

MINUTES
SENATE FINANCE COMMITTEE
March 21, 2006
9:06 a.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [9:06:44 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Donny Olson

Also Attending: JOHN MACKINNON, Deputy Commissioner of Highways and Public Facilities, Department of Transportation and Public Facilities; CINDY CASHEN, Administrator, Highway Safety Office, Department of Transportation and Public Facilities; LIEUTENANT JAMES HELGOE, Alaska State Troopers, Department of Public Safety; KURT SMITH, State Traffic Engineer, Department of Transportation and Public Facilities; PATRICK GAMBLE, President and Chief Executive Officer, Alaska Railroad Corporation, Department of Commerce, Community and Economic Development

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

SB 261-REGULATION OF HWYS; TRAFFIC OFFENSES

The Committee heard from the Department of Transportation and Public Facilities. One amendment was adopted, and the bill reported from Committee.

SB 271-AUTHORIZE HWY PROGRAM PARTICIPATION

The Committee heard from the Department of Transportation and Public Facilities and the Alaska State Troopers, Department of Public Safety. The bill was held in Committee.

SB 308-ALASKA RAILROAD REVENUE BONDS

The Committee heard from the Alaska Railroad Corporation and reported the bill from Committee.

[9:07:11 AM](#)

#sb261

CS FOR SENATE BILL NO. 261(TRA)

"An Act relating to the designation of traffic safety corridors; relating to the bail or fine for an offense committed in a traffic safety corridor and to separately accounting for such fines; and providing for an effective date."

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

JOHN MACKINNON, Deputy Commissioner of Highways and Public Facilities, Department of Transportation and Public Facilities informed the Committee that this legislation would allow the Department to establish "Traffic Safety Corridors" (TSC) and double the traffic fines within those Corridors. This legislation is the result of repeated tragic accidents occurring on certain roadways, including the Seward Highway. Typically when a road is experiencing a large number of accidents, "structural improvements" such as changing its "geometry", widening the road, and adding passing lanes are made. The Department is furthering the TSC designation because it would produce "more immediate results".

Mr. MacKinnon stated that the six states that have established TSCs in areas experiencing "a higher than average rate of fatal and very serious accidents" have deemed the endeavor a success.

Mr. MacKinnon informed the Committee that, when it was considering establishing TSCs, the Department analyzed certain road segments, primarily "in the Central region of the State". Contrary to the Department's assumption that the Seward Highway

would be ranked the most dangerous, the accident rate on other road segments, specifically those in the Matanuska Susitna (Mat-Su) Valley "were every bit if not more dangerous as the Seward Highway".

Mr. MacKinnon remarked that "more immediate results" are experienced by addressing drivers' behavior, as opposed to making road improvements. Research indicates that "high risk drivers, drivers that are not driving safely, respond to only one message. That message is increased enforcement." This legislation would couple increased enforcement with double traffic fines.

Mr. MacKinnon continued that the passage of a TSC law would allow the Commissioner of the Department of Transportation and Public Facilities, upon "consultation" with the Commissioner of the Department of Public Safety, "to designate corridors of roads as Traffic Safety Corridors."

[9:10:21 AM](#)

Mr. MacKinnon reiterated the fact that the TSC designation would be accompanied by increased law enforcement efforts, which would be supported by the Department of Transportation and Public Facilities using federal highway aid Safety Sanction Funds (SSF)". The State must utilize SSF to address road safety issues such as "road improvements on the geometry side of things", education programs such as the State's "Click It or Ticket" seat belt message, or increased Driving Under the Influence (DUI) enforcement.

Mr. MacKinnon specified that this bill would allow the increased revenue resulting from the double traffic fines collected in the TSC "to be returned to the Department". Those funds would then be funneled to the Department of Public Safety to provide for the expense of the increased enforcement on the TSCs.

[9:11:39 AM](#)

Mr. MacKinnon informed the Committee that the Department of Transportation and Public Facilities worked with the Department of Public Safety "in crafting" this legislation.

Mr. MacKinnon referred the Committee to four maps [copies on file] "that illustrate the point that we are trying to make".

The maps depict a 13-mile segment on the Parks Highway from Lucus Road to the Alaska Railroad-Houston Crossing; a 9.94 mile segment on the Palmer/Wasilla Highway from Glenn Highway to Parks Highway; a 17.25 mile segment on the Knik/Goose Bay Road from Parks Highway to Point McKenzie Road; and a 26.94 mile segment on the Seward Highway from Potter Marsh to Girdwood.

Mr. MacKinnon explained that each map depicts the location of each fatal accident that occurred on that specific highway segment during the years 1977 to 2005. Each fatality is portrayed in either a blue or yellow box. A blue box indicates that alcohol and drugs were the driver behavior issue involved in the fatality; a yellow box indicates that such things as inattention, unsafe speed, and improper lane changes were involved. The increased enforcement proposed in this bill would have a tremendous "affect on controlling driver behavior".

[9:13:08 AM](#)

Senator Stedman asked whether the increased traffic penalties proposed in this bill would include points against a person's driver's license or additional penalties for drug and/or alcohol use offenses.

Mr. MacKinnon responded that the bill would be limited to increased fine penalties. Points against a driver for the offense would not be doubled in the TSCs.

Co-Chair Green declared that the penalty would address excess speed.

Mr. MacKinnon affirmed. This legislation would "hit them in the pocketbook".

Co-Chair Green clarified that the penalty would not affect the point scenario.

Senator Stedman, while agreeing that doubling fines "would get people's attention," opined that increasing the point penalty would further the effort to modify drivers' behavior. Thus, he asked whether a discussion on the point issue had occurred.

Co-Chair Green pointed out that the point issue had not been addressed when separate legislation increasing penalties in construction zones had been discussed.

9:15:24 AM

CINDY CASHEN, Administrator, Highway Safety Office, Department of Transportation and Public Facilities viewed Senator Stedman's increased point query as "a good" question. Noting that Duane Bannock, Director, Division of Motor Vehicles, Department of Administration, could more appropriately respond to the question, she remarked, "that when there's excessive speeding", a separate charge referred to as "racing" could be applied. Points would accompany that charge. Continuing, she noted that, "the majority of high risk drivers tend to already have lost their license. That's not effective in making them change their behavior. What's effective with them is hitting them in the pocketbook."

9:16:19 AM

Co-Chair Wilken suggested that the word "may" in Section 1, page one line 13 of the bill be changed to "shall", as that would ensure that the Commissioner of the Department of Transportation and Public Facilities would consult with the Commissioner of the Department of Public Safety and other pertinent people when making the TSC determination.

Mr. MacKinnon stated that TSCs would "primarily be rural," outside of urban areas. Urban area traffic accidents tend to occur due to intersection issues rather than "long stretches of road". It should be mandatory that the Commissioner of Department of Transportation and Public Facilities consult with the Department of Public Safety. However, "there might not be a local entity to consult with. We will consult with any local entity there is, State, local, or federal."

In response to a question from Co-Chair Wilken, Mr. MacKinnon voiced no objection to changing the word "may" to "shall".

Amendment #1: This amendment replaces the word "may" with "shall" in Section 1, page 1 line 13 of the bill.

Co-Chair Wilken moved to adopt Amendment #1.

Co-Chair Green objected for discussion.

Co-Chair Green asked whether the majority of TSCs would be located on State and federal highways.

Mr. MacKinnon affirmed they would.

Senator Bunde inquired as to whether changing the language from "may consult with other local, state, and federal agencies..." to "shall consult with other local, state, and federal agencies..." would require the State to consult with numerous entities prior to moving forward or whether the consultation would be limited to entities responsible with activities within that local area.

Co-Chair Green observed that the Department utilized statistical information to identify the primary "trouble spots" rather than consulting "with downtown Wasilla, Mat-Su, or the City and Borough of Anchorage" officials. Continuing, she asked whether the Department consulted with local entities when considering changing the speed limit on State highways.

Mr. MacKinnon responded the Department, while it "is not required" to consult with local entities when changing speed limits on State highways, does so "as a matter of courtesy".

Co-Chair Wilken opined the term "'consult' is a pretty loose word." The Department should endeavor to provide local entities with at least, "a minimal level of consultation. ... It doesn't speak to being approved or passed by any sort of assembly or anything, it'll just let them know;" particularly in regards to any impending "traffic restrictions".

Mr. MacKinnon understood the intent to be for the Department to "consult with other local, State, and federal agencies with responsibility for traffic safety in that area". This would include the local police department.

Co-Chair Wilken pointed out that the sentence in question "speaks to 'a traffic safety corridor'".

LIEUTENANT JAMES HELGOE, Alaska State Troopers, informed the Committee that the Department of Public Safety "does share information with all local and municipal law enforcement agencies for statistical gathering for grant statistics that come through Highway Safety."

[9:20:56 AM](#)

Lieutenant Helgoe shared that the Department of Public Safety has "good working relationships with the Wasilla Police Department, the Palmer Police Department, and all police departments in the State." The Department would continue to share statistical information.

Co-Chair Green withdrew her objection to the amendment.

There being no further objection, Amendment #1 was ADOPTED.

Co-Chair Wilken asked for an explanation of the Alaska Traffic Manual handout titled "Draft" [copy on file] the Department of Transportation and Public Facilities had distributed.

Mr. MacKinnon explained that the Highway Traffic Manual dictates to the Department "when and where signs should be used and how they should be placed." The regulations proposed in the Draft would be specific to traffic safety corridors. Including this language in the Traffic Manual would allow adjustments to be made quickly "were it found that, "for some reason the target we picked was not correct. Were the language included in State Statute, the process of changing it would be more "cumbersome". If we put it into regulation, it is a much more time consuming process to change it." "The Traffic Manual's what governs where we put signs, how we put'em, why we put'em as well as the kinds of signs" that are placed.

[9:22:33 AM](#)

Co-Chair Wilken understood therefore that the language reflected in the "Draft" document "would be inserted into the Traffic Manual", were this bill adopted.

Mr. MacKinnon affirmed. Continuing, he noted that in order to establish a TSC, certain "thresholds must be reached"; specifically the Department must have "a three year record looking back ... and show that the fatal plus major injury accident rate per mile exceeds 110 percent of the Statewide average". After three years, a TSC designation could be disestablished were the statistics to reflect "a significant improvement" in the accident rate.

[9:23:30 AM](#)

Mr. MacKinnon stated that the establishment of a TSC would be accompanied by publicity and public information. This would also occur were a TSC dis-established, as that would substantiate the program's success.

Senator Bunde agreed with the concept of the program. The "unfortunate" aspect of the situation is that people must die before the program could be established. Continuing, he asked whether a local group or government could identify a particular road as dangerous "and appeal to the Department" to have it designated as a TSC prior to fatalities occurring.

Mr. MacKinnon responded that "there is always the potential" to do that; however, he questioned whether the anticipation that a particular road segment might be dangerous without statistics would suffice. Continuing, he cautioned that establishing "too many" TSCs could reduce their "effectiveness". He agreed "it is a sad thing" that lives must be lost in order to establish a safety corridor.

[9:25:23 AM](#)

Senator Stedman asked regarding "the interaction" that might occur between the Department and a small community desiring "to take a pro-active approach" to reduce speed limits on one of its roads in order to curtail fatalities. He understood that the Department "has been fairly responsive" to these types of requests.

Mr. MacKinnon affirmed that the Department is responsive to such situations when "enough people" are concerned about a particular road. While the Department also receives requests to increase the speed limit on certain roads, "there's a lot more resistance to increasing speed limits."

Mr. MacKinnon pointed out that on certain road segments, simply reducing the speed limit would "not necessarily result in a decrease in accidents because it's the speeders that are causing the problems and not the people obeying the speed limit." The Department would not post a speed limit exceeding "the geometries" of the road. The goal of establishing TSCs "is to direct this effort toward driver behavior."

Co-Chair Green noted that language in Section 1, page 1 lines 9 through 12 might address Senator Bunde and Senator Stedman's

concerns about whether people could request certain roads to be designated as TSCs. This information reads as follows.

In establishing the criteria, the commissioner may consider accident data and reports, the types and volume of vehicular traffic, engineering and traffic studies and other relevant factors.

Co-Chair Green believed that this language would provide a manner through which citizen concerns could be addressed.

Mr. MacKinnon agreed that the language would allow "non-technical reasons" to be considered in the establishment of a TSC. Again, the Department's concern would be that establishing too many TSCs would be counterproductive. The Department has proposed in the Draft regulations that "no more than ten" TSCs be established Statewide. Establishing too many would reduce their effectiveness. "There would also be the question of whether the Alaska State Troopers or the local PDs (police departments) would be able to adequately increase enforcement."

Co-Chair Green remarked that that would be a "major" consideration.

Senator Olson stated that increasing the level of fines in a TSC could be characterized as "counterintuitive", as the people guilty of the offenses might be dead.

Mr. MacKinnon responded that the "sad part" is that "quite often the fatalities" are innocent victims rather than the person who was driving offensively.

Senator Olson asked regarding the collection rate on such fines.

Mr. MacKinnon responded that he would endeavor to provide this information.

Senator Olson remarked that such information would assist in determining the effectiveness of the program.

[9:29:47 AM](#)

Senator Stedman pointed out that the \$5,000 fiscal impact depicted on the Department of Transportation and Public Facilities fiscal note #1 should be \$5,000 per corridor.

Consideration might be given to increasing the fiscal note in order to more accurately reflect the expense of seven to ten corridors. The cost for seven corridors would be \$35,000.

Mr. MacKinnon affirmed the fiscal impact would be \$5,000 per corridor. A "significant amount of signage" would be erected in each corridor to alert drivers they were in a TSC with double traffic fines. Signs would be placed to designate the beginning and end of a TSC as well as throughout its length.

[9:31:17 AM](#)

Co-Chair Wilken thought the aforementioned maps were interesting. To that point, he suggested that the map legend should identify the significance of the blue and yellow boxes.

Mr. MacKinnon qualified that each box depicted on the map indicates a fatality. Blue boxes indicate that alcohol or drug abuse was a factor in the fatality. Yellow boxes indicate other factors as being involved.

Mr. MacKinnon agreed that this information should be specified. Continuing he noted that the Department of Public Safety was interested in getting copies of the maps to distribute to their staff, as the information would assist the Alaska State Troopers in determining where they should focus their enforcement efforts. The red dots on the map indicate where major accidents and fatalities have occurred after a significant highway improvement. The white dots indicate where accidents and fatalities occurred before major highway improvements.

[9:33:15 AM](#)

Co-Chair Green asked whether the double fine signage at construction sites has made a "notable difference" in driver's speed.

[9:33:41 AM](#)

KURT SMITH, State Highway Traffic Engineer, Department of Transportation and Public Facilities informed the Committee that no data is available in this regard as such data "is hard to collect in construction zones". The overall feeling of people working at construction projects is that the signs "are generally effective".

Co-Chair Green remarked that the signs catch her attention when she is driving in a construction zone.

9:34:53 AM

Senator Bunde moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS SB 261(FIN) was REPORTED from Committee with previous \$5,000 fiscal note #1 dated January 30, 2006 from the Department of Transportation and Public Facilities; previous zero fiscal note #2 dated January 27, 2006 from the Department of Public Safety; and new zero fiscal note dated March 17, 2006 from the Alaska Court System.

9:35:39 AM

#sb271

SENATE BILL NO. 271

"An Act authorizing the commissioner of transportation and public facilities to participate in certain federal highway programs and relating to that authorization; relating to powers of the attorney general to waive immunity from suit in federal court related to those programs; and providing for an effective date."

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

JOHN MACKINNON, Deputy Commissioner of Highways & Public Facilities, Department of Transportation and Public Facilities explained that a National Environmental Policy Act (NEPA) delegation six-year pilot program was included in the federal highway Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), when it was reauthorized by Congress in the summer of 2005. He read a segment of a handout titled "NEPA Delegation Pilot Fact Sheet" [copy on file] as follows.

SAFETEA-LU includes a NEPA delegation pilot program for five states - Alaska, California, Oklahoma, Ohio, and Texas. Under the program, the five states are eligible to

apply for delegation of the Secretary of Transportation's (Secretary) NEPA responsibilities for one or more highway projects within the state. The state may also apply for delegation of some or all of the Secretary's review and consultation responsibilities under other Federal environmental laws. The scope of delegation will be determined through application to the Secretary and execution of a Memorandum of Understanding (MOU).

Time Frame:

- Duration of the pilot program is six years from enactment of SAFETEA-LU. Unless extended by statute, the pilot terminates on August 10, 2011.
- The Secretary is required to promulgate regulations to establish delegation application requirements. Rulemaking is required to be complete within 270 days of the Act. Rulemaking is behind schedule.
- The State may not submit its application until
 - * Rulemaking is complete and
 - * The State must advertise the application and solicit public comment.
- After its application is accepted, the State and Secretary will enter into an MOU.

Once the MOU is executed, delegation may proceed.

Mr. MacKinnon pointed out that this program would transfer "the decision making process on what level of environmental documentation is required out of the hands of the federal Highway Administration and puts in the hands of the State Department of Transportation". The State would have "more control of the process and the rate at which these environmental reviews proceed". This program would not reduce environmental protections or environmental reviews, as the State must continue to follow federal Environmental Protection Act guidelines. The benefit would be that the State could control "the pace at which" the process proceeds.

Mr. MacKinnon qualified that the program would be limited to highway projects administered by the Federal Highway Administration (FHWA). Furthermore, the program would be limited

"to environmental decision making" and would exclude engineering issues. Airport aviation projects and other federal projects occurring in the State would be unaffected.

Senator Bunde ascertained therefore that, even though the State might have more control, it could strengthen but not reduce restrictions, as it must "abide by federal standards".

Mr. MacKinnon affirmed that the State would be required to abide by federal regulations and could not establish its own environmental policy.

Senator Bunde questioned, therefore, the benefit the program would provide to the State. To that point, were the State to participate in this program and a lawsuit regarding its actions presented "as there often is", the State would be required to defend its action.

Mr. MacKinnon affirmed.

Senator Bunde suggested therefore that the fiscal notes accompanying the bill must "be adjusted" to address that issue. In conclusion, he asked what "advantages" the State's participation in this program would provide, since the State would be required to follow the same rules.

Co-Chair Green understood one benefit to be that the State would be "in more of a position" to improve project timeframes rather than being dependent on federal decision timeframes.

Mr. MacKinnon affirmed. The State has no control over the timing of the federal decision making process. "It would not be unusual for work to sit on a desk for a significant period of time." "There is a greater chance" that documents "sitting on one of our desks" could be processed faster.

Mr. MacKinnon mentioned that the bill would also pertain to "the level of documentation required. The majority of the environmental documentation" consists of "categorical exclusions" (Cat-Ex's), which are the simplest form of documentation. The NEPA process is required for projects such as road repavings or the construction of an overpass. Under this program, the State would assume responsibility for Cat-Ex documentation. When the federal government is involved, "they make the decision on what level of documentation is required".

At times, the federal government required projects that had historically been subject to Cat-Ex documentation to be subject to an environmental assessment or the more extensive environmental impact statement. Were the State to assume "the NEPA delegation, those decisions would be made at the State level and not at the federal level".

Mr. MacKinnon affirmed that with the assumption of this responsibility, the State would be required to defend its decisions in Court. Language that "waived the State's immunity from suit in federal court" is specified in Section 1 page 1 lines 9 and 10 of the bill. Since "NEPA is procedural law", a basis for a Court case "would be that the Department for one reason or another did not follow the correct procedure." The Court's decision could require the Department to go back and redo something, "following the procedure correctly". Historically in such FHWA cases, the judgments as well as the defense costs have been small. Nevertheless, some of the federal cases have been lengthy and expensive.

Mr. MacKinnon stated that, were the State to assume the responsibilities of the program, the expectation would be that the cost of defending such a case would be considered "an eligible" individual project cost, rather than a general fund expense.

[9:43:25 AM](#)

Senator Bunde voiced concern as to whether what the State would "be gaining is worth the price."

Co-Chair Wilken deemed "this is just a little tiny piece" of the answer to peoples' question as to "why government grows". Referring to the Analysis section of the Department of Transportation and Public Facilities fiscal note #1, he voiced disbelief that the work required by the State for assuming the responsibilities of this program "would require 160 hours a week". This would be something he would be unable to explain to constituents. Were this program enacted, he predicted that in five years, "we're going to sit here and just think the world's coming to an end because this program's going to go away". Continuing, he asked whether the State would be able to conduct the program using \$647,000 in Capital Improvement Project (CIP) receipts and only hire two people.

[9:44:54 AM](#)

Mr. MacKinnon responded that the Department based its staffing determinations on the number of people currently administering the federal program and on the Department's own internal review of the program. "It's not a simple thing to assume."

Co-Chair Wilken announced that the question needed to be asked even though the response provided no relief.

Senator Bunde understood therefore that the project would require four or five new positions.

Senator Stedman, observing that the expenses associated with the project and the new staffing positions would be approximately \$650,000 per year, remarked that "we're certainly not paying these people by the road mile built," as the State has historically conducted a tremendous amount of planning, but has built few new roads. He voiced concern regarding the sovereignty of the State as well as the hiring of people "without any parameters on production". He was disinterested in compiling office hours without accompanying road construction. Therefore, even though "the intent is good", he was hesitant to expand planning activities. The cost of planning per road mile built "is alarming".

Mr. MacKinnon advised that the goal of the Department was not to assume NEPA responsibilities "and proceed at the same pace. The status quo isn't good enough for us." The Department, like the Legislature and the public, is also frustrated with the time that is required to develop a project. NEPA is one of the factors affecting the time it takes to develop a project. The money the Department has spent on developing certain Environmental Impact Studies (EIS) or Environmental Impact Assessments (EIA) would "astound" the Committee. In addition to the time spent on developing a project, \$8,000,000 to \$15,000,000 is typically spent on developing a major project's EIS. One factor that increases the amount of time and money spent on an EIS is the amount of time spent "dealing with the various resource agencies when they say we need this information, we need that information, and we need this information in order to do a complete environmental assessment". The State is not currently in a position to say, "we don't think you need that information. The information that's there on this particular issue is adequate, it's more than adequate".

Currently "the federal government makes those decisions because they have the NEPA assumption".

Mr. MacKinnon stressed that the State is willing to assume the risk of making those decisions. "We're a lot less adverse to risk than the federal government is in these issues. The likelihood of a serious mistake in carrying out one of these documents because you didn't gather sufficient information is, the judge would say, well you need to go back and count the caribou there one more time. We're willing to take that risk ... The benefits far outweigh the potential costs in that."

[9:49:35 AM](#)

Senator Dyson asked what would be included in the Contractual Services \$154,700 expense depicted on the Department of Transportation and Public Facilities fiscal note #1.

Mr. MacKinnon understood the expense would provide for a NEPA "expert" attorney in the Department of Law. A Reimbursable Services Agreement (RSA) between the Department of Transportation and Public Facilities and the Department of Law would address that expense.

Senator Dyson concluded therefore that adding this position to the Department of Law would be preferred to contracting out for that service.

Mr. MacKinnon affirmed. He noted that a legal sufficiency review must be conducted on each NEPA document before it is finalized.

Senator Dyson asked whether this would be a new position in the Department of Law or whether the Department of Transportation and Public Facilities would be contracting for an existing employee's services.

Mr. MacKinnon responded that while there is a person in the Department of Law who is "very well versed in NEPA", that person oversees a number of attorneys. The person being referenced in the fiscal note would be required to have "a fairly specific education and orientation towards NEPA".

Senator Stedman requested that the issue of cost of planning per road mile built be set aside; else wise, upon review, the costs "would be alarming". Continuing, he was curious of the reason

that Alaska was one of a select group of states chosen for this pilot program; specifically whether Alaska was chosen because it "has a harder time than other states in getting its projects through the NEPA process.

Co-Chair Green remarked that Alaska Congressman Don Young included the State in this project. She attested to the time and effort that the State conducts in regards to the NEPA process.

[9:52:13 AM](#)

Co-Chair Green stated that, in her opinion, the majority of the "projects that are very important to us are very small potatoes in Washington DC as far as their importance on the NEPA interest level", particularly in comparison to larger projects being conducted in other states.

Mr. MacKinnon characterized Co-Chair Green's comments as "accurate". He noted that half of the other four states designated for this program "have ranking members" on the federal Transportation Committee. They want their states to be included in the five and a half year pilot program. This is an opportunity that the Department would not want "to lose".

Senator Stedman asked the Department to provide the Legislature a report comparing the program expenditures to the road miles constructed at the conclusion of the pilot program, were it enacted.

Mr. MacKinnon trusted that the Department would be able to provide "a metric that will hopefully show an improvement over the status quo".

Senator Bunde shared that he had "serious reservations" about what Co-Chair Wilken coined as "growing government: four more fulltime State employees and the risk of lawsuits." The net gain is questionable. He would vote no on the bill.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Senator Bunde objected.

Senator Stedman preferred the bill to be held in Committee for further consideration.

Co-Chair Wilken moved and asked unanimous consent to withdraw the motion.

Without objection, the motion to report the bill from Committee was WITHDRAWN.

Co-Chair Green ordered the bill HELD in Committee.

[9:55:28 AM](#)

#sb308

SENATE BILL NO. 308

"An Act authorizing the Alaska Railroad Corporation to issue revenue bonds to finance rail transportation projects that qualify for federal financial participation; and providing for an effective date."

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

PAT GAMBLE, President and Chief Executive Officer, Alaska Railroad Corporation (ARRC), Department of Commerce, Community and Economic Development noted that a handout titled "Alaska Railroad Corporation Legislative Request for Bonding Approval" and "a series of maps" depicting the ARRC's "work plan" for proposed tract improvements during the years 2006 through 2015 [copies on file] have been provided.

Mr. Gamble reviewed the handout as follows.

Page 2

Request Legislative Approval

ARRC desires to issue one or more series of capital grant receipts revenue bonds or notes, in aggregate not to exceed \$165 million.

Mr. Gamble remarked that this bill would seek Legislative approval allowing AARC to issue a series of capital grant receipt (CGR) revenue bonds not to exceed \$165 million. The

"sourcing [of] these bonds" would be as prescribed by Alaska State Railroad Transfer Statutes.

Page 3

What?

Rehabilitate Mainline Substandard or
Potentially Unsafe Track

- Single most important purpose for the use of federal funds
- Top capital investment effort and #1 priority since 1996 ... \$220 million already invested.

Mr. Gamble informed that in 1996, ARRC began an effort to "rehabilitate" or rebuild its main rail tracks. This continuing effort has been primarily funded by annual federal appropriations, provided through efforts by Alaska Congressman Ted Stevens who recognized that no regular deferred maintenance had been conducted on the Alaska Railroad's (Railroad) main line since it was rebuilt in the 1950s following World War II.

Mr. Gamble stated that the deferred maintenance effort was further compounded by the fact that train mainline derailment occurrences were increasing and incurring additional expenses. That risk of derailments exacerbated the need for deferred maintenance since the Railroad's passenger count and hazardous cargo loads were increasing. Actual track improvements began in 1998.

Mr. Gamble noted that the revenues generated from this bonding would be used to rapidly accelerate and complete the deferred maintenance plan on upgrading the mainline track. ARRC has continued to request Federal funding through Congressman Stevens since it ranked the mainline track upgrade a priority in 1996. That federal money has been and would continue to be limited to funding work on the mainline rather than being utilized to support facilities and equipment. The money generated by the revenue bonds requested in this bill would also be limited, with a few "minor exceptions", to the mainline rehabilitation work.

[9:59:09 AM](#)

Mr. Gamble conveyed that the "Derailments, 1996-2005" graph depicted on page 4 was included to provide an example of what has happened on the mainline since the improvements began. The blue line on the graph indicates a downward trend in the number of derailments with reportable damage. The "Train Accident Rate" graph depicted on page 5 compares the Alaska Railroad accident trend to national railroad statistics. These graphs "provide strong evidence" that the deferred maintenance efforts are "having the desired payoff". This fact is what prompted the notion amongst Railroad staff that "accelerating" the work on the main line would provide "a safer railroad faster ... The State and our customers would expect that from us." This prompted this initiative.

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Project Information

- 100% CWR from Anchorage to Fairbanks (355 miles)
- 85,000 concrete ties on curves less than 6 degrees (32 miles)
- Wooden ties all upgraded to 35-year cycle
- All ballast reset
- Complimented by ARRC Bridge Program ... \$30 million
- Complimented by ARRC Collision Avoidance Program ... \$13 million

Mr. Gamble reviewed the benefits the Railroad would receive from this endeavor. While it was once thought that Continuous Welded Rail (CWR) would not work in the cold climates and extreme temperatures changes experienced in the State, such as the high ninety-degree summer time temperatures and the sixty-below-zero ambient temperatures experienced in Fairbanks. Railroad experts from other parts of the country "proved" that to be wrong. Thus ARRC is "vigorously" conducting a CWR program. CWR is important because it welds segments of track together thereby eliminating joints, which are often the cause of derailments. "The exchange of energy" between the rail joints and the train wheels "is hard on the metals of both and quite often is the single most prominent source of failures on track and damage to wheels. In addition to improved safety, CWR tracks are quieter as the noise generated by the wheels hitting joints is eliminated.

Mr. Gamble noted that while concrete ties provide no substantial benefit over wooden ties on straight stretches of rail, utilizing them on curves increases the stability of the rail and better absorbs the energy transfer between the track and train wheels. In addition, concrete ties are easier to place at "the right degree" to meet the angle calculated for a specific curve. 85,000 concrete ties would be utilized between Anchorage and Fairbanks on curves exceeding six degrees. This would further improve rail safety, as curves are susceptible to track failure.

Mr. Gamble also noted that the project would specify a 35-year tie upgrade cycle. Depending on how much water is absorbed by the tie and other circumstances, a tie typically does not undergo "serious breakdowns" until about 40 years of use. A 35-year cycle would provide a "safety margin" and would align with what "good railroads" in the contiguous United States are doing.

Mr. Gamble noted that in conjunction with tie and rail replacement, rock ballast under the railways, including river rock, would be replaced "with solid granite which interlocks very tightly and provides a solid bed". 169 bridges would be upgraded in conjunction with track improvements.

Mr. Gamble pointed out that while the majority of his remarks have addressed "mitigating the physical risks of track failure, collision avoidance is a technology" that is also being addressed by ARRC. This effort would address "human mistakes and errors in judgment". Thus, the Railroad is "simultaneously reducing physical risk as well as human error risks to the degree affordable and possible with the current technology." The effort would be to provide "one of the safest railroads in the United States within the next seven or eight years".

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Why?

- Consistent with #1 priority
- Faster "take" of safety benefits and risk reduction of non-human factors
- Continued mitigation effort
 - More than 600 passenger trains per year
 - 800 million gal. Refined product/hazardous materials (30,000 carloads)
 - 60% = hazardous cargo proportion

- Builds clarity and budget discipline into capital program
 - Debt service schedule drives yearly capital apportionment

Mr. Gamble reiterated that this endeavor would fulfill the number one priority of ARRC. The fact that this effort could reduce "by as much as ten years" the work that the current program would otherwise allow would be "worth the premium that we would pay through the bonding". The Railroad moves approximately 600 passenger trains a year and 800,000,000 gallons of hazardous material on its mainline. The amount of hazardous material moved by the Railroad is one of the "highest proportions of hazardous material cargo" run on any railroad in the country. Any effort to increase the Railroad safety is "an obligation" owed to the State.

[10:05:31 AM](#)

Mr. Gamble communicated that one of the "advantages" this legislation would provide "internally" would be that "locking these dollars in on an annual basis through bonding" would assist ARRC in determining the level of capital funding that would be available for other programs.

Page 8

Why Now

- SAFETEA-LU makes it possible
- Formula Funds increased 6-fold
- No undue risk to railroad or state
- Consistent with corporate priority
- Materials costs escalating annually
- Growing passenger train demand required nothing less
- Desire to get pre-pipeline work done ASAP
- No impact to previous capital plan

Mr. Gamble stated that after a five-year effort to secure Federal Transit Administration (FTA) Formula Funds on an annual basis, ARRC is now entitled to receive a predictable level of funds from year to year. The level is based on a formula relying on such things as "passenger miles and the number of total miles on the railroad". The formula is also subject to an approximate

two percent growth rate each year. The FTA funding has provided ARRC a "new tool in the tool kit"; this funding source could be used "to pay off the debt service".

Mr. Gamble stated that two other positive events occurred three years prior: the ARRC match required for federal funds was reduced from 20 percent to nine percent and the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) "formula for attributable miles to the Alaska Railroad has increased from ten percent attributable miles to 60 percent attributable miles". This meant that the FTA formula dollars increased from approximately five million dollars a year to approximately \$30,000,000 a year. Therefore, were the ARRC able to provide its "low" nine percent match, ARRC could depend on receiving total funds ranging between \$30,000,000 to \$36,000,000 into the future. These events provided ARRC the opportunity to consider a bonding proposal similar to the one presented in this bill.

Mr. Gamble declared that this proposal is consistent with ARRC's priorities. It would also provide ARRC the ability to improve materials management; particularly as ARRC could make bulk steel purchases and store the steel in order to avoid continuing price increases. Furthermore, the increasing passenger train traffic would benefit from safer tracks.

Mr. Gamble also noted that this proposal would allow pre-pipeline work to be conducted in anticipation of the construction of the State gas pipeline. Railroad tracks and bridges must be ready to handle the load capacities that would be required.

[10:08:20 AM](#)

Mr. Gamble stated that these improvements would provide the Railroad the "ability to flow" the demands of the pipeline into "our current customer load without cutting other customers off."

Mr. Gamble reiterated that the bond proposal would not impact the Railroad's capital program.

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Proposed Financing

- \$165 million authorization requested
- Currently planning three bond sales over next six years
 - Maximum annual debt service: \$19.1 million or 49% of available FTA/match for year
- ARRC Board approval required for each project and bond sale

Mr. Gamble reviewed the proposed financing plans.

Mr. Gamble noted that the "Debt Service as a Percent of Formula Funds/Match" graph on page 10 depicts the program's debt service percentages from the year 2007 through 2024. The maximum level of 49 percent would be anticipated in the year 2014, with the debt dramatically decreasing toward zero from the year 2017 to 2024.

Mr. Gamble reminded the Committee that this debt service is "just one element" of the Railroad's debt. Some other smaller Railroad "borrowings" would also be retiring at that time. The Railroad's "debt position" would remain "very healthy during this whole process".

Mr. Gamble concluded his presentation. He could provide additional financial details or review the remaining information in the handout if so desired by the Committee. The remaining information in the handout would provide "additional detail about some of the methodology and considerations that have gone into this proposal".

[10:10:43 AM](#)

Senator Dyson, being "visually oriented", appreciated the charts and maps provided. Continuing, he asked the location of Wish Bone Hill, as that is the prospective site of a new coal plant.

Mr. Gamble replied that Wish Bone Hill is located in the vicinity of Palmer, which is not on the Railroad's mainline.

Senator Dyson observed that each of the maps from the year 2007 to 2015, depict two views of the Railroad's mainline. The view on the left of the page depicts the projects occurring that specific year and the view on the right depicts "the cumulative status of the track" to date.

Mr. Gamble affirmed. He apologized for not fully explaining the maps earlier.

Senator Dyson, referencing the map for the year 2015, asked for clarification as to whether the track at Hurricane, milepost 281.4, was CWT on wooden ties.

Mr. Gamble stated that was correct.

Senator Dyson understood that concrete ties usage would be limited to the areas highlighted in yellow with orange borders, as specified in the map's legend.

Mr. Gamble acknowledged that due to the small map scale, it is difficult to show much detail about individual projects. Concrete ties would be utilized at any point of the track containing a curve over six degrees. For example, he pointed out that, as highlighted by the yellow and orange coloring on the map, concrete ties would be used on a curve near Broad Pass.

Senator Dyson ascertained therefore, that concrete ties would also be used between Potter, milepost 100.6, and Bird, milepost 81.7.

Mr. Gamble affirmed. There is a lot "of curvature" in that area.

Senator Dyson ascertained that the narrow red line depicted on the map would indicate areas with regular un-welded line on wood ties.

Mr. Gamble affirmed. For example, the line near Eielson Air Force Base near Fairbanks, milepost G24, is reflected as a narrow red line because that line "carries far far less tonnage than the main line". That segment was constructed after the main line and would not require upgrading. He reiterated that the view on the right side of the map reflects the cumulative project status and the view on the left side is that year's work plan.

Senator Dyson deemed the maps "very helpful".

Senator Olson, noting that 80,000 joints would be upgraded, questioned the total number of joints on the track.

[10:14:57 AM](#)

Mr. Gamble stated that this information would be provided. A simple calculation involving the length of the track would be required.

Senator Olson understood that rails were made with joints to accommodate expansion and contraction. Further information as to how CWR would accommodate these occurrences is desired.

Mr. Gamble likened this to the question about "which came first ... the chicken or the egg?" for there is disagreement as to whether train track joints were the result of rail length capabilities or temperature related characteristics. The rail length used today has been constant since the 1860s.

Mr. Gamble explained that specifically trained personnel must conduct the CWR forced weld under exact circumstances. Expansion and contraction can be accommodated with a CWR; however extreme "vigilance" of the track for signs of wiggling or buckling must occur. The experience is that the CWR "could handle" the State's temperature conditions. A few instances have occurred during times of "extremely hot weather for several days" in which rails have experienced "heat soak" and have expanded and attempted to wiggle. However, the rail ties have securely held the rails in place. Such experiences are minor in comparison to the maintenance cost savings that the CWR provide. In summary, he concluded that "there is a science" to the CWRs and the process must be done correctly.

Senator Dyson inquired to the number of track miles on the Railroad.

Mr. Gamble advised that the Railroad's mainline is approximately 500 miles long.

Senator Dyson asked the length of a traditional rail segment.

Mr. Gamble noted that the CWR rail could be welded into a continuous segment of "up to half a mile". That piece could be loaded onto a work train and "fed" onto the track from the train. A regular piece of rail is 80-feet in length.

[10:18:58 AM](#)

Senator Bunde asked for confirmation that these bonds would be used to maintain existing track rather than to expand the line.

Mr. Gamble affirmed.

Co-Chair Green noted that Members' packets contain a letter, dated March 14, 2006 from Tom Boutin, Deputy Commissioner, Department of Revenue to Bill O'Leary, Vice President Finance and Chief Financial Officer, Alaska Railroad Corporation [copy on file] that addresses the debt liability that would be assumed by the ARRC with the issuance of these bonds.

Senator Bunde stated that his concern was in regards "to an on-going systemic problem", as, since "the Railroad is an instrument of the State when Railroad earnings are used to pay this, or if there should be a problem, it's really State money its just not general fund money."

Based on two rails, a total mainline length of 500 miles, and rail lengths of 80 feet, Senator Dyson calculated there to be 66,000 joints on the mainline of the Railroad.

Senator Stedman moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SB 308 was REPORTED from Committee with previous zero fiscal note #1 from the Department of Commerce, Community and Economic Development.

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ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [10:20:40 AM](#).