

Introduced: 2/16/70  
Referred: Special Monetary  
Investment Committee,  
Judiciary and Finance

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IN THE HOUSE

HOUSE BILL NO. 709

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act creating the Alaska Transportation Authority;  
and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 44.57 is repealed and re-enacted to read:

CHAPTER 57. ALASKA TRANSPORTATION AUTHORITY.

ARTICLE 1. CREATION AND ORGANIZATION.

Sec. 44.57.011. ALASKA TRANSPORTATION AUTHORITY CREATED. (a)  
There is created the Alaska Transportation Authority composed of the  
governor, the commissioner of the Department of Highways, the commis-  
sioner of the Department of Administration, the commissioner of the  
Department of Public Works, and the commissioner of the Department of  
Revenue. The Alaska Transportation Authority is a public corporation  
of the state. The authority is an instrumentality of the state within  
the Department of Public Works, but has a legal existence independent  
of and separate from the state.

(b) If the office of a commissioner is discontinued or abolished  
by law, the governor shall appoint any person or officer of the state  
to fill the vacancy resulting from the abolition or discontinuance of  
the office.

(c) All members of the authority shall serve without compensation  
but shall receive their necessary actual traveling expenses incurred  
in the discharge of their duties.

Sec. 44.57.021. MAJORITY RULE. A majority of the members of the  
authority may act for the authority. The authority shall establish

1 rules and regulations considered wise and lay down policies of proce-  
2 dure and generally supervise and control the operation of the functions  
3 vested in it by law and is clothed with all necessary powers to carry  
4 out its functions. The authority shall appoint an executive secretary  
5 who serves at its pleasure and who is the chief administrative officer  
6 of the authority. The authority shall act collectively with recorded  
7 resolutions or motions adopted by a majority of the authority at regu-  
8 lar or special meetings, notice of which meetings shall be given to all  
9 members under the rules of the authority. Three members constitute a  
10 quorum at any meeting, but no resolution, motion, or other decision  
11 of the authority may be adopted or passed without a favorable vote of  
12 at least three members.

13 Sec. 44.57.031. AUTHORITY MAY EMPLOY PERSONNEL. The authority  
14 may appoint other officers, hire employees and agents, and engage  
15 professional and technical services and advice upon employment or  
16 independent contract basis. The authority shall prescribe the duties  
17 and compensation of its personnel.

18 Sec. 44.57.041. SUITS. The authority may sue and be sued in the  
19 name of the Alaska Transportation Authority.

20 ARTICLE 2. POWERS AND DUTIES.

21 Sec. 44.57.051. ROADS, BRIDGES, PORTS AND AIRPORTS AUTHORIZED -  
22 INVESTIGATIONS. The authority is empowered, in accordance with the  
23 provisions of this chapter, to provide for the establishing, construc-  
24 ting and operating of roads, bridges, ports and airports together with  
25 approaches wherever considered necessary. The necessity or advantage  
26 and practicability of a road, bridge, port or airport shall be deter-  
27 mined by the authority and the feasibility of financing such a program  
28 in the manner provided by this chapter shall be a primary consideration  
29 and determined according to the best judgment of the authority. For

1 the purpose of obtaining information for the consideration of the  
2 authority upon the construction of a road, bridge, port or airport or  
3 any other matters pertaining to them, it shall be the duty of any  
4 cognizant officer or employee of the state upon the request of the  
5 authority to make reasonable examination, investigation, survey or  
6 reconnaissance for the determination of material facts pertaining to  
7 them and report the same to the authority. The cost of the examination,  
8 investigation, survey or reconnaissance shall be borne by the department  
9 or office conducting it from the funds provided for the department or  
10 office for its usual functions.

11 Sec. 44.57.061. GENERAL POWERS OF THE AUTHORITY AND OFFICIALS  
12 AND FINANCIAL STATEMENTS. The Alaska Transportation Authority, the  
13 officials of the authority, and all state officials are empowered to  
14 do those acts and make agreements not inconsistent with law which may  
15 be necessary or desirable in connection with the duties and powers con-  
16 ferred upon them respectively by law regarding the construction, main-  
17 tenance, operation and insurance of roads, bridges, ports and airports  
18 or the safeguarding of the funds and revenues required for the construc-  
19 tion and the payment of the indebtedness incurred therefor. The author-  
20 ity shall keep full, complete and separate accounts of each road,  
21 bridge, port and airport and annually shall prepare balance sheet and  
22 income and profit and loss statements showing the financial condition  
23 of each road, bridge, port and airport, which statement shall be open  
24 to the inspection of holders of bonds issued by the authority at all  
25 reasonable times.

26 Sec. 44.57.071. CONSTRUCTION OF ROADS, BRIDGES, PORTS AND AIR-  
27 PORTS. Whenever in the judgment of the Department of Public Works it  
28 is considered in the best interest of the transportation system of the  
29 state that a new road, bridge, port or airport be constructed and

1 operated by the state, the department shall submit its recommendation  
2 to that effect to the authority together with preliminary estimates of  
3 the cost of construction and an estimate of the amount necessary to be  
4 raised for that purpose by the issuance of revenue bonds, and a state-  
5 ment of the probable amount of money, property, materials or labor to  
6 be contributed from other sources in aid of the construction. If the  
7 authority concurs in the recommendation of the Department of Public  
8 Works or on its own motion determines to construct a road, bridge, port  
9 or airport, it shall adopt a resolution declaring that public interest  
10 and necessity require the construction of the road, bridge, port or  
11 airport, and may thereafter issue bonds for that purpose as provided  
12 for in sec. 131 of this chapter.

13 Sec. 44.57.081. AUTHORITY TO ACQUIRE RIGHT-OF-WAY IN CONSTRUCTING  
14 When the authority authorizes the construction of a road, bridge, port  
15 or airport, the Department of Public Works is empowered to secure  
16 right-of-way for it and for approaches to it by gift or purchase, or  
17 by condemnation in the manner provided by law for the taking of private  
18 property for public purposes.

19 Sec. 44.57.091. RIGHT-OF-WAY ACROSS STATE LAND, STREETS, ROADS  
20 AND COMPENSATION The right-of-way is hereby given, dedicated and  
21 set apart upon which to locate, construct and maintain roads, bridges,  
22 ports and airports or approaches to them or other highway crossings,  
23 and transportation facilities of them, through, over or across any of  
24 the lands which are now or may be the property of this state, including  
25 highways, and through, over or across the streets, alleys, lanes and  
26 roads within a city, borough, or other political subdivision of the  
27 state. If property belonging to a city, borough or other political  
28 subdivision of the state is required to be taken for the construction  
29 of a road, bridge, port or airport or an approach to them or should

1 the property be injured or damaged by the construction, compensation  
2 for it as may be proper or necessary and as shall be agreed upon may  
3 be paid by the authority to the particular borough, city, or other  
4 political subdivision of the state owning the property, or condemnation  
5 proceedings may be brought for the determination of the compensation.

6 Sec. 44.57.101. RESOLUTION OF NECESSITY IN ACQUIRING RIGHT-OF-  
7 WAY AND EFFECT. (a) Before proceeding with an action to secure a  
8 right-of-way or to construct a road, bridge, port or airport, under  
9 this chapter the authority shall first pass a resolution that public  
10 interest and necessity require the acquisition of right-of-way for and  
11 the construction of the road, bridge, port or airport. The resolution  
12 shall state and be conclusive evidence

13 (1) of the public necessity of the construction;

14 (2) that the property is necessary for it; and

15 (3) that the proposed construction is planned or located in  
16 a manner which will be most compatible with the greatest public good  
17 and the least private injury.

18 (b) When it becomes necessary for the Department of Public Works  
19 to condemn real estate to be used in connection with a road, bridge,  
20 port or airport, the attorney general of the state shall represent the  
21 department. In eminent domain proceedings to acquire property for any  
22 of the purposes of this chapter, a road, bridge, port, airport, real  
23 property, personal property, franchises, rights, easements or other  
24 property or privileges appurtenant to them appropriated or dedicated  
25 to a public use or purpose by a person, firm, private, public or muni-  
26 cipal corporation, borough, city district or political subdivision of  
27 the state, may be condemned and taken, and the acquisition and use as  
28 provided in this section for the same public use or purpose to which  
29 the property has been so appropriated, dedicated, or for any other

1 public use or purpose, shall be considered a superior and permanent  
2 right and necessity, and a more necessary use and purpose than the  
3 public use or purpose to which the property has already been appropri-  
4 ated or dedicated. It is not necessary in an eminent domain proceeding  
5 under this chapter to plead or prove any acts or proceedings preliminary  
6 or prior to the adoption of the resolution referred to in (a) of this  
7 section describing the property sought to be taken and directing the  
8 proceedings.

9 Sec. 44.57.111. REVENUES AND APPLICATION. (a) The authority is  
10 hereby authorized to establish, levy and collect tolls and other  
11 charges it may consider necessary, proper or desirable, in connection  
12 with a crossing, transportation or terminal facility or other project  
13 which it is or may be authorized at any time to construct, own, operate  
14 or control, and the aggregate of the tolls and charges shall be at  
15 least sufficient

16 (1) to meet the combined expenses of operation, maintenance  
17 and improvement thereof,

18 (2) to pay the cost of acquisition or construction, includ-  
19 ing the payment, amortization and retirement of bonds or other securi-  
20 ties or obligations assumed, issued or incurred by the authority,  
21 together with interest thereon, and

22 (3) to provide reserves for those purposes.

23 (b) The authority is hereby authorized and empowered subject to  
24 prior pledges, if any, to pledge the tolls and other revenues or any  
25 part thereof as security for the repayment with interest of money  
26 borrowed by it or advanced to it for its authorized purposes and as  
27 security for the satisfaction of any other obligations assumed by it  
28 in connection with the loans or advances. There shall be allocated to  
29 the cost of the acquisition, construction, operation, maintenance and

1 improvement of the facilities and projects, a proportion of the general  
2 expenses of the authority it considers properly chargeable thereto.

3 Sec. 44.57.121. COOPERATIVE FUNDS. The Alaska Transportation  
4 Authority is empowered to receive and accept funds from the state or  
5 the federal government or any municipality upon a cooperative or other  
6 basis for the construction of roads, bridges, ports or airports  
7 authorized under this chapter and the authority and the state are  
8 empowered to enter into and perform agreements, including without  
9 limitation agreements to cease toll collection on any bridge under 23  
10 U.S.C.A. sec. 129 with the federal government, which may be required  
11 for the securing of the funds.

12 ARTICLE 3. FINANCIAL PROVISIONS.

13 Sec. 44.57.131. BONDS OF THE AUTHORITY. (a) The authority may  
14 borrow money and may issue bonds therefor, including but not limited to  
15 bonds on which the principal and interest are payable,

16 (1) exclusively from the income and receipts or other money  
17 derived from the project financed with the proceeds of the bonds,

18 (2) exclusively from the income and receipts or other money  
19 derived from designated projects whether or not they are financed in  
20 whole or in part with the proceeds of the bonds, or

21 (3) from its income and receipts or other assets generally,  
22 or a designated part or parts of them.

23 (b) Bonds shall be authorized by resolution of the authority, and  
24 shall be dated and shall mature as the resolution may provide, except  
25 that no bond may mature more than 40 years from the date of its issue.  
26 Bonds shall bear interest at the rate or rates, be in the denominations  
27 be in the form, either coupon or registered, carry the registration  
28 privileges, be executed in the manner, be payable in the medium of  
29 payment, at the place or places, and be subject to the terms of

1 redemption which the resolution or a subsequent resolution may provide.

2 (c) All bonds, regardless of form or character, shall be negotia-  
3 ble instruments for all the purposes of the Uniform Commercial Code.

4 (d) All bonds may be sold at public or private sale in the  
5 manner, for the price or prices, and at the time or times which the  
6 authority may determine.

7 (e) Before the issuance of any bonds, the authority shall make  
8 provision by lease or other agreement regarding the project or projects  
9 being financed by the issue of the bonds for rentals or other considera-  
10 tions at least sufficient, in the judgment of the authority, to pay the  
11 principal of and interest on the bonds as they become due and to create  
12 and maintain the reserves therefor as the authority considers necessary  
13 or desirable and to meet all obligations in connection with the lease  
14 or other agreement and all costs necessary to service the bonds unless  
15 the lease or agreement provides that the obligations are to be met or  
16 costs are to be paid by a party other than the authority.

17 (f) The superior court shall have jurisdiction to hear and deter-  
18 mine suits, actions or proceedings relating to the authority, including  
19 suits, actions or proceedings brought to foreclose or otherwise enforce  
20 a mortgage, pledge, assignment or security interest or brought by or  
21 for the benefit or security of a holder of its bonds or by a trustee  
22 for or other representative of the holders.

23 Sec. 44.57.141. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
24 discretion of the authority, an issue of bonds may be secured by a  
25 trust indenture or trust agreement between the authority and a corporate  
26 trustee (which may be a trust company, bank, or national banking associ-  
27 ation, with corporate trust powers, located inside or outside the state)  
28 or by a secured loan agreement or other instrument or under a resolution  
29 giving powers to a corporate trustee (referred to in this section as

1 trust agreement) by means of which the authority may

2 (1) make and enter into any and all the covenants and agree-  
3 ments with the trustee or the holders of the bonds which the authority  
4 may determine to be necessary or desirable, including, without limita-  
5 tion, covenants, provisions, limitations and agreements as to

6 (A) the application, investment, deposit, use and dis-  
7 position of the proceeds of bonds of the authority or of money or  
8 other property of the authority or in which it has an interest;

9 (B) the terms and conditions upon which additional  
10 bonds of the authority may be issued;

11 (2) pledge, mortgage or assign money, leases, agreements,  
12 property or other assets of the authority either presently in hand or  
13 to be received in the future, or both; and

14 (3) provide for any other matters of like or different char-  
15 aster which in any way affect the security or protection of the bonds.

16 Sec. 44.57.151. VALIDITY OF PLEDGE. It is the intention of the  
17 legislature that a pledge made in respect of bonds shall be valid and  
18 binding from the time the pledge is made; that the money or property  
19 so pledged and thereafter received by the authority shall immediately  
20 be subject to the lien of the pledge without physical delivery or  
21 further act; and that the lien of the pledge shall be valid and binding  
22 as against all parties having claims of any kind in tort, contract or  
23 otherwise against the authority irrespective of whether the parties  
24 have notice. Neither the resolution, trust agreement nor any other  
25 instrument by which a pledge is created need be recorded or filed under  
26 the provisions of the Uniform Commercial Code to be valid, binding or  
27 effective against the parties.

28 Sec. 44.57.161. NONLIABILITY ON BONDS, (a) Neither the members  
29 of the authority nor a person executing the bonds is liable personally

1 on the bonds or subject to personal liability or accountability by  
2 reason of the issuance of the bonds.

3 (b) The bonds issued by the authority may not constitute an  
4 indebtedness or other liability of the state or of a political subdivi-  
5 sion of the state, except the authority, but shall be payable solely  
6 from the income and receipts or other funds or property of the authori-  
7 ty. The authority may not pledge the faith or credit of the state or  
8 of a political subdivision of the state (except the authority) to the  
9 payment of a bond and the issuance of a bond by the authority shall  
10 not directly or indirectly or contingently obligate the state or a  
11 political subdivision of the state to apply money from, or levy or  
12 pledge any form of taxation whatever to the payment of the bond.

13 Sec. 44.57.171. PLEDGE OF THE STATE. The state does hereby  
14 pledge to and agree with the holders of bonds issued under this chapter  
15 and with the federal agency which loans or contributes funds in respect  
16 of a project, that the state will not limit or alter the rights and  
17 powers vested in the authority by this chapter to fulfill the terms  
18 of any contract made by the authority with the holders or federal  
19 agency, or in any way impair the rights and remedies of the holders  
20 until the bonds, together with the interest on them, with interest on  
21 unpaid installments of interest, and all costs and expenses in connec-  
22 tion with any action or proceeding by or on behalf of the holders, are  
23 fully met and discharged. The authority is authorized to include  
24 this pledge and agreement of the state, insofar as it refers to holders  
25 of bonds of the authority, in a contract with the holders, and insofar  
26 as it relates to a federal agency, in a contract with a federal agency.

27 Sec. 44.57.181. EXEMPTION FROM TAXATION. The real and personal  
28 property of the authority and its assets, income and receipts are  
29 declared to be property of a political subdivision of the state and,

1 together with a road, bridge, port or airport, constructed under this  
2 chapter shall be exempt from all taxes and special assessments of the  
3 state or a political subdivision of the state, including, without  
4 limitation, all boroughs, cities, municipalities, school districts,  
5 public utility districts and other taxing units. All bonds of the  
6 authority are declared to be issued by a political subdivision of the  
7 state and for an essential public and governmental purpose and to be  
8 a public instrumentality and the bonds, and the interest on them, the  
9 income from them and the transfer of the bonds, and all assets, income  
10 and receipts pledged to pay or secure the payment of the bonds, or  
11 interest on them, shall at all times be exempt from taxation by or  
12 under the authority of the state, except for inheritance and estate  
13 taxes and taxes on transfers by or in contemplation of death.

14 Sec. 44.57.191. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
15 bonds of the authority are securities in which all public officers and  
16 bodies of the state and all municipalities and municipal subdivisions,  
17 all insurance companies and associations and other persons carrying on  
18 an insurance business, all banks, bankers, trust companies, savings  
19 banks, savings associations, including savings and loan associations  
20 and building and loan associations, investment companies and other  
21 persons carrying on a banking business, all administrators, guardians,  
22 executors, trustees and other fiduciaries, and all other persons what-  
23 soever who are now or may hereafter be authorized to invest in bonds  
24 or other obligations of the state, may properly and legally invest  
25 funds including capital in their control or belonging to them. Notwith-  
26 standing any other provisions of law, the bonds of the authority are  
27 also securities which may be deposited with and may be received by all  
28 public officers and bodies of this state and all municipalities and  
29 municipal subdivisions for any purpose for which the deposit of bonds

1 or other obligations of the state is now or may hereafter be authorized

2 ARTICLE 4. GENERAL PROVISIONS.

3 Sec. 44.57.201. TRANSPORTATION AUTHORITY FUND. There is estab-  
4 lished a transportation authority fund which shall be administered by  
5 the authority exclusively for the purpose of investing as authorized  
6 by sec. 211 of this chapter. The authority may pledge the money in  
7 the transportation authority fund to secure the payment of bonds issued  
8 for the purpose of establishing, constructing and operating roads,  
9 bridges, ports and airports.

10 Sec. 44.57.211. INVESTMENTS BY AUTHORITY. The authority shall  
11 place the money held in the fund established under sec. 201 of this  
12 chapter into any of the following:

13 (1) bonds, notes, and bills which constitute direct obliga-  
14 tions of the United States;

15 (2) obligations of agencies and instrumentalities of the  
16 United States;

17 (3) bank certificates of deposit which are secured as to  
18 the payment of principal and interest in accordance with Alaska law;

19 (4) commercial paper of prime or equivalent quality, as  
20 rated by a nationally recognized rating organization, which is issued  
21 by corporations organized and operating in the United States with  
22 assets in excess of five hundred million dollars;

23 (5) bonds, notes, debentures and other evidence of indebted-  
24 ness of corporations; and

25 (6) grade AA and AAA corporation securities.

26 Sec. 44.57.221. STATE APPROPRIATIONS FOR ROADS, BRIDGES, PORTS  
27 AND AIRPORTS NOT AFFECTED. This chapter does not prevent the state  
28 from making appropriations from time to time in aid of the acquisition  
29 or construction under this chapter of a road, bridge, port, airport,

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or property, franchises, or rights appurtenant to them, or the transportation facilities of them, or for the purpose of making preliminary surveys, plans, and estimates of the cost of them, and meeting other preliminary expenses as the legislature considers proper.

Sec. 44.57.231. REGULATIONS. The authority may adopt regulations to implement the purposes of this chapter.

Sec. 44.57.241. DEFINITIONS. In this chapter

(1) "authority" means the Alaska Transportation Authority;

(2) "department" means the Department of Public Works;

(3) "roads, bridges, ports and airports" means the roads, bridges, ports and airports constructed or acquired under this chapter, together with all appurtenances, additions, alterations, improvements and replacements of them, and approaches to them, and lands and interests in lands used for them, and buildings and improvements on the buildings as may be determined by the authority.

\* Sec. 2. This Act takes effect July 1, 1970.