession of one but fewer than 401 unstamped cigarettes as misconduct involving unstamped cigarettes in the second degree if the cigarettes are not possessed for personal consumption.

- Section 33:** This section allows manufacturers to offer cigarette promotions in the state provided the promotion offered at the wholesale level is the same for all wholesalers who participate in the promotion and the promotion offered at the retail level is the same for all retailers who participate in the promotion.
- Section 34:** This section makes a technical change to AS 43.50.720 so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 35:** This section makes a technical change to AS 43.50.760(b) so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 36:** This section makes a technical change to AS 43.50.770 so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 37:** This section makes a technical change to AS 43.50.790(a) so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 38:** This section changes the calculation of cost of cigarettes as defined in the Unfair Cigarette Sales Act that went into effect January 1, 2004 as the result of the passage last session of SB 168. The Unfair Cigarette Sales Act prohibits all cigarette wholesalers and retailers from selling cigarettes below cost. This section modifies the Unfair Cigarette Sales Act by prohibiting wholesalers and retailers from reducing their cost by cash discounts received from the manufacturers. This section also requires wholesalers and retailers to obtain prior approval from the Department of Revenue before selling cigarettes at a cost below the amount posted by the Department of Revenue.
- Section 39:** This section repeals sections of the Unfair Cigarette Sales Act that conflict with the new language inserted in section 38.
- Section 40:** This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old rate and the tax due at the new tax rate. The floor stock tax applies to cigarettes only. The floor stock tax must be remitted to

the Department of Revenue in six sequential monthly installments with the first installment due no later than 30 days after the effective date of this bill. The floor stock tax is needed to reduce the amount of stockpiling by retailers and distributors and the windfall they will get by collecting, but not paying, tax at the new rate on the stockpiled cigarettes.

Section 41: This section provides an effective date of September 1, 2004.

JOANNA BALES:

Major Changes - Combined H&S Versions from Reg. Session.

Bill brings tax to equal wholesale price of product.

Military installations
Indian reservations
& Indian country
are exempt.

Metlakla & Klawock
Smoke Shops sales
are exempt.

Comte. Aide Notes of Testimony & Vote

\$4 mil to Tobacco Prevention
& Cessation state agency - OH:SS

- 2 cartons per month personal use per month w/o tax liability conforms w/ fed law. Personally transported
- changed threshold for Class C felony. Current 1000 cigs → 5,000
- State can collect taxes from out of state to fullest allowed by US Constitution
- ^{other tobacco products} OTTP tax levied against people bringing in taxes (not in L&C version, now in SB1001 Sec. 17.)
Bring tax somewhat closer to level of tax on cigs
- took H&C versions on forfeiture for products taken due to criminal activity.

COMM. GILBERTSON:

Done w/ \$ going to cessation: \$4 mil in addition to \$4.5 mil coming in from MSA. Current \$ used for ~~the~~ cessation, intervention & competitive grants to various organizations (TV commercials, toll-free quit line, etc.) Additional will augment & bring us up to CDC minimum level. Div. of Public Health, Epidemiology, community clean air activities, Heart, Lung, Tobacco Alliance, etc.

Move SB 1001 - indiv. recs & 3 FN
5-0 moved

Davis	Y	Burdle -Y
Frend	Y	
Seekins	Y	
Stevens	Y	

FRANK H. MURKOWSKI
GOVERNOR
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June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

*SB 1001
HB 1001*

Dear Speaker Kott:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill that increases the cigarette excise tax by \$1.00 a pack and makes other changes in our current statutes. The tax on "other tobacco products" such as smokeless tobacco would be increased from 75 percent to 100 percent of the wholesale cost.

Passage of these tax increases is supported by the health benefits alone. Tobacco is the number one preventable cause of death, disability, and chronic illness in Alaska. It is public health enemy number one. I want these tax increases to reduce consumption of tobacco products in Alaska. Such a decrease will benefit adult smokers who decide to quit, teenagers and pre-teens who decide to quit or not start smoking, and Alaskans that choose not to smoke but suffer the ill effects of second hand smoke.

Current estimates are that passage of the cigarette tax should result in a 15 percent drop in illegal teen smoking. A 15 percent drop in youth smoking rates from current levels translates into 1,800 lives saved from premature death due to tobacco addiction. My hope is that even more Alaska teens decide not to try smoking or break their addiction to cigarettes.

Among current adult smokers, 3,500 will quit smoking because of the tax, and of those, 800 will be saved from a smoking-caused death. Smoking among expectant mothers would also be reduced significantly; resulting in 850 babies being spared from exposure to maternal smoking prior to delivery during the next five years.

Alaska Natives should particularly benefit from reduced smoking. While smoking rates are declining within the U.S. general population, the rate of smoking is unchanged among Alaska Native adults and, at 44 percent, is

The Honorable Pete Kott
June 21, 2004
Page 2 of 2

almost double that of non-Natives. Currently, 44 percent of Alaska Native high school students smoke almost four times the rate among non-Native students. Lung cancer, the leading cause of cancer deaths, is increasing at an alarming rate among Alaska Natives of both sexes. Cardiovascular disease, including heart disease and stroke, is also linked with tobacco use, and kills approximately 120 Alaska Natives each year.

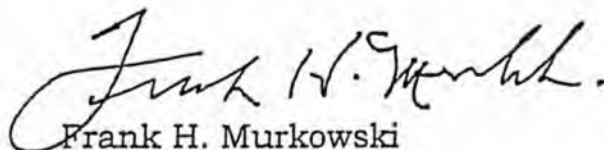
In order to ensure we achieve these health benefits, I have included language that earmarks part of the tax revenues for the smoking education, tobacco use prevention, and tobacco control program. At the level I have included, Alaska would become one of five states that fund tobacco cessation programs at or above the level recommended by the Centers for Disease Control.

I have also included a significant increase in the tax on smokeless tobacco. Other forms of tobacco such as chew or cigars also present serious risks to the health of users. For example, smokeless tobacco users may be up to twice as likely as non-users to die from heart disease and other cardiovascular conditions due to increased blood pressure.

There is also an important fiscal benefit in this bill. The new revenues generated by the tax increases will help reimburse a portion of the approximately \$270 million in annual costs for direct medical expenses and lost productivity attributed to tobacco use in Alaska. The financial burden all Alaskans are stuck with because some Alaskans smoke should be reduced. This bill targets users and asks them to pay a bit more of the costs they impose on all Alaskans. I believe many Alaskans would argue they should not be stuck with any costs for someone else's voluntary choice to use a dangerous product.

Given the health impact, cost savings, and revenue to be generated from the proposed tobacco tax, I urge your support for this legislation.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 1001
(S) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Cigarette and Tobacco Products Tax Increase RDU Revenue Programs & Services
Component Tax Division
Sponsor Governor
Requester Rules Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	466.1	466.1	466.1	466.1	466.1	466.1
Travel	60.0	60.0	60.0	60.0	60.0	60.0
Contractual	248.0	246.8	246.8	246.8	246.8	246.8
Supplies	6.0	6.0	6.0	6.0	6.0	6.0
Equipment	48.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	828.1	778.9	778.9	778.9	778.9	778.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	29,100.0	35,000.0	35,000.0	35,000.0	35,000.0	35,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	828.1	778.9	778.9	778.9	778.9	778.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	828.1	778.9	778.9	778.9	778.9	778.9

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	6	6	6	6	6	6
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Cigarette and Tobacco Products Tax Increase - Bill Analysis (December 24, 2003)

Bill Language: This bill will increase the cigarette tax from \$1 per pack of twenty cigarettes to \$2 per pack and the tobacco products tax (OTP) from 75% to 100% of the wholesale cost. This bill will also institute a floor stock tax on existing cigarette inventories held for sale in an attempt to reduce the amount of stockpiling of cigarettes on the effective date. In an attempt to reduce the amount of cigarette smuggling and tax evasion, this bill will also allow the Department of Public Safety to seize and dispose of equipment, vehicles, monies and other assets used in activities which violate the cigarette and tobacco products statutes.

(cont. on page 2)

Prepared by: Johanna Bales Phone 269-6628
Division: Tax Division Date/Time 6/15/04 9:53 AM
Approved by: Steve Porter, Deputy Commissioner Date 6/15/2004
Agency: Department of Revenue

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 1001

ANALYSIS CONTINUATION

Assumptions: The Department of Revenue (DOR) will have primary enforcement responsibility for the cigarette and tobacco products excise tax program. However, DOR will work with the Department of Public Safety (DPS) and Department of Law (DOL) as part of a task force responsible for cigarette tax stamp enforcement in the state. DPS, at the request of DOR, will provide investigative support through a reimbursable services agreement (RSA). The amount of this RSA has been estimated by DPS. Monies for the RSA are included in the Contractual costs requested in this fiscal note. This fiscal note does not include additional costs that may be incurred by DOL as a result of this legislation. From information obtained from other states with cigarette tax rates of \$1.50 to \$2.05 per pack, DOR expects that the increase in the tax rates will result in a significant increase in incidents of cigarette smuggling and tax evasion.

Program Summary: DOR will conduct periodic inspections of cigarette and tobacco products licensees as well as retailers who hold tobacco endorsements with the Department of Community and Economic Development for unstamped cigarettes. In addition, DOR will be the primary contact for complaints from the public and compliant retailers regarding unstamped cigarettes. DOR will work with DPS and DOL to develop cases against cigarette smugglers, including seizing unstamped product and assets used in activities that violate the cigarette and tobacco products statutes. DOR will prepare assessments for unstamped cigarettes and untaxed cigarettes and OTP imported into the state by individuals for personal use and/or resale and work with federal agencies to stop out-of-state entities, specifically Internet sellers, from shipping cigarettes into the state in violation of existing statutes.

Positions: DOR expects that it will need 6 additional positions, 1 Revenue Auditor Supervisor II, 2 Investigator III's, 1 Revenue Auditor III, 1 Accounting Technician III and 1 Appeals Officer (Revenue Auditor V), to manage the workload of the task force, conduct investigations, prepare assessments, and work appeals filed in disputes involving assessments, seized cigarettes, and seized assets. These six positions, along with the two existing investigator positions already assigned to tobacco cases, will represent DOR as part of the task force explained above. DOR estimates the total cost of these additional positions to be \$466,100 each year.

Other Operating Expenditures: (1) Travel - DOR estimates it will need \$60,000 for travel costs for investigators to conduct routine inspections of the approximate 1,600 known cigarette retail establishments throughout the state each year. DOR estimates that each investigator will need to conduct, at a minimum, ten separate inspections/investigations in villages within the state each year to insure an effective enforcement program and respond to complaints from the public of unstamped product. (2) Contractual - Contractual costs in the amount of \$248,000 in the first year and \$246,800 each year thereafter are primarily to fund an RSA between DOR and DPS and for the lease, operation and maintenance of two vehicles to be used by investigators to conduct inspections/investigations in the Anchorage, Mat-Su and Kenai Peninsula areas of the state where most cigarette retail establishments are located. Investigators must be able to respond to complaints of unstamped product quickly and perform unscheduled inspections of retail establishments on an ongoing basis. Contractual costs also include leasing office space and providing phone service for 6 additional employees and renting storage facilities for seized cigarettes and other assets. (3) Supplies - DOR estimates \$1,000 per each FTE each year (a total of \$6,000) for supplies needed to perform the duties of these positions. (4) Equipment - DOR expects equipment expense of \$8,000 per FTE (a total of \$48,000) in the first year for computers, telephones, cubicle parts, software, and other one-time purchases of office equipment needed to perform the duties of these positions.

Revenue: DOR estimates cigarette and tobacco products revenues to increase between \$33 and \$37 million each year. However, DOR believes these revenues will be much smaller unless we institute an aggressive investigation and enforcement program. Although we believe the provision for cigarette tax stamps, which took effect January 1, 2004, will be an effective tool in enforcement of the cigarette excise tax, its success depends upon aggressive enforcement. Even at \$1.00 per pack, the incentive for smuggling and tax evasion is great. At \$2.00 per pack, it will be much more attractive. An aggressive enforcement program will help protect the projected revenue increase.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 1001
 (S) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Act Rrelating to Tobacco Tax RDU Alaska State Troopers
 Component Bureau of Alcohol and Drug Enforcement
 Sponsor Rules Committee
 Requester Governor Component No. 2745

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	171.4	171.4	171.4	171.4	171.4	171.4
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	15.0	15.0	15.0	15.0	15.0	15.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	206.4	206.4	206.4	206.4	206.4	206.4

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Inter-Agency Receipts	206.4	206.4	206.4	206.4	206.4	206.4
TOTAL	206.4	206.4	206.4	206.4	206.4	206.4

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will increase the cigarette tax from \$1 per pack of twenty to \$2 per pack and the other tobacco products (OTP) tax from 75% to 100% of the wholesale costs. The Department of Public Safety (DPS) will be required to seize and dispose of assets used in illegal activities related to tobacco products statutes.

The DPS will provide investigative support to the Department of Revenue through a reimbursable services agreement. The DPS estimates the services of two full-time investigators and associated field travel, training, communication and vehicle usage will be needed to implement this legislation. The use of these investigative assets and any, as yet unidentified expenses associated with cigarette tax stamp enforcement, will be coordinated between the two agencies and reimbursed at actual cost.

Prepared by: Captain Al Storey Phone 269-5682
 Division: Alaska State Troopers Date/Time 6/14/04 9:26 AM
 Approved by: Commissioner William Tandeske Date 6/14/2004
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: LL170-DHSS-DPH-06-22-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title TOBACCO TAXES AND RELATED MATTERS Dept. Affected: Health & Social Services
 RDU Public Health
 Component Tobacco Prevention and Control

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester _____ Component No. 2384

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual		2,600.0	2,600.0	2,600.0	2,600.0	2,600.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims		1,400.0	1,400.0	1,400.0	1,400.0	1,400.0
Miscellaneous						
TOTAL OPERATING	0.0	4,000.0	4,000.0	4,000.0	4,000.0	4,000.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1168 Tobacco Educ/Cess Fund		4,000.0	4,000.0	4,000.0	4,000.0	4,000.0
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	4,000.0	4,000.0	4,000.0	4,000.0	4,000.0

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Funding for the Tobacco Control Program is authorized and appropriated by the Alaska Legislature each year. The Legislature established the Tobacco Use Education and Cessation Fund as AS 37.05.580, and a portion of Tobacco Master Settlement Agreement revenues are deposited into the Tobacco Fund in April of each year to support the Tobacco Control Program. The program faced a serious cash flow problem in FY04 that continues as it heads into FY05. The Department of Health and Social Services projects that the fund will have only \$397,000 of carry forward revenue at the start of FY05. The FY 2005 budget passed by the legislature authorized a budget of \$4,669,200. The projected \$4,300,000 Master Settlement revenue will not be deposited to the (continued next page)

Prepared by: Sherry Hill, Special Assistant Phone 465-1618
 Division: Office of the Commissioner Date/Time 06/21/2004
 Approved by: Joel S. Gilbertson, Commissioner Date 06/22/2004
 Agency: Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. LL170-DHSS-DPH-06-22-04

ANALYSIS CONTINUATION

Analysis Continued:

State until April 2005. As a result, the program will have to "borrow" from other Public Health programs in the interim to allow the Tobacco Control program to operate. This can be seen in the attached table showing Cash Flow without Tobacco Tax as a negative cash flow from July 2004 until April 2005 (attachment A).

Passing the proposed increase in tobacco excise taxes and including the proposed provision that 8.9 percent of the total proceeds of the tax shall be deposited into the Tobacco Use Education and Cessation Fund established in AS 37.05.580 will fix the existing cash flow problem as well as increase prevention funding. This fiscal note reflects an increase of \$4,000,000 Tobacco Education/Cessation Fund spending authorization for the Tobacco Prevention and Control component of the Public Health RDU. Additional authorization of this amount will result in expanded tobacco program activities as well as allow for sufficient carryforward to support program activities in the next fiscal year until Master Settlement revenues are deposited. See attached table showing cash flow with Tobacco Tax (attachment B).

These funds will also help offset a projected decrease in the Tobacco Master Settlement Agreement revenues, according to the latest forecast by the National Association of Attorneys General. This fiscal note also assumes that the current authorization for \$500,000 Tobacco Education/Cessation Fund in the Community Health Grants component would be switched to General Funds in the FY06 budget. If this does not occur, the funds available to the Tobacco Prevention and Control component would be reduced by \$500,000 to remain within the projected revenues. The net increase to the Tobacco Prevention and Control component will be approximately \$3,330,000. See attachment C for summary of Tobacco Program revenues and authorization.

The increased spending authorization is based on the Department of Revenue's projection that the amount of cigarette tax revenue deposited into the Tobacco Use Education and Cessation Fund would be \$4,000,000 annually. All revenues are reported on the Department of Revenue fiscal note.

Critical to the ongoing fiscal integrity of the program will be action by the legislature every year to provide for carry forward of unexpended Tobacco Use Education and Cessation Funds from the current State Fiscal Year to the following one. Because the Master Settlement revenues are not deposited until April each year, legislative action to authorize carry forward is essential so the State can avoid a negative cash flow situation.

The State Tobacco Control Program develops its annual management plan every year depending on the level of appropriations authorized by the legislature. The Tobacco Control Program staff, Alaska Division of Public Health (ADPH), work on an on-going basis closely with members of the Alaska Tobacco Control Alliance (ATCA) to monitor the burden of

FISCAL NOTE
FN #

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. LL170-DHSS-DPH-06-22-04

ANALYSIS CONTINUATION
Analysis Continued:

tobacco on Alaskans, evaluate existing program activities, assess "Best Practices Guideline" from the National Centers for Disease Control and Prevention, and identify new opportunities to target prevention programs. Working together, the ATCA and Tobacco Control Program staff develops detailed recommendations to the Director, ADPH and Commissioner, Department of Health and Social Services for allocating appropriated resources.

If the legislature passes the proposed tobacco excise tax increase and authorizes 8.9 percent of annual proceeds to be deposited to the Tobacco Use Education and Cessation Fund, then the program will be able to significantly increase prevention program activities. To do so, the Tobacco Control Program staff will meet with our colleagues of the Alaska Tobacco Control Alliance to plan for ramping up the program beginning in FY06. We propose maintaining program spending in FY05 at the currently authorized level of \$4,669,200. This will allow the program to achieve a positive cash flow situation in FY05 with adequate funding to carry forward in FY06 to assure a continued positive cash flow.

We propose a FY06 and FY07 budget at a level of \$7,500,000 with an annual carry forward of \$2,600,000. This level of funding will protect the program from negative cash flow. This will bring us closer to, the Center for Disease Control's Best Practices minimum recommended expenditure level of \$8,100,000. Actual revenues and expenditures will be monitored to possibly allow for increased program funding to this recommended level in FY08 or beyond.

See attachments A-E.

Tobacco Use, Education and Cessation Fund Cash Flow Without Tobacco Tax

FY05	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	FY05 Total
Projected Carryforward of Revenue from FY04	397.0												397.0
Dept of Law Estimated Tobacco Settlement Deposit to Tobacco Educ/Cess Fund *										4,300.0			4,300.0
Projected Monthly Expenditures **	531.0	257.2	257.2	689.4	235.4	235.4	627.0	235.4	235.4	622.0	302.9	312.9	4,541.2
Cash Balance in Tobacco Fund w/out Tax ***	(134.0)	(391.2)	(648.4)	(1,337.8)	(1,573.2)	(1,808.6)	(2,435.6)	(2,671.0)	(2,906.4)	771.6	468.7	155.8	

FY06	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	FY06 Total
Projected Carryforward from FY05	155.8												155.8
Dept of Law Estimated Tobacco Settlement Deposit to Tobacco Educ/Cess Fund *										3,500.0			3,500.0
Projected Monthly Expenditures **	427.5	207.1	207.1	355.0	189.5	189.5	504.8	189.5	189.5	500.7	243.8	251.9	3,655.8
Cash Balance in Tobacco Fund w/out Tax ***	(271.7)	(478.7)	(685.8)	(1,240.8)	(1,430.3)	(1,619.6)	(2,124.5)	(2,314.0)	(2,503.5)	495.7	251.9	(0.0)	

FY07	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	FY07 Total
Projected Carryforward from FY06	(0.0)												(0.0)
Dept of Law Estimated Tobacco Settlement Deposit to Tobacco Educ/Cess Fund *										3,500.0			3,500.0
Projected Monthly Expenditures **	409.3	198.2	198.2	531.3	181.4	181.4	483.2	181.4	181.4	479.4	233.5	241.2	3,500.0
Cash Balance in Tobacco Fund w/out Tax ***	(409.3)	(607.5)	(805.7)	(1,337.0)	(1,518.5)	(1,699.9)	(2,183.1)	(2,364.6)	(2,546.0)	474.6	241.2	(0.0)	

* Dept of Law revenue estimate based on the National Association of Attorneys General estimate for Alaska's Master Settlement Revenues. The official Dept of Revenue forecast for FY05 is \$4.4 million.

** Projected Monthly Expenditures based on normal cash flow for grants/contracts/staff costs. FY05 total expenditures based on current program management plan. FY06 & FY07 total expenditures equal to total revenue projected for year. These projections also assume that Tobacco Educ/Cess Funding for Community Health Grants (\$500.0 in FY05) is switched to GF in FY06 budget, leaving all Tobacco Funds in direct support of the Tobacco Program.

*** No payments can be made from the Tobacco Use, Education and Cessation Fund when there is zero or negative cash balance. When a negative balance is shown above, another source of funding must be utilized until a revenue deposit is made into the Tobacco Educ/Cess Fund. This would likely delay the scheduled monthly expenditures and possibly impact the total expenditure level in the Tobacco Control Program.

Tobacco Use, Education and Cessation Fund Cash Flow With Proposed Tobacco Tax Receipts

FY05	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	FY05 Total
Projected Carryforward of Revenue from FY04	397.0												397.0
Dept of Law Estimated Tobacco Settlement Deposit to Tobacco Educ/Cess Fund *										4,300.0			4,300.0
Projected Cigarette Tax Deposits to Tobacco Educ/Cess Fund**					379.2	377.1	341.5	267.3	300.5	293.7	329.7	293.3	2,582.3
Total Monthly Tobacco Educ/Cess Fund Revenue	397.0	0.0	0.0	0.0	379.2	377.1	341.5	267.3	300.5	4,593.7	329.7	293.3	7,279.3
Projected Monthly Expenditures ***	546.0	264.4	264.4	708.8	242.0	242.0	644.7	242.0	242.0	639.5	311.4	321.7	4,669.2
Cash Balance In Tobacco Fund with Tax ****	(149.0)	(413.4)	(677.9)	(1,386.7)	(1,249.5)	(1,114.5)	(1,417.6)	(1,392.4)	(1,333.9)	2,620.3	2,638.5	2,610.1	

FY06	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	FY06 Total
Projected Carryforward from FY05	2,610.1												2,610.1
Dept of Law Estimated Tobacco Settlement Deposit to Tobacco Educ/Cess Fund *										3,500.0			3,500.0
Projected Cigarette Tax Deposits to Tobacco Educ/Cess Fund**	286.6	348.9	374.3	407.9	379.2	377.1	341.5	267.3	300.5	293.7	329.7	293.3	4,000.0
Total Monthly Tobacco Educ/Cess Fund Revenue	2,896.7	348.9	374.3	407.9	379.2	377.1	341.5	267.3	300.5	3,793.7	329.7	293.3	10,110.1
Projected Monthly Expenditures ***	877.6	425.1	425.1	1,139.3	389.0	389.0	1,036.2	389.0	389.0	1,028.0	500.6	517.1	7,505.1
Cash Balance In Tobacco Fund with Tax ****	2,019.1	1,943.0	1,892.2	1,160.7	1,150.9	1,139.0	444.3	322.5	234.0	2,999.7	2,828.8	2,605.0	

FY07	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	FY07 Total
Projected Carryforward from FY06	2,605.0												2,605.0
Dept of Law Estimated Tobacco Settlement Deposit to Tobacco Educ/Cess Fund *										3,500.0			3,500.0
Projected Cigarette Tax Deposits to Tobacco Educ/Cess Fund**	286.6	348.9	374.3	407.9	379.2	377.1	341.5	267.3	300.5	293.7	329.7	293.3	4,000.0
Total Monthly Tobacco Educ/Cess Fund Revenue	2,891.6	348.9	374.3	407.9	379.2	377.1	341.5	267.3	300.5	3,793.7	329.7	293.3	10,105.0
Projected Monthly Expenditures ***	877.6	425.1	425.1	1,139.3	389.0	389.0	1,036.2	389.0	389.0	1,027.9	500.6	517.1	7,505.0
Cash Balance In Tobacco Fund with Tax ****	2,014.0	1,937.9	1,887.1	1,155.7	1,145.9	1,133.9	439.2	317.5	228.9	2,994.7	2,823.8	2,600.0	

* Dept of Law revenue estimate based on the National Association of Attorneys General estimate for Alaska's Master Settlement Revenues. The official Dept of Revenue forecast for FY05 is \$4.4 million.

** Cigarette Tax Deposits based on Dept of Revenue estimate with 2 month lag after effective date of tax bill before first deposit made to Tobacco Educ/Cess Fund.

*** Projected Monthly Expenditures based on normal cash flow for grants/contracts/staff costs. FY05 total expenditures based on total authorized by Legislature. FY06 & FY07 total expenditures assume a cash balance in the Fund at the end of the fiscal year sufficient to maintain positive cash flow in the Tobacco Educ/Cess Fund until the Master Settlement deposit the following April. These projections also assume that Tobacco Educ/Cess Funding for Community Health Grants (\$500.0 in FY05) is switched to GF in FY06 budget, leaving all Tobacco Funds in direct support of the Tobacco Program.

This projection does not show expenditures equal to the CDC recommended minimum Tobacco Prevention and Control Program of \$8.1 million for Alaska. However, if expansion of the Tobacco Program in FY06 is slower than projected, this would result in additional carryforward (in excess of \$2.6 million as shown), which could potentially allow for increased program expenditures in future years.

**** No payments can be made from the Tobacco Use, Education and Cessation Fund when there is zero or negative cash balance. When a negative balance is shown above in FY05, another source of funding must be utilized until a revenue deposit is made into the Tobacco Educ/Cess Fund.

Proposed FY06-07 Tobacco Education/Cessation Fund Budgets/Revenues with Tobacco Tax

	Tobacco Use, Education and Cessation Fund
<i>FY2005 Conference Committee Tobacco Educ/Cess Fund Budget:</i>	
Public Health: Tobacco Prevention and Control	3,315.3
Public Health: Epidemiology	242.7
Public Health: Community Health Grants	500.0
Behavioral Health: Behavioral Health Admin (Enforcement)	611.2
Total FY2005 Budget	4,669.2
<i>FY2005 Revenues:</i>	
Dept of Law revenue estimate from Nat'l Assoc of Attorneys General *	4,300.0
Carryforward of FY04 Revenue	397.0
Cigarette Tax Deposits to Tobacco Fund (Estimated to be Rcvd by June 30, 2005)	2,582.3
Total Estimated FY2005 Revenue	7,279.3
Net Revenue Available to Carryforward to FY06	2,610.1

* Dept of Revenue Spring 2004 Revenue Forecast is \$4.4 million. Dept of Law reports that the National Assoc of Attorneys General that administer the settlement are forecasting a decrease in revenues in FY05-06.

	Tobacco Use, Education and Cessation Fund
<i>FY2006 Proposed Tobacco Educ/Cess Fund Budget: **</i>	
Public Health: Tobacco Prevention and Control (current funding)	3,315.3
Public Health: Tobacco Prevention and Control (net effect of decrease in Master Settlement revenue) ***	(670.3)
Public Health: Tobacco Prevention and Control (proposed increase)	4,000.0
Public Health: Epidemiology	245.0
Behavioral Health: Behavioral Health Admin (Enforcement)	615.0
Total Proposed FY2006 Budget	7,505.0
<i>FY2006 Revenues</i>	
Dept of Law Revenue Estimate from Nat'l Assoc of Attorneys General	3,500.0
Carryforward of FY05 Revenue	2,610.1
Cigarette Tax Deposits to Tobacco Fund (Estimated to be Rcvd 7/1/05-6/30/06)	4,000.0
Total Estimated FY2006 Revenue	10,110.1
Net Revenue Available to Carryforward to FY07	2,605.1

** FY06 and FY07 Proposed Budgets are based on eliminating Tobacco Educ/Cess funding from the Community Health Grants component by replacing that source with General Funds (\$500.0).

*** The latest revenue estimates from the Nat'l Assoc of Attorneys General forecast a decrease in Tobacco Settlement revenue. This decrease in expenditure authority keeps the DHSS program in balance with the total revenue anticipated.)

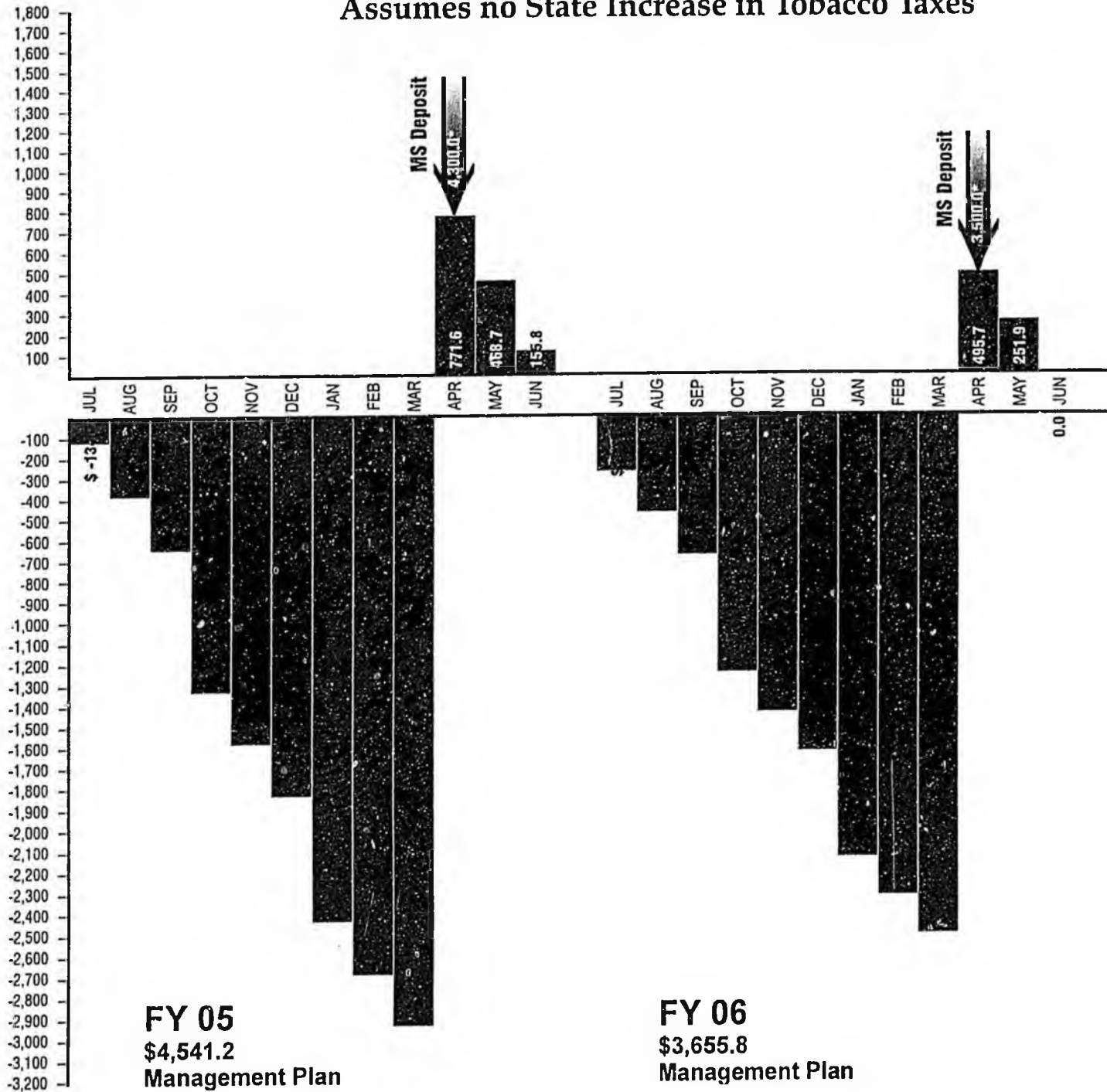
	Tobacco Use, Education and Cessation Fund
<i>FY2007 Proposed Tobacco Educ/Cess Fund Budget: **</i>	
Public Health: Tobacco Prevention and Control (current funding)	3,315.3
Public Health: Tobacco Prevention and Control (net effect of decrease in Master Settlement revenue) ***	(670.3)
Public Health: Tobacco Prevention and Control (proposed FY06 Tobacco Tax increase)	4,000.0
Public Health: Epidemiology	245.0
Behavioral Health: Behavioral Health Admin (Enforcement)	615.0
Total Proposed FY2007 Budget	7,505.0
<i>FY2007 Revenues</i>	
Dept of Law Revenue Estimate from Nat'l Assoc of Attorneys General	3,500.0
Carryforward of FY06 Revenue	2,605.1
Cigarette Tax Deposits to Tobacco Fund (Estimated to be Rcvd 7/1/06-6/30/07)	4,000.0
Total Estimated FY2006 Revenue	10,105.1
Net Revenue Available to Carryforward to FY08	2,600.1

** FY06 and FY07 Proposed Budgets are based on eliminating Tobacco Educ/Cess funding from the Community Health Grants component by replacing that source with General Funds (\$500.0).

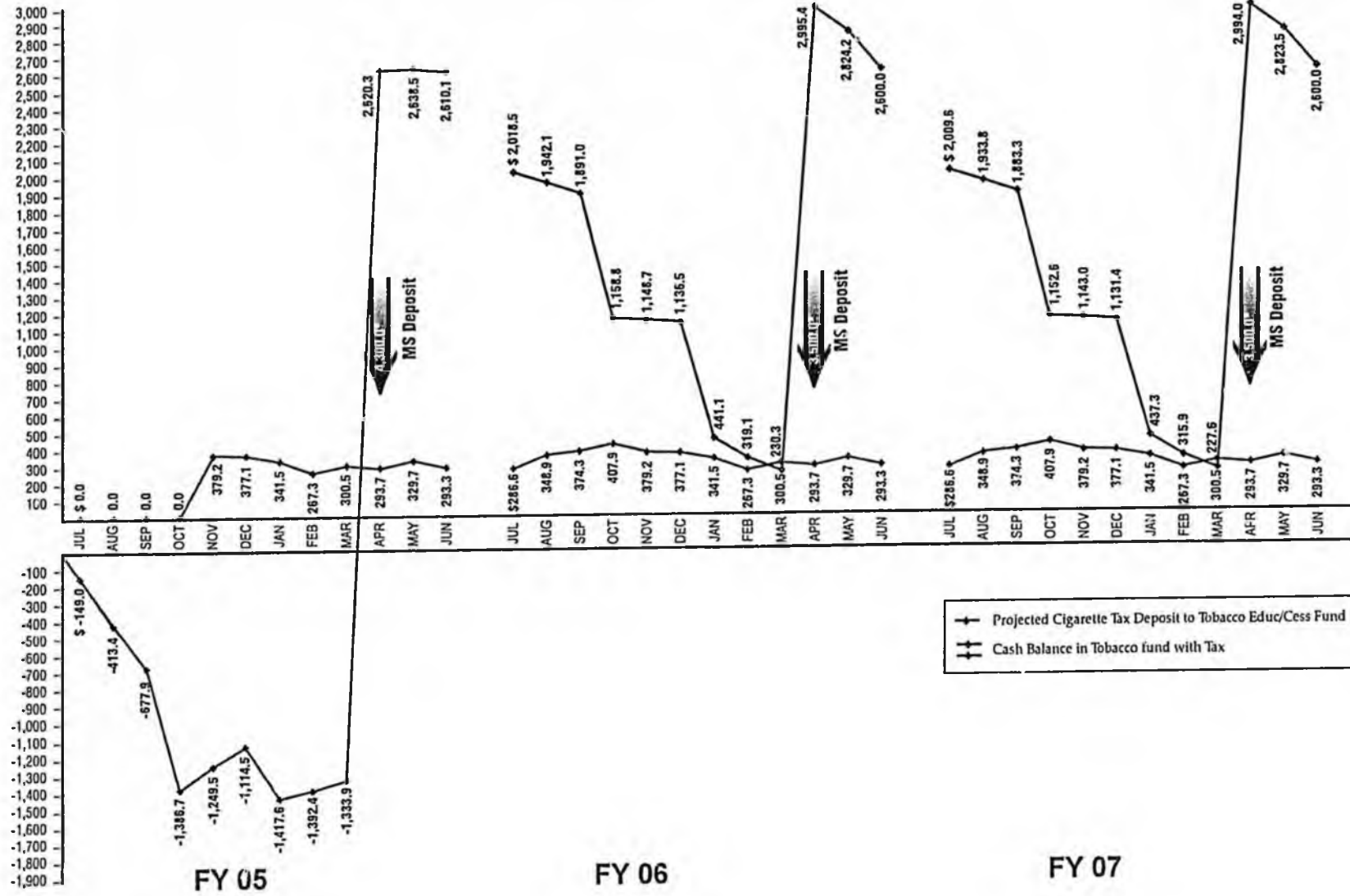
*** The latest revenue estimates from the Nat'l Assoc of Attorneys General forecast a decrease in Tobacco Settlement revenue. This decrease in expenditure authority keeps the DHSS program in balance with the total revenue anticipated.)

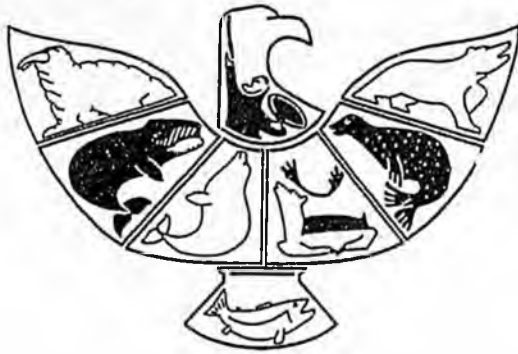
Tobacco Revenue Cash Flow 2005-06

Assumes no State Increase in Tobacco Taxes



Tobacco Revenue Cash Flow 2005-07 with State Increase in Tobacco Tax





Alaska Native Health Board

3700 Woodland Drive, Suite 500
Anchorage, Alaska 99517

Phone: (907) 562-6006
FAX: (907) 563-2001

June 21, 2004

Gene Therriault, President
Alaska Senate
Alaska State Capitol
Juneau, AK 99801-1182

Dear Senator Therriault,

The Alaska Native Health Board thanks you for considering the tobacco tax bill during the special legislative session. We urge expedient action during the special session to increase the tobacco tax immediately by \$1.00 per pack.

We made great strides toward protecting our youth from the hazards of smoking when we increased the tobacco tax in 1997. Since that time, we have reduced the number of kids who smoke by nearly half. But we still have a lot of work to do. 55% of Alaska Native youth still smoke and the best thing we can do to lower that percentage is to help prevent kids from ever picking up that first cigarette. Increasing the cost of smoking is an effective tool to prevent youth initiation.

Among all age groups and populations, tobacco consumption is the leading cause of preventable death. Increasing the cost of tobacco is a proven way to reduce tobacco consumption among people who already smoke.

We recognize that a tobacco tax alone won't stop the devastation caused by tobacco use in Alaska. The Alaska Native Health Board is also working on other measures such as local smokefree workplace policies, community education, and prevention strategies to help reduce the destruction caused by tobacco. An increase in Alaska's tobacco tax will go a long way to enhancing our efforts and the efforts of many other health organizations across the state with the goal of reducing death and disease caused by tobacco.

Protect Kids. Save lives. Support a \$1.00 a pack tobacco tax increase.

Best regards,
Trudy Anderson
President/CEO

ALEUTIAN/PRIIBILOF ISLANDS ASSOCIATION
ARCTIC SLOPE NATIVE ASSOCIATION
BRISTOL BAY AREA HEALTH CORPORATION
CHUGACHMIUT
COPPER RIVER NATIVE ASSOCIATION
EASTERN ALEUTIAN TRIBES
KETCHIKAN INDIAN COMMUNITY
VALDEZ NATIVE TRIBE

MANILAQ ASSOCIATION
METLAKATLA INDIAN COMMUNITY
MT. SANFORD TRIBAL CONSORTIUM
NATIVE VILLAGE OF EKLUTNA
NATIVE VILLAGE OF TYONEK
NINILCHIK TRADITIONAL COUNCIL
KODIAK AREA NATIVE ASSOCIATION

NORTON SOUND HEALTH CORPORATION
SELDOVIA VILLAGE TRIBE
SOUTH CENTRAL FOUNDATION
SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM
TANANA CHIEFS CONFERENCE
YUKON-KUSKOKWIM HEALTH CORPORATION
NORTH SLOPE BOROUGH



June 22, 2004

The Honorable Gene Therriault
President of the Senate
119 N. Cushman, Suite 101
Fairbanks, AK 99701

Dear Senator Therriault:

The American Cancer Society strongly supports the governor's call to pass a full and immediate one-dollar per pack increase in Alaska's cigarette tax, along with an accompanying increase in the non-cigarette tobacco product tax, during the special session.

The Society recognizes tobacco taxes as one of the most effective ways to reduce youth smoking and save lives. We have seen evidence of this fact across the nation as well as here in Alaska. There is no longer any doubt that tobacco taxes are a proven means to reduce tobacco use and save lives. Now is the time to act on this crucial policy issue.

The mission of the American Cancer Society is to eliminate cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer. We clearly recognize the devastating impact of cancer on Alaskans. Cancer is currently the second leading cause of death for all Alaskans and the leading cause of death for Alaska Natives. Research shows that one-third of all cancers are tobacco-related and almost all tobacco-users first become addicted as children. By increasing the state's tobacco tax, with its known correlation to reducing youth smoking, we are taking a critical step in stemming the tide of rising health care costs to the state and needless death and disability in our communities.

The American Cancer Society urges the legislature to adopt this critical public health measure as soon as possible to save lives and protect the health of our children.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily E. Nenon", with a long horizontal line extending to the right.

Emily E. Nenon
Alaska Advocacy Manager

1057 West Fireweed Lane, Suite 204 • Anchorage, AK • 99503
(907) 277-8696 • (800) 478-9355 • Fax (907) 263-2073

American Heart
Association®



Learn and LiveSM

June 21, 2004

Dear Senate President Therriault & Speaker of the House Kott:

The American Heart Association is pleased to provide this letter of support for increasing the state tobacco tax, proposed legislation that would increase Alaska's cigarette tax by \$1.00 per pack and increase the excise tax levied on other tobacco products by 33%.

The American Heart Association strongly supports significant increases in tobacco taxes because research from around the country has demonstrated time and again that as cigarettes get more expensive, fewer children start to smoke and adults are more likely to quit. As virtually all smokers become addicted before age 19, fewer children starting to smoke will have significant future public health benefits in Alaska. Smoking remains the leading preventable cause of cardiovascular disease, and it is also the leading preventable cause of death in Alaska, responsible for one out of every five deaths in our state. Although Alaska has had tremendous success in reducing youth smoking, we must strive to continue this exciting trend by raising the cost of cigarettes and maintaining our effective tobacco control programming.

Every state that has significantly increased its tobacco tax has enjoyed substantial increases in revenue while also reducing smoking rates. While Alaska will still not have the highest tax in the nation, the proposed increases will go a long way toward saving lives and generating revenue. Not only will the proposed taxes generate over \$35 million each year, but as increased prices translate into fewer people smoking, it will also eventually help decrease the more than \$130 million that Alaskans spend each year on health care expenditures directly related to tobacco.

Very rarely do revenue measures and public health messages overlap so significantly. The American Heart Association asks for your support of this important piece of legislation – your commitment to increase the tobacco tax will help save thousands of Alaskan lives.

Thank you,

A handwritten signature in black ink, appearing to read 'Jennifer App', written in a cursive style.

Jennifer App
Alaska Advocacy Director
American Heart Association

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DOCUMENT(S)
ARE
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ORIGINAL
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