

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**April 11, 2002**  
**9:19 AM**

**TAPES**

SFC-02 # 53, Side A  
SFC 02 # 53, Side B  
SFC 02 # 54, Side A

**CALL TO ORDER**

Co-Chair Pete Kelly convened the meeting at approximately 9:19 AM.

**PRESENT**

Senator Pete Kelly, Co-Chair  
Senator Dave Donley, Co-Chair  
Senator Jerry Ward, Vice Chair  
Senator Lyda Green  
Senator Gary Wilken  
Senator Alan Austerman  
Senator Loren Leman  
Senator Donny Olson  
Senator Lyman Hoffman

**Also Attending:** REPRESENTATIVE ELDON MULDER; JOE PERKINS, Commissioner, Department of Transportation and Public Facilities; JENNIFER MAYER, Innovative Finance Specialist, Federal Highway Administration; LOREN GERHART, Director, Southeast Conference

**Attending via Teleconference:** From Offnet Sites: PETE RAHN, Executive Director, New Mexico Department of Transportation and Public Facilities; TOM NORTON, Executive Director, Colorado Department of Transportation and Public Facilities; ERIC WOHLFORTH, Wohlforth, Vasser, Johnson, and Brecht Law Firm; TIM RATTIGAN, Investment Banker, Salomon Smith Barney; RON MORINO, Transportation Analyst, Salomon Smith Barney; From Petersburg: DAVE KENSINGER, Representative, Southeast Conference; LEO LUCZAK, Director of Community Development, City of Petersburg; From Mat-Su: GEORGE STROTHER, Engineering Manager, Matanuska Susitna Borough; ROBERT HAKENSON; From Anchorage: TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage and Chair, Public Works and Infrastructure Subcommittee; FRANK DILLON, Executive Vice President, Alaska Trucking Association; DICK CATTANAGH, Executive

Director, Associated General Contractors

**SUMMARY INFORMATION**

HB 191-FINANCING FOR TRANSPORTATION PROJECTS

The Committee heard testimony from the Department of Transportation and Public Facilities and took public testimony. No action was taken on the bill, and the bill was held in Committee.

#hb191

CS FOR HOUSE BILL NO. 191(FIN) am  
"An Act authorizing financing for certain public transportation projects; giving notice of and approving the entry into, and the issuance of revenue obligations that provide participation in, lease-financing agreements for those transportation projects; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Kelly stated that the Committee would entertain testimony regarding the use of GARVEE Bonds as a means of addressing the transportation needs of the State.

REPRESENTATIVE ELDON MULDER informed the Committee that the House of Representatives supports the merits of this legislation as, he contended, the proposal "is a very creative and innovative way to try to deal with some of the more pressing transportation needs that we have in the State, without endangering any of the future."

Representative Mulder continued that the legislation would provide the State with a funding mechanism to implement needed transportation projects in the near-term rather than the long-term; thereby saving inflationary costs. He stressed "that when you bond or securitize the revenue stream" from the federal government "and get the cash up front, the interest off of that money that you receive from that securitization actually helps make your federal" match. He elaborated that using the interest gain in "this very creative way," assists in offsetting the interest payments and, he attested, is one of the "more logical ways of dealing with it that we have ever come up with."

Representative Mulder reiterated that while there are very few

downsides to this proposal, it could be argued that identifying road construction projects for the upcoming decade could be considered a negative because it sacrifices the flexibility to change those decisions over time. However, he contented, this concern is "overshadowed by the fact that" needed projects would be realized.

Representative Mulder asserted that "a new road has not been built in this State in a long time nor have we upgraded" roads that are in "critical need" resulting from such things as traffic congestion. He argued that the ability to address urgent road needs outweighs "the loss of flexibility in the future."

Representative Mulder voiced surprise that the Associated General Contractors (AGC) oppose the proposal to establish a GARVEE Bond funding mechanism to address the State's transportation needs. He stated that the points of the AGC opposition are based on the GARVEE Bond experiences of New Mexico and Colorado; specifically that New Mexico's program utilized one third of their federal match funding and only built one project while, it is argued, they jeopardized that state's ability to build roads in the future. Representative Mulder attested that, in reality, New Mexico did not spend one third, but rather ten or eleven percent of the available funds. However, he continued, it is correct that the State only built one road which prompted frustration by New Mexico AGC members as with "only one road and one big project, you have winners and losers and those who don't get the project" would be frustrated. He voiced understanding of the situation, and he assured the Committee that multiple projects would occur in Alaska.

Representative Mulder continued that ACG contends that Colorado's negative experience resulted from an over-extension of resources; however, he asserted, this is not the case. He stated that forthcoming testimony would correct this misinformation, and he informed the Committee, that Colorado's GARVEE Bond program is similar to the approach being proposed by the State of Alaska.

Representative Mulder communicated that additional arguments suggest that the State's GARVEE Bond proposal would result in an eleven percent level of debt service while others voice concern over the future level and availability of unknown federal revenue funding streams.

Representative Mulder assured the Committee that discussions with Alaska's United States Senator Ted Stevens and Representative Don Young indicate that in the near- and long-term, federal DOT funding for Alaska's roads and bridges would not be reduced this year, contrary to "rumors" circulating. Beyond that he asserted, the

federal Transportation Equity Act for the Twenty-First Century (TEA-21) program is scheduled for re-authorization and would be titled NEXT-TEA. He continued that, with Congressman Young being the Chairman and highest-ranking member of the Transportation Committee, indications are that Alaska would hold or gain in its position in the next authorization.

Representative Mulder voiced confidence that Alaska would fare well in its federal funding levels; however, he noted that if the Committee were concerned that the State might be overextending itself or determines that an obligation of ten or eleven percent might be too much of the federal authorization to commit to the GARVEE Bond program, he recommended that consideration be given to scaling the level back to eight or nine percent.

JOE PERKINS, Commissioner, Department of Transportation and Public Facilities, commented that the Department's testimony would be supplemented by testimony from individuals with expertise on the subject.

PETE RAHN, Executive Director, New Mexico Department of Transportation and Public Facilities, testified from an offnet site to inform the Committee about New Mexico's experience with GARVEE Bonds. He characterized the testimony of the Alaska and New Mexico AGCs as "misrepresentative of the situation in New Mexico." He asserted that contrary to the AGC testimony, the New Mexico project is "exactly where we anticipated being seven years ago when we undertook a bonding program." He stated that the "GARVEE bonds were one portion of a larger bonding program that totaled \$1.2 billion."

Mr. Rahn exclaimed that the \$1.2 billion project has been an "excellent investment," and he asserted that the total cost of borrowing \$1 billion to date, is "at an all-inclusive cost of 4.69 percent." He elaborated that according to the Federal Highway Administration (FHWA), construction inflation costs over the past ten years have averaged 4.5 percent, which he asserted is significantly higher than the nation's overall general economy inflation rate. He qualified that "the 4.69 percent interest rate is offset by an inflation cost of 4.5 percent, meaning that the net cost of this one billion dollars is .19 percent," and he continued that, "this is offset further by the efficiencies that we have gained from being able to undertake entire projects at one time, the economies of scale, the economic opportunities that have been provided to regions of our large and sparsely populated state." He stressed that, "the economic benefits of having these projects in place today for a net cost of .19 percent is a heck of a deal."

Mr. Rahn communicated that the state's lone project identified for

GARVEE Bond funding involved 118 miles of a 570 total mile project to construct four-lane highways to link communities in the state to the interstate and regional transportation systems. He expressed that these projects provided economic stimulus to regions of the state that had not previously been considered for business expansion due to a lack of in-place infrastructure.

Mr. Rahn continued that this funding also provided for "a much safer" highway system, and he shared that statistics indicate that the state has experienced a 40-percent serious accident reduction after converting two-lane roads to four-lane roads. He reiterated that this has been a "phenomenal investment" as, he stated, all these things are in place today, at a cost of .19 percent interest.

Mr. Rahn stressed that contrary to the AGCs' position, "the facts clearly indicate that New Mexico has made an excellent investment in infrastructure" and that "the returns are significant."

Mr. Rahn voiced that the only factor that he understands to be a downside "is that contractors do not like to have to deal with fluctuating demands for their services" that require them "to size up and size down." He qualified that while he understood that a businessperson would prefer to deal with a constant workflow rather than a workflow with fluctuating demands for services, he asserted that this concern could be addressed. However, he stressed that his job "is to provide services to taxpayers and the travelers of the state roads" rather than to "look after contractors."

Mr. Rahn referred to the handout titled "Innovative Financing and the Major Investment Program in New Mexico" [copy on file] which specifies that the use of bond funding for road construction has reduced urban congestion for the 74 percent of New Mexico's residents living in urban areas; has freed up other funds to provide for improved road maintenance; and, he revealed, that upon completion of the project, 96 percent of the state's citizens living in municipalities would be connected with four-lane highways. Mr. Rahn stressed that other benefits of using these bonds for construction are that state's roads are safer and state road maintenance funds are more readily available. He shared that because of the resulting availability of state funds, the state currently reports 3,500 "deficient road miles" which, he attested is in "sharp contrast" to the twenty-three years of annual increases which climaxed in 1997 with a peak of 6,000 deficient road miles.

Mr. Rahn stated that the state's GARVEE Bond funding currently accounts for four percent of the federal commitment to New Mexico's road construction program; however, he reported that the innovative

design of the 118-mile GARVEE Bond project provided an economic stimulus to the state.

Mr. Rahn disclosed that the state also initiated a twenty-year road performance guarantee program that, he declared, would save the state \$89 million in future road maintenance costs during the twenty-year period.

Mr. Rahn exclaimed, "the AGC absolutely bristles when you talk about warranties." However, he contended, "it is an excellent investment" for the state. He addressed the concern about whether the level of future federal dollar receipts would be sufficient to make the payments on these bonds as "really a question that the rating industries had to address back in 1997" when the state of New Mexico was "the first to propose a GARVEE Bond issuance with no state guarantee whatsoever. He continued that the bonds are purely at the risk of future federal funding," and he continued, "to answer to the question of how the marketplace" anticipates future federal funding availability "was answered" when the State' GARVEE Bonds were rated, with no state guarantee or backup of state credit or state financing, at an 'A1' level.

Mr. Rahn informed the Committee that other states are now financing road construction projects with GARVEE Bond programs similar to New Mexico's, and he asserted, the New York City bond rating firms "are now very comfortable with the risk of future federal funding." He elaborated that bond rating firms have determined "that the true risk to these bonds is not default because of the federal governments program going away," because the federal funding, which has been in place since 1916, has increased "nearly every single re-authorization" since its inception. He explained that the rating companies have determined that the only risk to the bonds might be a delay in the reauthorization process; therefore, he explained, that to avoid that risk, the bond rating firms require the state to establish a six-month's worth of payments escrow account at the time the bond is issued.

Mr. Rahn stated that the state's GARVEE Bond project, referred to as New Mexico 44, and another \$289 million bond project in the state involving an interchange project for Interstates 40 and 25, attest to the fact "that bonding is good business." He furthered that the economic benefits are tremendous, especially at a cost of .19 percent more than the State proceeding on "a pay as you go basis." He stressed that major road "projects are way too expensive to undertake piecemeal," and he declared that the efficiencies of bonding the project and building a "project under one continuous motion" has lowered the cost of construction significantly". He specified that "by being able to take an entire project and deal

with it in one continuous motion" has reduced the state's the road construction costs from "1.3 million dollars a mile to convert a two lane to a four lane road to \$700,000 per mile."

Mr. Rahn relayed that local contractors have voiced concerns regarding loss of business to large out-of-state contractors as well as concerns about "gearing up and then gearing down" at the end of the projects; however, he stressed that the benefit to the taxpayer is "so great". He continued that, during the past five years, it has been found in New Mexico that contractors "who did not get to be the general contractor have made significant money in the role of a sub-contractor on those projects that they felt were too big to take on themselves." He summarized that the state of New Mexico "has seen a huge benefit as the result of bonding," and he reiterated that the status of the project is on target.

Senator Hoffman asked whether the 118 miles of roads funded by the GARVEE Bonds involved new road construction.

Mr. Rahn responded that the project consisted of the total reconstruction of converting an existing two-lane highway to a four-lane highway.

Senator Hoffman asked whether the State constructed any "brand new roads" with the GARVEE bond funding.

Mr. Rahn responded that the GARVEE funding was limited to the widening of the New Mexico 44's specified 118-miles of road. He detailed other new road miles that the state undertook.

Senator Austerman asked the details of the 20-year warranty; specifically whether it pertained to road design or actual construction.

Mr. Rahn responded that the twenty-year warranty cost \$62 million; however, he attested that the State has determined that maintenance expenses would have amounted to \$151 million during those twenty years. He explained that, "the warranty is for the performance of the pavement itself for a twenty year period" based on a state determined road surface performance standard involving a "no-excuse warranty," with a company who was required to post a \$114 million bond to secure the warranty and additionally provide inflation proof measures.

Senator Olson asked the nature of the New Mexico AGC's concerns regarding the hiring of outside contractors, and the "overheating" of the economy.

Mr. Rahn replied that New Mexico "has reduced the costs of projects through increased competition, and that competition has come from adjoining states." He stated that the AGC presented its issues to the New Mexico legislature, the Highway Commission, and the Governor; however, "in all instances," after consideration, it was independently determined that the benefits to the taxpayers outweighed the AGC "possible downside" concern. He reiterated that during the past five years of these projects being undertaken, "New Mexico contractors have had more work, "even given the competition that has come from adjoining states," than they have ever had "within their lifetimes." He contended that the state has maintained "very good relations with most of the contractors within the state," and he declared, the majority of New Mexico contractors, with the exception of a few "vocal" contractors, would support what the state has done and would have to say that the state "has a successful program."

Senator Ward asked for details regarding the warranty program on New Mexico 44; specifically whether it was the result of a long-term maintenance contract or an upgraded paving material.

Mr. Rahn responded that the project designer, Hope Industries, "brought a new design for pavement to New Mexico" which involved the use of a better road base and harder aggregates. He stated that "the significant amount of return" projected by the state depends on this design, and in addition, he furthered, the company "is required to perform whatever maintenance is necessary to produce" the required performance level. He communicated that "if the road requires more than one overlay" during the twenty-year period, the state projects "that Hope Industries would lose money." He stated this roadway must perform at a higher level than what the Department would typically require.

Senator Ward asked the amount spent by the contractor on this road compared to regular road construction.

Mr. Rahn stated that the cost of the 118 miles of road, including the warranty payment, was \$310 million.

Senator Ward asked the cost of the road if built to the original state standards.

Mr. Rahn responded that the state's estimate to build two adjacent lanes adhering to "typical state standards" beside the existing two-lane roadway would have been \$214 million. He furthered that for an additional \$100 million, the state received "a complete reconstruction of the roadway and a twenty-year warranty."

Senator Ward asked how much this project would have cost with a "lower quality of paving."

Mr. Rahn clarified that the state's estimate of \$214 million did not provide for any improvements to the original two-lane road; however he calculated that by subtracting the warranty cost of \$62 million from the final cost of \$310 million would result in an expense of \$248 million. He concluded therefore that the State paid an additional \$30 million to receive four new lanes rather than two.

Senator Ward explained that he is trying to determine the cost of the constructing this road using standard road building costs rather than the more sophisticated road.

Mr. Rahn apologized that he does not have that information; however, he noted that it is available.

Senator Ward responded that he would follow-up with Commissioner Perkins to obtain this information.

Senator Leman asked whether the state of New Mexico allows studded snow tires on this roadway: specifically whether their use would void the warranty.

Mr. Rahn responded that studded snow tires are not permitted in New Mexico.

TOM NORTON, Executive Director, Colorado Department of Transportation and Public Facilities testified via teleconference from an offnet site. He noted that GARVEE Bonds fund \$1.3 billion of a total \$10 billion ten-year bond program in the state of Colorado. He continued that the state has worked closely with investment bankers and the FHWA to develop a unique program that allows the state to collect funds and make bond payments and pay contractors. He stated that the state of Colorado would be willing to share with Alaska its information regarding the establishment of payment plans and other cost-saving programs.

Mr. Norton stressed that a key to the success of the Colorado program is that it is strongly supported by Colorado's governor who professes, along with the state's Department of Transportation and Public Facilities, that this bonding program "is the most conservative financial approach," because, "through the difference in cost of inflation and the cost of interest," the state believes that the program, over the ten-year period, is saving the state approximately \$500 million that could be reinvested into the state's transportation program.

Mr. Norton avowed that the department has "demonstrated" that the bonding program, established during a time when the State was in an economic downturn with no funds available to support a broad program, allows the State to manage the state transportation construction program more effectively "because we don't have some of the ups and downs that are created" when a state is "highly dependent on economic conditions." He continued that had the state not been able to bond, the state would have had to severely curtail the program. However, he attested, that because of previous bonding endeavors, the state has been able to maintain a relative level of construction that has been very beneficial to the AGC and the state's local construction industry.

Mr. Norton noted that the AGC and others involved in the construction industry "worry about the consistency of the program" or a decrease in the level of activity; however, he continued, the state made a commitment that implementation of the bonding program would not result in a reduction of the "base programs" for the smaller to medium contractors. He asserted that the state has the records to substantiate that this commitment is being upheld, and he stressed that, when talking with the AGC, this is an important factor.

Mr. Norton explained that the state's program includes 28 corridors containing hundreds of projects that are included in one comprehensive program to ensure that the state is not required to separately seek bonding for each component.

Mr. Norton suggested that rather than the Alaska proposal identifying each project and its specified funding amount, that the State consider the list carefully and provide for management flexibility to allow for an overall bonding program with those projects identified without a corresponding funding amount "because in the design and construction business there is a lot of variables." He urged the Committee "to put their trust and faith" in the Department's managers to afford them the flexibility to manage the projects in the most economic manner.

Mr. Norton continued that the Colorado program included one "mega-program" wherein \$1.7 billion, or ten percent of the program, was allotted to fund an interstate/rail expansion project. He stated that the AGC complaint about outside contractors being awarded projects "is a distinct possibility and a probability" as there might not be sufficient in-state resources to handle a large project; however, he continued there is as much work for all of the local contractors to handle as before and, in addition, the local contractors could be simultaneously be working as sub-contractors

on large projects. He stressed that maintaining communications and relationships with the Colorado Contractors Association (CCA), which is the Colorado affiliate of the AGC, is important. He noted that while there are differences between the state and the CCA; meetings are held on an on-going basis to discuss and resolve problems.

Mr. Norton urged the State of Alaska to use bonding "as a financial and management tool to make your program move in a better, more efficient, more effective way so that you can get use of the roadways at a time while you are paying for them, rather than waiting until you've got capacity problems and you can't get caught up."

Mr. Norton summarized that the state of Colorado's bonding package was a statewide program that benefited all regions of the state. He noted that the state's "AA" bond rating resulted from the state's willingness to provide a few state guarantees. He stated that the program is extremely successful and beneficial and has been appreciated by citizens.

SFC 02 # 53, Side B 10:06 AM

Commissioner Perkins informed the Committee that the establishment of a GARVEE Bond program would provide the State of Alaska with the "ability to use interest earnings on the bonds."

JENNIFER MAYER, Innovative Finance Specialist, Western Resource Center, Federal Highway Administration, emphasized that the concern about using investment earnings as State matching funds has been addressed at the federal level, and she confirmed that the FHWA has "no philosophical problem" with this approach. She exemplified that in as much as the federal government would not be responsible for any investment losses, the same concept would apply to investment earnings; therefore, she continued the earnings would be considered as state funds. She stated that it is "just a matter of getting that approval formalized."

Ms. Mayer noted that GARVEE Bond usage by other states has resulted in the procedure of examining a state's overall program to determine whether the bond package would adequately address the size of the program and "ensure that there is not a large balloon of projects followed by a dearth of projects in the future." She shared that most of the states that have been involved in the GARVEE Bond program have investigated this situation very carefully. She noted that this is important to rating companies as

well, and the result has been that the program activity actually "levels out" without "peaks and valleys." She noted that this is contrary to some other state programs where a "large project is conducted on a pay as you go basis that can squeeze out smaller projects." She noted that programs vary in each state due to such controlling factors as weather conditions.

Ms. Mayer stressed to the Committee that this funding stream of borrowing against the state's future federal aid funding and the ability "to be reimbursed for the interest and issuance costs" was not a legal alternative until after the establishment of the 1995 National Highway System Designation Act as well as several NHTWA administrative changes. She stated that currently numerous states have entered into these transactions; however, she noted that the learning process involves integrating these borrowings with the state's current program. She stressed that this funding approach has proven to be "very successful in some states."

Ms. Mayer detailed some of the issues investigated including: matching the GARVEE bond payment with the useful life of the asset which "is a commonly accepted way to finance a project;" producing economic benefits and addressing safety and environmental concerns sooner rather than later; achieving costly economy to scale by completing large projects in a timely manner rather than "piece-mealing" the project; avoidance of construction inflation; identifying "whether the issuance and interest costs that they have to pay on the GARVEEs are going to outweigh the inflation savings;" determining whether the additional monies would result in projects being undertaken sooner, as the issue in some states is not the need for additional money but rather addressing delays resulting administrative issues, environmental regulations, etc.; and determining whether "the accelerated program would cause construction inflation."

Senator Hoffman inquired whether there might be a similar innovative funding mechanism for airports.

Commissioner Perkins responded that airports report to the Federal Aviation Agency (FAA), which has different regulations and rules and does not have a similar program. He stated that the GARVEE Bond program is limited to the FHWA and the Federal Transit Authority (FTA).

Senator Hoffman furthered the hope that a relationship could be developed with the FAA to develop such a program since Alaska's air transportation needs are, unlike most other states, just as critical as its surface transportation needs. He suggested that Alaska could lead this endeavor.

Commissioner Perkins stated that because Alaska is one of only a few states that owns its airports rather than ownership held by port authorities, there is not much wide-scale support for this type of endeavor "in the FAA's scheme of things." He agreed; however, to continue to address this with the FAA.

Commissioner Perkins noted that one barometer of the GARVEE Bond concept is "the ultimate test" of how these bonds are perceived by the financial market.

TIM RATTIGAN, Investment Banker, Salomon Smith Barney, testified via teleconference from an offnet site to notify the Committee that Salomon Smith Barney has provided the members with a "Municipal Bond Market Perspective on GARVEE Bonds" handout dated April 10, 2002 [copy on file].

RON MORINO, Transportation Analyst, Salomon Smith Barney, testified via teleconference from an offnet site to report "that the use of leveraging federal funds is a very positive additional option utilized" by Alabama, Arizona, Colorado, New Mexico, Georgia, California and numerous other states during the past four years. He announced that several states have recently authorized the program.

Mr. Morino assured the Committee that "due to the underlying credit and security of this type of revenue stream, most of programs have enjoyed high ratings in the tax exempt municipal market." He disclosed that the ratings have ranged from an "A" to an "AA" and "the rating really relates to the legal and financial structure of each program whether it is solely backed by federal funds or with the addition of a second source that a state might utilize," and is established upon a "financial structuring dealing with the amount of debt service coverage, the amount of debt and the amount of revenue that is available and other types of tests that are integrated to the bond resolution."

Mr. Morino referred the Committee to the last page of the aforementioned Salomon Smith Barney handout which identifies state programs' legal and structuring factors and their corresponding assigned ratings.

Mr. Morino asserted "that for a state such as Alaska, this is a very positive option," as it would allow the Department of Transportation and Public Facilities to utilize federal dollars that are garnered from federal taxes "to accelerate a program" by using federal funding at an earlier period of time thereby offsetting the inflation factor and "buying a higher amount of construction activity," as well as avoiding the placement of "liens

on other State funds that might be utilized for other purposes." He continued that due to the vast geographic nature of the State and its relatively small population, the cost of roads on a per capita basis is very high. He stated that, "this option allows the State to utilize your federal dollars that you are getting the best payback on with federal funds that you've generated through the federal taxes on gasoline, tires, and trucks."

Mr. Morino furthered that, in addition to the nine states that are currently utilizing this funding mechanism, other states would be using it in the near future. He stated that with the downturn in revenue that most states are experiencing, this option would become more valuable as large and comprehensive projects and programs are undertaken.

Mr. Morino informed the Committee that Salomon Smith Barney has been involved as senior manager on eight GARVEE bond transactions and been the co-signer on seven others; therefore he attested the company has a good working knowledge on the issue. He urged the Committee to utilize this revenue source "because it is a conservative, well-thought out, and reasonable option that has limited risk" and offers an important contribution to the on-going construction program; specifically the acceleration of the completion of the project as well as being an economic development factor.

Commissioner Perkins thanked the testifiers for their input. He acknowledged Carla Perez of J.P. Morgan for her assistance to the Department in structuring the programs.

Commissioner Perkins noted that the Committee members have a copy of a letter addressed to Representative Bill Williams, Co-Chair of the House of Representatives Finance Committee, from Bruce Botelho, Alaska's Attorney General, dated March 22, 2001 [copy on file] "that confirms that the bonding mechanism used in HB 191 is a legal method for financing transportation projects."

ERIC WOHLFORTH, Wohlforth, Vassar, Johnson, and Brecht Law Firm testified from an offnet site to address the legality and constitutionality of the proposed legislation. He informed the Committee that his law firm has participated as legal council to the State for cases involving issues pertaining to the constitutionality of public financing, including the Carrs-Gottstein Properties v. State, 899 P.2d 136 (Alaska 1995) case referred to in the Attorney General's letter which established the basis for this legislation not being in violation of the State's Constitutional limitation requiring a vote on indebtedness. He explained that in the Carr-Gottstein case, "there was a unanimous Supreme Court opinion that

where the obligation of the State to pay was subject to appropriation, as is the case here, there is no impingement or violation of the requirement to vote State debt."

Senator Olson asked for clarification as to whether a GARVEE Bond issuance of this size would require a vote of the people of Alaska.

Mr. Wolforth responded that this legislation "legally does not require a vote of the people."

Commissioner Perkins informed the Committee that the Alaska GARVEE Bond proposal is a "modest proposal" in comparison to the larger New Mexico and Colorado programs. He detailed that the debt service on the State's proposed bond package is approximately ten percent of the State's current federal aid program, and the proposed bond package would result in approximately "\$220 million to \$230 million in actual highway construction costs that would be spread over five years." He opined that this program would not "overheat" the economy and he professed that more projects could be undertaken. He stated that the FHWA and other states' testimony attest to the success of the GARVEE Bond program.

Commissioner Perkins announced that Alaska is credited "with developing the concept for using the interest money to pay state matches."

Commissioner Perkins summarized that testimony from the legal and bonding communities support the argument that GARVEE bonds are legal and well received in the financial arena. He furthered that the market is currently receptive to the sale of bonds.

Commissioner Perkins reassured the Committee that there would not be a significant decrease in federal funding in Alaska's future. He acknowledged that while the State's Congressional Delegation has "brought many projects home," "these projects are earmarked" projects and as such fall "outside of the Department's formula." He specified that the Department of Transportation and Public Facilities receives those funds in addition to the regular federal formula, which is reauthorized approximately every five years. He stated that historically the State has received approximately one percent of the national program funds. He opined that this formula percentage would continue to be constant, as the State "is not a big player nationwide," although the State does receive "more back than we pay in." However, he contended, other states do not make an issue about this.

Commissioner Perkins explained that the size of the national program from which the State receives one percent is funded by the

18-cent federal gas tax that consumers pay. He predicted that consumers would not reduce their levels of usage and, consequently, this funding source would continue to be available at or above current levels.

Commissioner Perkins expressed that the true test of the program is whether there is a market for the bonds. He stated that the bond buyers are "looking at the future of federal receipts to the State of Alaska and saying, yes, we believe that they are going to be in sufficient quantities to pay the bonds off."

Commissioner Perkins informed the Committee that the bond projects included in the legislation were identified after close cooperation with communities in the State. He stated that all the identified projects are included in a handout titled "Alaska GARVEEs: Grant Anticipation Revenue Vehicles" [copy on file] that was provided to the members. He stated that the Department has received numerous letters of support from community governments.

Commissioner Perkins urged the Committee to support the legislation.

Senator Ward asked whether the projects in this bill could be omitted and the funding entirely identified to fund the extension of the Alaska Railroad to Canada.

Commissioner Perkins responded that this is not an option because the funding is designated as federal highway money, which cannot be used for rail projects at this time.

Senator Ward voiced that the railroad situation would be similar to the airport regulations referred to earlier in the meeting.

Commissioner Perkins concurred.

Senator Wilken asked the Commissioner to review the funding levels proposed.

Commissioner Perkins responded that the actual amount spent on highway construction would be approximately \$220 million over a five year period, and the amount specified in the bill includes the entire project development with such things as design and right-of-way purchases.

Senator Ward asked the number of new miles included in the project.

Commissioner Perkins responded that few new road miles are included.

Senator Ward commented that he could only locate two new road miles in the project.

Committee members briefly discussed the locations of the two or three new road miles.

Commissioner Perkins stated that the Department would clarify the locations of the proposed new roads and supply that information to the Committee.

Co-Chair Donley asked whether a representative is present from the Office of the Attorney General. None were forthcoming; therefore, Co-Chair Donley, noting that the aforementioned letter from the Office of the Attorney General was signed by the Assistant Attorney General in lieu of the Attorney General Bruce Botelho, requested Commissioner Perkins to provide the Committee with a memorandum signed by the Attorney General himself.

Commissioner Perkins agreed.

Senator Hoffman, referencing the New Mexico 20-year highway warranty, asked whether the State is pursuing a similar warranty, as, he observed, Alaska's highways "do not even last ten years."

Commissioner Perkins replied that a warranty has been considered. He informed the Committee that New Mexico is the first state to institute a warranty of this type, and he attested that the issue is "highly debated" in the industry. He stressed that the main components of the warranty is the pavement and that New Mexico does not allow studded snow tires, which he professed are the primary element reducing the life of a road in Alaska. He opined that if a warranty were pursued by the State, provisions would require three or perhaps four over-layments due to studded snow tire usage over the twenty-year timeframe. He concluded that a warranty of this sort would be very expensive and that an acceptable warranty program would not be possible until the State outlaws studded snow tires. He furthered that the State's general fund rather than federal funding would be required to pay for the State's warranty program due to the warranty being a maintenance issue.

Co-Chair Kelly interjected that the warranty program is not germane to the GARVEE bond program, and that, due to time constraints; the Committee should concentrate on the GARVEE Bond program.

DAVE KENSINGER, Representative, Southeast Conference, testified via teleconference from Petersburg to comment that people in the State are concerned about the level of general fund dollars spent on road

maintenance. He furthered that authorizing this legislation would save general fund dollars in the long run, and he urged the Committee to consider the legislation due to the general fund savings that would result.

GEORGE STROTHER, Engineering Manager, Matanuska Susitna Borough, testified via teleconference from Mat Su to voice that the Borough strongly supports this legislation and has passed resolutions in support of GARVEE Bond funding. He stated that major State projects could be fully funded simultaneously so they could be undertaken and would not have to wait for phased funding for such things as design and right-of-way acquisition funding on a year-to-year basis but could instead be approached comprehensively, without delays. He noted that several Borough road projects are included on the legislation's construction list; however, the Borough does have alternate suggestions. He stressed that road upgrades are needed to address the demand placed on them due to the increased population growth of the region.

ROBERT HAKENSON, 27-year resident of the Palmer/Mat-Su Valley area, testified via teleconference from Mat Su in support of the GARVEE Bond funding. He thanked the Department of Transportation and Public Facilities, the sponsor and other legislators for the good job that has been done in developing the legislation. He stated that although Alaska has received its share of federal funding, roads such as the Old Glenn Highway need funding to be upgraded to offset the growth demands of the area. He shared that currently the Old Glenn Highway is dangerous and its condition is "deplorable". He sensed that there is support for using the GARVEE Bonds to support the State's road infrastructure, and he urged the Committee "to take care of this."

LEO LUCZAK, Director, Community Development, City of Petersburg, testified via teleconference from Petersburg and noted that several Petersburg projects are on the bill's proposed project list. He stressed that the Petersburg roads "are in serious need of resurfacing" as they are deteriorating, incurring increasing maintenance expenses, and presenting safety concerns. He noted the legislation has strong community support, and he urged the Committee to support the legislation.

TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage and Chair, Public Works and Infrastructure Subcommittee, Alaska Municipal League, testified via teleconference from Anchorage that the City has identified this legislation as a priority, and the Municipal League supports increased transportation funding. He stated that bonding, whether it is GARVEE, General Obligation Bonding or a combination of both, "would

be the most effective way to improve" the State's road system. He voiced support for the bill's accompanying list of projects. He proclaimed that leveraging GARVEE Bond funds is a valid option; and, he attested that while there are risks involved, they are manageable. He stressed that any potential drawbacks are outweighed by the benefits of using GARVEE Bond funding.

LOREN GERHART, Director, Southeast Conference, noted that the Southeast Conference's primary interest in the bill concerns the funding identified for the shuttle ferries. He stated that the implementation of the Southeast Alaska Transportation Plan is behind schedule and that "the fix" must be in place prior to major capital needs of the mainline ferries being addressed. He urged the Committee to add back in the second shuttle ferry that was included in the original bill, but is absent from the current committee substitute. He furthered that completion of the Southeast Alaska Transportation Plan requires the addition of an additional two shuttle ferries for a total of four. He voiced concern as to the funding mechanism of the shuttle ferries; however, he stressed that the Southeast Conference is confident that the addition of the four shuttle ferries is critical to the long-term operation of the Alaska Marine Highway System.

FRANK DILLON, Executive Vice President, Alaska Trucking Association, testified via teleconference from Anchorage to voice "support of the GARVEE Bond concept with some caveats concerning" the committee substitute. He noted that a number of the projects included in the project list "would be better funded by general obligation bonds or other funding mechanisms rather than rolling them into the GARVEE Bonds themselves." He informed the Committee that the State, "did in fact, lose federal highway funding this year that we should have received under the formula that was adopted by Congress." He noted that when \$9.6 billion was removed from the Highway Trust Fund, the level of funding awarded to the State would have been less than previous years; however, he asserted, with "extensive effort on the part" of United States Representative Don Young, transportation industry representatives, and a coalition of road builders, \$4.5 billion was added back to the Highway Fund which resulted in Alaska's "status quo" funding level. He contended that the level of funding that Alaska received was lower than the formula would normally have provided, as funds from the Highway Trust Fund were allocated to provide for national security, which is considered a higher priority.

Mr. Dillon informed the Committee that the trucking industry supplies approximately 40 percent of the total revenues used in the federal highway trust fund; therefore, he avowed, the trucking industry holds a vested interest in how those funds are allocated.

He voiced that the Alaska trucking industry is concerned about funds being allocated to construct fast or shuttle ferries in Southeast Alaska as those ferries are not designed to accommodate commercial usage, which is a consideration of the national highway system. He summarized that rather than determining whether the GARVEE bond program is a good idea, the question should be why there is a need to establish GARVEE Bonds. He contended that in the upcoming session of Congress, the existing "lousy highway bill" should be rewritten to address the nation's highway needs so that funding mechanisms such as the GARVEE Bonds would not be required.

DICK CATTANAGH, Executive Director, Associated General Contractors, testified via teleconference from Anchorage and confirmed that the concerns raised in opposition to this legislation in the AGC paper [copy on file] are valid. He expressed that the fact that AGC, the largest entity involved in the State's road construction industry, is opposed to this legislation should be a strong statement. He explained that AGC is concerned about the level of Alaska's future federal highway funding as the trend has been a reduction rather than an increase in annual funds on a nationwide basis, and he voiced that money would be required to be removed from other federal programs in order to get the allocation "back on track;" however, he announced, industry sources predict that the money would not be restored to the program in sufficient quantities to get the funding back on track. He argued that the Department of Transportation and Public Facilities could not manage current project levels as, he exemplified, the FY 02 road construction budget is a 30 percent increase over the FY 01 funding level, however, the "project letting to date" is below where it was at this time the previous year. He stressed "that the problem is that the projects are not getting through DOT and on to the streets for construction." He stressed that approval of this legislation would not address that problem, and he voiced that this project delay issue should be addressed.

Mr. Cattanagh asserted, "that GARVEE bonds are a zero fund gain." He stated that all this program does is move funds forward, which he attested is "not a bad thing" because some of the identified projects are needed; however, he argued that the project list should be examined to determine whether all of the identified projects need to be accelerated. He voiced that the AGC has "serious concerns" about this. He attested that moving projects forward does not equate to there being an increase in projects, but does create "an artificial peak" from which a descent would occur although the projects "would be paid off into the future." He estimated that this twenty-year program would result in an annual \$20 million future highway program reduction.

Mr. Cattanagh reminded the Committee that Alaska receives six times the funding from the federal highway trust fund than what it pays in and is the biggest benefactor in the country of this funding. He noted that Congressman Don Young has determined that this level, or a slightly higher level of funding would continue for the upcoming re-authorization period; however, future funding levels are uncertain. He asserted that AGC has committed to work with the State to represent Alaska's interest before the Congress and other interested parties to attempt to assure the continuance of future funding levels in future authorizations.

Mr. Cattanagh attested that other states "are discontent" with the fact that Alaska reaps more return on it contributes to the fund. He noted Commissioner Perkins comment that Alaska only receives one percent of the total program; however, the six-fold return is an issue and might not be likely to continue.

Mr. Cattanagh furthered that contractors and others in the New Mexico highway construction industry are not happy with the process undertaken in New Mexico.

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Mr. Cattanagh expressed that a multitude of major highway projects would require contractors to heavily invest in equipment to meet the demand, and the cost of that investment is charged accordingly in bid pricing. Therefore, he argued, the State's contention that money would be saved by moving projects forward is "illusionary."

Mr. Cattanagh suggested that the State pursue the use of general obligation bonds rather than GARVEE Bonds to address urgent transportation needs. He stated that this approach would increase the volume of projects that are deemed "urgent," and would allow the State, using the Statewide Transportation Improvement Program (STIP) to schedule projects in a balanced manner. He stated that this approach would allow the citizens of the State to participate in the development of the State's highway infrastructure.

Mr. Cattanagh voiced that the fact that highways are funded by the federal government or by local communities rather than through a State Highway Program should be of concern to all Alaskans. He furthered that the State's participation is currently limited to providing matching funds to the federal highway program. He continued that the general obligation bond funding "would send a message to people that we do want and need a highway program that the State has invested in." He furthered that the State should

consider increasing gas taxes as a method to pay back the general obligation bonds.

Commissioner Perkins characterized the differing positions between the State and the AGC on the GARVEE Bond proposal as a "professional disagreement." He noted that the measurement of the State's "delivery of the program" should be that the State has not returned any allocated federal funding back to the federal government in the past eight years. He continued that the money is allocated to specific projects, and that he could provide a resolution from professional design counsel attesting that the Department's professional engineering staff is capable of handling the workload. He stressed that there are no problems within the Department, and the fact that the State is anticipating the major undertaking of a gas pipeline project attests to the capability of the Department.

Commissioner Perkins stated that the reduction in federal money this year was the result of a correction within the federal TEA-21 program. He stated that the federal government estimates the annual increments of gas tax revenue that will be collected and distributes 90 percent of the estimate to the states. He informed the Committee that the following year, if the increment exceeds or is less than the estimate, there is an adjustment made to correct the actual amount collected and distributed. He furthered that for three years, the State received additional revenue through this adjustment process; however, the United States Treasury Department realized an error had been made in the distribution calculation, and requested the State to return three years of extra revenue. He stated that this is the reason that the State reflects less federal program funding this year.

Commissioner Perkins clarified that the appearance of less federal funding is misleading due to this correction. He attested that the basic formula funding is not going to change. He furthered that the GARVEE Bond program is factored using the formula funding.

Commissioner Perkins stressed that he does not see a problem with future funding. He stated the State differs dramatically from other states in its need for such things as essential air service, bypass mail, and other factors unique to the Alaska. He projected that this uniqueness assures that Alaska would continue to be funded at the accustomed level of funding.

Mr. Cattanagh argued that "a reduction is a reduction and the industry would feel the reduction this year." He attested that moving all chess "pieces to the front" would not solve the State's transportation problems, and that this issue should be addressed

with a statewide program involving general obligation bonds. He assured the Committee that AGC would work with the State to develop such a program.

Senator Wilken asked Commissioner Perkins to explain the relationship between the Statewide Transportation Improvement STIP program and GARVEE Bonds and any affect that the GARVEE Bonds would have on the program.

Commissioner Perkins responded that most of the big projects identified in this legislation are in the STIP six to ten-year plan. He continued that were the GARVEE Bond program authorized to fund these projects, then funding would be available to pay for other projects, particularly smaller projects in rural areas of the State. He detailed the funding process that would evolve with the GARVEE program, and he stated that removal of the big projects earmarked for Anchorage and Fairbanks as well as the shuttle ferries from the STIP program would allow the State to make payments over a fifteen-year period "rather than taking the hit all at one time." He exclaimed that, "we've leveled the program out by taking out big projects." He stressed that the improvements to the State's roads would provide for safer roads, thereby saving lives.

Senator Wilken voiced confusion regarding the deciding factors that determine whether a qualified project should be funded through the use of GARVEE Bonds rather than General Obligation (GO) Bond funding.

Mr. Cattanagh stated that funding a State's major project takes a huge proportion of available funding and distorts the funding that is available for other projects in the State. He voiced amazement that the Municipality of Anchorage has a larger highway-funding budget than the State, even without the federal dollar contribution. He noted that the State currently addresses ten percent of the State's highway needs annually; however, the list continues to grow each year. He continued that the proposed GARVEE Bond "merely changes things around in the list that we've got," without adding any new projects. He contended that this is the wrong approach.

Co-Chair Kelly clarified that the question is why does the AGC support the use of general obligation (GO) bonds rather than the use of GARVEE Bonds.

Mr. Cattanagh responded that GO Bonds are preferred because the funding would address new projects. He contended that the Department needs assistance in getting projects online, and the fact that projects are not expediently addressed is of concern to

the AGC. He reiterated that the "biggest concern with GARVEE Bonds is that it would provide only for projects that are on the list and would move them forward, thereby "creating artificial peaks and valleys." He stressed that when contractors are required to purchase a million dollars worth of equipment in a single year, the price of the project would reflect that expense.

Senator Lemman asked the Commissioner to clarify conflicting cost estimates for the improvements to the Dimond/O'Malley/"C" Street intersection in the Anchorage area.

Commissioner Perkins stated that he had incorrectly identified the cost of the project in a conversation with Senator Lemman, and he clarified that the amount identified in the legislation was sufficient to complete the project.

Senator Hoffman asked the anticipated life expectancy of the identified projects.

Commissioner Perkins responded that bridges are designed with a 75-year life expectancy while the life expectancy of a road is determined by ground conditions. He exemplified that the "C" Street project in Anchorage would be a 50-year road design; however, he stressed that pavement replacement usually occurs every seven years. He informed the Committee that pavement replacement and other maintenance needs are not a factor in the life expectancy of a road. He furthered that another consideration in the life of a road is its capacity level, and he shared with the Committee that the State designs for a 20-year traffic capacity. He stated that capacity life is different than the design life.

Senator Hoffman stressed that road maintenance is a major concern, and he asked whether the Department would be addressing this concern differently in the future.

Commissioner Perkins agreed that the maintenance of a road is important. He stressed that roads have three enemies: "water, water, and water." He stressed that keeping water out of a road foundation is very important, and he stated that the Department of Transportation and Public Facilities has received federal funding to seal cracks and chip sealing in the State's road systems. He reiterated that this is federal funding rather than State funding, and it has been identified to provide funds to maintain existing roads rather than to fund new roads.

Co-Chair Kelly thanked the Commissioner and the testifiers for the informative presentation.

Co-Chair Kelly ordered the bill HELD in Committee.  
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**ADJOURNMENT**

Co-Chair Pete Kelly adjourned the meeting at 11:14 AM.