



February 24, 2009

Senator Bert Stedman, Co-Chair
Senate Finance Committee
State Capitol 516
Juneau, AK 99801

Senator Lyman Hoffman, Co-Chair
Senate Finance Committee
State Capitol 518
Juneau, AK 99801

Representative Bill Stoltze, Co-Chair
House Finance Committee
State Capitol 515
Juneau, AK 99801

Representative Mike Hawker, Co-Chair
House Finance Committee
State Capitol 505
Juneau, AK 99801

Dear Senators Stedman and Hoffman and Representatives Stoltze and Hawker:

I would like to take this opportunity to address an item that was included in the American Recovery and Reinvestment Act (ARRA) that will be beneficial to port facilities.

It is important to understand the position that port facilities found themselves in regards to the ARRA. Under current federal law and programs, there is no oversight agency or formulary for funding ports, as there is for highways, rail, transit, and air. Automatically, critical infrastructure, such as ports, which provide substantial economic benefit to our regions, states, and nation were left out of the federal stimulus legislation. Fortunately, an opportunity did arise in which port facilities were recognized and eligible for funding under the ARRA.

Federal Highway Administration-Surface Transportation Program:

In the final version of ARRA signed into law by President Obama, language was included in the Surface Transportation section that allows ports to be eligible for the funds dispersed to the state under the formulary Surface Transportation Program, without the requirement of the project being included in the Statewide Transportation Plan (STIP) or local Metropolitan Planning Organization (MPO) Transportation Improvement Plan (TIP). Enclosed with this letter is the language as it appears in the act, as well as the statutory reference that describes port facilities that are eligible for funding. The Port of Anchorage meets the statutory definition of an eligible project, and should be considered for funding made available to the State of Alaska.

I am aware that Governor Palin will introduce legislation this week that will set forth her priority projects for stimulus funding, as well as a separate list of priorities in the event that the State receives additional funds due to the "Use it or Lose it" clause of the ARRA.

I am requesting that the Port of Anchorage expansion project be included on the list of projects to receive stimulus funds. If we cannot be on the primary list, then I respectfully request that the project be listed in the secondary list, eligible for funding that the State may receive due to the "Use it or Lose it" provision.

This is essentially the Port's "one shot" at putting stimulus dollars to work on a fully permitted and statewide beneficial project. I stand by ready to provide any and all information on the Port of Anchorage expansion project including the number of jobs, both short term and long term, that will be created, and the estimated positive economic impact that will be realized with the completion of the project.

I fully understand the complexity of the federal legislation, as well as the position that you, as leadership of the Senate and House are in to put together the most comprehensive package you can to meet the intent of the ARRA. There are many qualified projects that will be put forth by communities around the state. I am sure that you will do due diligence to this funding package.

I will be in Juneau the week of March 9 and look forward to meeting with you at this time, if your schedules allow.

Thank you for your consideration of this information.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Sheffield". The signature is fluid and cursive, with a large loop at the end.

Bill Sheffield
Director, Port of Anchorage

**TITLE XII—TRANSPORTATION AND HOUSING AND URBAN
DEVELOPMENT, AND RELATED AGENCIES**

**FEDERAL HIGHWAY ADMINISTRATION
HIGHWAY INFRASTRUCTURE INVESTMENT**

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under subsection 601(a)(8) of such title, \$27,500,000,000, to remain available through September 30, 2010: *Provided*, That,

after making the set-asides required under this heading, 50 percent of the funds made available under this heading shall be apportioned to States using the formula set forth in section 104(b)(3) of title 23, United States Code, and the remaining funds shall be apportioned to States in the same ratio as the obligation limitation for fiscal year 2008 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division K of Public Law 110–161: *Provided further*, That funds made available under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: *Provided further*, That in selecting projects to be carried out with funds apportioned under this heading, priority shall be given to projects that are projected for completion within a 3-year time frame, and are located in economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161): *Provided further*, That 120 days following the date of such apportionment, the Secretary of Transportation shall withdraw from each State an amount equal to 50 percent of the funds awarded to that State (excluding funds suballocated within the State) less the amount of funding obligated (excluding funds suballocated within the State), and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110–161: *Provided further*, That 1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds, and the Secretary shall redistribute such amounts to States that have had no funds withdrawn under this proviso (excluding funds suballocated within the State) in the manner described in section 120(c) of division K of Public Law 110–161: *Provided further*, That at the request of a State, the

Secretary of Transportation may provide an extension of such 1-year period only to the extent that he feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances: *Provided further*, That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further*, That 3 percent of the funds apportioned to a State under this heading shall be set aside for the purposes described in subsection 133(d)(2) of title 23, United States Code (without regard to the comparison to fiscal year 2005): *Provided further*, That 30 percent of the funds apportioned to a State under this heading shall be suballocated within the State in the manner and for the purposes described in the first sentence of subsection 133(d)(3)(A), in subsection 133(d)(3)(B), and in subsection 133(d)(3)(D): *Provided further*, That such suballocation shall be conducted in every State: *Provided further*, That funds suballocated within a State to urbanized areas and other areas shall not be subject to the redistribution of amounts required 120 days following the date of apportionment of funds provided under this heading: *Provided further*, That of the funds provided under this heading, \$105,000,000 shall be for the Puerto Rico highway program authorized under section 165 of title 23, United States Code, and \$45,000,000 shall be for the territorial highway program authorized under section 215 of title 23, United States Code: *Provided further*, That of the funds provided under this heading, \$60,000,000 shall be for capital expenditures eligible under section 147 of title 23, United States Code (without regard to subsection(d)): *Provided further*, That the Secretary of Transportation shall distribute such \$60,000,000 as competitive discretionary grants to States, with priority given to those projects that demonstrate to his satisfaction their ability to be completed within 2 years of enactment of this Act: *Provided further*, That of the funds provided under this heading, \$550,000,000 shall be for investments in transportation at Indian reservations and Federal lands: *Provided further*, That of the funds identified in the preceding proviso, \$310,000,000 shall be for the Indian Reservation Roads program, \$170,000,000 shall be for the Park Roads and Parkways program, \$60,000,000 shall be for the Forest Highway Program, and \$10,000,000 shall be for the Refuge Roads program: *Provided further*, That for investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act: *Provided further*, That 1 year following the enactment of this Act, to ensure the prompt use of the \$550,000,000 provided for investments at

Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated: *Provided further*, That up to 4 percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses: *Provided further*, That section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds provided under this heading: *Provided further*, That of the funds made available under this heading, \$20,000,000 shall be for highway surface transportation and technology training under section 140(b) of title 23, United States Code, and \$20,000,000 shall be for disadvantaged business enterprises bonding assistance under section 332(e) of title 49, United States Code: *Provided further*, That funds made available under this heading shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds made available for investments in transportation at Indian reservations and Federal lands, and for the territorial highway program, which shall be administered in accordance with chapter 2 of title 23, United States Code, and except for funds made available for disadvantaged business enterprises bonding assistance, which shall be administered in accordance with chapter 3 of title 49, United States Code: *Provided further*, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall be, at the option of the recipient, up to 100 percent of the total cost thereof: *Provided further*, That funds made available by this Act shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code: *Provided further*, That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2009 and 2010 in any other Act for “Federal-aid Highways” and shall not affect the distribution of funds provided for “Federalaid Highways” in any other Act: *Provided further*, That the amount made available under this heading shall not be subject to any limitation on obligations for Federal-aid highways or highway safety construction programs set forth in any Act: *Provided further*, That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: *Provided further*, That the Administrator of the Federal Highway Administration may retain up to \$40,000,000 of the funds provided under this heading to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act, and such funds shall be available through September 30, 2012.

TITLE 23 - HIGHWAYS
CHAPTER 6 - INFRASTRUCTURE FINANCE

Sec. 601. Generally applicable provisions

(a) Definitions. - In this chapter, the following definitions apply:

- (1) Eligible project costs. - The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of -
 - (A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;
 - (B) Construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and
 - (C) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

- (2) Federal credit instrument. - The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

- (3) Investment-grade rating. - The term "investment-grade rating" means a rating of BBB minus, Baa3, or higher assigned by a rating agency to project obligations.

- (4) Lender. - The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including
 - (A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and
 - (B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer

- (5) Line of credit. - The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

- (6) Loan guarantee. - The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(7) Obligor. - The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) Project. - The term "project" means

(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49

(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

(D) a project that -

(i) is a project -

(I) for a public freight rail facility or a private facility providing public benefit for highway users;

(II) for an intermodal freight transfer facility;

(III) for a means of access to a facility described in subclause (I) or (II);

(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods

(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

(9) Project obligation. - The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) Rating agency. - The term "rating agency" means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934.

Title 23-Highways
Chapter 6-Infrastructure Finance
As referenced in ARRA

(11) Secured loan. - The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

(12) State. - The term "State" has the meaning given the term in section 101.

(13) Subsidy amount. - The term "subsidy amount" means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(14) Substantial completion. - The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

(b) Treatment of Chapter. - For purposes of this title, this chapter shall be treated as being part of chapter 1.